

1 S.118

2 Introduced by Senator Ayer

3 Referred to Committee on

4 Date:

5 Subject: Commerce and trade; precious metal dealers, pawnbrokers

6 Statement of purpose of bill as introduced: This bill proposes to require
7 pawnbrokers and precious metal dealers to acquire a license, retain certain
8 information, and hold property for a certain period prior to resale if the seller
9 cannot prove ownership.

10 An act relating to modifying record retention and related requirements for
11 pawnbrokers and precious metal dealers

12 It is hereby enacted by the General Assembly of the State of Vermont:

13 Sec. 1. 9 V.S.A. chapter 97 is amended to read:

14 CHAPTER 97. PAWNBROKERS AND PRECIOUS METAL DEALERS

15 § 3861. ~~PAWNBROKER DEFINED~~ DEFINITIONS

16 ~~The word "pawnbroker" as used in this chapter includes any person,~~
17 ~~partnership or corporation, loaning money on deposit or pledge of personal~~
18 ~~property, other than securities or written evidences of indebtedness; or doing~~
19 ~~business as furniture storage warehousemen, and loaning and advancing~~

1 ~~money upon goods, wares or merchandise pledged or deposited as collateral~~
2 ~~security.~~

3 As used in this chapter:

4 (1) “Disqualifying offense” means:

5 (A) a felony;

6 (B) petit larceny in violation of 13 V.S.A. § 2502;

7 (C) receipt of stolen property in violation of 13 V.S.A. § 2561;

8 (D) false pretenses or tokens in violation of 13 V.S.A. § 2002; or

9 (E) false tokens in violation of 13 V.S.A. § 2003.

10 (2) “Pawnbroker” means a person who:

11 (A) lends money in exchange on a deposit or pledge of personal
12 property, other than securities or written evidence of indebtedness; or

13 (B) is engaged in the business of furniture storage warehousing, and
14 lends or advances money on goods, wares, or merchandise that is pledged or
15 deposited as collateral security.

16 (3) “Precious metal” means gold, silver, platinum, or palladium.

17 (4) “Precious metal dealer” means a person who purchases or sells used
18 precious metal, coins, jewelry, or similar items.

19 (5) “Principal” means a natural person who is a director, officer,
20 member, manager, partner, or creditor.

1 § 3862. LICENSE REQUIRED

2 (a) ~~A person shall not carry on the business of pawnbroker unless he has~~
3 ~~obtained a license so to do as hereinafter provided~~ An operating license shall
4 be required for each person in this state who:

5 (1) is engaged in the business of a pawnbroker; or

6 (2) is engaged in the business of a precious metal dealer and who
7 purchases or sells \$50,000.00 or more of used precious metal, coins, jewelry,
8 or similar items.

9 (b) ~~The selectmen of a town or the aldermen of a city may grant to such~~
10 ~~citizens as they deem proper, and who produce satisfactory evidence of their~~
11 ~~good character,~~ Notwithstanding any provision of 26 V.S.A. chapter 57 to the
12 contrary, the Office of Professional Regulation within the Office of the
13 Secretary of State shall have the authority to create an application process for,
14 and to grant, a license authorizing such citizens a person to carry on the
15 business of a pawnbroker or precious metal dealer, and to adopt rules
16 necessary to implement the provisions of this chapter. Such license shall
17 ~~designate the place in which such a person shall carry on such business, and~~
18 ~~such a person shall not carry on such business in any other place than the one~~
19 ~~designated in such license.~~

20 (c) ~~A person who violates a provision of this section shall be fined \$10.00~~
21 ~~for each day of such violation.~~ An application for a license to carry on the

1 business of a pawnbroker or precious metal dealer shall include for each
2 applicant and its principals:

3 (1) the name and type of business conducted by the applicant;

4 (2) the full name, age, and date and place of birth;

5 (3) the residential addresses and places of employment;

6 (4) any crime of which an individual has been convicted and the date
7 and place of conviction; and

8 (5) any crime of which any employee of the applicant, at the time of the
9 application, has been convicted and the date and place of conviction.

10 (d)(1) The Office of Professional Regulation shall not issue or renew a
11 license if the applicant or one of its principals has been convicted, on or after
12 July 1, 2013, of a disqualifying offense.

13 (2) The Office may require an applicant, its principals, and its
14 employees to submit to state and national criminal history record checks and
15 may charge the applicant a fee equal to the fees incurred by the Office to
16 perform the criminal history record checks.

