
A BILL FOR AN ACT

RELATING TO PAWNBROKERS AND SECONDHAND DEALERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that stolen property is
2 being sold by pawnbrokers and secondhand dealers. The
3 legislature also finds that it is difficult to identify stolen
4 property that is sold by pawnbrokers or secondhand dealers.

5 The purpose of this Act is to create a requirement for
6 pawnbrokers and secondhand dealers to report articles received
7 and retain a record of those articles received. This
8 requirement will attempt to eliminate the sale of stolen
9 property. A reporting and retention system for pawnbrokers and
10 secondhand dealers will be cost efficient. Moreover,
11 confidential information required by this Act will be protected
12 and secured if electronic transmission is chosen as the
13 preferred method of reporting. Lastly, requiring pawnbrokers
14 and secondhand dealers to report and retain articles received
15 will not "criminalize" customers that transact business with
16 pawnbrokers and secondhand dealers.

1 SECTION 2. Chapter 486M, Hawaii Revised Statutes, is
2 amended by adding eight new sections to be appropriately
3 designated and to read as follows:

4 "§486M- Retention of records. Dealers shall complete a
5 transaction form at the time of the actual transaction. Dealers
6 shall maintain a copy of a completed transaction form on the
7 registered premises for at least two years following the date of
8 the transaction, or one year if the transaction was conducted
9 electronically.

10 §486M- Submission of records. (a) If the chief of
11 police authorizes the use of appropriate software by secondhand
12 dealers or pawnbrokers, transaction forms shall be
13 electronically transmitted to the department. The dealer, at
14 the end of each business day, shall ensure that all records of
15 transactions have been entered into the appropriate software and
16 transmitted so that the information is available to the
17 department.

18 (b) Transaction forms for non-electronically recorded
19 transactions shall be transmitted to the department at the end
20 of each business day, by a method designated by the chief of
21 police.



1 (c) For the purposes of a criminal investigation, the
2 appropriate law enforcement agency may request that the dealer
3 produce an original of a transaction form that was
4 electronically transmitted. The dealer shall deliver this form
5 to the law enforcement agency within twenty-four hours following
6 the request.

7 (d) When an electronic image is part of a transaction, the
8 secondhand dealer or pawnbroker shall maintain the electronic
9 image in order to meet the recordkeeping requirements applicable
10 to the original transaction form.

11 (e) The dealer, upon request by the department, shall
12 provide a clear and legible copy of all images related to the
13 requested transaction.

14 §486M- Prohibited acts. A dealer, or any employee or
15 agent of a dealer, shall not:

16 (1) Falsify or intentionally fail to complete a
17 transaction form;

18 (2) Refuse to allow the department to inspect completed
19 transaction forms or pawned or purchased goods;

20 (3) Obliterate, discard, or destroy a completed
21 transaction form sooner than any required retention
22 period;



H.B. NO. 2211

- 1 (4) Make any agreement requiring or allowing the personal
- 2 liability of a seller or the waiver of any of the
- 3 provisions of this section, part V of chapter 445, or
- 4 chapter 486M;
- 5 (5) Knowingly enter into a pawn or purchase transaction
- 6 with any person who is under the influence of alcohol
- 7 or controlled substances when the condition is
- 8 apparent;
- 9 (6) Knowingly enter into a pawn or purchase transaction
- 10 with any person who is under the age of eighteen
- 11 years;
- 12 (7) Conduct any transaction with any person using the name
- 13 of another or the registered name of another's
- 14 business;
- 15 (8) Conduct any transaction at any location other than the
- 16 specific address listed on the secondhand dealer or
- 17 pawnbroker license;
- 18 (9) Lease goods to the seller or any other party;
- 19 (10) Operate a secondhand shop or pawnshop between the
- 20 hours of 11:00 p.m. and 7:00 a.m.; or
- 21 (11) Make purchases or sales through any business associate
- 22 not registered in compliance with this chapter.

