



2007 ASSEMBLY BILL 301

May 2, 2007 - Introduced by Representatives SOLETSKI, VAN ROY, ALBERS and BERCEAU, cosponsored by Senator HANSEN. Referred to Committee on Small Business.

1 **AN ACT** *to amend* 134.71 (title), 134.71 (8) (title), 134.71 (8) (a) (intro.), 134.71
2 (8) (b), 134.71 (8) (c), 134.71 (8) (d) 1., 134.71 (8) (d) 2., 134.71 (8) (d) 3., 134.71
3 (8) (d) 4., 134.71 (8) (e), 134.71 (8) (f), 134.71 (12) and 134.71 (14); and *to create*
4 134.71 (1) (cm), 134.71 (1) (i) and 134.71 (8) (d) 3m. of the statutes; **relating to:**
5 holding periods for secondhand dealers and pawnbrokers and regulating
6 occasional sellers of computer toys and games and audio and video recordings.

Analysis by the Legislative Reference Bureau

Under current law, a pawnbroker or dealer in secondhand jewelry or certain other secondhand articles (secondhand dealer) must obtain a license from a municipality in order to conduct business. Generally, a municipality must grant a license to an applicant who pays a fee and who has not been convicted of a felony or certain other offenses in the ten years preceding application.

Current law imposes certain requirements on a pawnbroker or secondhand dealer regarding customer identification, transactions with minors, and recordkeeping. Current law also requires a pawnbroker or secondhand dealer to hold an item purchased or received by the pawnbroker or secondhand dealer for a period after purchase or receipt. Generally, a pawnbroker must hold an item for 30 days and a secondhand dealer must hold an item for 21 days. This bill reduces the required holding periods to seven days for an item if a pawnbroker or secondhand dealer is required to submit a record regarding the item to law enforcement authorities in an electronic format.

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The bill also creates a new category of regulated seller, a secondhand media seller. A secondhand media seller is a person, other than an auctioneer, who engages in the business of purchasing or selling secondhand computer toys or games or audio or video recordings, except that under the bill, certain types of transactions that are not regulated under current law, including garage sales and sales at gun or antique shows, are not regulated with respect to secondhand media sellers.

Under the bill, a secondhand media seller is not required to obtain a license, but is subject to the requirements that currently apply to a secondhand dealer regarding customer identification, transactions with minors, and recordkeeping.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 134.71 (title) of the statutes is amended to read:

2 **134.71 (title) Pawnbrokers and, secondhand article and jewelry**
3 **dealers, and secondhand media sellers.**

4 **SECTION 2.** 134.71 (1) (cm) of the statutes is created to read:

5 **134.71 (1) (cm)** “Media articles” means the articles identified in par. (a) 5. and
6 12m.

7 **SECTION 3.** 134.71 (1) (i) of the statutes is created to read:

8 **134.71 (1) (i)** “Secondhand media seller” means any person, other than an
9 auctioneer, who engages in the business of purchasing or selling secondhand media
10 articles, if the business is not the person’s primary business, except that a person is
11 not a secondhand media seller when engaging in the activities identified in par. (g)
12 1. to 6.

13 **SECTION 4.** 134.71 (8) (title) of the statutes is amended to read:

14 **134.71 (8) (title)** PAWNBROKER AND, DEALER, AND MEDIA SELLER REQUIREMENTS.

15 **SECTION 5.** 134.71 (8) (a) (intro.) of the statutes is amended to read:

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1 134.71 (8) (a) *Identification*. No pawnbroker, secondhand article dealer ~~or,~~
2 secondhand jewelry dealer, or secondhand media seller may engage in a transaction
3 of purchase, receipt or exchange of any secondhand article ~~or,~~ secondhand jewelry,
4 or, with respect to a secondhand media seller, secondhand media from a customer
5 without first securing adequate identification from the customer. At the time of the
6 transaction, the pawnbroker, secondhand article dealer ~~or,~~ secondhand jewelry
7 dealer, or secondhand media seller shall require the customer to present one of the
8 following types of identification:

9 **SECTION 6.** 134.71 (8) (b) of the statutes is amended to read:

10 134.71 (8) (b) *Transactions with minors*. 1. Except as provided in subd. 2., no
11 pawnbroker, secondhand article dealer ~~or,~~ secondhand jewelry dealer, or secondhand
12 media seller may engage in a transaction of purchase, receipt or exchange of any
13 secondhand article ~~or,~~ secondhand jewelry, or, with respect to a secondhand media
14 seller, secondhand media from any minor.

