
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1177 Session of
2013

INTRODUCED BY WARD, WHITE, VULAKOVICH, RAFFERTY, SCHWANK, COSTA
AND KASUNIC, DECEMBER 9, 2013

REFERRED TO BANKING AND INSURANCE, DECEMBER 9, 2013

AN ACT

1 Amending Title 44 (Law and Justice) of the Pennsylvania
2 Consolidated Statutes, providing for registration of
3 pawnbrokers, precious metals dealers, secondhand dealers and
4 scrap metal processors; and making inconsistent repeals.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Title 44 of the Pennsylvania Consolidated
8 Statutes is amended by adding a chapter to read:

9 CHAPTER 91

10 REGISTRATION OF PAWNBROKERS, PRECIOUS METALS

11 DEALERS, SECONDHAND DEALERS

12 AND SCRAP METAL PROCESSORS

13 Subchapter

14 A. General Provisions

15 B. Registry

16 C. Licensing

17 SUBCHAPTER A

18 GENERAL PROVISIONS

19 Sec.

1 9101. Definitions.

2 9102 Reporting requirements.

3 9103. Holding period of property.

4 9104. Inspection of premises and records.

5 9105. Notice to law enforcement of stolen goods.

6 9106. Prohibited actions and penalties.

7 9107. Local regulations.

8 § 9101. Definitions.

9 The following words and phrases when used in this chapter
10 shall have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Antique dealer." A person who sells exclusively goods that
13 are no less than 50 years old.

14 "Automated kiosk." A self-serve computer system that
15 evaluates and buys used electronics directly from consumers for
16 cash or store credit.

17 "Exempted Internet sale." An offer for a sale of secondhand
18 property available on an Internet website where the item is
19 listed for sale that meets all of the following criteria:

20 (1) The item may be viewed by any member of the general
21 public at no charge.

22 (2) The item may be searched by any member of the
23 general public, at no charge, by the zip code or state in
24 which the secondhand property offered for sale is located.

25 (3) The item is assigned a unique item listing number by
26 the Internet website.

27 (4) The item is provided, in a timely manner, at no
28 additional charge to the secondhand dealer, to a unified,
29 nationally available database, which database that is
30 searchable by item description and by seller, and may be

1 accessed by a law enforcement agency with adequate security
2 features and privacy protections if reasonably necessary for
3 an ongoing investigation of a crime.

4 "Ferrous metals." Items that are predominantly made from
5 iron or steel that have no further use in their original
6 manufactured form but can be melted for their metal content and
7 utilized in the manufacture of new products.

8 "Final consumption." A sale to a final consumer that is not
9 a person who intends to resell.

10 "Gold." Any alloy of the element gold, ten karat or of
11 greater fineness.

12 "Investment coins." Numismatic coins or other forms of money
13 and legal tender manufactured of gold, silver, platinum,
14 palladium or other metal and of the United States or any foreign
15 nation with a fair market value greater than any nominal value
16 of such coins. The term does not include jewelry or works of art
17 made of coins, nor does it include commemorative medallions.

18 "Investment metal bullion." Any elementary precious metal
19 which has been put through a process of smelting or refining,
20 including, but not limited to, gold, silver, platinum and
21 palladium, and which is in such state or condition that its
22 value depends upon its content and not its form. The term does
23 not include precious metal which has been assembled, fabricated,
24 manufactured or processed in one or more specific and customary
25 industrial, professional, aesthetic or artistic uses.

26 "Karat." One 1/24 part, by weight, of the alloy of the
27 metallic element gold.

28 "Licensed dealer." A pawnbroker, precious metal dealer,
29 scrap metal processor or secondhand dealer required to register
30 under this chapter.

1 "Nonferrous metals." Items that are predominantly made from
2 metals other than iron and steel, such as copper, brass,
3 aluminum, bronze, lead, zinc, nickel and alloys that have no
4 further use in their original manufactured form, but can be
5 melted for their metal content and utilized in the manufacture
6 of new products.

7 "Pawnbroker." As the term is defined in section 2 of the act
8 of April 6, 1937 (P.L.200, No.51), known as the "Pawnbrokers
9 License Act."

10 "Personal property." Items commonly targeted for theft,
11 including:

12 (1) Portable electronics, as defined by the act of July
13 5, 2012 (P.L.995, No.112), known as the Portable Electronics
14 Insurance Act.

15 (2) Computers, laptops, notebooks, printers, scanners,
16 electronic tablets and other computer-related items.

