

Chapter 205

PAWNBROKERS/PAWNSHOPS and SECONDHAND DEALERS

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[HISTORY: Adopted by official ballot 3-10-1998 by Art. 13 Amendments noted where applicable.]

GENERAL REFERENCES

Licenses-See Ch. 184.

205-1. Purpose/Intent; Authority.

- A. The intent of this chapter is to establish a system which will fairly and impartially regulate retail transactions of a pawn/pawnshop or secondhand nature. This chapter shall be for the purpose of identifying stolen property which is unintentionally received by the regulated parties and the detection of regulated parties who are intentionally transacting business in stolen property.
- B. This chapter has been enacted pursuant to the authority granted to the Town of Seabrook by the NH chapter RSA 322 and NH RSA chapter 398.
- C. The Town hereby adopts the provisions of RSA chapter 398.

205-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

- A. PAWNBROKER--Any person, firm, partnership, limited partnership, limited liability partnership, limited liability company, or corporation whose business includes any transaction wherein there is the lending of money secured by taking possession of any physical property including but not limited to antiques, auto accessories, auto stereo equipment, battery-operated equipment, cameras, clocks, collectibles, computers, computer equipment, connections, diamonds, dishware, electric equipment, entertainment equipment, consumer electronics, firearms, glassware, gold, home stereo equipment, jewelry, meters, musical equipment, musical instruments, office or store equipment,

office or store fixtures, platinum, plates, precious gemstones (all), precious metals, semiprecious gemstones (all), silver, televisions, tools, VCRs, CDs, DVDs, video games, vehicles, watches, wearing apparel, cellular phones, household goods and appliances, or other personal property and any and all other relative equipment or items, with interest charged thereon with the right to sell such property if it is not redeemed. A person, firm, limited partnership, limited liability partnership, limited liability company, partnership or corporation shall be deemed to be a pawnbroker whether the transaction takes the form of a loan by the pawnbroker secured by the property or a sale to the pawnbroker with the right to repurchase within a specified period of time. The Town hereby incorporates by reference all regulations contained in NH RSA chapter 398. All other regulations contained in the Chapter herein shall be in addition to all regulations contained in NH RSA chapter 398.

- B. **SECONDHAND DEALER**—Any person, firm, partnership, limited partnership, limited liability partnership, limited liability company, or corporation whose business is the retail buying, selling, buy-back, exchanging, dealing in or dealing with secondhand articles including but not limited to jewelry, watches, clocks, diamonds or other precious stones or gems, gold, silver, platinum or other precious metals, musical instruments and equipment, cameras, furs, fur coats or other kinds of wearing apparel, collectibles and antiques (excepting furniture and books), home and auto stereo equipment, televisions, video/CD/DVD cassette player/recorders and other electronic equipment, tools, computers and computer equipment, firearms, auto accessories and office and store fixtures and related equipment. Secondhand dealers are regulated according to NH RSA Chapter 322. The Town hereby incorporates by reference all regulations contained in NH RSA chapter 322. All other regulations contained in the Chapter herein shall be in addition to all regulations contained in NH RSA chapter 322.

205-3. Exceptions.

Mail-order transactions and retail stores that exchange or provide cash or credit for returned articles are excluded from this chapter. Private yard sales are also excluded. See 205-8, Exclusions.

205-4. License required; applications; fees; revocation.

A. No person, firm, partnership limited partnership, limited liability partnership, limited liability company, or corporation shall operate, conduct or engage in the business of a secondhand dealer or pawnbroker, unless such person, firm, partnership limited partnership, limited liability partnership, limited liability company, or corporation obtains a license from the Town of Seabrook through the Board of Selectmen in accordance with NH RSA 322:1 and 398:5.

B. Applications for licenses for a secondhand dealer or Pawnbroker shall be made in writing to the Town of Seabrook Police Department on forms provided by the Town of Seabrook Police Department. An application fee of \$100.00 shall be submitted with the application.

1. Applications shall contain the following information:
 - (a) Name and address of the applicant;
 - (b) At least two persons of good character who may be used as references for the applicant;
 - (c) The name of one person, not living at the same address as the applicant, who will always know where to locate the applicant should the applicant move;
 - (d) Places of residence of the applicant for the past five years;
 - (e) Location of previous businesses of the applicant over the past five years;
 - (f) A release from the applicant authorizing the Town to conduct a criminal background check on the applicant.

