SENATE DOCKET, NO. FILED ON: 1/13/2009

**SENATE . . . . . . . . . . . . . . No.**

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The Commonwealth of Massachusetts

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PRESENTED BY:

**James E. Timilty**

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General
 Court assembled:*

 The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act further regulating pawn shops and dealers of second articles.

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PETITION OF:

|  |  |
| --- | --- |
| Name: | District/Address: |
| James E. Timilty | Bristol and Norfolk |

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S02371 OF 2007-2008.]

The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**

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An Act further regulating pawn shops and dealers of second articles.

 *Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

 SECTION 1. Chapter 140 of the General Laws is hereby amended by striking out section 54 and inserting in place thereof the following section: -

Section 54.  No person shall carry on the business of being a collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles unless operating under a written agreement with a registered promoter licensed under Chapter 101 of the General Laws, or licensed to do so by the police commissioner of Boston or pursuant to a written agreement with a registered promoter operating in the business of consumer shows, licensed un Chapter 62 C of the General Laws, or by the governing body of the city or town where he carries on his business, subject to sections two hundred and two to two hundred and five, and said commissioner or governing body may revoke such licenses at pleasure.  Societies, associations or corporations organized solely for religious or charitable purposes and their agents shall not be required to pay a fee for such licenses.

Any person who carries on the business of a being a collector of, dealer in or keeper of a shop for the purchase, sale or barter of junk, old metals or second hand articles shall record information pertaining to every transaction, including but not limited to the name, address and date of birth of the person offering an article, , the price paid for the article, a full description of the article including all distinguishing marks and numbers, and the time and date of the transaction, and shall not accept an article unless the person offering it shows a government issued identification card bearing the person’s photograph.  The collector, dealer and keeper of a shop as described above, or any employee thereof, shall photograph the person offering an article, and shall photograph the articles offered.  Said transaction information and the photographs of the person and the article or articles being offered, and shall transmit the information and photographs electronically on the date of the transaction, using a system specified by the secretary of public safety, and shall retain on the licensed premises a printed copy of the transaction information and photographs as part of his records.  All information gathered or transmitted in any manner by collectors, dealers and keepers of shops as described above pursuant to this section shall be available only to a law enforcement officer at any time for any reason, and no said collector, dealer or keeper of a shop or person offering any article to a collector, dealer or keeper of a shop shall have an expectation of privacy concerning any information about the transaction, including but not limited to any photographs taken.

No collector, dealer and keeper of a shop as described above, or any employee thereof, may purchase or receive a stainless steel or aluminum alloy beer or other beverage keg container if such container is marked with an indicia of ownership of any person or entity other than the person or entity presenting such container for sale. For purposes of this subsection, "indicia of ownership" means words, symbols or a registered trademark printed, stamped, etched, attached or otherwise displayed on such container that identify the owner of such container.

Any person offering any article for sale who provides a wrong name, address or date of birth, or shows false, forged or counterfeit identification shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months.  A police officer may arrest without a warrant any person whom he has probable cause to believe has provided a wrong name, address or date of birth, or has shown false, forged of counterfeit identification as described above.  Any dealer of second hand articles who knowingly records or transmits false information about a transaction shall be fined not more than one thousand dollars for the first offense, and upon a second offense, shall be fined not more than two thousand dollars and his license shall be revoked, and he shall not be permitted to conduct the business of a dealer of second hand articles in the commonwealth for one year.

The secretary of public safety shall have the authority to promulgate regulations relative to collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles, and to the licensing of said persons and shops.

SECTION 2.  Section 55 of chapter 140, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “shall forfeit twenty dollars” and inserting in place thereof the following words: - shall be punished by a fine of not more than two hundred dollars for the first offense, and by a fine of not more than five hundred dollars for each subsequent offense.

SECTION 3.  Chapter 140 is hereby further amended by striking out section 70, as so appearing, and inserting in place thereof the following section: -

Section 70.  No person shall carry on the business of a pawnbroker unless licensed to do so by the police commissioner of Boston, or by the governing body of the city or town where he carries on his business, subject to sections two hundred and two to two hundred and five, and said licensing authority may revoke such licenses at pleasure. Said licensing authority shall notify the Commissioner of the Division of Banks and the Commissioner of the Department of Public Safety of the issuance or revocation of said license, the name and address of the licensee, and the location where said business will be carried on.

