

Chapter 155

SECONDHAND DEALERS

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[HISTORY: Adopted by the Borough Council of the Borough of Dallastown 3-8-1982 by Ord. No. 341. Amendments noted where applicable.]

GENERAL REFERENCES

Transient retail merchants — See Ch. 198.

§ 155-1. Pawnbrokers.

A. Definitions.

PAWNBROKER — Includes any person who:

- (1) Engages in the business of accepting money on the deposit or pledge of personal property other than choses in action, securities or written evidence of indebtedness;
- (2) Purchases personal property with an express or implied agreement or understanding to sell it back at a subsequent time as a stipulated price; or
- (3) Accepts money for goods, wares or merchandise pledged, stored or deposited as collateral security.

PLEDGE — An article or articles deposited with a pawnbroker as security for a loan in the course of his business, as defined in the preceding definition.

THIEF — Any person who, to the knowledge of the subject merchant:

- (1) Has been convicted of a crime or offense involving moral turpitude; or
- (2) In the instant transaction, has stolen or has received the items for exchange as stolen.

B. Records to be kept. Each and every pawnbroker shall keep a book legibly written in the English language in which shall be recorded:

- (1) A full and accurate description of all articles purchased or left in pawn with him.
- (2) The date and time of pledging, pawning or purchasing the same.
- (3) The date and time within which such pawned or pledged article is to be redeemed.
- (4) The amount of money lent or paid therefor.

- (5) The description of person or persons making a pledge, including such person's name, address, date of birth, sex, race and operator's number.
- C. Report to police. All pawnbrokers shall daily, before 12:00 noon of the following day of business, provide a written report to the Bureau of Police containing a complete description of all articles received in the course of his pawnbroking business during the previous business day, together with the number of ticket(s) and a description of the person(s) making such a sale, including such person's name, address, date of birth, race, sex and operator's number. Forms for this purpose are to be provided by the Bureau of Police.
- D. Forbidden transactions. A pawnbroker shall not accept a pledge from a person under the age of 18 years nor from any intoxicated person or any known thieves.
- E. Retention of pledged articles. No pawnbroker shall sell or dispose of in any way to any person any article received by him in the course of his business until seven days have elapsed from the time of furnishing to the police a form containing the information on such articles are required by Subsection C.

§ 155-2. Antique or secondhand dealers. [Amended 6-8-1987 by Ord. No. 382]

A. Definitions.

ANTIQUÉ DEALER or SECONDHAND DEALER — Any person who engages in or operates a trade or business of buying or selling used goods, including but not limited to antiques, precious stones, stained glass, metals, jewelry, tools, electrical devices, fixtures, appliances, household goods, firearms and bric-a-brac. The foregoing shall not be deemed to be exclusive nor all inclusive and shall also include any item purchased, salvaged or received from any third person, association or business entity. This definition shall not include the following:

- (1) Judicial sales.
- (2) Estate sales.
- (3) Sales of unredeemed pledges by or in behalf of a licensed pawnbroker in the manner prescribed by law.
- (4) Occasional or auction sales of household goods sold from private homes.
- (5) Auctions of real estate.
- (6) Sales of any type whatsoever by charitable, religious or nonprofit organizations.
- (7) Sales by any business engaged in selling of new products and, in connection therewith, receiving and reselling of trade-ins.

DEALER IN PRECIOUS METALS OR COINS — An individual, partnership, association, corporation or business entity who or which purchases precious metals or coins for resale or refinancing or any individual who acts as agent for such individual, partnership, association, corporation or business entity for such purchase or purchases. Excluded from this definition are financial institutions licensed under federal or state banking laws, the manufacturers of jewelry or other items composed, in whole or in part,

of gold, silver or platinum and the purchase of precious metals for his, her or its own use or ownership. [Added 3-12-1982 by Ord. No. 342]

- B. Records to be kept. Each and every antique and secondhand dealer shall keep a book legibly written in the English language at the time of acquiring articles in the course of business which shall include:
- (1) A full and accurate description of all articles purchased, salvaged or received, including brand names, model number, serial number, inscribed initials, dates or names and any other forms of identification.
 - (2) The date and time of purchasing, salvaging or receiving the same.
 - (3) The amount of money paid therefor.
 - (4) The description of the person from whom the article was purchased, salvaged or received, including that person's name, address, date of birth, sex, race and operator's number.
- C. Report to police. All antique and secondhand dealers shall daily, before 12:00 noon of the following day of business, provide a written report to the Bureau of Police containing a complete description of all articles received in the course of his respective business during the previous business day, together with the name of the person, age, date of birth, sex, race and operator's number. Forms for purpose are to be provided by the Bureau of Police.
- D. Forbidden transactions. An antique or secondhand dealer shall not accept a pledge from a person under the age of 18 years nor from any intoxicated person or any known thieves.
- E. Retention of purchased articles. All antique or secondhand dealers shall retain on their premises in the original form, shape and condition in which they were received and shall not sell or dispose of in any way any goods received by him in the course of business until seven days have elapsed from time of furnishing to the police a form containing the information on such articles as required by Subsection C.

