

CHAPTER 299
FORMERLY
SENATE BILL NO. 194

AN ACT TO AMEND TITLE 24 OF THE DELAWARE CODE RELATING TO PAWNBROKERS, SECONDHAND DEALERS AND SCRAP METAL PROCESSORS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 23, Title 24 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§2301. Definitions.

As used in this chapter.

~~(3) "Exempted Internet sales" means offers for sale of items of secondhand personal property available on a website where the items listed for sale:~~

- ~~a. May be viewed by any member of the general public at no charge;~~
- ~~b. May be searched by any member of the general public, at no charge, by the zip code or state in which the secondhand personal property offered for sale is located;~~
- ~~c. Are assigned a unique item listing number by the website; and~~
- ~~d. Are provided, in a timely manner, at no additional charge to the secondhand dealer, to a unified, nationally available database, that is searchable by item description and by seller, that may be accessed by a law enforcement agency with adequate security features and privacy protections, upon confirmation that such access is reasonably necessary for an ongoing investigation of a crime.~~

~~Exempted Internet sales by a secondhand dealer that would otherwise be subject to this section are not exempt from the requirements of §§ 2305, 2306, and 2307 of this title and the secondhand dealer must provide law enforcement agencies that have jurisdiction over the location of the dealer's business premises with the names under which it conducts business on the websites where the items are listed for sale and must record and preserve for inspection the information that would be required to be collected and reported under § 2302 of this title.~~

(3) "Exempted Internet acquisitions" means any property acquired by a business licensed under this chapter from an exclusive internet sale.

(7) "Secondhand dealer" means any person, company, corporation, or member or members of a partnership or firm whose storefront business includes any volume of selling or receiving previously owned, used, rented or leased tangible personal property excluding motor vehicles. The term "secondhand dealer" shall not include auction houses, flea markets, antique dealers or motor vehicle dealers. This chapter, as it relates to secondhand dealers, does not apply to:

- a. The sale of secondhand goods at events commonly known as "garage sales," "yard sales," or "estate sales";
- b. The sale or receipt of secondhand books, magazines, post cards, postage stamps;
- c. The sale or receipt of used merchandise donated to recognized nonprofit, religious, or charitable organizations or any school-sponsored association for which no compensation is paid;
- d. The sale or receipt of secondhand furniture;
- e. The sale or receipt of secondhand clothing and shoes;
- f. The sale of goods exclusively via the Internet that meet the definition of ~~"exempted Internet sales"~~ "exempted Internet acquisition" set forth in this section;
- g. Federal firearms licensed dealers; or
- h. The retail sale or purchase of goods, notwithstanding any and all articles under § 2302(b) of this title, and/or produce or other food products to a consumer, by a person, company, corporation, member or members of a partnership or firm from a location that the person, company, corporation, member or members or a partnership or firm, owns or leases; or
- i. The taking in trade by a business of an item of a like kind to items which such business sells as new goods as the principal or substantial part of its business.

§ 2302. Reporting requirements.

~~(a) Every pawnbroker and secondhand dealer shall create a record and provide information on a form to be supplied by the Delaware State Police or on another form that has been previously approved by the law enforcement agency having primary jurisdiction over the area in which the pawnbroker and secondhand dealer's business is located.~~

(a) Every pawnbroker and secondhand dealer shall create a record and provide information regarding merchandise acquired via an electronic format to be determined by the Secretary of Safety and Homeland Security.

(1) Such record shall include, at a minimum, the following information:

- a. The date and time of purchase;
- b. The make, model, any listed serial number, identifying markings, color, size, or any other identifiable characteristics of the purchased item(s);
- c. If payment is based on weight for precious metal, the weight of the type of the metal shall be listed as well as any precious stone(s) which is a part of the item;
- d. The amount or other consideration paid for the merchandise;
- e. The name and address of the individual from whom the merchandise is acquired;
- g. The signature of the individual from whom the merchandise is acquired;
- h. For each individual from whom the pawn broker or secondhand dealer acquires scrap metal:

- 1. The date of birth and driver's license; or,
- 2. Identification information about the individual from a valid state-issued photo identification card that provides a physical description of the individual, including the sex, race, distinguishing features, and approximate age, height and weight of the individual.

(2) Pawnbrokers and secondhand dealers shall collect a photograph of the seller and all information pertaining to the seller, required on the electronic form, for every transaction regardless of value.

~~(b)(1) Every scrap metal processor shall create a record and provide information on a form to be supplied by the Delaware State Police or on another form that has been previously approved by the law enforcement agency having primary jurisdiction over the area in which the scrap metal processor's business is located with respect to the following articles purchased or otherwise acquired:~~

(b)(1) Every scrap metal processor shall create a record and provide information regarding scrap metal acquired via an electronic format to be determined by the Secretary of Safety and Homeland Security with respect to the following articles purchased or otherwise acquired:

- a. Copper;
 - b. Silver;
 - c. Gold;
 - d. Brass;
 - e. Platinum;
 - f. Bronze;
 - g. Automobiles or automobile parts displaying a vehicle identification number (VIN); or
 - h. Lead-acid batteries.
- (2) Such record shall include, at a minimum, the following information:
- a. The date and time of purchase;
 - b. The type and grade of scrap metal;
 - c. If payment is based on weight, the weight of each type and grade of scrap metal;
 - d. The amount or other consideration for the scrap metal;
 - e. The registration plate number, make and model of the vehicle used in the delivery of scrap metal;
 - f. The name and address of the individual from whom the scrap metal is acquired;
 - g. The signature of:

1. The individual from whom the scrap metal is acquired; and,
2. The scrap metal processor; and

h. For each individual from whom the scrap metal processor acquires scrap metal:

1. The date of birth and driver's license; or,

2. Identification information about the individual from a valid state-issued photo identification card that provides a physical description of the individual, including the sex, race, distinguishing features, and approximate age, height and weight of the individual.

(3) Scrap metal processors will collect a photograph of the seller and all information pertaining to the seller (~~required on the approved form~~), required on the electronic form, for every transaction regardless of value.

(c) The forms required by subsections (a) and (b) of this section shall be completed immediately after any articles or goods have been purchased or acquired and shall be submitted electronically by ~~noon~~ the close of business the next business day, in a format to be determined by the Secretary of the Department of Safety and Homeland Security, to the law-enforcement agency having primary jurisdiction over the area in which the business is located. Forms submitted under this section shall be kept confidential and are not public records.

§ 2316. Unlicensed pawnbrokers, secondhand dealers or scrap metal processors.

(a) Any pawnbroker, second hand dealer, or scrap metal processor operating without the required license may be issued a cease and desist order by the Delaware State Police and will not be permitted to operate without first obtaining such license.

(b) Any property acquired by a pawnbroker, secondhand dealer, or scrap metal processor during the time they were unlicensed is subject to forfeiture.

Approved July 15, 2014