1 §486M- Applicability. Any dealer who is otherwise
2 licensed shall comply with this chapter as a condition of the
3 dealer's license except as to those statutory conditions of the
4 license that are more restrictive. This chapter shall not apply
5 to the following:

6 (1) Any secondhand transaction involving an organization
7 or entity registered with the State as a nonprofit,
8 religious, or charitable organization or any school-
9 sponsored association or organization;

10 (2) A law enforcement officer acting in an official
11 capacity;

12 (3) A trustee in bankruptcy, executor, administrator, or
13 receiver;

14 (4) Any public official acting under judicial process or
15 authority;

16 (5) A sale upon the execution or, by virtue of, any
17 process issued by a court;

18 (6) Any garage or yard sale operator who holds sales less
19 than twenty weekends per year;

20 (7) Any person who, pursuant to a written agreement, sells
21 household personal property as an agent for the



- 1 property owner or the property owner's representative
2 at that person's residence;
- 3 (8) The purchase, consignment, or trade of goods from one
4 dealer to another dealer when the selling dealer has
5 complied with the requirements of this chapter;
- 6 (9) Any person accepting a good, other than a precious or
7 semiprecious metal or gem, in trade for a similar item
8 of greater value;
- 9 (10) Any person purchasing, consigning, or trading goods,
10 other than precious or semiprecious metals, gems, or
11 golf clubs, at a flea market, trade show, farmer's
12 market, or any other conglomeration of sellers,
13 regardless of whether the event is held at a temporary
14 or permanent business location;
- 15 (11) Any auction business regulated under part II of
16 chapter 445;
- 17 (12) Any consignment shop;
- 18 (13) Any person offering one's own personal property for
19 sale, purchase, consignment, or trade via an Internet
20 web site, or a person or entity offering the personal
21 property of others for sale, purchase, consignment, or



1 trade via an Internet web site, when that person does
2 not benefit from the sale of the item;

3 (14) A business whose primary business is the sale, rental,
4 or trade of motion picture video in digital format or
5 video games, if the business:

6 (A) Requires the sellers of goods to have a current
7 account with the business;

8 (B) Has on file in a readily accessible format the
9 name, current residential address, home and work
10 telephone numbers, government-issued
11 identification number, place of employment, date
12 of birth, gender, and thumbprint of each seller
13 of goods;

14 (C) Purchases goods from the property owner or the
15 property owner's representative at the place of
16 business pursuant to an agreement in writing and
17 signed by the property owner that describes the
18 property purchased, states the date and time of
19 the purchase, and states that the seller is the
20 lawful owner of the property;

21 (D) Retains purchase agreements for not less than one
22 year; and



1 (E) Pays for the purchased property in the form of a
2 store credit that is issued to the seller and is
3 redeemable solely by the seller or another
4 authorized user of the seller's account with that
5 business;

6 (15) Secondhand dealers or pawnbrokers, to the extent that
7 transactions involve secondhand sports equipment;
8 provided that the secondhand sports equipment is not
9 either:

10 (A) Permanently labeled with a serial number; or

11 (B) Golf equipment;

12 (16) A motor vehicle dealer regulated under chapter 437; or

13 (17) Scrap dealers regulated under part X of chapter 445.

14 §486M- License required. (a) It shall be unlawful for
15 any person to engage in business as a secondhand dealer or
16 pawnbroker without obtaining a license as required under chapter
17 445.

18 (b) A separate license shall be required for each
19 secondhand shop or pawnshop location, and each licensed shop
20 shall be operated out of an established storefront. Any license
21 not operated out of an established storefront shall expire five
22 calendar days after its date of issuance.



1 (c) A licensee who seeks to move a secondhand shop or
2 pawnshop to another location, not less than thirty days before
3 the move, shall provide written notice to the treasurer by
4 certified or registered mail, return receipt requested, and the
5 treasurer shall then amend the license to indicate the new
6 location. The licensee shall also give a copy of the written
7 notice to the department.

8 (d) The secondhand dealer's or pawnbroker's license shall
9 be conspicuously displayed at the licensed location.