§ 155-3. Transient merchants.

A. Definitions.

TRANSIENT MERCHANT — Any person who occupies a room, apartment, store, shop, building, private lot or other fixed location for the purpose of purchasing and/or selling goods, wares or merchandise of any description with the intention of not remaining more than 100 days.

- B. Records to be kept. Each and every transient dealer shall keep a book legibly written in the English language in which shall be recorded:
- (1) A full and accurate description of all articles received in any way in the course of business.
 - (2) The date and time of such transaction.
 - (3) The description of the person(s) with whom such a transaction was completed, including that person's name, address, date of birth, sex, race and operator's number.

- C. Report to police. All transient merchants shall, within two hours of the close of their business day, provide a written report to the Bureau of Police containing a full and accurate description of all articles received in the course of his business during that immediate business day, the amount of money paid therefor and a description of the person(s) from whom such goods were in any way received, including that person's name, address, date of birth, sex, race and operator's number. Forms for this purpose are to be provided by the Bureau of Police.
- D. Termination of business. Notification must be provided to the Bureau of Police that the transient dealer intends to terminate his business operation within 48 hours of such termination. Such notification shall include an address at which the transient dealer may be reached for the 10 days immediately prior to the termination.
- E. Retention of articles. All transient merchants shall retain at their immediate local place of business any goods received in the original shape, form and condition in which they were received and shall not sell or dispose of such goods in any way until seven days have elapsed from the time of furnishing to the police a form containing the information on such articles as required by Subsection C.
- F. Forbidden transactions. A transient merchant shall not accept a pledge from a person under the age of 18 years nor from any intoxicated person or any known thieves.

§ 155-4. Affirmative defense.

It shall be an affirmative defense to any prosecution or administrative proceeding brought for the violation of any section of this chapter pertaining to the retention of articles obtained in the course of business operations that, in the case of precious metals, retention for time period required would have resulted in serious and substantial economic losses to the dealer or the probability of such losses was significant due to rapid and highly fluctuating market conditions, provided that the persons so charged shall prove the existence of the market conditions giving rise to the aforesaid defense by a preponderance of the evidence. Market conditions, in order to be a defense hereunder, must be such that financial analysts would characterize trading as at or approaching clearly distinguished trading conditions from normal variations in market movement in response to economic news or other events.

§ 155-5. Information to be supplied to law enforcement officials.

- A. Any police officer, upon showing a badge and proper identification, shall be given any information from all of the above classes of businesses that is legitimately required in the execution of his duties. This shall include but not be limited to names of employees and any and all records concerning transactions over the past 24 months.
- B. Failure to do so shall result in any and all licenses being revoked by the Borough of Dallastown for operation of said business in addition to the penalties as stated in § 155-6.

§ 155-6. Violations and penalties.¹

Any person violating any of the provisions of this chapter shall, upon conviction thereof, be punishable by a fine of not more than \$600, plus costs of prosecution, and in default of payment of such fine and costs by imprisonment for not more than 30 days. Each day during which a violation continues shall constitute a separate offense.

§ 155-7. Licensing and fees. [Added 3-12-1982 by Ord. No. 342²]

All pawnbrokers, antique or secondhand dealers, dealers in precious metals or coins and transient merchants shall be licensed by the Borough of Dallastown. Said license shall be obtained from the Borough Secretary at a fee per year and shall be valid from January 1 to December 31. The particular fee as imposed and established will be set by resolution of the Borough Council. Businesses opening or going out of business during the year shall pay a prorated amount. This license does not eliminate pawnbrokers from complying with the Pawnbrokers Licensing Act of April 6, 1937, P.L. 200, as amended June 20, 1947, P.L. 701; March 10, 1949, P.L. 305; and May 20, 1949, P.L. 1485.³

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

³ Editor's Note: See 63 P.S. § 281-1 et seq.

