2013 SENATE BILL 486

January 10, 2014 – Introduced by Senators T. CULLEN, MILLER, JAUCH, LEHMAN and L. TAYLOR, cosponsored by Representatives KOLSTE, RINGHAND, POPE, VRUWINK, BERCEAU, SINICKI and OHNSTAD. Referred to Committee on Economic Development and Local Government.

1   AN ACT *to renumber* 134.71 (14); *to renumber and amend* 134.71 (8) (e); *to*

2   *amend* 134.71 (1) (c), 134.71 (1) (h) 1., 134.71 (1) (h) 3., 134.71 (4), 134.71 (5)

3   (intro.), 134.71 (8) (c) 1., 134.71 (8) (c) 2., 134.71 (8) (d) 1., 134.71 (8) (d) 3., 134.71

4   (8) (d) 3m. and 134.71 (8) (e) (title); and *to create* 134.71 (8) (e) 2., 134.71 (8)

5   (e) 3. and 134.71 (14) (b) of the statutes; **relating to:** secondhand jewelry

6   transactions.

Analysis by the Legislative Reference Bureau

Under current law, a person may not operate as a pawnbroker in a city, village, or town (municipality) without an annual license issued by that municipality. Also, unless an exemption applies, current law prohibits a person from operating as a secondhand jewelry dealer anywhere in the state without a license issued by the municipality in which the person has its principal place of business. Current law imposes other requirements on pawnbrokers and secondhand jewelry dealers, including requirements for making written records of transactions and holding items received from customers for specified periods of time after receipt. In general, pawnbrokers must hold certain items and secondhand jewelry for not less than 30 days after receipt, and secondhand jewelry dealers must hold secondhand jewelry for not less than 21 days after receipt. However, if a law enforcement officer requires the pawnbroker or secondhand jewelry dealer to submit an electronic report about the item or secondhand jewelry, the pawnbroker or secondhand jewelry dealer must

SENATE BILL 486

hold the item or secondhand jewelry for not less than seven days after submitting the electronic report. The foregoing holding periods do not apply to items or secondhand jewelry received on consignment or to coins or bullion.

This bill prohibits a person from operating as a secondhand jewelry dealer in a municipality unless the person obtains an annual license from the municipality. Unlike current law, the license does not authorize the person to operate as a secondhand jewelry dealer anywhere in the state. Instead, the person must obtain a license from each municipality in which the person operates as a secondhand jewelry dealer. The bill also requires the law enforcement agency of a municipality to require each pawnbroker and secondhand jewelry dealer licensed by the municipality to participate in a system specified by the law enforcement agency for electronically reporting each transaction with a customer that involves secondhand jewelry. The bill allows a law enforcement agency to specify a system only if the system provides for digitally photographing each item or component of secondhand jewelry that is subject to a transaction. Also, a law enforcement agency may allow a pawnbroker or secondhand jewelry dealer either to make reports to the system or to provide information or make other arrangements for the law enforcement agency to make reports on the pawnbroker's or secondhand jewelry dealer's behalf. If a law enforcement agency determines that the foregoing reporting requirements render unnecessary compliance with the written recordkeeping requirements under current law, the bill allows the law enforcement agency to waive those recordkeeping requirements. A law enforcement agency must provide written notice of such a waiver to all pawnbrokers and secondhand jewelry dealers that are subject to the agency's jurisdiction.

The bill also revises the holding periods for secondhand jewelry that apply to pawnbrokers and secondhand jeweler dealers under current law. The bill does not affect the holding periods required for items other than secondhand jewelry. Under the bill, a pawnbroker or secondhand jewelry dealer must hold secondhand jewelry for not less than 28 days after the pawnbroker or secondhand jewelry dealer makes an electronic report to the system required under the bill. However, if a law enforcement agency makes an electronic report on behalf of a pawnbroker or secondhand jewelry dealer, the law enforcement agency must provide notice of the date of the report to the pawnbroker or secondhand jewelry dealer, who must hold the secondhand jewelry for not less than 28 days after that date. Like current law, the bill's holding periods do not apply to secondhand jewelry received on consignment.

The bill also revises a definition under current law so that a person who deals in components of secondhand jewelry is regulated as a secondhand jewelry dealer. In addition, the bill revises an exemption from such regulation that applies to a person who engages in the business of smelting, refining, assaying, or manufacturing precious metals, gems, or other valuable articles. Under current law, the exemption applies only if the person does not have a retail operation open to the public. Under the bill, the exemption applies only if the person has no purchasing, selling, receiving, or exchanging operation open to the public. The bill also revises an exemption under current law that applies to a person who engages in secondhand

jewelry transactions at an occasional garage or yard sale; an estate sale; a gun, knife, gem, or antique show; or a convention. Under the bill, the exemption does not apply to a show or convention that offers to purchase secondhand jewelry from attendees.

