



**HB 510 – FINAL VERSION**

04/09/2015 1236s

2015 SESSION

15-0685

05/08

**HOUSE BILL 510**

AN ACT establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

SPONSORS: Rep. Williams, Hills 4

COMMITTEE: Executive Departments and Administration

**ANALYSIS**

This bill establishes a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

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Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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05/08

**STATE OF NEW HAMPSHIRE**

*In the Year of Our Lord Two Thousand Fifteen*

AN ACT establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

72:1 New Chapter; Commission to Study the Regulation of Pawnbrokers, Secondhand Dealers, and the Junk or Scrap Metal Dealers. Amend RSA by inserting after chapter 322 the following new chapter:

**CHAPTER 322-A**

**COMMISSION TO STUDY THE REGULATION OF PAWNBROKERS,  
SECONDHAND DEALERS, AND JUNK OR SCRAP METAL DEALERS**

322-A:1 Commission to Study the Regulation of Pawnbrokers, Secondhand Dealers, and Junk or Scrap Metal Dealers.

I. There is established a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers. The purpose of the commission shall be to:

(a) Review state and local regulation of pawnbrokers and secondhand dealers to determine whether current statutes and ordinances should be revised for consistency and to better reflect current business practices and/or law enforcement concerns.

*Information Current as of May 2016.*

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(b) Examine the current community-based system of commodities reporting by junk or scrap metal dealers in New Hampshire and to examine the advisability of creating a statewide database to assist in the deterrence or investigation of metal theft in New Hampshire.

II. The members of the commission shall be as follows:

- (a) One member of the senate, appointed by the president of the senate.
- (b) Three members of the house of representatives, appointed by the speaker of the house of representatives.
- (c) One representative of law enforcement from a municipality in which a pawnshop and secondhand shop are located, appointed by the president of the senate.
- (d) A representative of the New Hampshire Association of Chiefs of Police, appointed by the association.
- (e) A county attorney with experience in property crimes, appointed by the governor.
- (f) One representative of the pawnbroker industry, appointed by the president of the senate.
- (g) One representative of the secondhand dealer industry, appointed by the speaker of the house of representatives.
- (h) One representative of the coin dealer industry who transacts business with the general public, appointed by the president of the senate.
- (i) One representative of the antique dealer industry, who transacts business with the general public, appointed by the speaker of the house of representatives.
- (j) One representative of the scrap metal dealer industry, appointed by the president of the senate.
- (k) One representative of the scrap metal dealer industry, appointed by the speaker of the house of representatives.
- (l) One member of the construction industry in New Hampshire, appointed by the president of the senate.
- (m) One member of the Auto and Truck Recyclers Association of New Hampshire, appointed by the speaker of the house of representatives.

III. The commission shall:

- (a) Relative to the regulation of pawnbrokers and secondhand dealers:
  - (1) Study current laws and ordinances regulating pawnbrokers and secondhand dealers in New Hampshire.
  - (2) Study issues surrounding recordkeeping, reporting, and retention periods, including privacy and constitutional questions.
  - (3) Study the change in recovery rates in municipalities that mandate recordkeeping, reporting, and retention periods, and assess the effectiveness of such ordinances.
  - (4) Consider the impact changes to state law would have on the industry, including any ethical concerns.
  - (5) Study issues related to jurisdiction and law enforcement inspections.

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(6) Identify the type of items and transactions that should be regulated and those that should be excluded from regulation, including whether a minimum dollar value is appropriate.

(7) Recommend statutory changes to reflect current business practices and address enforcement issues.

(b) Relative to the system of commodities reporting by junk or scrap metal dealers:

(1) Study the current system of community-based regulation and reporting by junk or scrap metal dealers in New Hampshire.

(2) Study the occurrence of metal theft and arrest records in New Hampshire under the current system.

(3) Examine what tools exist in New Hampshire currently to curb the incidence of metal theft.

(4) Study effective models in others states and their funding mechanisms.

(5) Review and recommend on the advisability of creating a statewide database for New Hampshire, funded by fees on those regulated, and its potential to assist in the deterrence or aid in investigations of metal theft in New Hampshire.

IV. Members of the commission shall serve without compensation, except that legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

V. Members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Seven members of the commission shall constitute a quorum.

VI. The commission shall submit an interim report on or before November 1, 2015, and a final report on or before November 1, 2016, of its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library.

72:2 Repeal. RSA 322-A, relative to the commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers, is repealed.

