



## 2013 ASSEMBLY BILL 640

January 21, 2014 - Introduced by Representatives KOLSTE, POPE, RINGHAND, VRUWINK, BERCEAU, SINICKI and OHNSTAD, cosponsored by Senators T. CULLEN, MILLER, JAUCH, LEHMAN and L. TAYLOR. Referred to Committee on Consumer Protection.

\*\*\*AUTHORS SUBJECT TO CHANGE\*\*\*

1     **AN ACT** *to renumber* 134.71 (14); *to renumber and amend* 134.71 (8) (e); *to*  
2           *amend* 134.71 (1) (c), 134.71 (1) (h) 1., 134.71 (1) (h) 3., 134.71 (4), 134.71 (5)  
3           (intro.), 134.71 (8) (c) 1., 134.71 (8) (c) 2., 134.71 (8) (d) 1., 134.71 (8) (d) 3., 134.71  
4           (8) (d) 3m. and 134.71 (8) (e) (title); and *to create* 134.71 (8) (e) 2., 134.71 (8)  
5           (e) 3. and 134.71 (14) (b) of the statutes; **relating to:** secondhand jewelry  
6           transactions.

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### *Analysis by the Legislative Reference Bureau*

Under current law, a person may not operate as a pawnbroker in a city, village, or town (municipality) without an annual license issued by that municipality. Also, unless an exemption applies, current law prohibits a person from operating as a secondhand jewelry dealer anywhere in the state without a license issued by the municipality in which the person has its principal place of business. Current law imposes other requirements on pawnbrokers and secondhand jewelry dealers, including requirements for making written records of transactions and holding items received from customers for specified periods of time after receipt. In general, pawnbrokers must hold certain items and secondhand jewelry for not less than 30 days after receipt, and secondhand jewelry dealers must hold secondhand jewelry for not less than 21 days after receipt. However, if a law enforcement officer requires the pawnbroker or secondhand jewelry dealer to submit an electronic report about the item or secondhand jewelry, the pawnbroker or secondhand jewelry dealer must

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hold the item or secondhand jewelry for not less than seven days after submitting the electronic report. The foregoing holding periods do not apply to items or secondhand jewelry received on consignment or to coins or bullion.

This bill prohibits a person from operating as a secondhand jewelry dealer in a municipality unless the person obtains an annual license from the municipality. Unlike current law, the license does not authorize the person to operate as a secondhand jewelry dealer anywhere in the state. Instead, the person must obtain a license from each municipality in which the person operates as a secondhand jewelry dealer. The bill requires the law enforcement agency of a municipality to require each pawnbroker and secondhand jewelry dealer licensed by the municipality to participate in a system specified by the law enforcement agency for electronically reporting each transaction with a customer that involves secondhand jewelry. The bill allows a law enforcement agency to specify a system only if the system provides for digitally photographing each item or component of secondhand jewelry that is subject to a transaction. Also, a law enforcement agency may allow a pawnbroker or secondhand jewelry dealer either to make reports to the system or to provide information or make other arrangements for the law enforcement agency to make reports on the pawnbroker's or secondhand jewelry dealer's behalf. If a law enforcement agency determines that the foregoing reporting requirements render unnecessary compliance with the written recordkeeping requirements under current law, the bill allows the law enforcement agency to waive those recordkeeping requirements. A law enforcement agency must provide written notice of such a waiver to all pawnbrokers and secondhand jewelry dealers that are subject to the agency's jurisdiction.

The bill also revises the holding periods for secondhand jewelry that apply to pawnbrokers and secondhand jeweler dealers under current law. The bill does not affect the holding periods required for items other than secondhand jewelry. Under the bill, a pawnbroker or secondhand jewelry dealer must hold secondhand jewelry for not less than 28 days after the pawnbroker or secondhand jewelry dealer makes an electronic report to the system required under the bill. However, if a law enforcement agency makes an electronic report on behalf of a pawnbroker or secondhand jewelry dealer, the law enforcement agency must provide notice of the date of the report to the pawnbroker or secondhand jewelry dealer, who must hold the secondhand jewelry for not less than 28 days after that date. Like current law, the bill's holding periods do not apply to secondhand jewelry received on consignment.

The bill also revises a definition under current law so that a person who deals in components of secondhand jewelry is regulated as a secondhand jewelry dealer. In addition, the bill revises an exemption from such regulation that applies to a person who engages in the business of smelting, refining, assaying, or manufacturing precious metals, gems, or other valuable articles. Under current law, the exemption applies only if the person does not have a retail operation open to the public. Under the bill, the exemption applies only if the person has no purchasing, selling, receiving, or exchanging operation open to the public. The bill also revises an exemption under current law that applies to a person who engages in secondhand

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jewelry transactions at an occasional garage or yard sale; an estate sale; a gun, knife, gem, or antique show; or a convention. Under the bill, the exemption does not apply to a show or convention that offers to purchase secondhand jewelry from attendees.