Finally, current law allows a county or municipality to enact an ordinance that is more stringent than the requirements under current law regarding pawnbrokers, secondhand jewelry dealers, and "secondhand article dealers," which are persons who deal in certain articles other than jewelry. Under this bill, if a county enacts such an ordinance, the ordinance applies in a municipality in the county only if the municipality does not have in effect its own ordinance.

For further information see the *state and 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 (1) (c) of the statutes is amended to read:

2   134.71 **(1)** (c)   "Jewelry" means any tangible personal property ordinarily

3   wearable on the person and consisting in whole or in part of any metal, mineral or

4   gem customarily regarded as precious or semiprecious, and includes any component

5   of such tangible personal property.

6   **SECTION 2.** 134.71 (1) (h) 1. of the statutes is amended to read:

7   134.71 **(1)** (h) 1. Any transaction at an occasional garage or yard sale, an estate

8   sale, a gun, knife, gem or antique show or a convention, other than a show or

9   convention that offers to buy secondhand jewelry from attendees.

10   **SECTION 3.** 134.71 (1) (h) 3. of the statutes is amended to read:

11   134.71 **(1)** (h) 3. Any transaction entered into by a person while engaged in a

12   business of smelting, refining, assaying or manufacturing precious metals, gems, or

13   valuable articles if the person has no ~~retail~~ purchasing, selling, receiving, or

14   exchanging operation open to the public.

15   **SECTION 4.** 134.71 (4) of the statutes is amended to read:

2013 – 2014 Legislature   – 4 –   LRB–3843/1
MDK:kjf:rs
SENATE BILL 486   **SECTION 4**

1   134.71 **(4)** LICENSE FOR SECONDHAND JEWELRY DEALER. No person may operate

2   as a secondhand jewelry dealer unless the person first obtains a secondhand jewelry

3   dealer's license under this section. A license issued to a secondhand jewelry dealer

4   <u>by the governing body of a municipality</u> authorizes the licensee to operate as a

5   secondhand jewelry dealer ~~anywhere in the state~~ <u>in that municipality</u>.

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

7   134.71 **(5)** LICENSE APPLICATION. (intro.) A person wishing to operate as a

8   secondhand article dealer ~~or a secondhand jewelry dealer~~ and have a principal place

9   of business in a municipality shall apply for a license to the clerk of that municipality.

10   A person wishing to operate as a pawnbroker <u>or secondhand jewelry dealer</u> in a

11   municipality shall apply for a license to the clerk of the municipality. The clerk shall

12   furnish application forms under sub. (12) that shall require all of the following:

13   **SECTION 6.** 134.71 (8) (c) 1. of the statutes is amended to read:

14   134.71 **(8)** (c) 1. Except as provided in subd. 2. <u>and par. (e) 3.</u>, for each

15   transaction of purchase, receipt or exchange of any secondhand article or

16   secondhand jewelry from a customer, a pawnbroker, secondhand article dealer or

17   secondhand jewelry dealer shall require the customer to complete and sign, in ink,

18   the appropriate form provided under sub. (12). No entry on such a form may be

19   erased, mutilated or changed. The pawnbroker, secondhand article dealer or

20   secondhand jewelry dealer shall retain an original and a duplicate of each form for

21   not less than one year after the date of the transaction except as provided in par. (e)

22   <u>1.</u>, and during that period shall make the duplicate available to any law enforcement

23   officer for inspection at any time that the pawnbroker's, secondhand article dealer's,

24   or secondhand jewelry dealer's principal place of business is open to the public or at

25   any other reasonable time.

1   **SECTION 7.** 134.71 (8) (c) 2. of the statutes is amended to read:

2   134.71 **(8)** (c) 2. For every secondhand article purchased, received or exchanged

3 by a secondhand article dealer from a customer off the secondhand article dealer's

4 premises or consigned to the secondhand article dealer for sale on the secondhand

5 article dealer's premises, the secondhand article dealer shall keep a written

6 inventory. In this inventory the secondhand article dealer shall record the name and

7 address of each customer, the date, time and place of the transaction and a detailed

8 description of the article which is the subject of the transaction, including the

9 article's serial number and model number, if any. The customer shall sign his or her

10 name on a declaration of ownership of the secondhand article identified in the

11 inventory and shall state that he or she owns the secondhand article. The

12 secondhand article dealer shall retain an original and a duplicate of each entry and

13 declaration of ownership relating to the purchase, receipt or exchange of any

14 secondhand article for not less than one year after the date of the transaction except

15 as provided in par. (e) 1., and shall make duplicates of the inventory and declarations

16 of ownership available to any law enforcement officer for inspection at any time that

17 the secondhand article dealer's principal place of business is open to the public or at

18 any other 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 subds. 3m. and 5., any secondhand article

21 or secondhand jewelry purchased or received by a pawnbroker shall be kept on the

22 pawnbroker's premises or other place for safekeeping for not less than 30 days after

23 the date of purchase or receipt, unless the person known by the pawnbroker to be the

24 lawful owner of the secondhand article or secondhand jewelry recovers it.