17 (3) Televisions and radios.

18 (4) Power tools and household items, including small
19 electronics.

20 (5) Sporting equipment.

21 (6) Hunting items, knives and decorative weapons.

22 (7) Firearms, as defined in 18 Pa.C.S. § 6102 (relating
23 to definitions), excluding firearms transferred through a
24 Federal firearms dealer.

25 (8) Pedalcycles, as defined in 75 Pa.C.S. § 102
26 (relating to definitions).

27 "Platinum." Any alloy of the element platinum, 750/1000 or
28 more parts per thousand, by weight, of pure platinum.

29 "Precious metal dealer." A person that purchases precious
30 metals from the general public for resale or refining or any

1 individual who acts as agent for the person for such purchase,
2 excluding any of the following:

3 (1) A financial institution licensed under Federal or
4 State banking laws.

5 (2) A manufacturer of jewelry or of other items
6 composed, in whole or in part, of gold, silver or platinum.

7 (3) A purchaser of precious metals for the purchaser's
8 own use or ownership and not for resale or refining.

9 "Precious metals." Items containing or being of gold, silver
10 or platinum, including, but not limited to, jewelry and silver
11 services, investment metal bullion and investment coins, but
12 excluding any article containing less than 5% of gold, silver or
13 platinum by weight.

14 "Property." Previously owned, used, rented or leased
15 precious metals, ferrous metals, nonferrous metals and personal
16 property sold or received by a licensed dealer.

17 "Retail." The sale or purchase for final consumption.

18 "Scrap metal processor." An owner, operator or employee
19 that, from a fixed location, utilizes machinery and equipment
20 for processing and manufacturing ferrous or nonferrous
21 metallic scrap, paper scrap, plastic scrap, rubber scrap or
22 glass scrap into prepared grades and whose principal product is
23 sold as a raw material in the manufacture of new products.

24 "Secondhand dealer." A storefront business, including an
25 automated kiosk, that includes any volume of selling or
26 receiving previously owned, used, rented or leased property,
27 excluding a business that:

28 (1) operates as an auction house, antique dealer or
29 motor vehicle dealer;

30 (2) sells secondhand goods by conducting a garage sale,

1 yard sale, estate sale or auction;

2 (3) sells or receives secondhand books, magazines, post
3 cards or postage stamps;

4 (4) sells or receives used merchandise donated to
5 recognized nonprofit, religious or charitable organizations
6 or any school-sponsored association for which no compensation
7 is paid;

8 (5) sells or receives secondhand furniture;

9 (6) sells or receives secondhand clothing or shoes;

10 (7) engages in exempted Internet sales; or

11 (8) is a Federal firearms licensed dealer.

12 "Silver." Any alloy of the element silver, 900/1000 or more
13 parts per thousand, by weight, of pure silver.

14 § 9102. Reporting requirements.

15 (a) Record of transactions.--A licensed dealer shall create
16 a record of a property transaction by utilizing the Statewide
17 registry established by the Pennsylvania State Police or a
18 municipality in accordance with section 9121 (relating to
19 Statewide registry).

20 (b) Record information.--The record under subsection (a)
21 shall include, at a minimum, all of the following information:

22 (1) The name, age, birth date and address of the seller,
23 which shall be verified by the licensed dealer by proof of
24 identity approved by the Pennsylvania State Police.

25 (2) A complete and accurate description of the property
26 purchased by the licensed dealer, including any serial number
27 or other identifying marks or symbols, the date and hour of
28 the transaction and the amount.

29 (3) Any other information required by regulations
30 promulgated by the Pennsylvania State Police.

1 (c) Record submission.--

2 (1) A licensed dealer shall submit property transaction
3 records electronically in a manner approved by the
4 Pennsylvania State Police by the close of the business day
5 the property is purchased or acquired.

6 (2) A submitted property transaction record shall be
7 kept confidential and shall not be considered a public record
8 under the act of February 14, 2008 (P.L.6, No.3), known as
9 the Right-to-Know Law.

10 (d) Record inspection.--The information under subsection (b)
11 shall be available for inspection upon request by any law
12 enforcement official of the Federal Government, the Commonwealth
13 or any of its municipalities.

14 § 9103. Holding period of property.

