

# STATE OF NEW YORK

454

2019-2020 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 9, 2019

Introduced by M. of A. BRAUNSTEIN, SIMOTAS -- Multi-Sponsored by -- M. of A. MONTESANO, RODRIGUEZ -- read once and referred to the Committee on Economic Development

AN ACT to amend the general business law, in relation to recordkeeping requirements for second-hand dealers and pawnbrokers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 5-B to read as follows:

### ARTICLE 5-B

#### RECORDKEEPING REQUIREMENTS FOR SECOND-HAND DEALERS

#### AND PAWNBROKERS

#### Section 57. Reports to the secretary of state.

##### 57-a. Record of purchases and sales.

##### 57-b. Electronic reporting to the secretary of state.

##### 57-c. Penalties.

§ 57. Reports to the secretary of state. Every dealer in second-hand articles who deals in the purchase or sale of any second-hand manufactured article comprised wholly or in part of gold, silver, platinum, or other precious metals, or deals in the purchase or sale of any old gold, silver, platinum or other precious metals, or deals in the purchase of articles or things comprised of gold, silver, platinum or other precious metals for the purpose of melting or refining, or deals in the purchase or sale of used electrical appliances excluding kitchen appliances, or deals in the purchase or sale of any used electronic equipment, computers or component parts of electronic equipment or computers, shall make available to the secretary of state the records required to be kept pursuant to subdivisions one and two of section fifty-seven-a of this article with respect to such transactions in a manner specified by the secretary of state for the New York state department of state by rule

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

LBD02670-01-9

1 and regulation, which may include the real-time sharing or accessing of  
2 such records in an electronic format and/or through use of an internet  
3 website designated by the secretary of state.

4 § 57-a. Record of purchases and sales. 1. Every dealer in second-hand  
5 articles who deals in the purchase or sale of any second-hand manufac-  
6 tured article composed wholly or in part of gold, silver, platinum, or  
7 other precious metals, or deals in the purchase or sale of any old gold,  
8 silver, platinum or other precious metals, or deals in the purchase of  
9 articles or things comprised of gold, silver, platinum or other precious  
10 metals for the purpose of melting or refining, or deals in the purchase  
11 or sale of used electrical appliances excluding kitchen appliances, or  
12 deals in the purchase or sale of any used electronic equipment, comput-  
13 ers or component parts of electronic equipment or computers, shall with  
14 respect to such transactions create an electronic record in English, in  
15 a manner to be specified by the secretary of state for the New York  
16 state department of state by rule or regulation. Such electronic record  
17 may include the real-time sharing or accessing of such records in an  
18 electronic format and/or through use of an internet website designated  
19 by the secretary of state for the New York state department of state.  
20 Such electronic record shall be retained for a minimum period of six  
21 years from the date of purchase or sale. Such electronic record may, in  
22 the discretion of the secretary of state and in furtherance of the  
23 purposes of this article and any other applicable law or rules regulat-  
24 ing the activities of dealers in second-hand articles, include but shall  
25 not be limited to the following information, provided in a format or in  
26 accordance with specifications as provided by rule or regulation of the  
27 secretary of state:

28 a. The date, time, location and type of transaction;

29 b. The name of the individual conducting the transaction for the deal-  
30 er;

31 c. Identifying information regarding the person who is present to  
32 offer property purchased by the dealer, including name, address, phone  
33 number, type of identification utilized, identification number, expira-  
34 tion date of identification, date of birth, sex, height, weight, eye  
35 color, hair color, race or ethnicity, distinguishing marks, digital  
36 photograph of owner, and digital photograph or scanned copy of identifi-  
37 cation utilized;

38 d. Identifying information regarding the person who is present to  
39 purchase property sold by the dealer, including name, address, phone  
40 number, and physical description as apparent, including sex, age,  
41 height, weight, eye color, hair color, race or ethnicity, and distin-  
42 guishing marks; and

43 e. An accurate description of each article purchased or sold, includ-  
44 ing type of article, manufacturer, make, model number, serial number,  
45 international mobile equipment identifier, electronic serial number,  
46 mobile equipment identifier, inscriptions or distinguishing marks, and  
47 one or more digital photographs reasonably capturing the likeness of the  
48 article.

