

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 226

Introduced by Smith, 14; Krist, 10; Nordquist, 7.

Read first time January 15, 2013

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to personal property; to regulate dealers in the
- 2 business of purchasing and reselling precious items; to
- 3 provide a penalty; and to harmonize provisions.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. For purposes of sections 1 to 10 of this act:

2 (1) Dealer means any person that engages in the business
3 of purchasing precious items for the purpose of reselling such items
4 in any form. Dealer does not include a manufacturer, retailer, or
5 pawnbroker as defined in section 69-201 or a person who purchases and
6 resells precious items exclusively in an Internet market;

7 (2) Local law enforcement agency means the police
8 department of the municipality where the dealer is permitted to do
9 business or, if the municipality does not have a police department or
10 if the dealer's permanent place of business is outside a
11 municipality, the sheriff of the county where the dealer is permitted
12 to do business;

13 (3) Permanent place of business means a fixed premises
14 either owned by the dealer or leased by the dealer for at least one
15 year; and

16 (4) Precious item means (a) an article made in whole or
17 in part of gold, silver, or platinum or (b) precious or semiprecious
18 stones or pearls whether mounted or unmounted.

19 Sec. 2. (1) Each dealer shall apply to the city, village,
20 or county treasurer for a permit to carry on business and shall pay
21 the sum of one hundred dollars per year or fifty dollars for every
22 six months. The application shall be made to the county treasurer if
23 the applicant's permanent place of business is outside a
24 municipality.

25 (2) The application shall contain the following

1 information:

2 (a) The name and address of the owner and the manager of
3 the business and, if the applicant is an individual, the applicant's
4 social security number;

5 (b) If the applicant is a business entity, a copy of the
6 articles of organization and the names of its officers and its
7 owners; and

8 (c) The location of the permanent place of business.

9 (3) Upon receipt of a complete application and the fee,
10 the city, village, or county treasurer shall forward the application
11 to the city or village clerk or county clerk, as appropriate. The
12 governing body of the city, village, or county shall review the
13 application and, if it complies with the provisions of sections 1 to
14 9 of this act, approve the application and direct the clerk to issue
15 a permit. The governing body may delegate its duties under this
16 section.

17 Sec. 3. A dealer may only operate from the permanent
18 place of business listed on the permit issued under section 2 of this
19 act. The dealer shall provide a copy of the permit to the local law
20 enforcement agency within five days after receipt. It shall be
21 unlawful for any person to act as a dealer without a permit.

22 Sec. 4. A dealer shall keep a ledger containing the
23 following information for six months after the date of purchase of a
24 precious item:

25 (1) The name of the person from whom the precious item is

1 purchased or received, his or her signature and date of birth, and a
2 record of his or her valid photo identification which contains a
3 traceable number to be recorded by the dealer;

4 (2) A full and accurate description of the precious item
5 purchased, including any manufacturer's identifying insignia or
6 serial number;

7 (3) The date and time the precious item was purchased;

8 (4) The amount paid for the precious item; and

9 (5) The identification and signature of the clerk or
10 agent for the dealer who handled the transaction.

11 Ledger entries shall not in any manner be erased,
12 obliterated, or defaced. The person selling a precious item to a
13 dealer shall receive a receipt for the precious item sold which
14 contains a copy of the entries required by this section.

15 Sec. 5. Every dealer shall admit to the dealer's
16 permanent place of business at any reasonable time during normal
17 business hours any law enforcement officer for the purpose of
18 examining any precious item and records on the premises and shall
19 allow any law enforcement officer to place restrictions on the
20 disposition of any precious item for which a reasonable belief exists
21 that it has been stolen. Any person claiming ownership interest in a
22 precious item received by a dealer for which reasonable belief exists
23 that such precious item has been stolen may recover such precious
24 item as provided by sections 25-1093 to 25-10,110.

25 Sec. 6. It shall be the duty of every dealer every day,

1 except Sunday, before the hour of 12 noon to deliver to the local law
2 enforcement agency a report containing a complete and legible copy of
3 each ledger entry as required by section 4 of this act of precious
4 items purchased during the period since the last report. It is
5 presumptive evidence of intent to violate sections 1 to 10 of this
6 act if the precious items purchased are not listed or fail to agree
7 with the description contained in the report. No report shall be
8 required for precious items purchased from manufacturers or
9 wholesalers having an established place of business, precious items
10 purchased at open sale from a bankrupt stock, or precious items
11 purchased from any other person doing business and having an
12 established place of business in the city, village, or county, but
13 such precious items must be accompanied by a bill of sale or other
14 evidence of open and legitimate purchase and must be shown to any law
15 enforcement officer when demanded.

16 Sec. 7. (1) Any precious item purchased by a dealer shall
17 be held in the same shape and form as receipted for in the dealer's
18 custody for fourteen business days after delivering the report to the
19 local law enforcement agency as required in section 6 of this act.

20 (2) A dealer shall make payment to the seller by check,
21 made payable to the seller.

22 (3) On notification by a law enforcement officer or
23 county attorney that reasonable belief exists that a precious item
24 purchased has been stolen, the dealer may not dispose of the precious
25 item.

1 (4) Each dealer shall, in addition to the requirements of
2 sections 1 to 10 of this act, obtain and provide to the local law
3 enforcement agency a single legible fingerprint of each person
4 selling any precious item. The fingerprint shall be taken from the
5 right index finger or, if the right index finger is missing, from the
6 left index finger. Each dealer shall display a notice to customers,
7 in a prominent location, stating that such dealer is required by
8 state law to fingerprint every person selling an item.

9 (5) A dealer may not purchase a precious item (a) from
10 any person under eighteen years of age unless the person is
11 accompanied by a parent or guardian who shall submit identification
12 as required by section 4 of this act, (b) from any person who appears
13 to be under the influence of alcohol, narcotic drug, stimulant, or
14 depressant or who appears to be mentally incompetent, or (c) on which
15 any serial numbers or other identifying insignia has been destroyed,
16 removed, altered, covered, or defaced.

17 Sec. 8. Each dealer shall prominently display a copy of
18 the permit issued pursuant to sections 1 to 10 of this act in a
19 conspicuous place at the permanent place of business.

20 Sec. 9. Any person who violates sections 1 to 10 of this
21 act is guilty of a Class III misdemeanor.

22 Sec. 10. Sections 1 to 9 of this act do not apply to a
23 person who has been issued a permit as provided in sections 69-201 to
24 69-210.

25 Sec. 11. Sections 69-201 to 69-210 do not apply to a

1 dealer as defined in section 1 of this act who has been issued a
2 permit as provided in sections 1 to 10 of this act.