10 (e) The treasurer may deny, suspend, or revoke a license
11 for any violation of this chapter or chapter 445.

12 §486M- Suspension or revocation. (a) The treasurer
13 shall suspend or revoke any license upon a finding that:

14 (1) The licensee has violated this chapter or chapter 445
15 or has aided or conspired with another person to
16 violate this chapter or chapter 445; provided that:

17 (A) For a second violation of this chapter or chapter
18 445, the license shall be suspended for one
19 calendar day;

20 (B) For a third violation of this chapter or chapter
21 445 that occurs within twelve months of the
22 second violation of this chapter or chapter 445,



1 the license shall be suspended for seven calendar
2 days; and

3 (C) For a fourth or subsequent violation of this
4 chapter or chapter 445 that occurs within twelve
5 months of the immediately prior violation, the
6 license shall be suspended for fourteen calendar
7 days; or

8 (2) A condition exists that, if it existed when the
9 license was issued, would have justified the
10 treasurer's refusal to issue a license.

11 (b) The suspension or revocation notice shall be sent by
12 the treasurer via registered mail to the address listed on the
13 secondhand dealer's or pawnbroker's license. Return of the
14 registered mail receipt shall fulfill the requirements of
15 service.

16 (c) The revocation or suspension of a license shall not
17 impair or affect the obligation of any pre-existing lawful
18 contract between the licensee and any seller. Any pawn
19 transaction made by a person without a license shall be
20 voidable, and the person shall forfeit the right to collect any
21 money, including the principal and any charges, from the seller
22 in connection with the transaction and shall be obligated to



1 return to the seller the goods in connection with the
2 transaction.

3 (d) Upon the request of a law enforcement official, the
4 treasurer shall release to the official the name, address, and
5 business history of any licensed secondhand dealer or
6 pawnbroker.

7 (e) For the purposes of this section, deferral and no
8 contest pleas shall constitute a finding of a violation.

9 §486M- Penalties. Any dealer, or any agent, employee,
10 or representative of a dealer who knowingly violates this
11 chapter shall be guilty of a misdemeanor.

12 §486M- Pawn transactions. In addition part V of
13 chapter 445, a pawnbroker shall comply with this chapter when
14 conducting a pawn transaction."

15 SECTION 3. Section 486M-1, Hawaii Revised Statutes, is
16 amended as follows:

17 1. By adding sixteen new definitions to read:

18 "Acquire" means to obtain by purchase, consignment, or
19 trade.

20 "Chief of police" means the chief of police or the chief of
21 police's designee for each respective county.



1 "Consignment shop" means a shop, with an established
2 storefront, engaging in the business of accepting for sale, on
3 consignment, any goods other than precious or semiprecious
4 metals, gems, or golf clubs.

5 "Department" means a county police department.

6 "Goods" means personal property previously owned or used,
7 and that is purchased, consigned, pawned, or traded as used
8 property.

9 "Goods" shall not include:

- 10 (1) Titles or any other form of written security;
- 11 (2) Intangible property in lieu of actual physical
12 possession, including securities;
- 13 (3) Printed evidence of indebtedness;
- 14 (4) Certificates of title and other instruments evidencing
15 title that separates items of property, including
16 motor vehicles; or
- 17 (5) Household or office furniture, pianos, books,
18 clothing, organs, motor vehicles, costume jewelry,
19 cardio and strength training or conditioning equipment
20 designed primarily for indoor use, or secondhand
21 sports equipment that are not permanently labeled with
22 a serial number. For purposes of this paragraph,



1 "secondhand sports equipment" does not include golf
2 clubs.

3 "Identification" means a valid government-issued
4 photographic identification.

5 "Pawn transaction" means the act of lending money on the
6 security of goods or the act of purchasing tangible personal
7 property on condition that it may be redeemed or repurchased by
8 the seller for a fixed price within a fixed period of time.

9 "Pawnshop" means the place or premises at which a
10 pawnbroker is licensed to conduct business as a pawnbroker.

