

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:

1 Section 1. The general business law is amended by adding a new article
2 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.

10 § 57. Reports to the secretary of state. Every dealer in second-hand
11 articles who deals in the purchase or sale of any second-hand manufac-
12 tured article comprised wholly or in part of gold, silver, platinum, or
13 other precious metals, or deals in the purchase or sale of any old gold,
14 silver, platinum or other precious metals, or deals in the purchase of
15 articles or things comprised of gold, silver, platinum or other precious
16 metals for the purpose of melting or refining, or deals in the purchase
17 or sale of used electrical appliances excluding kitchen appliances, or
18 deals in the purchase or sale of any used electronic equipment, comput-
19 ers or component parts of electronic equipment or computers, shall make
20 available to the secretary of state the records required to be kept
21 pursuant to subdivisions one and two of section fifty-seven-a of this
22 article with respect to such transactions in a manner specified by the
23 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.

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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.