

HOUSE BILL NO. 66

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES SAMUELS, Meyer, McGuire, Wolf

Introduced: 1/27/03

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to certain persons who buy and sell secondhand articles, to certain**
2 **persons who lend money on secondhand articles, and to certain persons who seek or**
3 **receive loans on secondhand articles."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 08.01.010 is amended to read:

6 **Sec. 08.01.010. Applicability of chapter.** This chapter applies to the

7 (1) Board of Public Accountancy (AS 08.04.010);

8 (2) regulation of acupuncturists under AS 08.06;

9 (3) State Board of Registration for Architects, Engineers and Land
10 Surveyors (AS 08.48.011);

11 (4) Athletic Commission (AS 05.05 and AS 05.10);

12 (5) regulation of audiologists and speech-language pathologists under
13 AS 08.11;

14 (6) Board of Barbers and Hairdressers (AS 08.13.010);

- 1 (7) regulation of big game guides and transporters under AS 08.54;
- 2 (8) regulation of business licenses under AS 43.70;
- 3 (9) Board of Chiropractic Examiners (AS 08.20.010);
- 4 (10) regulation of collection agencies under AS 08.24;
- 5 (11) regulation of concert promoters under AS 08.92;
- 6 (12) regulation of construction contractors under AS 08.18;
- 7 (13) Board of Dental Examiners (AS 08.36.010);
- 8 (14) Board of Certified Direct-Entry Midwives (AS 08.65.010);
- 9 (15) regulation of dietitians and nutritionists under AS 08.38.
- 10 (16) Board of Dispensing Opticians (AS 08.71.010);
- 11 (17) regulation of electrical and mechanical administrators under
- 12 AS 08.40;
- 13 (18) regulation of agencies that perform euthanasia services under
- 14 AS 08.02.050;
- 15 (19) regulation of professional geologists under AS 08.02.011;
- 16 (20) regulation of hearing aid dealers under AS 08.55;
- 17 (21) Board of Marine Pilots (AS 08.62.010);
- 18 (22) Board of Marital and Family Therapy (AS 08.63.010);
- 19 (23) State Medical Board (AS 08.64.010);
- 20 (24) [REPEALED
- 21 (25)] regulation of morticians under AS 08.42;
- 22 **(25)** [(26)] regulation of the practice of naturopathy under AS 08.45;
- 23 **(26)** [(27)] Board of Nursing (AS 08.68.010);
- 24 **(27)** [(28)] regulation of nursing home administrators under AS 08.70;
- 25 **(28)** [(29)] Board of Examiners in Optometry (AS 08.72.010);
- 26 **(29) regulation of persons engaged in the business of buying and**
- 27 **selling or loaning money on secondhand articles under AS 08.76;**
- 28 (30) Board of Pharmacy (AS 08.80.010);
- 29 (31) State Physical Therapy and Occupational Therapy Board
- 30 (AS 08.84.010);
- 31 (32) Board of Professional Counselors (AS 08.29.010);

1 (33) Board of Psychologist and Psychological Associate Examiners
2 (AS 08.86.010);

3 (34) Real Estate Commission (AS 08.88.011);

4 (35) Board of Certified Real Estate Appraisers (AS 08.87.010);

5 (36) Board of Social Work Examiners (AS 08.95.010);

6 (37) Board of Veterinary Examiners (AS 08.98.010).

7 * **Sec. 2.** AS 08.76.010 is repealed and reenacted to read:

8 **Sec. 08.76.010. License required.** (a) A person may not engage in the
9 business of buying and selling secondhand articles or loaning money on secondhand
10 articles unless the person has first obtained a license from the department.

11 (b) The department, in consultation with the Department of Public Safety,
12 shall adopt regulations relating to the manner of obtaining a license, the length,
13 renewal, and revocation of a license, and exemptions to licensing consistent with the
14 public interest and purposes of this chapter.

15 (c) Each of the following is exempt from licensing under this section:

16 (1) a financial institution licensed, chartered, or certificated under
17 AS 06 or by the United States;

18 (2) a person who is engaged in the buying or selling of commodities
19 that are traded in a commodities market when the person is engaged in the buying or
20 selling of commodities on a commodities market; and

21 (3) a person licensed under AS 08.66 when engaged in activities
22 regulated by that chapter.

23 * **Sec. 3.** AS 08.76 is amended by adding new sections to read:

24 **Sec. 08.76.015. Duties of licensees; records and ownership verification.** A
25 licensee shall, at the time the licensee acquires an item by purchase or as collateral,

26 (1) verify the identity of the customer by comparing the signature and
27 appearance of the customer with the signature and photograph on a driver's license,
28 state identification card, or other identification card issued by a governmental entity to
29 the customer;

30 (2) record the following information:

31 (A) the date and time of the transaction;

1 (B) the name of the individual conducting the transaction;

2 (C) the first and last names, date of birth, and physical address
3 of the customer;

4 (D) the type of identification card used to identify the customer
5 under (1) of this section and the number of the card;

6 (E) a description of the property bought or received in pledge,
7 including the brand name, the serial, model, or other identifying number, and
8 all other identifying numbers, letters, or marks inscribed;

9 (F) the price paid or amount loaned; and

10 (G) the signature of the customer.

11 **Sec. 08.76.018. Limitations on persons involving secondhand articles.** A
12 person may not sell a secondhand article to, or receive a loan on a secondhand article
13 from, a licensee required to keep records under AS 08.76.015 unless the person selling
14 the secondhand article or receiving the loan is the lawful owner of the secondhand
15 article, verifies the ownership at the time of the transaction, and provides proof of
16 ownership to the satisfaction of the licensee required to keep records under
17 AS 08.76.015.