2. If the applicant is a partnership, the information required under Subsection B(1) (a) through (f) shall be furnished for each partner. If the applicant is a limited partnership, the information required in Subsection B(1) (a) through (e) shall be furnished for the general partners and for each limited partner. If the applicant is a limited liability partnership, the information required in Subsection B(1) (a) through (f) shall be furnished for each partner within the limited liability partnership. If the applicant is a limited liability company, the information required in Subsection (B)(1) (a) through (f) shall be furnished for each member if member-managed and for each member and each non-member manager, if manager-managed. If the applicant is a corporation, the information shall be furnished for each officer and for each shareholder owning 20% or more of the corporate stock.

3. The Town shall require and receive, at the applicants expense, a criminal background check on each applicant for a license and each person required to submit information under Subsection B(2) hereunder from the State of New Hampshire and all other States in which such persons have resided within the past five (5) years, said background check to be required for every other license renewal.

4. Said applications shall be thereafter forwarded to the Chief of Police who shall cause an investigation to be made of the fitness of the applicant to engage in the business of secondhand dealer or pawnbroker. The Chief of Police shall then report his findings to the Board of Selectmen before such license is acted upon and a fee of \$100 per annum shall be paid to the Town of Seabrook.

5. No such license shall be issued to any:
 - (a) person who has been convicted of receiving stolen property or who or which has repeatedly violated ordinances or statutes of the license in the State of New Hampshire or any other state or territory.
 - (b) firm, partnership limited partnership, limited liability partnership, limited liability company, or corporation which has been convicted of receiving stolen property or who or which has repeatedly violated ordinances or statutes of the license in the State of New Hampshire or any other state or territory;
 - (c) firm, partnership limited partnership, limited liability partnership, limited liability company, or corporation whose partners, members, managers, or shareholders have been convicted of receiving stolen property or have repeatedly violated

ordinances or statutes of the license in the State of New Hampshire or any other state or territory.

6. Approval or denial of a license application will be at the discretion of the Board of Selectmen by a majority vote of the Board after a review all application materials.
[Amended 3-14-2006 ATM by Art. 56]

C. Upon approval a numbered license shall be issued and continue in force until December 31 of each year, unless revoked prior to this date. The license shall not be assigned nor transferred, but it may be revoked at any time by the licensing authority after notice and hearing for just cause.

1. It shall be the duty of the licensee to display the current license in a conspicuous place in the business where it may be readily observed by the public.
2. The license shall be issued for a specific location and shall not be transferrable to any other person, firm, partnership limited partnership, limited liability partnership, limited liability company, or corporation.
3. Once per year on or before December 31 all persons, firms, partnerships, limited partnership, limited liability partnership, limited liability company, or corporations that operate, conduct or engage in business as a secondhand dealer or a pawnbroker will be responsible for renewing their license information with the Town of Seabrook. This renewal will be completed in writing on forms provided by the Town of Seabrook. A renewal fee of \$100.00 shall be submitted yearly with the renewal application. Failure to comply with this requirement may result in suspension or revocation of said license.

205-5. Employees; Conformance with rules and regulations.

Employees of a licensed establishment are not required to obtain a license in addition to that of the establishment; however, the proprietor of such licensed establishment will notify the Chief of Police of the name and pertinent information regarding such employees within 24 hours of their hire. The holder of the license shall provide the information required by Sec. 205-4(B)(1) (a) – (e). Each employee shall agree to conform to all rules and regulations governing such businesses now in effect or as subsequently enacted.

205-6. Pawnbrokers' records; inspection; sale of articles; articles in investigations proceedings.

- A. Every pawnbroker or secondhand dealer, upon the acquisition of any aforementioned article, either by purchase, exchange, or through any other transaction under this Chapter, shall prepare duplicate transaction records (written in the English language), upon forms which shall be provided by the Town Clerk, stating the following:
 - (1) Full name (last, first, middle initial) of the seller or pledging party.
 - (2) Date of birth and social security/identification number of the seller or pledging party
 - (3) Accurate and active address of residence of the seller or pledging party.
 - (4) Full notation (month, day, year and time) of the transaction.