49 2. Every dealer in second-hand articles who deals in the purchase or  
50 sale of pawnbroker tickets or other evidence of pledged articles or the  
51 redemption or sale of pledged articles and who is not subject to the  
52 provisions of section fifty-seven-b of this article shall, in addition  
53 to recording information pursuant to subdivision one of this section,  
54 create an electronic record of the following information at the time of  
55 such purchase, sale or redemption in a manner to be specified by the  
56 secretary of state for the New York state department of state by rule or

1 regulation, which may include the real-time sharing or accessing of such  
2 records in an electronic format and/or through use of an internet  
3 website designated by the secretary of state. Such electronic record  
4 shall be retained for a minimum period of six years from the date of  
5 purchase or sale. Such electronic record may, in the discretion of the  
6 secretary and in furtherance of the purposes of this article and any  
7 other applicable law or rules regulating the activities of dealers in  
8 second-hand articles and pawnbrokers, include but shall not be limited  
9 to the following information, provided in a format or in accordance with  
10 specifications as provided by rule of the secretary of state:

11 a. The name and address of the person who issued such ticket or other  
12 evidence;

13 b. The pledge number of such pawn ticket or other evidence;

14 c. The name and address of the pledgor as it appears upon such pawn  
15 ticket or other evidence;

16 d. The amount loaned or advanced as it appears on such pawn ticket or  
17 other evidence;

18 e. The sum paid or received for such pawn ticket or other evidence, or  
19 the sum paid or received for the redeemed article or pledge; and

20 f. Such description of a pledged article as appears on such pawn tick-  
21 et or other evidence and an accurate description of every redeemed  
22 pledged article, including type of article, manufacturer, make, model  
23 number, serial number, international mobile equipment identifier, elec-  
24 tronic serial number, mobile equipment identifier, inscriptions or  
25 distinguishing marks, and one or more digital photographs reasonably  
26 capturing the likeness of the article.

27 3. A dealer in second-hand articles subject to the provisions of this  
28 subdivision and subdivision one of this section shall acquire and main-  
29 tain in good working order the electronic equipment necessary to create  
30 and maintain the electronic records required by this section, including  
31 but not limited to a computer with internet connection, an electronic  
32 signature pad and a digital camera utilizing a file format designated by  
33 the secretary of state.

34 4. The books and records required by this section, including any elec-  
35 tronic records required by this subdivision and subdivision one of this  
36 section, shall be open to the inspection of any police officer, the  
37 secretary of state for the New York state department of state or any  
38 departmental inspector, any judge of the criminal court, or any person  
39 duly authorized in writing for such purposes by the secretary of state  
40 or by any judge of the criminal court, who shall exhibit such written  
41 authority to the dealer. Such records shall also be open to the  
42 inspection of any official or other person identified in, or duly  
43 authorized in writing pursuant to, any other applicable state or local  
44 law.

45 5. Nothing in this section shall be construed to affect or supersede  
46 any recordkeeping requirement imposed by or pursuant to any other appli-  
47 cable state or local law.

48 § 57-b. Electronic reporting to the secretary of state. 1. Every pawn-  
49 broker, shall make available to the secretary of state for the New York  
50 state department of state the records required to be kept pursuant to  
51 subdivision two of this section, in a manner to be specified by the  
52 secretary of state by rule or regulation, which may include the real-  
53 time sharing or accessing of such records in an electronic format and/or  
54 through use of an internet website designated by the secretary of state  
55 for the New York state department of state.