11 "Person" means an individual, partnership, corporation,
12 joint venture, trust, association, or other legal entity.

13 "Purchase" means the transfer and delivery of goods, by a
14 person other than a commercial vendor, to a secondhand dealer or
15 pawnbroker by acquisition for value, consignment, or trade for
16 other goods.

17 "Scrap" means a piece of precious or semiprecious metal
18 that cannot be readily identified as any piece of describable
19 jewelry.

20 "Secondhand store" means the place or premises at which a
21 secondhand dealer is licensed to conduct business as a
22 secondhand dealer.



1 "Seller" means an individual who delivers goods into the
2 possession of a secondhand dealer or pawnbroker in connection
3 with a transaction.

4 "Transaction form" means the instrument on which a
5 secondhand dealer or pawnbroker records pawns and purchases.

6 "Transaction" means any pawn, purchase, consignment, or
7 trade of goods by a secondhand dealer or pawnbroker.

8 "Treasurer" shall have the same meaning ascribed to the
9 term under section 445-1; provided that for the city and county
10 of Honolulu, "treasurer" shall mean the director of customer
11 services of the city and county of Honolulu."

12 2. By amending the definitions of "dealer", "government
13 issued identification", "pawnbroker", "secondhand dealer" to
14 read:

15 "Dealer" means any person, firm, partnership, corporation,
16 or other entity who engages in a business which includes the
17 buying of previously owned [~~articles,~~] goods, and includes any
18 pawnbroker or secondhand dealer.

19 "Government issued identification" means:

20 (1) A valid passport issued by the United States of
21 America;



1 (2) A valid [~~+~~]driver's[~~+~~] license issued pursuant to any
2 state or District of Columbia law;

3 (3) [~~An~~] A valid identification card issued by any state
4 or local government or the Bureau of Indian Affairs;
5 or

6 (4) [~~An~~] A valid identification card issued by any branch
7 of the Armed Forces of the United States of America.

8 "Pawnbroker" means any person, firm, partnership,
9 corporation, or other entity who advances for interest or for
10 [~~or in~~] an expectation of profit, gain, or reward any sum of
11 money upon security of any goods or chattels taken by [~~such~~] the
12 person by way of pawn or pledge, and includes any person subject
13 to part V of chapter 445.

14 "Secondhand dealer" means any person [~~who trades in~~
15 ~~secondhand or previously owned articles,~~], corporation, or other
16 business organization or entity that is not a scrap dealer, as
17 defined in section 445-231, that is engaged in the business of
18 purchasing, consigning, or trading goods, and includes any
19 person subject to part VII of chapter 445."

20 3. By repealing the definition of "article":



1 ~~["Article" means any previously owned good or chattel,~~
2 ~~including, but not limited to, precious or semiprecious metals~~
3 ~~or precious or semiprecious gems."]~~

4 SECTION 4. Section 486M-2, Hawaii Revised Statutes, is
5 amended to read as follows:

6 "**§486M-2 Record of transactions.** Every dealer, or the
7 agent, employee, or representative of the dealer ~~[shall,~~
8 ~~immediately upon receipt of any article, record the following~~
9 ~~information, on a form authorized by the chief of police in each~~
10 ~~county.~~

- 11 ~~(1) The name and address of the dealer;~~
- 12 ~~(2) The name, residence address, date of birth, and the~~
13 ~~age of the person from whom the article was received;~~
- 14 ~~(3) The date and time the article was received by the~~
15 ~~dealer;~~
- 16 ~~(4) The signature of the person from whom the article was~~
17 ~~received;~~
- 18 ~~(5) The Hawaii [driver's] license number, or if the person~~
19 ~~does not possess a Hawaii [driver's] license, the~~
20 ~~number of and description of any government issued~~
21 ~~identification which bears a photograph of the person~~
22 ~~from whom the article was received;~~



1 ~~(6) A complete and accurate description of the article~~
2 ~~received, including all markings, names, initials, and~~
3 ~~inscriptions;~~

