

ORDINANCE NO.

FILE OF CITY COUNCIL

BILL NO. 26 - 2019

APRIL 3, 2019

AN ORDINANCE

Amending Article 301, Pawnbrokers, Second Hand Dealers and Precious Metal Dealers, by eliminating the thumbprint requirement, creating a mechanism for Second Hand Dealers to seek exemption to the electronic reporting requirements and identifying specific data that participating businesses must collect/submit to the Police Department.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ALLENTOWN:

SECTION ONE: That City Council authorizes the following change to the Section 1759.99 Fees/Penalties of Article 1759, Licensing Residential Rental Units:

ARTICLE 301
PAWNBROKERS, SECOND HAND DEALERS AND PRECIOUS METAL DEALERS

301.01 Definitions
301.02 Pawnbrokers
301.03 Second Hand Dealers
301.04 Precious Metal Dealers
301.99 Penalties

~~301.01 REPORTS TO CHIEF OF POLICE~~

~~All pawnbrokers, jewelers, or dealers buying second hand jewelry, second hand goods or coins shall make out and deliver to the Chief of Police or his designee at his office every Monday and Thursday before 10:00 AM, a legible and accurate report of all articles taken in pawn or purchased during the previous business days. Such report shall be on a form furnished by the Chief of Police and shall contain an accurate description, as the form prescribes, of all articles taken in pawn or purchased, of the amount loaned on or paid for such articles and of the person pawning or purchasing the same. The buyer shall require proof of identity and current address of anyone selling said items. (12601 § 1 4/4/84)~~

301.01 DEFINITIONS

A. In this section, the following definitions shall apply:

1. Pawnbroker:

- a. Any person who engages in the business of lending money on the deposit or pledge of personal property; or
- b. Purchases personal property with an express or implied agreement or understanding to sell it back at a subsequent time at a stipulated price; or
- c. Lends money upon goods, wares or merchandise pledged, stored or deposited as collateral security.

2. Pledge: An item of property or an article deposited with the pawnbroker as security in exchange for a loan in the course of the pawnbroker's business.

3. Pledger: The person who obtains a loan from a pawnbroker in exchange for the pledge, thus giving the pledge into the possession of the pawnbroker.

4. Pawn Ticket: The card, document or other record furnished to the pledger by the pawnbroker at the time the loan is granted in exchange for the pledge.

5. Receipt: The card, document or other record furnished to the customer at the time an item of personal property is purchased, traded or otherwise obtained (except for items obtained as a pledge from a pledger.)

6. Second Hand Dealer: An individual operating a store, shop or other business, whether or not at a permanent location, for the purpose of purchasing, trading, selling or otherwise obtaining and/or liquidating previously owned articles and moveable property. This definition shall not apply to those organizations that operate "not for profit" and obtain items of personal property only via donation.

7. Precious Metal Dealer: An individual operating a store, shop or other business, whether or not at a permanent location, for the purpose of purchasing, trading, selling or otherwise obtaining and/or liquidating previously owned articles of personal property containing precious metals, including, but not limited to platinum, gold, silver and their alloys.

301.02 PAWNBROKERS

A. Permits:

1. No person shall act as a pawnbroker prior to obtaining a Pawnbroker's Permit issued by the City of Allentown. No Pawnbroker's Permit shall be issued by the City of Allentown until the person has been properly licensed by the Commonwealth as required by the Pawnbrokers Licensing Act, 63 P.S. §§ 281-1- 281-32.

2. Pawnbroker's Permits shall be obtained annually from the ~~Bureau of Business Licensing~~ Bureau of Police for a fee of \$100.00 and is in addition to the Business License Fee set under Article 313, Section 313.03 of the Codified Ordinances.

3. Permits shall require photograph, fingerprinting and criminal history checks to be completed by the Bureau of Police.

B. General Requirements:

1. No pawnbroker may purchase an article of personal property from, receive a pledge of personal property from or exchange personal property with a customer or pledger who is under the age of 18 years.

2. No pawnbroker may purchase an article of personal property from, receive a pledge of personal property from or exchange personal property with a customer or pledger without first obtaining the following:

a. A digital photograph of the customer/pledger taken at the time of the transaction;

b. A clear imprint of the left thumbprint of the customer/pledger;

c. Valid identification from the customer/pledger, consisting of at least one of the following:

(i) A valid identification document, containing a photograph issued by any State or Federal government agency;

(ii) A valid motor vehicle operator's license containing a photograph issued by any state;

(iii) A valid military identification card containing a photograph.