Finally, current law allows a county or municipality to enact an ordinance that is more stringent than the requirements under current law regarding pawnbrokers, secondhand jewelry dealers, and “secondhand article dealers,” which are persons who deal in certain articles other than jewelry. Under this bill, if a county enacts such an ordinance, the ordinance applies in a municipality in the county only if the municipality does not have in effect its own ordinance.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 134.71 (1) (c) of the statutes is amended to read:

2           134.71 (1) (c) “Jewelry” means any tangible personal property ordinarily  
3           wearable on the person and consisting in whole or in part of any metal, mineral or  
4           gem customarily regarded as precious or semiprecious, and includes any component  
5           of such tangible personal property.

6           **SECTION 2.** 134.71 (1) (h) 1. of the statutes is amended to read:

7           134.71 (1) (h) 1. Any transaction at an occasional garage or yard sale, an estate  
8           sale, a gun, knife, gem or antique show or a convention, other than a show or  
9           convention that offers to buy secondhand jewelry from attendees.

10          **SECTION 3.** 134.71 (1) (h) 3. of the statutes is amended to read:

11          134.71 (1) (h) 3. Any transaction entered into by a person while engaged in a  
12          business of smelting, refining, assaying or manufacturing precious metals, gems, or  
13          valuable articles if the person has no retail purchasing, selling, receiving, or  
14          exchanging operation open to the public.

15          **SECTION 4.** 134.71 (4) of the statutes is amended to read:

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1           134.71 (4) LICENSE FOR SECONDHAND JEWELRY DEALER. No person may operate  
2 as a secondhand jewelry dealer unless the person first obtains a secondhand jewelry  
3 dealer's license under this section. A license issued to a secondhand jewelry dealer  
4 by the governing body of a municipality authorizes the licensee to operate as a  
5 secondhand jewelry dealer ~~anywhere in the state in that municipality.~~

6           **SECTION 5.** 134.71 (5) (intro.) of the statutes is amended to read:

7           134.71 (5) LICENSE APPLICATION. (intro.) A person wishing to operate as a  
8 secondhand article dealer ~~or a secondhand jewelry dealer~~ and have a principal place  
9 of business in a municipality shall apply for a license to the clerk of that municipality.  
10 A person wishing to operate as a pawnbroker or secondhand jewelry dealer in a  
11 municipality shall apply for a license to the clerk of the municipality. The clerk shall  
12 furnish application forms under sub. (12) that shall require all of the following:

13           **SECTION 6.** 134.71 (8) (c) 1. of the statutes is amended to read:

14           134.71 (8) (c) 1. Except as provided in subd. 2. and par. (e) 3., for each  
15 transaction of purchase, receipt or exchange of any secondhand article or  
16 secondhand jewelry from a customer, a pawnbroker, secondhand article dealer or  
17 secondhand jewelry dealer shall require the customer to complete and sign, in ink,  
18 the appropriate form provided under sub. (12). No entry on such a form may be  
19 erased, mutilated or changed. The pawnbroker, secondhand article dealer or  
20 secondhand jewelry dealer shall retain an original and a duplicate of each form for  
21 not less than one year after the date of the transaction except as provided in par. (e)  
22 1., and during that period shall make the duplicate available to any law enforcement  
23 officer for inspection at any time that the pawnbroker's, secondhand article dealer's,  
24 or secondhand jewelry dealer's principal place of business is open to the public or at  
25 any other reasonable time.

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1           **SECTION 7.** 134.71 (8) (c) 2. of the statutes is amended to read:

2           134.71 **(8)** (c) 2. For every secondhand article purchased, received or exchanged  
3 by a secondhand article dealer from a customer off the secondhand article dealer's  
4 premises or consigned to the secondhand article dealer for sale on the secondhand  
5 article dealer's premises, the secondhand article dealer shall keep a written  
6 inventory. In this inventory the secondhand article dealer shall record the name and  
7 address of each customer, the date, time and place of the transaction and a detailed  
8 description of the article which is the subject of the transaction, including the  
9 article's serial number and model number, if any. The customer shall sign his or her  
10 name on a declaration of ownership of the secondhand article identified in the  
11 inventory and shall state that he or she owns the secondhand article. The  
12 secondhand article dealer shall retain an original and a duplicate of each entry and  
13 declaration of ownership relating to the purchase, receipt or exchange of any  
14 secondhand article for not less than one year after the date of the transaction except  
15 as provided in par. (e) 1, and shall make duplicates of the inventory and declarations  
16 of ownership available to any law enforcement officer for inspection at any time that  
17 the secondhand article dealer's principal place of business is open to the public or at  
18 any other reasonable time.