15 (a) Holding period.--Except as provided for in subsections
16 (b) and (c), a licensed dealer shall keep, for a period of not
17 less than 15 calendar days, subject to inspection by law
18 enforcement, property of any person before selling, shipping or
19 otherwise disposing of the property. Property held during the
20 holding period shall be held separately from goods and
21 merchandise for sale. Nothing in this subsection shall be
22 construed to prohibit a licensed dealer from securing valuable
23 goods, wares and merchandise in a vault, safe or safety deposit
24 box or other similarly secured storage area on the normal
25 business premises so long as the secured items are readily
26 available for inspection by law enforcement.

27 (b) Nonferrous materials.--Notwithstanding subsection (a), a
28 holding period may not apply for nonferrous materials that are
29 purchased or received by a scrap metal processor from a
30 commercial enterprise.

1 (c) Reacquiring property.--Notwithstanding subsection (a), a
2 holding period may not apply if the person from which the
3 property was acquired or pledged desires to redeem, repurchase
4 or recover the property, provided that the licensed dealer can
5 produce the record of the original transaction with verification
6 that the customer is the person from whom the property was
7 originally acquired.

8 (d) Enforcement.--The following shall apply:

9 (1) Law enforcement may seize any alleged stolen
10 property for use in a criminal investigation. The release of
11 the property to the custody of an appropriate law enforcement
12 official may not constitute a waiver or release of the
13 licensed dealer's property rights or interest in the
14 property.

15 (2) Upon completion of the criminal proceeding, the
16 property may be returned to the victim of the theft unless
17 the court orders other disposition, including returning the
18 property to the licensed dealer. The court may order the
19 offender to pay restitution to the licensed dealer in the
20 amount received by the offender for the property plus
21 reasonable attorney fees and costs.

22 (e) Property identity.--A licensed dealer may not destroy,
23 disfigure or obliterate identification marks or cause the
24 identity of an article or property to otherwise be destroyed
25 during the holding period under section (a) or any subsequent
26 holding period under subsection (f).

27 (f) Additional holding period.--

28 (1) Law enforcement may require that the property be
29 held for an additional 90 days beyond the holding period
30 specified under subsection (a) if law enforcement knows or

1 has reason to believe that the property is missing or stolen.

2 (2) The holding period may be extended beyond the 90-day
3 period under paragraph (1) by a written order issued by a
4 court of competent jurisdiction upon a finding of probable
5 cause that the property is stolen and further holding is
6 necessary for the purposes of trial or to safeguard the
7 property.

8 (g) Definitions.--As used in this section, the term
9 "commercial enterprise" shall have the meaning given to it in
10 section 2 of the act of October 9, 2008 (P.L.1408, No.113),
11 known as the Scrap Material Theft Prevention Act.

12 § 9104. Inspection of premises and records.

13 (a) Maintaining information.--A licensed dealer shall
14 maintain a record of all of the information required by this
15 chapter and a photocopy of personal identification approved by
16 the Pennsylvania State Police for a period of not less than two
17 years from the date the transaction was recorded.

18 (b) Inspection.--The information required to be maintained
19 under this chapter shall, during regular business hours, be
20 subject to inspection by any law enforcement official of the
21 Federal Government, the Commonwealth or any of its
22 municipalities. The inspection shall consist of an examination
23 on the premises of the inventory and required records to
24 determine whether or not the information and inventory are being
25 maintained on the premises as required by this chapter.

26 § 9105. Notice to law enforcement of stolen goods.

27 A licensed dealer may seize property offered to a person for
28 sale or as a pledge or pawn that the person has reason to
29 believe has been stolen. The person shall immediately notify the
30 law enforcement agency with jurisdiction over the premises where

1 the sale or offer or pledge took place or where the property is
2 currently located. Any person acting in compliance with this
3 section shall be immune from civil or criminal penalties if the
4 person acts in good faith.

5 § 9106. Prohibited actions and penalties.

6 (a) Unlicensed dealers.--The purchase of property by an
7 unlicensed dealer shall constitute a violation of this chapter,
8 and the unlicensed dealer shall be guilty of a misdemeanor of
9 the third degree.

10 (b) Licensed dealers.--A licensed dealer that violates any
11 provisions of this chapter commits a misdemeanor of the third
12 degree.

13 (c) Revocation of license and ineligibility.--The following
14 apply:

15 (1) A person convicted of any of the following offenses
16 may not be eligible to receive or hold a license to engage in
17 the practice of a licensed dealer under this chapter:

18 (i) 18 Pa.C.S. § 3502 (relating to burglary).

19 (ii) 18 Pa.C.S. § 3701 (relating to robbery).