15 2. A pawnbroker, secondhand article dealer ~~or,~~ secondhand jewelry dealer, or
16 secondhand media seller may engage in a transaction described under subd. 1. if the
17 minor is accompanied by his or her parent or guardian at the time of the transaction
18 or if the minor provides the pawnbroker, secondhand article dealer ~~or,~~ secondhand
19 jewelry dealer, or secondhand media seller with the parent's or guardian's written
20 consent to engage in the particular transaction.

21 **SECTION 7.** 134.71 (8) (c) of the statutes is amended to read:

22 134.71 (8) (c) *Records*. 1. Except as provided in subd. 2., for each transaction
23 of purchase, receipt, or exchange of any secondhand article ~~or,~~ secondhand jewelry,
24 or, with respect to a secondhand media seller, secondhand media from a customer,
25 a pawnbroker, secondhand article dealer ~~or,~~ secondhand jewelry dealer, or

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1 secondhand media seller shall require the customer to complete and sign, in ink, the
2 appropriate form provided under sub. (12). No entry on such a form may be erased,
3 mutilated, or changed. The pawnbroker, secondhand article dealer ~~or~~, secondhand
4 jewelry dealer, or secondhand media seller shall retain an original and a duplicate
5 of each form for not less than one year after the date of the transaction except as
6 provided in par. (e), and during that period shall make the duplicate available to any
7 law enforcement officer for inspection at any time that the pawnbroker's,
8 secondhand article dealer's, ~~or~~ secondhand jewelry dealer's, or secondhand media
9 seller's principal place of business is open to the public or at any other reasonable
10 time.

11 2. For every secondhand article or, with respect to a secondhand media seller,
12 secondhand media purchased, received, or exchanged by a secondhand article dealer
13 or secondhand media seller from a customer off the secondhand article dealer's or
14 secondhand media seller's premises or consigned to the secondhand article dealer or
15 secondhand media seller for sale on the secondhand article dealer's or secondhand
16 media seller's premises, the secondhand article dealer or secondhand media seller
17 shall keep a written inventory. In this inventory the secondhand article dealer or
18 secondhand media seller shall record the name and address of each customer, the
19 date, time, and place of the transaction, and a detailed description of the article
20 ~~which~~ that is the subject of the transaction, including the article's serial number and
21 model number, if any. The customer shall sign his or her name on a declaration of
22 ownership of the secondhand article identified in the inventory and shall state that
23 he or she owns the secondhand article. The secondhand article dealer or secondhand
24 media seller shall retain an original and a duplicate of each entry and declaration
25 of ownership relating to the purchase, receipt, or exchange of any secondhand article

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1 for not less than one year after the date of the transaction except as provided in par.
2 (e), and shall make duplicates of the inventory and declarations of ownership
3 available to any law enforcement officer for inspection at any time that the
4 secondhand article dealer's or secondhand media seller's principal place of business
5 is open to the public or at any other reasonable time.

6 3. Every secondhand article dealer or secondhand media seller shall on a
7 weekly basis prepare a list that contains the name and address of each customer of
8 the secondhand article dealer or secondhand media seller during the week for which
9 the list was prepared, the date, time, and place of each transaction with each of those
10 customers, and a detailed description of the secondhand article, or, with respect to
11 a secondhand media seller, secondhand media, including the secondhand article's or
12 secondhand media's serial number and model number, if any. The secondhand
13 article dealer or secondhand media seller shall retain the list for not less than one
14 year after the date on which the list was prepared. The secondhand article dealer
15 or secondhand media seller shall make the list available to any law enforcement
16 officer for inspection at any time that the secondhand article dealer's or secondhand
17 media seller's principal place of business is open to the public or at any other
18 reasonable time.

19 **SECTION 8.** 134.71 (8) (d) 1. of the statutes is amended to read:

20 134.71 (8) (d) 1. Except as provided in ~~subd.~~ subds. 3m. and 5., any secondhand
21 article or secondhand jewelry purchased or received by a pawnbroker shall be kept
22 on the pawnbroker's premises or other place for safekeeping for not less than 30 days
23 after the date of purchase or receipt, unless the person known by the pawnbroker to
24 be the lawful owner of the secondhand article or secondhand jewelry recovers it.

25 **SECTION 9.** 134.71 (8) (d) 2. of the statutes is amended to read:

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1 134.71 (8) (d) 2. Except as provided in ~~subd. subs. 3m. and 5.~~, any secondhand
2 article or, with respect to a secondhand media seller, secondhand media purchased
3 or received by a secondhand article dealer or secondhand media seller shall be kept
4 on the secondhand article dealer's or secondhand media seller's premises or other
5 place for safekeeping for not less than 21 days after the date of purchase or receipt.