3. Every pawnbroker shall issue a pawn ticket to every customer delivering a pledge of personal property to the pawnbroker.

C. Reports to the Police

1. Every pawnbroker shall use a secure, internet-accessible electronic inventory tracking system, as designated by the Bureau of Police. Each pawnbroker shall maintain on its premises a computer which is capable of securely and confidentially uploading all required tracking information as specified by the Bureau of Police, via the internet to an entity designated by the Bureau of Police. No later than the end of each business day, every pawnbroker must upload, in the manner specified by the Bureau of Police, the required tracking information for all articles of personal property purchased, pledged, traded or otherwise obtained during the course of the business day.

a. Required Tracking information includes but is not limited to:

(i) Digital photograph of the customer / pledger

(ii) Digital photograph of the pledge(s) / purchased item(s)

(iii) Name of customer / pledger

(iv) Address of customer / pledger

(v) Phone number of customer / pledger

(vi) Photo identification information for the customer / pledger

- (vii) Birth date of the customer / pledger
- (viii) Name of employee conducting the transaction

2. The Bureau of Police shall issue regulations designating the form and content of pawn tickets, receipts, the internet-accessible electronic inventory tracking system to be used by each pawnbroker and the required tracking information to be recorded for each transaction. The entity chosen by the Bureau of Police to administer the electronic tracking system shall ensure that all data remain secure and confidential by providing to each pawnbroker login security protocols which meet current industry standards and shall employ state of the art technology to protect the data from all forms of unauthorized access and malicious intrusion.

D. Holding Period

1. Every pawnbroker shall keep, for a period of not less than 90 days from the date of receipt and in a suitable location for safekeeping, any article of personal property that was received as a pledge; provided that any person who presents adequate identification (as set forth above) to demonstrate that he/she is the person named on the pawn ticket as the pledger/owner of the article of personal property may redeem or otherwise retrieve the article of personal property prior to the expiration of the 90 day holding period.

2. Every pawnbroker shall keep, for a period of not less than 15 days from the date of receipt and in a suitable location for safekeeping, any article of personal property that was purchased, traded or otherwise obtained (in some way other than as a pledge) from an individual.

3. During the holding period, any article of personal property received as a pledge, purchased, traded or otherwise obtained shall be segregated from the pawnbroker's other inventory to ensure that it is not placed in an area or section where articles of personal property are offered for sale.

4. Articles of personal property retained during the holding period may not be altered in any way.

E. Inspection by Police

1. The pawnbroker shall allow any City of Allentown police officer to inspect any article of personal property held in inventory or retained pursuant to the holding period described above, without requiring such police officer to present a warrant or other order issued by the Court.

2. If the police officer has a reasonable belief that any article of personal property was obtained by the pawnbroker from anyone other than the rightful owner of said article of personal property, then the officer may direct the pawnbroker to hold the article of personal property until ownership may be determined.

3. If the police officer has probable cause to believe that an article of personal property was obtained by the pawnbroker from anyone other than the rightful owner of said article of personal property, then the officer may, without a warrant or other order issued by the Court, seize and take into custody the article of personal property to be safeguarded at a location maintained by the Bureau of Police. When an article of personal property is seized and taken into custody by a police officer, that officer shall provide the pawnbroker with a receipt that describes the said article, identifies the officer by name and badge number and the case/incident number assigned to the investigation that the said article of personal property is related to. The pawnbroker shall also then be notified of any and all Court proceedings related to the said investigation.

301.03 SECOND HAND DEALERS

A. Permits:

1. No person shall act as a second hand dealer prior to obtaining a Second Hand Dealer's Permit issued by the City of Allentown, or securing "exempt" status as detailed below under subsection 3(a). Second hand dealers shall comply with the Junk and Secondhand Registration Law, 53 P.S. §§ 4431-4433, and the Brass and Bronze Cemetery Vase, Receptacle or Markers Secondhand Purchase Law, 53 P.S. §§ 4441-4445, as amended.

2. Second Hand Dealer's Permits shall be obtained annually from the ~~Bureau of Business Licensing~~ Bureau of Police for a fee of \$100.00 and is in addition to the Business License Fee set under Article 313, Section 313.03 of the Codified Ordinances.

