

By Legislators McCabe and Dondorfer

Intro No. ____

LOCAL LAW NO. ____ OF 2023

ENACTING A LOCAL LAW AMENDING CHAPTER 384, ENTITLED "PAWNBROKERS, SECONDHAND DEALERS AND JEWELRY AND COIN EXCHANGE DEALERS"

BE IT ENACTED BY THE LEGISLATURE OF THE COUNTY OF MONROE, as follows:

Section 1. The following provisions of Section 384-4 of the Monroe County Code are hereby amended as follows:

DEALERS

Pawnbrokers, secondhand dealers, and/or jewelry and coin exchange dealers licensed pursuant to this Chapter

JEWELRY AND COIN EXCHANGE DEALER

Persons or business establishments engaged in the business of sale, purchase, or exchange of precious metals and/or jewelry for other objects of precious metal, jewelry, United States currency, bank drafts, other negotiable instruments as defined in the Uniform Commercial Code or any other object or thing of value within Monroe County, including the sale, purchase, or exchange of such goods from Monroe County through Internet commerce sites.

NEW ITEMS

Any article or object that has not been previously purchased at retail and/or which has not been previously used and/or is in a new condition.

SECONDHAND DEALER

Any person or business establishment who deals in the purchase, sale, exchange or pledge as security for a sum of money of any secondhand article within Monroe County, including purchase, sale, exchange or pledge as security for a sum of money of any secondhand article from Monroe County through Internet commerce sites.

Section 2. Section 384-5 of the Monroe County Code is hereby amended as follows:

A. It shall be unlawful for a pawnbroker, secondhand dealer or jewelry and coin exchange dealer to purchase any articles, jewelry or precious metals from any person whom such dealer knows to be or has reason to believe to be under the age of 18 years.

B. It shall be unlawful for any pawnbroker, secondhand dealer or jewelry and coin exchange dealer to sell, dispose of, destroy, alter or remove from such dealer's premises any articles, jewelry or precious metals until the expiration of 14 calendar days after the ~~acquisition~~ electronic reporting required pursuant to Section 384-9 by such dealer of any such articles, jewelry or precious metals.

C. When requested to do so by the appropriate local law enforcement agency in connection with a law enforcement investigation, it shall be unlawful for any pawnbroker, secondhand dealer or jewelry and coin exchange dealer to sell, dispose of, destroy, alter or remove from such dealer's premises any articles, jewelry or precious metals until the expiration of 30 calendar days from the date of the request. Upon the written request of the law enforcement agency, the property shall be held for up to two additional thirty-day periods.

D. Pawnbrokers, secondhand dealers, and jewelry and coin exchange dealers shall not employ any person who has been convicted within three years of any felony related to the operation of a business or who has had a ~~secondhand~~ dealer's license revoked or denied within the past five years.

E. No pawnbrokers, secondhand dealers, or jewelry and coin exchange dealers shall permit his or her place of business to remain open for the transaction of business any time except between the hours of 8:00 a.m. and 11:00 p.m.

F. Dealers shall only purchase, sell or offer for sale new items which have been purchased from authorized retailers or wholesalers. This provision shall not apply to the purchase or sale of new items purchased from individuals who sell less than three of an identical or same type of goods within one calendar year.

Section 3. The following provisions of Section 384-6 of the Monroe County Code are hereby amended as follows:

D(2). Where the owner is not directly involved with the day-to-day operation of said business, the operator must also be included on the application. If a partnership, corporation or other business entity is involved, the application must designate an operator who is involved in the day-to-day operation of the business. In this situation, the ~~secondhand~~ dealer's license shall be issued to the operator; the names, addresses and phone numbers of the partners, officers or principals shall also be listed on the application. All addresses of persons involved shall be home addresses listing street and number.

E. Before the issuance of a dealer's license, the Sheriff or his or her representative shall have the right to enter upon such premises during normal business hours for the purpose of making inspections. After a dealer's license has been issued, further inspections of the premises, to ensure compliance with the laws, ordinances and rules and regulations relating to secondhand business, may be made in ~~areas open to the public or other areas with consent~~ any area of the licensed premises.

I. No dealer's license shall be issued for a period of ~~one~~ five years to any applicant that has been found guilty of operating a business without a ~~secondhand~~ dealer's license when required under state or local law.

K. The Monroe County Sheriff's office may deny, suspend, or revoke any license granted herein in the following situations:

- (1) Where the pawnbroker, secondhand dealer, or jewelry and coin exchange dealer has made a false statement in connection with its application; or
- (2) Where the pawnbroker, secondhand dealer, or jewelry and coin exchange dealer revokes the consent to examine such records and items or refuses to allow inspection of its premises;
or
- (3) Where the pawnbroker, secondhand dealer, or jewelry and coin exchange dealer has more than three violations in one inspection or two convictions of a violation in the calendar year;
or
- (4) Where the pawnbroker, secondhand dealer, or jewelry and coin exchange dealer has violated either federal, state, or local laws or rules and regulations; or
- (5) Where the pawnbroker, secondhand dealer, or jewelry and coin exchange dealer has violated conditions placed on the dealer's license pursuant to Section 384-6(N); or
- (6) Failure to pay civil penalties imposed pursuant to Section 384-11(C).

The Monroe County's Sheriff's Office may also deny a license if the applicant is in violation of applicable federal, state, or local laws or rules and regulations at the time of application.

