

Legislation Details (With Text)

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Title: Amending Section 9-603 of The Philadelphia Code, entitled "Pawnbrokers," and Section 9-615, entitled "Dealers in Precious Metals," to require pawnbrokers and dealers in precious metals to share transactional information with the Police Department through an internet-accessible electronic inventory tracking system, to comply with additional safeguards in order to facilitate the recovery of stolen property, to increase the license fee for dealers in precious metals and to enhance the penalties for violations; all under certain terms and conditions.

Sponsors: Councilmember Kelly

Indexes:

Code sections: 9-600 - Service Businesses

Attachments: 1. CertifiedCopy090910-A02.pdf

Date	Ver.	Action By	Action	Result	Tally
9/1/2010	2	MAYOR	SIGNED		
6/17/2010	2	CITY COUNCIL	PASSED	Pass	17:0
6/17/2010	1	CITY COUNCIL	READ		
6/10/2010	1	CITY COUNCIL	ORDERED PLACED ON THIS DAY'S FIRST READING CALENDAR		
6/10/2010	1	CITY COUNCIL	SUSPEND THE RULES OF THE COUNCIL	Pass	
6/10/2010	2	CITY COUNCIL	ORDERED PLACED ON FINAL PASSAGE CALENDAR FOR NEXT MEETING.		
6/10/2010	2	CITY COUNCIL	AMENDED		
6/10/2010	0	CITY COUNCIL	READ		
6/9/2010	0	Committee on Licenses and Inspections	HEARING NOTICES SENT		
6/9/2010	0	Committee on Licenses and Inspections	HEARING HELD		
6/9/2010	0	Committee on Licenses and Inspections	AMENDED		
6/9/2010	1	Committee on Licenses and Inspections	REPORTED FAVORABLY, RULE SUSPENSION REQUESTED		
3/25/2010	0	Committee on Licenses and Inspections	HEARING NOTICES SENT		
3/25/2010	0	Committee on Licenses and Inspections	HEARING HELD		
3/25/2010	0	Committee on Licenses and Inspections	RECESSED		
12/10/2009	0	CITY COUNCIL	Referred		

12/10/2009

0

CITY COUNCIL

Introduced

Pass

Amending Section 9-603 of The Philadelphia Code, entitled “Pawnbrokers,” and Section 9-615, entitled “Dealers in Precious Metals,” to require pawnbrokers and dealers in precious metals to share transactional information with the Police Department through an internet-accessible electronic inventory tracking system, to comply with additional safeguards in order to facilitate the recovery of stolen property, to increase the license fee for dealers in precious metals and to enhance the penalties for violations; all under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Section 9-603 of The Philadelphia Code is hereby amended to read as follows:

§ 9-603. Pawnbrokers.

* * *

(2) Licenses.

(a) No person shall act as a pawnbroker unless he has obtained a license from the Department of Licenses and Inspections *for each location from which that person seeks to act as a pawnbroker.*

(b) No license to act as pawnbroker shall be issued unless the applicant:

(.1) has been licensed by the Commonwealth of Pennsylvania as required by the Act of April 6, 1937, P.L. 200, 63 P.S. § 281. as amended;

(.2) pays an annual license fee of ~~[\$600]~~ *\$200 for each location from which the applicant intends to operate.*

(3) General Requirements.

* * *

(c) [Every pawnbroker shall turn over to the Police Department at the end of each day a copy of every pawn ticket furnished to any pledger.] *No pawnbroker may purchase an article of personal property from, receive a pledge of personal property from, or exchange personal property with a customer without first securing adequate identification from the customer. For purposes of this subsection, “securing adequate identification” means that at the time of the transaction, the pawnbroker shall take a digital photograph of the customer, obtain a clear imprint of the customer’s left thumbprint and have the customer present one of the following types of identification:*

(i) *A valid identification document issued by a state or federal government, containing a photograph;*

(ii) *A valid motor vehicle operator’s license issued by any state and containing a photograph;*

(iii) *A valid military identification card containing a photograph;*

(iv) *A valid passport;*

(v) *A valid alien registration card containing a photograph; or*

(vi) *A valid senior citizens identification card containing a photograph.*

(d) *Every pawnbroker shall issue a pawn ticket to every customer delivering a pledge of personal property to the pawnbroker.*

(e) *Every pawnbroker shall utilize a secure, internet-accessible electronic inventory tracking system, as designated by the Police Department. Each pawnbroker shall maintain on its premises a computer which is capable of securely and confidentially uploading all required tracking information, as specified by the Police Department, via the internet to an entity designated by the Police Department. No later than the conclusion of each business day, every pawnbroker must upload, in the manner specified by the Police Department, the required tracking information for all articles of personal property purchased or pledged during the course of business on that day.*