3. Permits shall require photograph, fingerprinting and criminal history checks to be completed by the Bureau of Police.

a. Exempt Status:

1. Second Hand Dealers who deal exclusively in the following items are exempt, and will not have to comply with Sections A, B, C, or D of Article 301.03, (relating to Second Hand Dealers):

- (i) Automobiles
- (ii) Firearms
- (iii) Clothing
- (iv) Books

2. Second Hand Dealers who deal in specific items other than those detailed in subsection 1 (above), may seek, via the Chief of Police or his / her designee, exempt status related to this section. Those Second Hand Dealers who are granted exempt status will not have to comply with Sections A, B, C, or D of Article 301.03, (relating to Second Hand Dealers) during that calendar year.

3. Second Hand Dealers must seek exempt status annually, and exemption during one calendar year is not a guarantee of exempt status in future calendar years.

4. Exempt status will be considered based on the following criteria:

- (i) The specific type(s) of items being bought / sold by the Second Hand Dealer, and the frequency with which those specific type(s) of items are reported stolen; and / or the likelihood that they would be reported stolen; and / or utilized nefariously by those persons engaged in criminal activity.

- (ii) The variety of item(s) being bought / sold by the Second Hand Dealer, and the uniqueness of said items.
- (iii) The dollar value of the individual item(s) being bought / sold by the Second Hand Dealer.
- (iv) A request for exempt status must be submitted in writing, to the Chief of Police or his / her designee within (15) calendar days of receipt of the Article 301 invoice, and must provide specific information related to subsection 4 (above), with an explanation of why exempt status is being sought.

5. Appeal to City Council / Public Safety Committee; Notice and Hearing

- (i) Any Second Hand Dealer aggrieved by the Chief of Police or his / her designee as it relates to a denial of "Exempt Status" shall have the right of appeal to City Council / Public Safety Committee. An appeal shall be taken by filing with Council, within (15) calendar days after notice of denial has been mailed to the Second Hand Dealer, a written statement setting forth fully the grounds for such appeal. The Public Safety Committee shall set a time and place for a hearing on such appeal and notice of the hearing shall be mailed to the appellant. The decision of the Public Safety Committee on such an appeal shall be final and may be appealed pursuant to the provisions of local agency law.

B. General Requirements:

1. No second hand dealer may purchase an article of personal property from or exchange personal property with a customer who is under the age of 18 years.

2. No second hand dealer may purchase an article of personal property from or exchange personal property with a customer without first obtaining the following:

- a. A digital photograph of the customer taken at the time of the transaction;
- b. A clear imprint of the left thumbprint of the customer.
- c. Valid identification from the customer, consisting of at least one of the following:
 - (i) A valid identification document, containing a photograph issued by any State or Federal government agency;
 - (ii) A valid motor vehicle operator's license containing a photograph issued by any state;
 - (iii) A valid military identification card containing a photograph.

C. Reports to the Police

1. Every second hand dealer shall use a secure, internet-accessible electronic inventory tracking system, as designated by the Bureau of Police. Each second hand dealer shall maintain on its premises a computer which is capable of securely and confidentially uploading all required tracking information as specified by the Bureau of Police, via the internet to an entity designated by the Bureau of Police. No later than the end of each business day, every second hand dealer must upload, in the manner specified by the Bureau of Police, the required tracking information for all articles of personal property purchased, traded or otherwise obtained during the course of the business day.

- a. Required Tracking information includes but is not limited to:

- (i) Digital photograph of the customer
- (ii) Digital photograph of the purchased item(s)
- (iii) Name of customer
- (iv) Address of customer
- (v) Phone number of customer
- (vi) Identification card information for the customer
- (vii) Birth date of the customer
- (viii) Name of employee conducting the transaction

2. The Bureau of Police shall issue regulations designating the form and content of receipts, the internet-accessible electronic inventory tracking system to be used by each second hand dealer and the required tracking information to be recorded for each transaction. The entity chosen by the Bureau of Police to administer the electronic tracking system shall ensure that all data remain secure and confidential by providing to each second hand dealer login security protocols which meet current industry standards and shall employ state of the art technology to protect the data from all forms of unauthorized access and malicious intrusion.

D. Holding Period

1. Every second hand dealer shall keep for a period of not less than 15 days from the date of receipt and in a suitable location for safekeeping, any article of personal property that was purchased, traded or otherwise obtained by an individual.