4 ~~(7) A reasonable estimate of the fineness and weights of~~
5 ~~the precious and semiprecious metals and precious and~~
6 ~~semiprecious gems received; and~~

7 ~~(8) The price paid by the dealer for each article.~~

8 ~~Upon request and at the discretion of the chief of police~~
9 ~~of each county, copies of all completed forms required by this~~
10 ~~section shall be surrendered, mailed, or electronically inputted~~
11 ~~and transmitted via modem or by facsimile transmittal to the~~
12 ~~chief of police or to the chief of police's authorized~~
13 ~~representative. The method of submittal to the chief of police~~
14 ~~shall be at the option of the dealer.] at the time of entering~~
15 into any pawn or purchase transaction, shall complete a

16 transaction form for the transaction, including an indication of
17 whether the transaction is a pawn or a purchase, and the seller
18 shall sign the completed transaction form. The design and
19 format of the transaction form shall be as designated by the
20 chief of police.

21 (b) Upon completing the transaction form, the dealer shall
22 record or attach the following information or documents, and the



1 information shall be either typed or legibly printed in ink in
2 English:

- 3 (1) The name and address of the dealer;
- 4 (2) A sequential transaction number;
- 5 (3) The time and date of the transaction;
- 6 (4) A photograph and a complete and accurate description
7 of the goods offered for purchase or pawn, including
8 the following information, if applicable:

- 9 (A) Brand name;
- 10 (B) Model number;
- 11 (C) Manufacturer's serial number;
- 12 (D) Size;
- 13 (E) Color, as apparent to the untrained eye;
- 14 (F) Precious metal type, weight, and fineness, if
15 known;
- 16 (G) Gemstone description, including the number of
17 stones; and
- 18 (H) Any other unique identifying marks, numbers,
19 names, or letters;

- 20 (5) Scrap items, which shall be described as
21 "unidentifiable remnant", shall include the precious
22 metal type, weight, and fineness, if known;

- 1 (6) The full name and current residence address of the
2 person from whom the goods were acquired;
- 3 (7) The height, weight, date of birth, age, gender, and
4 any other visible identifying marks of the person from
5 whom the goods were acquired;
- 6 (8) A thumbprint, free of smudges and smears, of the
7 person from whom the goods were acquired; and
- 8 (9) The type of identification exhibited, the issuing
9 agency, and the number thereon, of the person from
10 whom the goods were acquired;
- 11 (10) The amount of money paid or loaned for each item or
12 the monetary value assigned to each item in connection
13 with the transaction; and
- 14 (11) Any other information required by the forms approved
15 by the chief of police."

16 SECTION 5. Section 486M-5, Hawaii Revised Statutes, is
17 amended to read as follows:

18 "**§486M-5 Inspections.** The chief of police of each county
19 or the chief of police's authorized representative may
20 immediately inspect [~~during normal business hours or whenever~~
21 ~~the dealer or the dealer's agents or employees are otherwise~~
22 ~~present, any records required by this chapter and any articles~~

1 ~~described in such records that the police reasonably believe are~~
2 ~~stolen goods.] the entire licensed premises. The records~~
3 ~~required by this chapter are subject to inspection by the~~
4 ~~department during business hours. If the goods are being stored~~
5 ~~in a secure location off premises, the goods shall be made~~
6 ~~available for inspection within twenty-four hours of the initial~~
7 ~~request, or by the next business day if the request is made on a~~
8 ~~weekend or state holiday."~~

9 SECTION 6. Section 486M-3, Hawaii Revised Statutes, is
10 repealed.

11 [~~§486M-3 Transactions by minors prohibited. A dealer~~
12 ~~shall not receive or purchase any article from any person under~~
13 ~~the age of eighteen."]~~