17 (e) A licensed pawnbroker or precious metal dealer shall not employ a
18 person who has been convicted of a disqualifying offense.

19 § 3863. FEES; RENEWAL; BOND; REVOCATION OF LICENSE

20 ~~A person receiving such license shall pay therefor the sum of \$15.00~~
21 ~~annually for the use of the town.~~ (a) A person issued a license pursuant to

1 section 3862 of this section shall pay a license fee of \$50.00. Such A license
2 shall expire one year from the date thereof it is issued, and may be renewed on
3 approval of the Office of Professional Regulation within the Office of the
4 Secretary of State and payment of the same sum \$50.00.

5 (b) At the time of receiving such he or she receives a license, a licensee
6 shall file a bond to the selectmen or aldermen of such town or city, with the
7 Office to be executed by the person so licensed, licensee and by two
8 responsible sureties or a bonding company in the penal sum of \$500.00, which
9 \$5,000.00. The bond shall be conditioned for the faithful performance of the
10 duties and obligations pertaining to the business so licensed, and the selectmen
11 or aldermen required by the license.

12 (c) The Office may revoke such the license for cause at any time during the
13 period of the license after notice and a hearing pursuant to 3 V.S.A. chapter 25.

14 (d) The Office shall revoke the license of an applicant upon the conviction,
15 on or after July 1, 2013, for a disqualifying offense by:

16 (1) a licensee or one of its principals; or

17 (2) an employee of the licensee acting within his or her scope of
18 employment when he or she committed the offense.

19 § 3864. ACTION ON BOND

20 If a person is aggrieved by the misconduct of such a licensed pawnbroker or
21 precious metal dealer, and recovers judgment against him or her therefor, after

1 the return, unsatisfied, either in whole or in part, of an execution issued upon
2 ~~such the~~ judgment, ~~such the~~ aggrieved person may maintain an action in his or
3 her own name upon the bond of ~~such the~~ pawnbroker or precious metal dealer,
4 provided the court, upon application made for that purpose, shall grant ~~such the~~
5 leave to prosecute.

6 § 3865. RECORDS OF A PAWNBROKER OR ~~SECONDHAND~~

7 PRECIOUS METAL DEALER

8 (a) In each year a pawnbroker or ~~secondhand~~ precious metal dealer resells
9 over \$500.00 but not more than \$49,999.00 of items pawned, pledged, or sold
10 to the pawnbroker or secondhand dealer, he or she shall maintain the following
11 records for each ~~transaction in that year~~ item or lot of items:

12 (1) a legible statement written at the time of the transaction stating the
13 amount of money lent or paid for the ~~items pawned, pledged, or sold~~ item or
14 lot of items, the time of the transaction, and the rate of interest to be paid on
15 the loan, as applicable;

16 (2) a legible statement of the name, current address, telephone number,
17 and vehicle license number of the person pawning, pledging, or selling the
18 ~~items~~ item or lot of items;

19 (3) a distinct entry number and a legible written description and
20 photograph, or alternatively a video, of the ~~items pawned, pledged, or sold~~
21 item or lot of items;

1 (4) a photocopy of a government-issued identification card issued to the
2 person pawning, pledging, or selling the ~~items~~ item or lot of items, if available.

3 (b) ~~At all reasonable times, the records required under subsection (a) of this~~
4 ~~section shall be open to the inspection of law enforcement.~~

5 (c) ~~In this section:~~

6 (1) ~~“Precious metal” means gold, silver, platinum, or palladium.~~

7 (2) ~~“Secondhand dealer” means a person engaged in the business of~~
8 ~~purchasing used or estate precious metal, coins, antiques, furniture, jewelry, or~~
9 ~~similar items for the purpose of resale. In each year a pawnbroker or precious~~
10 ~~metal dealer resells over \$50,000.00 of items pawned, pledged, or sold to the~~
11 ~~pawnbroker or precious metal dealer, he or she shall maintain a computerized~~
12 ~~record-keeping system that includes for each item or lot of items a distinct~~
13 ~~entry number and the following information:~~

14 (1) The amount of money lent or paid for the item or lot of items, the
15 date and time of the transaction, and the rate of interest to be paid on the loan,
16 as applicable.

17 (2) The name, current address, telephone number, and vehicle license
18 number of the person pawning, pledging, or selling the item or lot of items.