(f) *The Department of Licenses and Inspections shall issue regulations designating the form and content of pawn tickets, the internet-accessible electronic inventory tracking system to be used by each pawnbroker and the required tracking information to be recorded for each transaction. The entity chosen by the Police Department to administer the electronic inventory tracking system shall insure that all data remain secure and confidential by providing to each pawnbroker login security protocols which meet current industry standards, and shall employ state of the art technology to protect the data from all forms of unauthorized access and malicious intrusion. The Department of Licenses and Inspections may, by regulation, provide for an annual fee of up to \$400 per location to defray the costs of the internet-accessible electronic inventory tracking system.*

(4) *Holding period.*

(a) *Every pawnbroker shall keep, for at least 90 days from the date of receipt, and in a suitable location for safekeeping, any article of personal property it has purchased or received as a pledge; provided that any person who presents adequate identification as set forth in subsection 3(c)(i) to (vi) to demonstrate that he or she is the person named on the pawn ticket as the seller or owner of the article of personal property may redeem or otherwise retrieve the article of personal property prior to the expiration of the holding period.*

(b) *During the holding period, any article of personal property purchased or received as a pledge shall be segregated from the pawnbroker's other inventory to insure that it is not placed in an area or section where articles of personal property are offered for sale and may not be altered in any manner. The pawnbroker shall permit any law enforcement officer to inspect any article of personal property so held without the need to present a warrant or subpoena. Where an article of personal property is held off the premises, a pawnbroker shall make the item available for inspection within 24 hours after receiving the written request of a law enforcement officer to inspect the item of personal property. Any law enforcement officer who has reason to believe any article of personal property was not sold or pledged by the lawful owner may direct a pawnbroker to hold that article of personal property for a reasonable length of time that the law enforcement officer considers necessary to identify it.*

(c) *Nothing in this subsection (4) shall apply to the return or exchange, by a customer to a pawnbroker, of any article of personal property purchased from that pawnbroker.*

(5) *Penalties, Cease Operations Orders and License Revocations.*

Depending upon the seriousness of the violation and the prior record of the pawnbroker with respect to violations of this Section, a violation of this Section shall subject the pawnbroker to any or all of the following:

(a) a fine not exceeding the maximum fine for Class III offenses as set forth in Section 1-109.

(b) suspension of licenses granted under this Section for all premises operated by the pawnbroker where violations have occurred and referral to the Secretary of Banking of the Commonwealth of Pennsylvania to determine whether the license or licenses granted to the pawnbroker will be revoked. During any period of license suspension, each and every location of the pawnbroker's business shall cease operation as a pawnbroker. The Department shall issue a Cease Operations Order for each business location operated by the pawnbroker whose license(s) have been suspended in accordance with the same procedures as set out in Section 6-103 of the Health Code, provided that the Cease Operations Order shall identify the prohibited operations and shall state that the applicable license has been suspended for violation(s) of the Code. Immediately upon suspending the license or licenses of a pawnbroker, the Department shall give written notice of the suspension to the Secretary of Banking of the Commonwealth of Pennsylvania. The duration of a license suspension by the Department shall not exceed the maximum amount of time permitted under Section 30 of the Act of April 6, 1937, P.L. 200, 63 P.S. § 281-30.

(1) No new pawnbroker license shall be issued for a business location posted with a Cease Operation Order, so long as any person under a license suspension imposed by the Department or license revocation by the Secretary of Banking, or any member of such person's immediate family, or, in the case of a corporation, the corporation or any affiliated business entities, retain a pecuniary interest in the property at that location.

(c) suspension of the business privilege license of the pawnbroker pursuant to the procedures set forth in Section 19-2602(4)(h), (5) & (6).

SECTION 2. Section 9-615 of The Philadelphia Code is hereby amended to read as follows:

§ 9-615. Dealers in Precious Metals.

(1) Definitions.

* * *

(b) Dealer in precious metals *or dealer*. An individual, partnership, association, corporation, or other business entity including an itinerant merchant doing business in the City of Philadelphia which purchases or makes appraisals of precious metals and their alloys for resale to refiners, brokers, or the public.

(2) [Registration] Licenses. No person shall engage in the business of, or be employed as a dealer in precious metals unless [the business location is registered with] *he or she first obtains a license from the Department of Licenses and Inspections for each location from which that person seeks to act as a dealer in precious metals.*

* * *

(c) The applicant for a [registration] license hereunder shall pay an annual [registration] license fee of [~~\$25.00~~]~~\$200.00~~ for each location from which the applicant intends to operate. [to register each location]

* * *

(3) Weighing Devices. All scales or other devices used by dealers to weigh precious metals must be of a type approved for commercial use in the Commonwealth of Pennsylvania and must be inspected and sealed by the Pennsylvania Bureau of Ride and Measurement Standards' Weights and Measures Division.

(a) The dealer in precious metals must notify the Pennsylvania Bureau of Ride and Measurement Standards' Weights and Measures Division whenever a weighing device is moved from one location to another.

* * *

(6) Customer Identification. No dealer in precious metals may purchase or receive precious metals for resale from, or may exchange precious metals with, a customer without first securing adequate identification from the customer. "Securing adequate identification" means that at the time of the transaction, the dealer shall take a digital photograph of the customer, obtain a clear imprint of the customer's left thumbprint and have the customer present one of the following types of identification:

(i) A valid identification document issued by a state or federal government containing a photograph;

(ii) A valid motor vehicle operators license issued by any state and containing a photograph;

(iii) A valid military identification card containing a photograph;

(iv) A valid passport;

(v) A valid alien registration card containing a photograph;

(vi) A valid senior citizens identification card containing a photograph.