2. During the holding period, any article of personal property purchased, traded or otherwise obtained shall be segregated from the second hand dealer's other inventory to ensure that it is not placed in an area or section where articles of personal property are offered for sale.

3. Articles of personal property retained during the holding period may not be altered in any way.

E. Inspection by the Police

1. The second hand dealer shall allow any City of Allentown police officer to inspect any article of personal property held in inventory or retained pursuant to the holding period described above, without requiring such police officer to present a warrant or other order issued by the Court.

2. If the police officer has a reasonable belief that any article of personal property was obtained by the second hand dealer from anyone other than the rightful owner of said article of personal property, then the officer may direct the second hand dealer to hold the article of personal property until ownership may be determined.

3. If the police officer has probable cause to believe that an article of personal property was obtained by the second hand dealer from anyone other than the rightful owner of said article of personal property, then the officer may, without a warrant or other order issued by the Court, seize and take into custody the article of personal property to be safeguarded at a location maintained by the Bureau of Police. When an article of personal property is seized and taken into custody by a police officer, that officer shall provide the second hand dealer with a receipt that describes the said article, identifies the officer by name and badge number and the case/incident number assigned to the investigation that the said article of personal property is related to. The second hand dealer shall also then be notified of any and all Court proceedings related to the said investigation.

301.04 PRECIOUS METAL DEALERS

A. Permits:

1. No person shall act as a precious metal dealer prior to obtaining a Precious Metal Dealer's Permit issued by the City of Allentown. Precious metal dealers shall comply with the Purchase and Sale of Precious Metals Law, 73 P.S. §§ 1931-1942, as amended.
2. Precious Metal Dealer's Permits shall be obtained annually from the ~~Bureau of Business Licensing~~ Bureau of Police for a fee of \$100.00 and is in addition to the Business License Fee set under Article 313, Section 313.03 of the Codified Ordinances.

3. Permits shall require photograph, fingerprinting and criminal history checks to be completed by the Bureau of Police.

B. General Requirements:

1. No precious metal dealer may purchase an article of personal property from, or exchange personal property with a customer who is under the age of 18 years.

2. No precious metal dealer may purchase an article of personal property, or exchange personal property with a customer without first obtaining the following:

a. A digital photograph of the customer taken at the time of the transaction;

b. ~~A clear imprint of the left thumbprint of the customer.~~

c. Valid identification from the customer/pledger, consisting of at least one of the following:

(i) A valid identification document, containing a photograph issued by any State or Federal government agency;

(ii) A valid motor vehicle operator's license containing a photograph issued by any state;

(iii) A valid military identification card containing a photograph

C. Reports to the Police

1. Every precious metal dealer shall use a secure, internet-accessible electronic inventory tracking system, as designated by the Bureau of Police. Each precious metal dealer shall maintain on its premises a computer which is capable of securely and confidentially uploading all required tracking information as specified by the Bureau of Police, via the internet to an entity designated by the Bureau of Police. No later than the end of each business day, every pawnbroker must upload, in the manner specified by the Bureau of Police, the required tracking information for all articles of personal property purchased, traded or otherwise obtained during the course of the business day.

a. Required Tracking information includes but is not limited to:

- (i) Digital photograph of the customer
- (ii) Digital photograph of the purchased item(s)
- (iii) Name of customer
- (iv) Address of customer
- (v) Phone number of customer
- (vi) Identification card information for the customer
- (vii) Birth date of the customer
- (viii) Name of employee conducting the transaction

2. The Bureau of Police shall issue regulations designating the form and content of, receipts, the internet-accessible electronic inventory tracking system to be used by each precious metal dealer and the required tracking information to be recorded for each transaction. The entity chosen by the Bureau of Police to administer the electronic tracking system shall ensure that all data remain secure and confidential by providing to each precious metal dealer login security protocols which meet current industry standards and shall employ state of the art technology to protect the data from all forms of unauthorized access and malicious intrusion.

D. Holding Period

1. Every precious metal dealer shall keep for a period of not less than 15 days from the date of receipt and in a suitable location for safekeeping, any article of personal property that was purchased, traded or otherwise obtained by an individual.

2. During the holding period, any article of personal property received purchased, traded or otherwise obtained shall be segregated from the precious metal dealer's other inventory to ensure that it is not placed in an area or section where articles of personal property are offered for sale.