19 (3) A description written at the time of the transaction and a digital
20 photograph or video of the item or lot of items. Prior to taking the digital
21 photograph or video, the pawnbroker or precious metal dealer shall attach a tag

1 to the item or lot of items in a visible location. The tag shall bear the entry
2 number of the item or lot of items.

3 (A) The description of an item or lot of items required in this
4 subdivision shall include all distinguishing marks and names of any kind,
5 including brand and model names, model and serial numbers, engravings,
6 etching, affiliation with any institution or organization, dates, initials, color,
7 vintage, or image represented.

8 (B) A description of audio, video, or electronic media shall also
9 include the title and artist or any other identifying information contained on the
10 cover or external surface of the media.

11 (4) A photocopy or digital image of a government-issued identification
12 card issued to the person pawning, pledging, or selling the item that contains a
13 picture of that person, if available. If the person does not have a
14 government-issued identification card, the pawnbroker or precious metal dealer
15 shall take and retain a digital photograph of the person's face.

16 (5) Documentation of lawful ownership of the items, such as a bill of
17 sale, receipt, letter of authorization, or similar evidence.

18 (c)(1) A pawnbroker or precious metal dealer shall retain the records
19 required in this section for at least six years at his or her normal place of
20 business or other readily accessible and secure location.

1 (2) At all reasonable times, the records required under this section shall
2 be open to the inspection of law enforcement.

3 § 3866. ISSUANCE OF PAWN TICKET; LOST TICKETS

4 (a) At the time of making he or she makes a loan, a pawnbroker shall
5 deliver to the person pawning or pledging any goods, articles or things, an item
6 a memorandum or note signed by him or her, containing the substance of the
7 entry information required to be made in his book by section 3865 of this title,
8 and a charge shall not be made or received by the pawnbroker for such the
9 entry, memorandum, or note. The holder of such the memorandum or note
10 shall be presumed to be the person entitled to redeem the pledge, and the
11 pawnbroker shall deliver such article the item to the person so presenting such
12 the memorandum or note on payment of principal and interest.

13 (b) Should such ticket be lost or mislaid If a memorandum or note issued
14 pursuant to subsection (a) of this section is lost, the pawnor shall at once apply
15 to the pawnbroker by identifying himself or herself and describing the article
16 item pawned, in which case it shall be the duty of the pawnbroker to permit
17 such the person to examine his books or her records, and, on finding the entry
18 for such ticket, information on the note or memorandum so lost, the
19 pawnbroker shall issue a second or stop ticket for the same memorandum
20 or note.

1 (c) ~~In case such~~ If a pawnor neglects to apply and examine such books
2 the records and receive such a memorandum or note in the manner herein
3 ~~provided~~ pursuant to subsection (b) of this section, the pawnbroker shall
4 deliver the pledge to any person producing ~~such the~~ the original ticket for the
5 redemption thereof.

6 (d) This section shall not be ~~so~~ construed as to limit or affect ~~such a~~
7 pawnbroker's common law liability in cases where goods are stolen or other
8 legal defects of title in the pledgor exist.

9 § 3867. RATE OF INTEREST ON LOANS

10 A pawnbroker shall not demand or receive a greater rate of interest than five
11 percent per month or fraction of a month upon a loan not exceeding the sum of
12 \$50.00, nor more than three percent per month upon a loan exceeding the sum
13 of \$50.00; provided a charge of less than \$0.15 shall not be made on any loan
14 or pledge.

15 § 3868. SALE OF PAWNED PROPERTY

16 A pawnbroker shall not sell pawned or pledged property until the ~~same~~
17 property has remained six months in his or her possession without redemption,
18 and upon ~~such~~ sale, shall keep ~~a record of the date of such sale, the name and~~
19 ~~address of the purchaser, and the price paid, and such record shall be subject to~~
20 ~~inspection as other records of such pawnbroker~~ the records required pursuant
21 to section 3865 of this title.

1 § 3869. APPLICATION OF PROCEEDS OF SALE

2 Surplus money, if any, arising from ~~such~~ the sale of pawned or pledged
3 property, after deducting the amount of the loan and the interest then due on
4 the ~~same~~ property, shall be paid over after three months by the pawnbroker to
5 the person who would be entitled to redeem the pledge in case ~~such~~ the sale
6 had not taken place.