18 * **Sec. 4.** AS 08.76.020 is repealed and reenacted to read:

19 **Sec. 08.76.020. Manner of recording entry.** (a) A licensee required to keep
20 records under AS 08.76.015 shall record the information in

21 (1) an Internet-based database that allows for instant information
22 accessibility by law enforcement agencies and that is acceptable to the Department of
23 Public Safety; or

24 (2) an electronic format acceptable to the Department of Public Safety.

25 (b) If the licensee does not have the ability to enter records electronically, a
26 serialized three-part form may be used.

27 * **Sec. 5.** AS 08.76 is amended by adding a new section to read:

28 **Sec. 08.76.025. Reports of records.** (a) If records are kept as described in
29 AS 08.76.020(a)(2), then, once a week, the licensee shall personally deliver a
30 computer diskette containing all of the information recorded for each of the
31 transactions conducted in the previous seven days to the law enforcement agency of

1 the local municipality, or to the nearest state troopers' post if there is not an applicable
2 municipal law enforcement agency.

3 (b) If records are kept as described in AS 08.76.020(b), then, once a week, the
4 licensee shall deliver in person one part of each of the serialized three-part forms for
5 each of the transactions conducted in the previous seven days to the law enforcement
6 agency of the local municipality, or to the nearest state troopers' post if there is not an
7 applicable municipal law enforcement agency.

8 * **Sec. 6.** AS 08.76.030 is amended to read:

9 **Sec. 08.76.030. Criminal liability.** A person who **recklessly** violates
10 **AS 08.76.015, 08.76.018,** [AS 08.76.010 OR] 08.76.020, **08.76.025, 08.76.050, or**
11 **08.76.060** is guilty of a **class A** misdemeanor [AND UPON CONVICTION IS
12 PUNISHABLE BY A FINE OF NOT MORE THAN \$500, OR BY
13 IMPRISONMENT FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

14 * **Sec. 7.** AS 08.76.030 is amended by adding a new subsection to read:

15 (b) In this section, "recklessly" has the meaning given in AS 11.81.900.

16 * **Sec. 8.** AS 08.76.040 is amended to read:

17 **Sec. 08.76.040. Disposition of unredeemed property.** (a) If property
18 bought or received in pledge by a **licensee** [PAWNBROKER] is not redeemed by the
19 pledgor within the redemption period, the **licensee** [PAWNBROKER] shall give
20 notice to the pledgor by mail to the pledgor's last known address that the redemption
21 period has expired. If the property is not redeemed within 30 days **after** [FROM] the
22 date of mailing of the notice, the title and interest of the pledgor in the property vest in
23 the **licensee**, [PAWNBROKER] subject to (b) of this section.

24 (b) If a **licensee** [PAWNBROKER] sells property bought or received in
25 pledge and not redeemed within 30 days after the date of mailing notice under (a) of
26 this section, the **licensee** [PAWNBROKER] shall pay the pledgor one-half of the
27 amount in excess of \$400 received for the property.

28 (c) A **licensee** [PAWNBROKER] shall give notice of any money due the
29 pledgor under (b) of this section by certified mail within 10 days **after** [OF] the sale of
30 the pledged property. If the pledgor does not respond within 90 days after the notice is
31 mailed under this subsection, the **licensee** [PAWNBROKER] is entitled to the entire

1 amount received by the licensee [PAWNBROKER] for the property.

2 (d) In this section, "redemption period" means the period agreed to in writing
3 by the pledgor and licensee [PAWNBROKER] for the holding of property by the
4 licensee [PAWNBROKER] without sale to a third party or, in the absence of a written
5 agreement, 60 days.

6 * **Sec. 9.** AS 08.76 is amended by adding new sections to read:

7 **Sec. 08.76.050. Property holding requirement.** (a) Subject to the
8 requirements of AS 08.76.040, if a licensee keeps records of transactions as described
9 in AS 08.76.020(a)(1), then the licensee shall hold an item for 30 days from the time
10 that it is acquired before it may be sold or transferred to another person. However, if
11 the item was transferred to the licensee as collateral for a loan, the person who
12 transferred the item to the licensee may redeem the item within the 30 days.

13 (b) Subject to the requirements of AS 08.76.040, if a licensee keeps records of
14 transactions as described in AS 08.76.020(a)(2) or (b), then the licensee shall, subject
15 to (c) of this section, hold an item for 45 days from the time it is acquired before it
16 may be sold or transferred to another person. However, if the item was transferred to
17 the licensee as collateral for a loan, the person who transferred the item to the licensee
18 may redeem the item within the 45 days.

19 (c) An item is not subject to the holding requirements in (a) or (b) of this
20 section if it was acquired from a retailer, a wholesaler, or another person who is
21 subject to the reporting requirements of AS 08.76.015.

22 **Sec. 08.76.060. Holding of stolen property.** If a licensee required to keep
23 records under AS 08.76.015 is notified by a law enforcement agency that an item in
24 the licensee's possession has been stolen, the licensee may not transfer the item to
25 anyone except an authorized person representing the notifying law enforcement
26 agency.

27 **Sec. 08.76.090. Definitions.** In this chapter,

28 (1) "serialized three-part form" means a three-part form that is
29 preprinted with a number that is sequential with earlier and subsequent three-part
30 forms and that has the number of the particular three-part form preprinted on the
31 original and each copy of the three-part form;

1 (2) "three-part form" means a form that consists of an original and two
2 attached copies of the form.