M. If an application for a license is denied, or an existing license is suspended or revoked, the applicant or holder of the suspended or revoked license ~~shall~~may, within 10 calendar days of notice of denial, suspension, or revocation, request reconsideration by the Monroe County Sheriff's office by providing that office with any additional, relevant information. The Monroe County Sheriff's office shall, within 10 calendar days of receipt of the reconsideration materials, issue a final notice of denial, suspension, or revocation setting forth the grounds upon which the license was either denied, suspended, or revoked. Such final notice shall be transmitted by certified or registered mail.

N. The Monroe County's Sheriff's Office may reinstate a suspended license with conditions under which the dealer shall operate his or her business. Such reinstated license with conditions shall be signed by the dealer and contain a provision which provides that any violation of the conditions license, as solely determined by the Sheriff, shall be grounds for revoking the license.

Section 4. Section 384-7(A) of the Monroe County Code is hereby amended as follows:

A. ~~Secondhand~~Dealers shall comply with all provisions of federal, state and local laws and ordinances relating to the conduct of businesses and occupation, use and maintenance of the premises and shall ensure that all of their employees and agents do also. Where the ~~secondhand~~ dealer is also a pawn dealer, the ~~secondhand~~-dealer shall comply with Article 5 of the New York State General Business Law entitled "Collateral Loan Brokers Law."

Section 5. Section 384-9(A) of the Monroe County Code is hereby amended as follows:

A. Every pawnbroker, secondhand dealer and jewelry and coin exchange dealer shall furnish to the Monroe County Sheriff all information requested by such agency relative to all records required to be kept under this chapter no later than 48 hours after receipt of any item covered by this chapter (generally herein, a "reportable transaction"). If any items composed wholly or in part of articles, jewelry or precious metals shall be advertised in any newspaper printed in the County of Monroe as having been lost or stolen, and if any items matching such advertised description or any part thereof shall be in or come into possession of any pawnbroker, secondhand dealer or jewelry and coin exchange dealer upon receiving actual written or oral notice of the similarity of description of such articles, such pawnbroker, secondhand dealer or jewelry and coin exchange dealer shall immediately give information relating thereto to the appropriate local law enforcement agency. No disposition of such items shall be effected until authorization to do so is given to such dealer by the appropriate local law enforcement agency.

Section 6. Section 384-9 of the Monroe County Code is hereby amended to include the following provision:

C. It shall further be the duty of every pawnbroker, secondhand dealer, or jewelry and coin exchange dealer to affix a tag to each article, jewelry or precious metal received or purchased by the dealer or otherwise in his or her possession. The tag will include the date and time of purchase of said article and will include a brief description of the article or a corresponding ticket number generated via the electronic reporting system required pursuant to this Section 384-9.

Section 7. Section 384-10 of the Monroe County Code is hereby amended as follows:

A. A pawnbroker, secondhand dealer, or jewelry and coin exchange dealer shall release to the Monroe County Sheriff's office any item in the ~~secondhand~~ dealer's possession if:

- (1) The item is established to be stolen;
- (2) The owner of the item or the victim of the theft has positively identified the item and provided an affidavit of ownership and made a report of the theft to a law enforcement agency;
- (3) The stolen property report describes the item by one or more of the following: date, initials, an insurance record, a photograph, a sales receipt, a serial number, specific damage, a statement of facts that show the item is one of a kind or a unique engraving; and
- (4) The ~~secondhand~~ dealer is given a receipt for the item released.

Section 8. Section 384-11 of the Monroe County Code is hereby amended as follows:

In addition to the ability to suspend or revoke a permit pursuant to Section 384-6(K), Any violation of the provisions of this chapter shall constitute an offense and shall be punished as follows:

A. Criminal Penalties. Any person, partnership, corporation or any other legal entity, violating the provisions of this chapter or knowingly failing to take action to prevent the violation of this chapter shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed \$200 for the first offense, \$1,000 for the second offense, and \$3,000 for each subsequent offense. Each such violation shall constitute a separate and distinct offense.

B. Any local law enforcement agency having jurisdiction shall have the authority, pursuant to New York State Criminal Procedure Law, to issue an appearance ticket subscribed by him/her directing a designated person to appear in a designated local criminal court at a designated future time in connection with the alleged violation of this chapter or any order made hereunder.

C. Civil Penalties. Any person in violation of this Chapter shall be liable for a civil penalty of not more than \$100 for the first offense, \$400 for a second offense, and \$600 for a third offense. The Monroe County's Sheriff's Office is authorized to compromise any civil penalty. All civil penalties and all fines collected hereunder shall be retained by the County of Monroe.

D. In addition to the above-provided penalties and punishment, the Monroe County Attorney also may maintain an action or proceeding in the name of the County in a court of competent jurisdiction to compel compliance with the provisions of this chapter or to restrain by injunction any offense against this chapter.

E. No remedy or penalty specified in this section shall be the exclusive remedy or penalty available to address the violation of the chapter, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties allowed under other applicable law.

~~B~~F. This chapter shall be enforced by any local law enforcement agency having jurisdiction.

Section 9. If any clause, sentence, paragraph, section or article of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such determination shall not affect, impair or invalidate the remainder

thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the proceeding in which such adjudication shall have been rendered.

Section 10. This local law shall take effect upon filing with the Secretary of State pursuant to Section 27 of the New York Municipal Home Rule Law and the Monroe County Charter.

Agenda/Charter Committee; August 21, 2023 – CV: 4-0
Public Safety Committee; August 22, 2023 – CV: 9-0
File No. 23-0272.LL

ADOPTION: Date: _____ Vote: _____

ACTION BY THE COUNTY EXECUTIVE

APPROVED: _____ VETOED: _____

SIGNATURE: _____ DATE: _____

EFFECTIVE DATE OF LOCAL LAW: _____

Added language is underlined

Deleted language is ~~stricken~~