25   **SECTION 9.** 134.71 (8) (d) 3. of the statutes is amended to read:

1   134.71 **(8)** (d) 3. Except as provided in ~~subds. 3m. and~~ subd. 5., any secondhand

2   jewelry purchased or received by a pawnbroker or secondhand jewelry dealer shall

3   be kept on the pawnbroker's or secondhand jewelry dealer's premises or other place

4   for safekeeping for not less than ~~21~~ 28 days after the date ~~of purchase or receipt~~ that

5   the pawnbroker or secondhand jewelry dealer makes a report regarding the

6   secondhand jewelry under par. (e) 2. or, if applicable, the date specified in a notice

7   provided by a law enforcement agency under par. (e) 2.

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

9   134.71 **(8)** (d) 3m. If a pawnbroker~~,~~ or secondhand article dealer~~, or secondhand~~

10   ~~jewelry dealer~~ is required to submit a report under par. (e) 1. concerning a

11   secondhand article ~~or secondhand jewelry~~ purchased or received by the pawnbroker~~,~~

12   or secondhand article dealer, ~~or secondhand jewelry dealer~~ and the report is required

13   to be submitted in an electronic format, the secondhand article ~~or secondhand~~

14   ~~jewelry~~ shall be kept on the pawnbroker's~~,~~ or secondhand article dealer's, ~~or~~

15   ~~secondhand jewelry dealer's~~ premises or other place for safekeeping for not less than

16   7 days after the report is submitted.

17   **SECTION 11.** 134.71 (8) (e) (title) of the statutes is amended to read:

18   134.71 **(8)** (e) (title) *~~Report to law~~ Law enforcement agency reports.*

19   **SECTION 12.** 134.71 (8) (e) of the statutes is renumbered 134.71 (8) (e) 1. and

20   amended to read:

21   134.71 **(8)** (e) 1. ~~Within~~ Except as provided in subd. 3., within 24 hours after

22   purchasing or receiving a secondhand article or secondhand jewelry, a pawnbroker,

23   secondhand article dealer or secondhand jewelry dealer shall make available, for

24   inspection by a law enforcement officer, the original form completed under par. (c) 1.

25   or the inventory under par. (c) 2., whichever is appropriate. Notwithstanding s. 19.35

1   (1), a law enforcement agency receiving the original form or inventory or a

2   declaration of ownership may disclose it only to another law enforcement agency.

3   SECTION 13. 134.71 (8) (e) 2. of the statutes is created to read:

4   134.71 **(8)** (e) 2. The law enforcement agency of a county or municipality shall

5   require each pawnbroker and secondhand jewelry dealer licensed by the county or

6   municipality to participate in a system specified by the county or municipality for

7   electronically reporting each transaction of purchase, receipt, or exchange of

8   secondhand jewelry from a customer. The law enforcement agency may specify a

9   system only if the system provides for digitally photographing each item or

10   component of secondhand jewelry that is subject to a transaction. The law

11   enforcement agency may require that a pawnbroker or secondhand jewelry dealer

12   directly report transactions to the system or provide information or make other

13   arrangements necessary for the law enforcement agency to report transactions to the

14   system on behalf of the pawnbroker or secondhand jewelry dealer. If a law

15   enforcement agency makes reports on behalf of a pawnbroker or secondhand jewelry

16   dealer, the law enforcement agency shall provide notice to the pawnbroker or

17   secondhand jewelry dealer of the date on which the law enforcement agency reports

18   a transaction to the system.

19   SECTION 14. 134.71 (8) (e) 3. of the statutes is created to read:

20   134.71 **(8)** (e) 3. If a law enforcement agency determines that compliance with

21   subd. 2. renders compliance with any requirement regarding secondhand jewelry

22   under par. (c) 1. or subd. 1. unnecessary, the law enforcement agency may waive

23   compliance with the requirement and provide written notice of the waiver to

24   pawnbrokers and secondhand jewelry dealers who are subject to the law

25   enforcement agency's jurisdiction.

1   SECTION 15. 134.71 (14) of the statutes is renumbered 134.71 (14) (a).

2   SECTION 16. 134.71 (14) (b) of the statutes is created to read:

3   134.71 **(14)** (b) An ordinance enacted by a county under par. (a) applies in a city,

4   village, or town in the county only if the city, village, or town does not have in effect

5   an ordinance that the city, village, or town has enacted under par. (a).

6   **SECTION 17. Initial applicability.**

7   (1) The treatment of section 134.71 (1) (c) and (h) 3. and (8) (c) 1. and (d) 1., 3.,

8   and 3m. of the statutes, the renumbering and amendment of section 134.71 (8) (e) of

9   the statutes, and the creation of section 134.71 (8) (e) 2. of the statutes first apply to

10   purchases, receipts, exchanges, and other transactions that occur on the effective

11   date of this subsection.

12   **SECTION 18. Effective date.**

13   (1) This act takes effect on the first day of the 7th month beginning after

14   publication.

15   **(END)**