(7) Electronic Inventory Tracking.

(a) Every dealer in precious metals shall utilize a secure, internet-accessible electronic inventory tracking system, as designated by the Police Department. Each dealer shall maintain on its premises a computer which is capable of securely and confidentially uploading all required tracking information, as specified by the Police Department, via the internet to an entity designated by the Police Department. No later than the conclusion of each business day, every dealer must upload, in the manner specified by the Police Department, the required tracking information for all precious metals purchased or exchanged during the course of business on that day.

(b) The Department of Licenses and Inspections shall issue regulations designating the internet-accessible electronic inventory tracking system to be used by each dealer in precious metals and the required tracking information to be recorded for each transaction. The entity chosen by the Police Department

to administer the electronic inventory tracking system shall insure that all data remains secure and confidential by providing login security protocols to each dealer which meet current industry standards and shall employ state of the art technology to protect the data from all forms of unauthorized access and malicious intrusion. The Department of Licenses and Inspections may, by regulation, provide for a fee of up to \$400 per location to defray the costs of the internet-accessible electronic inventory tracking system.

(8) *Holding period.*

(a) *Every dealer in precious metals shall keep any purchased, received or exchanged precious metals for at least 30 days from the date of receipt either on the dealers' premises or, if permitted under state law, at another suitable place for safekeeping; except that any person who presents adequate identification as set forth in subsection (6)(i) to (vi) to demonstrate that he or she is the person named in the electronic inventory tracking system as the owner of the precious metals may retrieve the precious metals prior to the expiration of the holding upon repayment to the dealer in precious metals of the purchase price paid to the customer by the dealer in precious metals and payment of any storage fee not to exceed 25% of that purchase price.*

(b) *During the holding period, any precious metals subject to the holding period shall be segregated from the dealer's other inventory to insure that it is not placed in an area or section where precious metals are offered for sale and may not be altered in any manner. The dealer shall permit any law enforcement officer to inspect any purchased precious metals during the holding period without the need to present a warrant or subpoena. Where any precious metals are held off the premises, a dealer shall make the item available for inspection within 24 hours after receiving the written request of a law enforcement officer to inspect an item. Any law enforcement officer who has reason to believe any precious metals were not sold or exchanged by the lawful owner may direct a dealer to hold those precious metals for a reasonable length of time that the law enforcement officer considers necessary to identify it.*

(c) *Exception for customer return or exchange. Nothing in this subsection (8) shall apply to the return or exchange of any precious metals purchased from or exchanged with that dealer.*

[(5)](9)

* * *

[(6)](10)

* * *

[(7)](11) *Penalties, [and]Cease Operations Orders and License Revocations. A violation of any provision of this Section shall be classified as a Class III offense and the penalty for such violation is, in addition to any other sanctions provided, a fine not exceeding the maximum fine for Class III offenses as set forth in Section 1-109. In addition to the penalties provided in Section 1-109, [Section 9-105] any dealer in precious metals who violates any provisions of this Section shall have all of his [registrations] licenses revoked [suspended] for ninety (90) days for the first offense and for a period of one (1) year upon each succeeding offense. The provisions of Section 9-105 shall not apply to violations of this Section.*

(a) *During any period of license revocation [suspension], each and every location of the dealer's business where violations have occurred shall cease operation as a dealer in precious metals. The*

Department shall issue a Cease Operations Order for [the]each business location *operated by the dealer whose license(s) have been revoked* [of a suspended registration] in accordance with The Philadelphia Administrative Code, provided that the Cease Operations Order shall identify the prohibited operations and shall state that the applicable [registration has been][suspended] *license has been revoked* for violation(s) of the Code. The Cease Operations Order shall be in force for the full period of any [suspension] *license revocation*, and shall set forth this period in the Order. The Department shall not remove any posted Cease Operations Order until the Department is satisfied that all [suspended registrations] *revoked licenses* have been restored, or the property interests in the location have changed so that neither the person under [registration suspension] *license revocation* nor any member of his immediate family, *or in the case of a corporation, the corporation or any affiliated business entities* retain[s] a pecuniary interest therein.

(b) No new dealer in precious metals shall [register] *be issued a license for a business* location that has been posted with a Cease Operation Order, so long as any person [with a suspended registration] *under a license revocation*, or any member of such person's immediate family, *or in the case of a corporation, the corporation or any affiliated business entities*, retain[s] a pecuniary interest in the property at that location.

SECTION 3. Effective Date. This Ordinance shall take effect six (6) months after it becomes law, provided that the Police Department is authorized to promulgate any regulations and take any other actions needed to prepare for implementation of this Ordinance immediately after this Ordinance becomes law.

Explanation:

[Brackets] indicate matter deleted.
Italics indicate new matter added.