7 § 3870. PAWNING PROPERTY OF PERSONS UNDER EIGHTEEN

8 A person carrying on the business of pawnbroker in this state shall not
9 accept a pledge or article of personal property offered by a person under 18
10 years of age, without written authority of the parents or guardians of ~~such~~ the
11 minor.

12 § 3870a. METHOD OF PAYMENT

13 (a) A pawnbroker or precious metal dealer shall pay only by check, draft,
14 or money order for an item or lot of items pawned, pledged, or purchased for
15 the purpose of resale.

16 (b) A pawnbroker or precious metal dealer shall mark on each check, draft,
17 or money order the entry number of the item or lot of items assigned in
18 accordance with section 3865 of this chapter.

19 (c) A pawnbroker or precious metal dealer shall retain for at least three
20 years a photo copy or electronic copy of each check, draft, or money order

1 after it is processed and returned by a financial institution. The copy shall be
2 open to inspection by law enforcement.

3 § 3870b. SUSPICIOUS ACTIVITY REPORTS

4 (a) Within 48 hours of the occurrence of one of the following events, a
5 pawnbroker or precious metal dealer shall file with the local law enforcement
6 agency having jurisdiction over the municipality in which he or she is located a
7 suspicious activity report that contains the information recorded pursuant to
8 section 3865 of this title:

9 (1) a single transaction in which the loan or purchase price, regardless of
10 the number of items exchanged, totals \$1,000.00 or more.

11 (2) multiple transactions with one person within a 30-day time period in
12 which the loan or purchase price for all transactions is \$1,000.00 or more.

13 (3) five or more transactions with one person within a five-day time
14 period regardless of the total loan or purchase price.

15 § 3871. PENALTIES

16 A licensee who violates a provision of sections 3863-3870 of this title, shall
17 be fined not more than \$100.00 nor less than \$10.00 for each offense.

18 (a) A pawnbroker or precious metal dealer who violates a provision of this
19 chapter for the first time may be assessed a civil penalty of not more than
20 \$1,000.00 nor less than \$100.00 for each transaction.

1 **(b) A pawnbroker or precious metal dealer who violates a provision of this**
2 **chapter for a second or subsequent time shall be fined not more than**
3 **\$10,000.00 nor less than \$1,000.00 for each transaction.**

4 § 3872. ~~SECONDHAND DEALERS~~; RETENTION OF GOODS

5 A pawnbroker or ~~secondhand dealer~~, as defined in section 3865 of this title,
6 **precious metal dealer** shall retain purchased property for no fewer than ~~40~~
7 **30** days before offering it for sale or for scrap.

8 Sec. 2. 4 V.S.A. § 1102 is amended to read:

9 § 1102. JUDICIAL BUREAU; JURISDICTION

10 (a) A ~~judicial bureau~~ **Judicial Bureau** is created within the ~~judicial branch~~
11 **Judicial Branch** under the supervision of the ~~supreme court~~ **Supreme Court**.

12 (b) The ~~judicial bureau~~ **Judicial Bureau** shall have jurisdiction of the
13 following matters:

14 * * *

15 **(17) Violations of 9 V.S.A. chapter 97, relating to the purchase and sale**
16 **of precious metal, coins, jewelry, or similar items.**

17 * * *

18 Sec. 3. 13 V.S.A. § 4006 is amended to read:

19 § 4006. RECORD OF FIREARM SALES

20 All pawnbrokers and retail merchants dealing in firearms shall keep a
21 record book in which they shall record the sale by them of all revolvers and

1 pistols, and the purchase by them of all secondhand revolvers and pistols.
2 ~~Such~~ The record shall include the date of the transaction, the marks of
3 identification of the firearm, including the manufacturer's name, the caliber,
4 model, and manufacturer's number of the firearm, the name, address,
5 birthplace, occupation, age, height, weight, and color of eyes and hair of the
6 purchaser or seller. ~~Such~~ The purchaser or seller shall sign his or her name to
7 the record and the pawnbroker or merchant shall preserve ~~such~~ the record book
8 for six years after the date of last entry and shall permit all enforcement
9 officers to inspect the ~~same~~ records at all reasonable times. A person,
10 ~~partnership or corporation~~ who violates a provision of this section shall be
11 fined not more than ~~\$100.00~~ \$10,000.00 nor less than \$100.00 for each
12 offense.

13 Sec. 4. EFFECTIVE DATE

14 This act shall take effect on July 1, 2013.