19           **SECTION 8.** 134.71 (8) (d) 1. of the statutes is amended to read:

20           134.71 **(8)** (d) 1. Except as provided in subds. 3m. and 5., any secondhand article  
21 ~~or secondhand jewelry~~ purchased or received by a pawnbroker shall be kept on the  
22 pawnbroker's premises or other place for safekeeping for not less than 30 days after  
23 the date of purchase or receipt, unless the person known by the pawnbroker to be the  
24 lawful owner of the secondhand article ~~or secondhand jewelry~~ recovers it.

25           **SECTION 9.** 134.71 (8) (d) 3. of the statutes is amended to read:

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1           134.71 (8) (d) 3. Except as provided in ~~subds. 3m. and~~ subd. 5., any secondhand  
2 jewelry purchased or received by a pawnbroker or secondhand jewelry dealer shall  
3 be kept on the pawnbroker's or secondhand jewelry dealer's premises or other place  
4 for safekeeping for not less than ~~21~~ 28 days after the date of ~~purchase or receipt that~~  
5 the pawnbroker or secondhand jewelry dealer makes a report regarding the  
6 secondhand jewelry under par. (e) 2. or, if applicable, the date specified in a notice  
7 provided by a law enforcement agency under par. (e) 2.

8           **SECTION 10.** 134.71 (8) (d) 3m. of the statutes is amended to read:

9           134.71 (8) (d) 3m. If a pawnbroker, or secondhand article dealer, ~~or secondhand~~  
10 ~~jewelry dealer~~ is required to submit a report under par. (e) 1. concerning a  
11 secondhand article ~~or secondhand jewelry~~ purchased or received by the pawnbroker,  
12 or secondhand article dealer, ~~or secondhand jewelry dealer~~ and the report is required  
13 to be submitted in an electronic format, the secondhand article ~~or secondhand~~  
14 ~~jewelry~~ shall be kept on the pawnbroker's, or secondhand article dealer's, ~~or~~  
15 ~~secondhand jewelry dealer's~~ premises or other place for safekeeping for not less than  
16 7 days after the report is submitted.

17           **SECTION 11.** 134.71 (8) (e) (title) of the statutes is amended to read:

18           134.71 (8) (e) (title) *Report to law* Law enforcement agency reports.

19           **SECTION 12.** 134.71 (8) (e) of the statutes is renumbered 134.71 (8) (e) 1. and  
20 amended to read:

21           134.71 (8) (e) 1. ~~Within~~ Except as provided in subd. 3., within 24 hours after  
22 purchasing or receiving a secondhand article or secondhand jewelry, a pawnbroker,  
23 secondhand article dealer or secondhand jewelry dealer shall make available, for  
24 inspection by a law enforcement officer, the original form completed under par. (c) 1.  
25 or the inventory under par. (c) 2., whichever is appropriate. Notwithstanding s. 19.35

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1 (1), a law enforcement agency receiving the original form or inventory or a  
2 declaration of ownership may disclose it only to another law enforcement agency.

3 **SECTION 13.** 134.71 (8) (e) 2. of the statutes is created to read:

4 134.71 (8) (e) 2. The law enforcement agency of a county or municipality shall  
5 require each pawnbroker and secondhand jewelry dealer licensed by the county or  
6 municipality to participate in a system specified by the county or municipality for  
7 electronically reporting each transaction of purchase, receipt, or exchange of  
8 secondhand jewelry from a customer. The law enforcement agency may specify a  
9 system only if the system provides for digitally photographing each item or  
10 component of secondhand jewelry that is subject to a transaction. The law  
11 enforcement agency may require that a pawnbroker or secondhand jewelry dealer  
12 directly report transactions to the system or provide information or make other  
13 arrangements necessary for the law enforcement agency to report transactions to the  
14 system on behalf of the pawnbroker or secondhand jewelry dealer. If a law  
15 enforcement agency makes reports on behalf of a pawnbroker or secondhand jewelry  
16 dealer, the law enforcement agency shall provide notice to the pawnbroker or  
17 secondhand jewelry dealer of the date on which the law enforcement agency reports  
18 a transaction to the system.

19 **SECTION 14.** 134.71 (8) (e) 3. of the statutes is created to read:

20 134.71 (8) (e) 3. If a law enforcement agency determines that compliance with  
21 subd. 2. renders compliance with any requirement regarding secondhand jewelry  
22 under par. (c) 1. or subd. 1. unnecessary, the law enforcement agency may waive  
23 compliance with the requirement and provide written notice of the waiver to  
24 pawnbrokers and secondhand jewelry dealers who are subject to the law  
25 enforcement agency's jurisdiction.