2. Every pawnbroker shall create at the time of transaction an electronic record in English, in a manner to be specified by the secretary of state by rule or regulation, which may include the use of an internet website designated by the secretary of state, of every transaction in which goods, articles or things, or any part thereof, are pawned, pledged or redeemed in the course of business of such pawnbroker. Such electronic record shall be retained for a minimum period of six years from the date of the transaction. Such electronic record may, in the discretion of the secretary of state and in furtherance of the purposes of this article and any other applicable law or rules regulating the activities of pawnbrokers, include but shall not be limited to the following information, provided in a format or in accordance with specifications as provided by rule or regulation of the secretary of state:

- a. The date, time, location and type of transaction;
- b. The name of the individual conducting the transaction for the pawnbroker;
- c. Identifying information regarding the pledgor, including name, address, phone number, type of identification utilized, identification number, expiration date of identification, date of birth, sex, height, weight, eye color, hair color, race or ethnicity, distinguishing marks, digital photograph of owner, digital photograph or scanned copy of identification utilized, and whether the pledgor is the owner, consignee or agent of the owner;
- d. An accurate description of each article pawned or pledged, including type of article, manufacturer, make, model number, serial number, international mobile equipment identifier, electronic serial number, mobile equipment identifier, inscriptions or distinguishing marks, and one or more digital photographs reasonably capturing the likeness of the article;
- e. The pledge number of the pawn ticket;
- f. The amount loaned or advanced thereon and the rate of interest to be paid on such loan or advance;
- g. Identifying information regarding the person redeeming the article pawned or pledged, including name, address, phone number, type of identification utilized, identification number, expiration date of identification, date of birth, sex, height, weight, eye color, hair color, race or ethnicity, distinguishing marks, digital photograph of owner, and digital photograph or scanned copy of identification utilized; and
- h. An accurate description of each article purchased or sold, including type of article, manufacturer, make, model number, serial number, international mobile equipment identifier, electronic serial number, mobile equipment identifier, inscriptions or distinguishing marks, and one or more digital photographs reasonably capturing the likeness of the article.

Notwithstanding any inconsistent provision of this subdivision, such electronic record shall in any event contain the information specified in section forty-three of this chapter.

3. The pawnbroker shall acquire and maintain in good working order the electronic equipment necessary to create and maintain the electronic records required by this section, including but not limited to a computer with internet connection, an electronic signature pad and a digital camera utilizing a file format designated by the secretary of state.

4. The electronic records required by this section shall be open to the inspection of the state attorney general, the state comptroller, any police officer, the secretary of state, any departmental inspector, any judge of the criminal court, any person duly authorized in writing for

1 such purposes by the secretary of state or by any judge of the criminal  
2 court, who shall exhibit such written authority to the pawnbroker or any  
3 other governmental officer or employee authorized by state or local law.  
4 Such records shall also be open to the inspection of any official or  
5 other person identified in, or duly authorized in writing pursuant to  
6 section forty-five of this chapter or any other applicable state or  
7 local law.

8 5. Nothing in this section shall be construed to affect or supersede  
9 any recordkeeping requirement imposed by or pursuant to any other appli-  
10 cable state or local law.

11 6. In addition to any other applicable penalty or sanction, any person  
12 who violates any of the provisions of this section or rules promulgated  
13 thereunder shall be subject to the penalties set forth in section  
14 fifty-seven-c of this article.

15 § 57-c. Penalties. 1. Except as otherwise specifically provided any  
16 person who violates any provision of this article or any regulation or  
17 rule promulgated under it shall, upon conviction thereof, be punished  
18 for each violation by a fine of not less than twenty-five dollars nor  
19 more than five hundred dollars, or by imprisonment not exceeding fifteen  
20 days, or both; and any such person shall be subject also to a civil  
21 penalty in the sum of one hundred dollars for each violation, to be  
22 recovered in a civil action.

23 2. The attorney general is authorized to bring an injunction proceed-  
24 ing to restrain or enjoin any violation of this article.

25 § 2. This act shall take effect on the ninetieth day after it shall  
26 have become a law; provided, however, that the secretary of state shall  
27 take such measures as are necessary for its implementation, including  
28 the promulgation of any rules, or regulations prior to such effective  
29 date.