20 (iii) 18 Pa.C.S. Ch. 39 (relating to theft and
21 related offenses).

22 (iv) 18 Pa.C.S. Ch. 41 (relating to forgery and
23 fraudulent practices).

24 (2) In addition to the penalties set forth in
25 subsections (a) and (b) and paragraph (1), a person that
26 violates any provisions of this chapter shall, upon
27 conviction, be subject to license revocation and may not be
28 eligible to apply for a license to engage in the practice of
29 a licensed dealer under this chapter.

30 § 9107. Local regulations.

1 Nothing in this chapter shall preclude a municipality from
2 enacting more restrictive ordinances, codes or regulations than
3 the provisions of this chapter. The ordinances, codes or
4 regulations may not be in lieu of the provisions set forth in
5 this chapter.

6 SUBCHAPTER B

7 REGISTRY

8 Sec.

9 9121. Statewide registry.

10 § 9121. Statewide registry.

11 (a) Establishment.--The Pennsylvania State Police shall
12 establish a Statewide registry of licensed dealers in order to
13 carry out the provisions of this chapter. The Pennsylvania State
14 Police may contract with an entity that has experience in the
15 development and maintenance of Statewide registries. The
16 registry shall maintain a complete and systematic index of all
17 records required under this chapter, including all records of
18 property transactions. The registry shall:

19 (1) be composed of an electronic database and digitized
20 records;

21 (2) allow licensed dealers to enter records of property
22 transactions;

23 (3) allow law enforcement agencies to enter records of
24 property reported stolen or missing and search property
25 transactions; and

26 (4) be able to communicate with a current or successor
27 database maintained by the United States Department of
28 Justice.

29 (b) Other registries.--A municipality that has developed a
30 registry to record property transactions within its jurisdiction

1 shall, at a minimum, meet the standards of the Pennsylvania
2 State Police and shall be capable of uploading its transaction
3 records and other information with the Statewide registry
4 established under subsection (a).

5 SUBCHAPTER C

6 LICENSING

7 Sec.

8 9131. License required.

9 9132. License to engage in the business of a licensed dealer.

10 9133. License fees.

11 9134. List of licensed dealers.

12 § 9131. License required.

13 A person may not engage in the business of a licensed dealer
14 without being licensed and duly qualified as provided under this
15 chapter.

16 § 9132. License to engage in the business of a licensed dealer.

17 (a) Issuance.--Pursuant to the process established by the
18 Pennsylvania State Police by regulation, the sheriff of each
19 county shall annually issue licenses to engage in the business
20 of a licensed dealer.

21 (b) Licenses.--A license issued under subsection (a) shall
22 designate each address within the county where the person
23 engages in the business of a licensed dealer. A person may not
24 engage in the business of a licensed dealer in a location not
25 designated on the license.

26 (c) Application form.--An application to become a licensed
27 dealer shall include the results of a criminal history record
28 information check obtained from the Pennsylvania State Police.
29 The Pennsylvania State Police shall promulgate regulations
30 pertaining to the application form to become a licensed dealer.

1 (d) Suspension or revocation.--The Pennsylvania State Police
2 or sheriff of the county where the license was issued may
3 suspend or revoke a license for a violation of this chapter.

4 (e) Public record.--A license issued under subsection (a)
5 shall be a public record available to the general public for
6 inspection.

7 § 9133. License fees.

8 A person shall pay a \$50 fee plus an administrative fee that
9 shall be set by regulations promulgated by the Pennsylvania
10 State Police to apply to become a licensed dealer. The license
11 fee shall be paid into the treasury of the county where the
12 license is issued for use by the county. The administrative fee
13 shall be paid to the Pennsylvania State Police to fund the
14 establishment and maintenance of the Statewide registry required
15 under section 9121 (relating to Statewide registry).

16 § 9134. List of licensed dealers.

17 The Pennsylvania State Police shall maintain a list of
18 licensed dealers in this Commonwealth, including their addresses
19 and contact information. The list shall be a public record
20 available to the general public for inspection.

21 Section 2. The following acts or parts of acts are repealed
22 insofar as they are inconsistent with this act:

23 (1) Sections 2, 3, 4 and 10 of the act of February 24,
24 1984 (P.L.92, No.17), known as the Precious Metal Sale
25 Regulation Law.

26 (2) All other acts or parts of acts are repealed insofar
27 as they are inconsistent with this act.

28 Section 3. This act shall take effect July 1, 2014.