

SENATE . . . . . No. 183

The Commonwealth of Massachusetts

PRESENTED BY:

James E. Timilty

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act further regulating pawn shops and dealers of second articles.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	Bristol and Norfolk
Mark C. Montigny	Second Bristol and Plymouth
Louis L. Kafka	8th Norfolk
Cynthia Stone Creem	First Middlesex and Norfolk
Patricia D. Jehlen	Second Middlesex
Susan C. Tucker	Second Essex and Middlesex
Brian P. Wallace	4th Suffolk
John J. Binienda	17th Worcester
Stephen L. DiNatale	3rd Worcester
Robert M. Koczera	11th Bristol
Byron Rushing	9th Suffolk
Karyn E. Polito	11th Worcester
Robert L. Rice, Jr.	2nd Worcester
John J. Binienda	17th Worcester
Anthony W. Petruccelli	First Suffolk and Middlesex
Robert F. Fennell	10th Essex
Denise Provost	27th Middlesex
Theodore C. Speliotis	13th Essex
Robert L. Hedlund	Plymouth and Norfolk

Thomas M. McGee

Third Essex and Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE SENATE, NO. S02371 OF 2007-2008.]

## The Commonwealth of Massachusetts

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In the Year Two Thousand and Nine

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### AN ACT FURTHER REGULATING PAWN SHOPS AND DEALERS OF SECOND ARTICLES.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Chapter 140 of the General Laws is hereby amended by striking out section  
2 54 and inserting in place thereof the following section: -

3           Section 54. No person shall carry on the business of being a collector of, dealer in or keeper of a  
4 shop for the purchase, sale or barter of junk, old metals or second hand articles unless operating under a  
5 written agreement with a registered promoter licensed under Chapter 101 of the General Laws, or licensed  
6 to do so by the police commissioner of Boston or pursuant to a written agreement with a registered  
7 promoter operating in the business of consumer shows, licensed un Chapter 62 C of the General Laws, or  
8 by the governing body of the city or town where he carries on his business, subject to sections two  
9 hundred and two to two hundred and five, and said commissioner or governing body may revoke such  
10 licenses at pleasure. Societies, associations or corporations organized solely for religious or charitable  
11 purposes and their agents shall not be required to pay a fee for such licenses.

12           Any person who carries on the business of a being a collector of, dealer in or keeper of a shop for  
13 the purchase, sale or barter of junk, old metals or second hand articles shall record information pertaining  
14 to every transaction, including but not limited to the name, address and date of birth of the person offering

15 an article, , the price paid for the article, a full description of the article including all distinguishing marks  
16 and numbers, and the time and date of the transaction, and shall not accept an article unless the person  
17 offering it shows a government issued identification card bearing the person's photograph. The collector,  
18 dealer and keeper of a shop as described above, or any employee thereof, shall photograph the person  
19 offering an article, and shall photograph the articles offered. Said transaction information and the  
20 photographs of the person and the article or articles being offered, and shall transmit the information and  
21 photographs electronically on the date of the transaction, using a system specified by the secretary of  
22 public safety, and shall retain on the licensed premises a printed copy of the transaction information and  
23 photographs as part of his records. All information gathered or transmitted in any manner by collectors,  
24 dealers and keepers of shops as described above pursuant to this section shall be available only to a law  
25 enforcement officer at any time for any reason, and no said collector, dealer or keeper of a shop or person  
26 offering any article to a collector, dealer or keeper of a shop shall have an expectation of privacy  
27 concerning any information about the transaction, including but not limited to any photographs taken.

28 No collector, dealer and keeper of a shop as described above, or any employee thereof, may  
29 purchase or receive a stainless steel or aluminum alloy beer or other beverage keg container if such  
30 container is marked with an indicia of ownership of any person or entity other than the person or entity  
31 presenting such container for sale. For purposes of this subsection, "indicia of ownership" means words,  
32 symbols or a registered trademark printed, stamped, etched, attached or otherwise displayed on such  
33 container that identify the owner of such container.

34 Any person offering any article for sale who provides a wrong name, address or date of birth, or  
35 shows false, forged or counterfeit identification shall be punished by a fine of not more than one thousand  
36 dollars or by imprisonment for not more than six months. A police officer may arrest without a warrant  
37 any person whom he has probable cause to believe has provided a wrong name, address or date of birth,  
38 or has shown false, forged or counterfeit identification as described above. Any dealer of second hand  
39 articles who knowingly records or transmits false information about a transaction shall be fined not more  
40 than one thousand dollars for the first offense, and upon a second offense, shall be fined not more than

41 two thousand dollars and his license shall be revoked, and he shall not be permitted to conduct the  
42 business of a dealer of second hand articles in the commonwealth for one year.

43 The secretary of public safety shall have the authority to promulgate regulations relative to  
44 collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second  
45 hand articles, and to the licensing of said persons and shops.

46 SECTION 2. Section 55 of chapter 140, as so appearing, is hereby amended by striking out, in  
47 lines 5 and 6, the words “shall forfeit twenty dollars” and inserting in place thereof the following words: -  
48 shall be punished by a fine of not more than two hundred dollars for the first offense, and by a fine of not  
49 more than five hundred dollars for each subsequent offense.