SECTION 4. Chapter 140 of the General Laws is hereby amended by striking out Section 72 inserting in place thereof the following:—

The authorities which issue such licenses may fix the rate of interest which pawnbrokers may receive on loans, and may fix different rates which may be received for different amounts of money lent; provided however that the rate of interest shall not exceed 5% per month or 40% annually. No licensed pawnbroker shall charge or receive a greater rate of interest than that so fixed. Any person who violates any provision of this or the preceding section shall be punished by a fine of not more than five hundred dollars for the first offense, and by a fine of not more than one thousand dollars for each subsequent offense. A violation of this section shall constitute a violation of Section 2 of Chapter 93A.

SECTION 5.  Section 73 of chapter 140, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “The chief of police of a city, the selectmen of a town, any officer authorized by either of them, or a state” and inserting in place thereof the following word: - A.

SECTION 6.  Section 75 of chapter 140, as so appearing, is hereby amended by striking out, in line 5, the words “fifty dollars” and inserting in place thereof the following words: - two hundred dollars for the first offense, and by a fine of not more than five hundred dollars for each subsequent offense. A violation of this section shall constitute a violation of section 2 of Chapter 93A.

SECTION 7.  Section 76 of chapter 140, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words, “in any city or in any town of ten thousand or more inhabitants,”.

SECTION 8. Chapter 140 of the General Laws is hereby amended by striking out Section 78 and inserting in place thereof the following:—

The authorities who grant licenses to pawnbrokers shall establish regulations, to be approved by the Commissioner of the Division of Banks and the Commissioner of the Department of Public Safety relative to the business carried on by pawnbrokers and secondhand dealers, including, but not limited to, an appropriate fee structure. Notwithstanding such regulations, the rate of interest shall be five percent on a monthly basis, and that the term of such loan shall not exceed four months; provided however, that said pawnbroker or secondhand dealer may offer a four month grace period at five percent per month in addition to the initial term and a pawnbroker shall not charge or receive upon any loan a greater rate of interest than that set forth by this statute.

SECTION 9.  Chapter 140 is hereby further amended by striking out section 79, as so appearing, and inserting in place thereof the following section: -

Section 79.  Every person who carries on the business of a pawnbroker shall at the time of making a loan record information pertaining to every transaction, including but not limited to the name, address and date of birth of the person pawning an article, the amount of money loaned thereon, the rate of interest to be paid on such loan, a full description of the article including all distinguishing marks and numbers, and the time and date of the transaction, and shall not accept an article unless the person offering it shows a valid government issued picture identification card. .The pawnbroker or any employee thereof shall photograph the person offering an article in pawn.  Said transaction information, shall be transmitted electronically on the date of the transaction, using a system specified by the secretary of public safety. Said pawnbroker or secondhand dealer shall retain a printed or electronic copy of the transaction information and photographs on the licensed premises as part of his records.  All information gathered, recorded or transmitted in any manner by pawnbrokers pursuant to this section shall be available to any law enforcement officer at any time for any reason, or to the licensing authority of any city or town or their designee, and no pawnbroker or person pawning any article shall have an expectation of privacy concerning any information about the transaction, including but not limited to any photographs taken.

Any person offering any article for pawn who provides a wrong name, address or date of birth, or shows false, forged or counterfeit identification shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months.  A police officer may arrest without a warrant any person whom he has probable cause to believe has provided a wrong name, address or date of birth, or has shown false, forged of counterfeit identification as described above.  Any pawnbroker who knowingly records or transmits false information about a transaction shall be fined not more than one thousand dollars for the first offense, and upon a second offense shall be fined not more than two thousand dollars and his license shall be revoked, and he shall not be permitted to conduct the business of a pawnbroker in the commonwealth for one year.

The secretary of public safety shall have the authority to promulgate rules and regulations relative to pawnshops, the licensing of pawnshops and to persons who carry on the business of pawnbrokers.

SECTION 10. Section 81 of chapter 140 is hereby repealed.

SECTION 11. Section 83 of chapter 140 is hereby repealed.

SECTION 12.  Section 84 of chapter 140 is hereby repealed.

SECTION 13. This act shall take effect 180 days after its passage.