14 SECTION 7. Section 486M-4, Hawaii Revised Statutes, is
15 repealed.

16 [~~§486M-4 Minimum retention of items. (a) No dealer, the~~
17 ~~dealer's agents, employees, or representatives shall alter,~~
18 ~~melt, deface, break apart, dispose of, or change the character~~
19 ~~or integrity of the precious or semiprecious metals or precious~~
20 ~~or semiprecious gems received or purchased for a period of~~
21 ~~fifteen calendar days in counties with a population of less than~~
22 ~~300,000, and thirty calendar days in counties with a population~~



1 ~~of 300,000 or more after the purchase or possession by the~~
2 ~~dealer, whichever comes later. Every article received by the~~
3 ~~dealer, the dealer's agents, employees, or representatives shall~~
4 ~~be retained by the dealer in the county where received or~~
5 ~~purchased for a period of fifteen calendar days in counties with~~
6 ~~a population of less than 300,000, and thirty calendar days in~~
7 ~~counties with a population of 300,000 or more after the purchase~~
8 ~~or possession by the dealer, whichever comes later.~~

9 ~~(b) At the discretion of the chief of police of each~~
10 ~~county, the holding period may be reduced to fifteen calendar~~
11 ~~days, provided that the dealer has computerized record keeping~~
12 ~~and transmittal capabilities acceptable to the chief of police~~
13 ~~or the chief of police's authorized representative."]~~

14 SECTION 8. Section 486M-7, Hawaii Revised Statutes, is
15 repealed.

16 [~~"§486M-7 Penalties. Any dealer, or any agent, employee,~~
17 ~~or representative of a dealer who knowingly violates any of the~~
18 ~~provisions of sections 486M-2, 486M-3, 486M-4, or who refuses to~~
19 ~~allow the inspection provided for in section 486M-5, and any~~
20 ~~person who offers or records information which is required under~~
21 ~~section 486M-2 that the person knows or has reason to know is~~
22 ~~false, shall be guilty of a misdemeanor. Any dealer, or any~~



1 ~~agent, employee or representative of a dealer who is convicted~~
2 ~~for a second violation of any provision of this chapter shall,~~
3 ~~in addition to the foregoing penalty, be permanently prohibited~~
4 ~~from engaging in the business of buying or selling of precious~~
5 ~~or semiprecious metals or precious or semiprecious gems or any~~
6 ~~article."]~~

7 SECTION 9. There is appropriated out of the general
8 revenues of the State of Hawaii the sum of \$ or so
9 much thereof as may be necessary for fiscal year 2014-2015 for
10 the increase in duties imposed upon the counties with regard to
11 the licensing of pawnbrokers and secondhand dealers.

12 The sum appropriated shall be expended by the counties for
13 the purposes of this Act in the following amounts:

- 14 (1) City and county of Honolulu \$
- 15 (2) County of Hawaii \$
- 16 (3) County of Kauai \$
- 17 (4) County of Maui \$

18 SECTION 10. The legislature declares that the
19 appropriations to the counties made under section 10 of this Act
20 is done in satisfaction of the requirements under article VIII,
21 section 5, of the Hawaii State Constitution, on the State's
22 share of the cost in increasing, pursuant to this Act, the level



H.B. NO. 2211

1 of service under the licensing programs for pawnbrokers and
2 secondhand dealers.

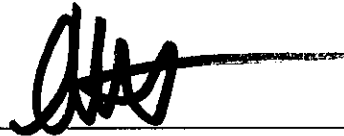
3 SECTION 11. This Act does not affect rights and duties
4 that matured, penalties that were incurred, and proceedings that
5 were begun before its effective date.

6 SECTION 12. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 13. This Act shall take effect on July 1, 2014.

9

INTRODUCED BY: _____

A handwritten signature in black ink, appearing to be 'J. H. ...', is written over a horizontal line.

JAN 21 2014



H.B. NO. 2211

Report Title:

Pawnbrokers; Secondhand Dealers

Description:

Clarifies the county licensing laws for pawnbrokers and secondhand dealers, including recordkeeping, prohibited acts, exemptions, licensing sanctions, inspections. Repeals requirements relating to retention of items. Appropriates funds.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