50 SECTION 3. Chapter 140 is hereby further amended by striking out section 70, as so appearing,  
51 and inserting in place thereof the following section: -

52 Section 70. No person shall carry on the business of a pawnbroker unless licensed to do so by the  
53 police commissioner of Boston, or by the governing body of the city or town where he carries on his  
54 business, subject to sections two hundred and two to two hundred and five, and said licensing authority  
55 may revoke such licenses at pleasure. Said licensing authority shall notify the Commissioner of the  
56 Division of Banks and the Commissioner of the Department of Public Safety of the issuance or revocation  
57 of said license, the name and address of the licensee, and the location where said business will be carried  
58 on.

59 SECTION 4. Chapter 140 of the General Laws is hereby amended by striking out Section 72  
60 inserting in place thereof the following:—

61 The authorities which issue such licenses may fix the rate of interest which pawnbrokers may  
62 receive on loans, and may fix different rates which may be received for different amounts of money lent;  
63 provided however that the rate of interest shall not exceed 5% per month or 40% annually. No licensed  
64 pawnbroker shall charge or receive a greater rate of interest than that so fixed. Any person who violates  
65 any provision of this or the preceding section shall be punished by a fine of not more than five hundred

66 dollars for the first offense, and by a fine of not more than one thousand dollars for each subsequent  
67 offense. A violation of this section shall constitute a violation of Section 2 of Chapter 93A.

68 SECTION 5. Section 73 of chapter 140, as so appearing, is hereby amended by striking out, in  
69 lines 1 and 2, the words “The chief of police of a city, the selectmen of a town, any officer authorized by  
70 either of them, or a state” and inserting in place thereof the following word: - A.

71 SECTION 6. Section 75 of chapter 140, as so appearing, is hereby amended by striking out, in  
72 line 5, the words “fifty dollars” and inserting in place thereof the following words: - two hundred dollars  
73 for the first offense, and by a fine of not more than five hundred dollars for each subsequent offense. A  
74 violation of this section shall constitute a violation of section 2 of Chapter 93A.

75 SECTION 7. Section 76 of chapter 140, as so appearing, is hereby amended by striking out, in  
76 lines 1 and 2, the words, “in any city or in any town of ten thousand or more inhabitants,”.

77 SECTION 8. Chapter 140 of the General Laws is hereby amended by striking out Section 78 and  
78 inserting in place thereof the following:—

79 The authorities who grant licenses to pawnbrokers shall establish regulations, to be approved by  
80 the Commissioner of the Division of Banks and the Commissioner of the Department of Public Safety  
81 relative to the business carried on by pawnbrokers and secondhand dealers, including, but not limited to,  
82 an appropriate fee structure. Notwithstanding such regulations, the rate of interest shall be five percent on  
83 a monthly basis, and that the term of such loan shall not exceed four months; provided however, that said  
84 pawnbroker or secondhand dealer may offer a four month grace period at five percent per month in  
85 addition to the initial term and a pawnbroker shall not charge or receive upon any loan a greater rate of  
86 interest than that set forth by this statute.

87 SECTION 9. Chapter 140 is hereby further amended by striking out section 79, as so appearing,  
88 and inserting in place thereof the following section: -

89           Section 79. Every person who carries on the business of a pawnbroker shall at the time of  
90 making a loan record information pertaining to every transaction, including but not limited to the name,  
91 address and date of birth of the person pawning an article, the amount of money loaned thereon, the rate  
92 of interest to be paid on such loan, a full description of the article including all distinguishing marks and  
93 numbers, and the time and date of the transaction, and shall not accept an article unless the person  
94 offering it shows a valid government issued picture identification card. .The pawnbroker or any employee  
95 thereof shall photograph the person offering an article in pawn. Said transaction information, shall be  
96 transmitted electronically on the date of the transaction, using a system specified by the secretary of  
97 public safety. Said pawnbroker or secondhand dealer shall retain a printed or electronic copy of the  
98 transaction information and photographs on the licensed premises as part of his records. All information  
99 gathered, recorded or transmitted in any manner by pawnbrokers pursuant to this section shall be  
100 available to any law enforcement officer at any time for any reason, or to the licensing authority of any  
101 city or town or their designee, and no pawnbroker or person pawning any article shall have an expectation  
102 of privacy concerning any information about the transaction, including but not limited to any photographs  
103 taken.

104           Any person offering any article for pawn who provides a wrong name, address or date of birth, or  
105 shows false, forged or counterfeit identification shall be punished by a fine of not more than one thousand  
106 dollars or by imprisonment for not more than six months. A police officer may arrest without a warrant  
107 any person whom he has probable cause to believe has provided a wrong name, address or date of birth,  
108 or has shown false, forged or counterfeit identification as described above. Any pawnbroker who  
109 knowingly records or transmits false information about a transaction shall be fined not more than one  
110 thousand dollars for the first offense, and upon a second offense shall be fined not more than two  
111 thousand dollars and his license shall be revoked, and he shall not be permitted to conduct the business of  
112 a pawnbroker in the commonwealth for one year.

113           The secretary of public safety shall have the authority to promulgate rules and regulations relative  
114 to pawnshops, the licensing of pawnshops and to persons who carry on the business of pawnbrokers.

115 SECTION 10. Section 81 of chapter 140 is hereby repealed.

116 SECTION 11. Section 83 of chapter 140 is hereby repealed.

117 SECTION 12. Section 84 of chapter 140 is hereby repealed.

118 SECTION 13. This act shall take effect 180 days after its passage.