6 **SECTION 10.** 134.71 (8) (d) 3. of the statutes is amended to read:

7 134.71 (8) (d) 3. Except as provided in ~~subd. subs. 3m. and 5.~~, any secondhand
8 jewelry purchased or received by a secondhand jewelry dealer shall be kept on the
9 secondhand jewelry dealer's premises or other place for safekeeping for not less than
10 21 days after the date of purchase or receipt.

11 **SECTION 11.** 134.71 (8) (d) 3m. of the statutes is created to read:

12 134.71 (8) (d) 3m. If a pawnbroker, secondhand article dealer, secondhand
13 jewelry dealer, or secondhand media seller is required to submit a report under par.
14 (e) concerning a secondhand article, secondhand jewelry, or, with respect to a
15 secondhand media seller, secondhand media purchased or received by the
16 pawnbroker, secondhand article dealer, secondhand jewelry dealer, or secondhand
17 media seller and the report is required to be submitted in an electronic format, the
18 secondhand article or secondhand jewelry shall be kept on the pawnbroker's,
19 secondhand article dealer's, secondhand jewelry dealer's, or secondhand media
20 seller's premises or other place for safekeeping for not less than 7 days after the
21 report is submitted.

22 **SECTION 12.** 134.71 (8) (d) 4. of the statutes is amended to read:

23 134.71 (8) (d) 4. During the period set forth in subd. 1., 2. ~~or~~, 3., or 3m., the
24 secondhand article ~~or~~, secondhand jewelry, or, with respect to a secondhand media
25 seller, secondhand media shall be held separate and apart and may not be altered

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1 in any manner. The pawnbroker, secondhand article dealer ~~or~~, secondhand jewelry
2 dealer, or secondhand media seller shall permit any law enforcement officer to
3 inspect the secondhand article or secondhand jewelry during this period. Within 24
4 hours after a written request of a law enforcement officer during this period, a
5 pawnbroker, secondhand article dealer, or secondhand jewelry dealer shall make
6 available for inspection any secondhand article or secondhand jewelry ~~which~~ that is
7 kept off the premises for safekeeping. Any law enforcement officer who has reason
8 to believe any secondhand article or secondhand jewelry was not sold or exchanged
9 by the lawful owner may direct a pawnbroker, secondhand article dealer ~~or~~,
10 secondhand jewelry dealer, or secondhand media seller to hold that secondhand
11 article or secondhand jewelry for a reasonable length of time ~~which~~ that the law
12 enforcement officer considers necessary to identify it.

13 **SECTION 13.** 134.71 (8) (e) of the statutes is amended to read:

14 134.71 (8) (e) *Report to law enforcement agency.* Within 24 hours after
15 purchasing or receiving a secondhand article ~~or~~, secondhand jewelry, or, with respect
16 to a secondhand media seller, secondhand media, a pawnbroker, secondhand article
17 dealer ~~or~~, secondhand jewelry dealer, or secondhand media seller shall make
18 available, for inspection by a law enforcement officer, the original form completed
19 under par. (c) 1. or the inventory under par. (c) 2., whichever is appropriate.
20 Notwithstanding s. 19.35 (1), a law enforcement agency receiving the original form
21 or inventory or a declaration of ownership may disclose it only to another law
22 enforcement agency.

23 **SECTION 14.** 134.71 (8) (f) of the statutes is amended to read:

24 134.71 (8) (f) *Exception for customer return or exchange.* Nothing in this
25 subsection applies to the return or exchange, from a customer to a secondhand article

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1 dealer ~~or~~, secondhand jewelry dealer, or secondhand media seller, of any secondhand
2 article ~~or~~, secondhand jewelry, or, with respect to a secondhand media seller,
3 secondhand media purchased from the secondhand article dealer ~~or~~, secondhand
4 jewelry dealer, or secondhand media seller.

5 **SECTION 15.** 134.71 (12) of the statutes is amended to read:

6 134.71 (12) APPLICATIONS AND FORMS. The department of agriculture, trade and
7 consumer protection shall develop applications and other forms required under subs.
8 (5) (intro.) and (8) (c). The department shall print a sufficient number of applications
9 and forms to provide to counties and municipalities for distribution to pawnbrokers,
10 secondhand article dealers ~~and~~, secondhand jewelry dealers, and secondhand media
11 sellers at no cost.

12 **SECTION 16.** 134.71 (14) of the statutes is amended to read:

13 134.71 (14) ORDINANCE. A county or municipality may enact an ordinance
14 governing pawnbrokers, secondhand article dealers ~~or~~, secondhand jewelry dealers,
15 or secondhand media sellers if that ordinance is at least as stringent as this section.

16 (END)