3. Articles of personal property retained during the holding period may not be altered in any way.

E. Inspection by the Police

1. The precious metal dealer shall allow any City of Allentown police officer to inspect any article of personal property held in inventory or retained pursuant to the holding period described above, without requiring such police officer to present a warrant or other order issued by the Court.

2. If the police officer has a reasonable belief that any article of personal property was obtained by the precious metal dealer from anyone other than the rightful owner of said article of personal property, then the officer may direct the precious metal dealer to hold the article of personal property until ownership may be determined.

3. If the police officer has probable cause to believe that an article of personal property was obtained by the precious metal dealer from anyone other than the rightful owner of said article of personal property, then the officer may, without a warrant or other order issued by the Court, seize and take into custody the article of personal property to be safeguarded at a location maintained by the Bureau of Police. When an article of personal property is seized and taken into custody by a police officer, that officer shall provide the precious metal dealer with a receipt that describes the said article, identifies the officer by name and badge number and the case/incident number assigned to the investigation that the said article of personal property is related to. The precious metal dealer shall also then be notified of any and all Court proceedings related to the said investigation.

301.99 PENALTY

Any person violating the provisions of this Article shall be fined not less than One hundred (\$100.00) Dollars but not more than Five Hundred (\$500.00) Dollars or imprisoned not more than ninety (90) days or both. Any business violating the provisions of this Article may be subject to a suspension or revocation of its Business License as it relates to Article 313. (11995 § 1 2/21/73; 14091 § 1 6/6/03)

SECTION TWO: That this Ordinance will take effect ten (10) days after final passage.

SECTION THREE: That all Ordinances inconsistent with the above provisions are repealed to the extent of their inconsistency.

- **What Department or bureau is Bill originating from? Where did the initiative for the bill originate?**

This Bill and the proposed amendments (attached) originate from the Police Department / Criminal Investigations Division.

- **Summary and Facts of the Bill**

The proposed amendments to City Code, Article 301 (see attached) are designed to address concerns that have been identified over the past 12 months, since the implementation of electronic reporting.

- **Purpose – Please include the following in your explanation:**
 - **What does the Bill do – what are the specific goals/tasks the bill seek to accomplish**
 - **What are the Benefits of doing this/Down-side of doing this**
 - **How does this Bill related to the City’s Vision/Mission/Priorities**

The proposed amendments include the following:

- Eliminates the thumbprint requirement (that was implemented in December 2017, with the last revisions to Article 301)
- Creates a mechanism for Secondhand Dealers to seek exemption to the electronic reporting requirements under Article 301
- Identifies the specific data that participating businesses (Pawnshops, Secondhand Stores, and Precious Metal Dealers) must collect / submit as it relates to Article 301

- **Financial Impact – Please include the following in your explanation:**
 - **Cost (Initial and ongoing)**
 - **Benefits (initial and ongoing)**

A vendor named Business Watch International / RAPID is currently engaged in year 2 of a 3 year contract with the City of Allentown to provide the electronic platform necessary to collect the required data and disseminate it to Law Enforcement.

The actual cost of this project is shared between the City of Allentown and the participating businesses.

Specifically, Business Watch International charges the City of Allentown \$200.00 per business / per year.

Each participating business is required to pay the City of Allentown (per Article 301) \$100.00 per year.

Currently, 15 Allentown businesses participate in this program.

The current net cost to the City of Allentown is \$1,500.00 per year.

- **Funding Sources – Please include the following in your explanation:**

- If transferring funds, please make sure bill gives specific accounts; if appropriating funds from a grant list the agency awarding the grant.

N/A

- **Priority status/Deadlines, if any**

No deadlines exist.

- **Why should Council unanimously support this bill?**

By supporting the proposed ordinance amendments, Council will help rectify certain concerns that became apparent after the Electronic Reporting component of Article 301 was enacted. Article 301 continues to enable police investigators to much more efficiently identify stolen items, recover stolen items, and prosecute those persons who commit theft related offenses. Since April 2018 when electronic reporting “went live”, Allentown Police (and other agencies who have access to Allentown data) have identified and / or recovered approximately \$10,000.00 worth of stolen items. This is in spite of the fact that many businesses continue to be out of compliance (by not reporting or reporting improperly). It is anticipated that the proposed amendments will bring the remaining businesses into compliance and result in additional recoveries of stolen property.