- (5) Full, accurate and detailed description of each article purchased or exchanged (to include make, model and serial number) of each article, and the monetary amount given for the article.
 - (6) Full and accurate price paid or loaned shall be made available on dealer's records which shall be made available upon request of police.
 - (7) Accurate physical description of individual; photos shall be used.
- B. This record shall be legibly signed by the seller or pledging party in person.
 - C. Positive identification in the form of a photographic identification shall be required for all transactions and the type of identification used shall be noted on the dealer's records. At no time will the pawnbroker or secondhand dealer accept another person's photographic identification for any acquisition. The pawnbroker or secondhand dealer shall attach to the transaction record a photocopy of the identification of the seller.
 - D. A photocopy of the article, if required by the nature or the size of the item, will also be attached to this transaction. Jewelry, watches, diamonds or other precious stones or gems, gold, silver, platinum, or other precious metals or items by virtue of their size shall be photocopied by use of a document copier. All pawn or secondhand deal stores shall be equipped with electronic monitoring/recording equipment that records all public entrances to the building and all transactions being conducted. The equipment shall consist of video or digital imaging of a sufficient resolution and clarity to be easily monitored and reviewed on playback. All stores must keep an archive of video or digital imaging for 30 days.
 - E. A copy of said transaction record shall be delivered to the Seabrook Police Department or to any duly authorized police officer of the Town within 24 hours of said transaction. Said dealer shall maintain his copy of the transaction in his possession, which, together with any article therein listed, may be inspected at any and all times by any duly authorized police officer. The Seabrook Police Department shall maintain the confidentiality of said information. The Seabrook Police Department and the pawnbroker or secondhand dealer may agree to alternative means for delivery, or access to, said transaction records.
 - F. No article so obtained shall be sold or otherwise disposed of or changed or altered in its appearance or otherwise within 30 days or such additional time as may be required by statute after the purchase or control thereof, except with the written consent of the Chief of Police of the Town or designee, but in no case within 48 hours after said transaction.
 - G. Should the Seabrook Police Department or other law enforcement agency determine that an article is required as evidence in a criminal investigation or prosecution, an authorized agent of the Seabrook Police Department shall seize such evidence pursuant to applicable criminal procedure. The pawnbroker or secondhand dealer shall be issued a receipt for same.

- H. Pursuant to NHRSA 595-A:6, the Seabrook Police Department or an authorized agent thereof shall retain seized articles under the court's discretion as long as necessary to permit the article to be used as evidence. At the conclusion of the court proceedings or closure of a criminal investigation, the Seabrook Police Department shall notify, by regular mail to the last known address, the original owner as well as the pawnbroker or secondhand dealer and any other person who may have a lawful interest in the property; said property shall be released in 30 calendar days to the original owner if no other claim is placed on the property.
- I. In the case of the original owner being the recipient of returned articles, the Seabrook Police Department shall request in the case of a prosecution, when applicable, that a court consider restitution in the amount paid for the property by the pawnbroker or secondhand dealer as a portion of sentencing in the criminal case. In such a circumstance, the property would be returned to the original owner, as noted above, and cash restitution equal to the amount paid would be requested for, and if granted provided to, the pawnbroker or secondhand dealer.
- J. In the case of a pawnbroker a ticket or coupon shall be given to the pledger in all cases where any aforementioned article is received in pawn or otherwise for the security of any loan, transfer, service, undertaking, or advantage given to the pledger. This ticket or coupon shall state the name and address of said pawnbroker, a description of the property or article received in pawn, the monetary value loaned, and the rate of interest established. At the time of making the loan, an identification number shall be attached to the article, and this identification number shall be recorded on the ticket or coupon.
- K. All original transaction records shall be kept by said pawnbroker or secondhand dealer for a minimum of five years for purposes of this chapter. State and Federal regulations may require longer retention (ie. Dept. of Labor, Internal Revenue Service etc.).

205-7. Purchases from minors.

No pawnbroker or secondhand dealer nor any person employed by a pawnbroker or secondhand dealer shall, directly or indirectly, either purchase, or receive, in pawn or as security for any loan, transfer, service undertaking or advantage any aforementioned article from any minor under the age of 18 years old, in accordance with NH RSA 398:2, knowing or having reason to believe him such, except when said minor shall be accompanied by a parent or legal guardian who shall sign the transaction record in person and provide identification before said pawnbroker or secondhand dealer.

205-8. Exclusions.

Specifically excluded from the provisions of this chapter are the following:

- A. Purchases from Private Residences.
- B. Yard and Garage Sales conducted at private residences.

205-9 . Violations and penalties.

- A. Whosoever violates the provisions of this Town chapter shall be fined no less than \$25 and no more than \$100 for a first violation, with each consecutive violation affording a fine of the original amount plus and additional \$100. Fines shall not exceed \$500. Any and all criminal violations which may pertain to the businesses herein denoted may be found in NH RSA. Businesses noted shall be subject to criminal prosecution under existing NH Laws.
- B. The Board of Selectmen may, independently or upon recommendation from the Chief of Police, suspend or revoke said license for any violation of this chapter or reasons it deems to be in the best interest of the community, after a hearing. Offenses which may result in the suspension or revocation of said license include but are not limited to the following:
 - 1. Violation of any provision of this chapter; or
 - 2. Violation of any statute of the State of NH or any other state or territory of the United States relating to the licensed business.
- C. Time limits of the suspension or revocation shall be left to the discretion of the Board of Selectmen. Notice of the suspension or the revocation will be made in writing to the owner(s) of the business.