72:3 Effective Date.

I. Section 2 of this act shall take effect December 1, 2016.

II. The remainder of this act shall take effect upon its passage.

Approved: June 2, 2015

Effective Date: I. Section 2 shall take effect December 1, 2016.

II. Remainder shall take effect June 2, 2015

<http://www.gencourt.state.nh.us/legislation/2015/hb0510.html>



**322:1 License.** – The governing body of any town, city, or unincorporated place, may, in their discretion, license suitable persons to be dealers in and keepers of shops for the purchase and sale, or barter, of old junk, old or scrap metals, old or second-hand bottles, cotton or woolen mill waste, unfinished cloth, cotton or woolen mill yarns in an unfinished state, not of family manufacture, or second-hand articles, excepting furniture and books, within their respective cities, towns, or unincorporated places, or to accumulate, store or handle said commodities therein for the purpose of sale or barter elsewhere, or as bailees for others, and may determine and designate the place where the business is to be carried on, and the place where the commodities aforesaid may be accumulated, stored or handled, under such license.

**Source.** GS 109:1. GL 120:1. 1883, 74:1. PS 124:1. 1905, 76:1. 1907, 73:1. 1917, 94:1. PL 159:1. RL 190:1. 2008, 287:2, eff. June 27, 2008.

## **Section 322:2**

**322:2 Revocation; Regulations.** – The board which grants said licenses may revoke the same, in their discretion, after a hearing on charges preferred, and may from time to time establish rules, regulations and restrictions relative to the business carried on as aforesaid; and every such rule, regulation and restriction shall be incorporated in the license.

**Source.** 1917, 94:1. PL 159:2. RL 190:2.

## **Section 322:3**

**322:3 Conditions; Termination.** – The license shall designate the place where the business is to be carried on, and shall contain a condition that the person to whom it is granted shall not purchase from any minor under the age of 16 years, nor barter with any such minor for any commodity named in RSA 322:1, without the written consent of his parents or guardian, and such other conditions and restrictions as may be prescribed by the board which grants licenses.

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Said license shall continue in force until April 1 next following, unless sooner revoked, and may be renewed upon application to the licensing board.

**Source.** GS 109:2. GL 120:2. 1881, 14:1. PS 124:2. 1917, 94:2. PL 159:3. RL 190:3.

## **Section 322:4**

**322:4 Illegal Dealing.** – Any person who, without a license, shall be a dealer in the aforesaid commodities, or keep a shop for the purchase, sale or barter thereof; or who, without a license, shall accumulate, store or handle said commodities for the purpose of sale or barter, or as a bailee for others; or any person having a license who shall carry on the business, or accumulate, store or handle the commodities aforesaid at any other place than that specified in his license, or after notice that his license has been revoked, shall be guilty of a violation for each day such offense continues.

**Source.** GS 109:4. 1878, 31:1. GL 120:4. PS 124:4. 1907, 73:2. 1917, 94:3. PL 159:4. RL 190:4. RSA 322:4. 1973, 531:101, eff. Oct. 31, 1973, at 11:59 p.m.

## **Section 322:5**

**322:5 Enjoining.** – The superior court may enjoin any person from dealing in the commodities aforesaid, or from keeping a shop for the purchase, sale or barter thereof, or from accumulating, storing or handling said commodities contrary to the provisions of this chapter, and may also enjoin any licensee from carrying on said business at any other place than that designated in his license.

**Source.** 1907, 73:2. 1917, 94:3. PL 159:5. RL 190:5.

## **Section 322:6**

**322:6 Territorial Limits.** – The licensing board of a city may, by regulation, prohibit the accumulation or storage of the commodities designated in RSA 322, the granting of licenses

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therefor, and the granting of licenses to deal in or keep a shop for the purchase, sale or barter of said commodities, within or in the immediate vicinity of the compact part of such city, and may define the limits within which said commodities shall not be accumulated or stored, or said

business carried on, or licenses therefor granted. The adoption of any such regulation shall in no way affect the duties of the licensing board in acting upon applications for licenses to be exercised in territory outside the limits specified in such regulation.

**Source.** 1907, 73:3. 1917, 94:4. PL 159:6. RL 190:6.

### **Section 322:6-a**

**322:6-a Records.** – Each person required to be licensed under this chapter shall keep records sufficient to the licensing authority of the accumulation, storage, and handling of commodities as a junk or scrap metal dealer. Such record shall be legibly written in the English language and provide account and description of the goods purchased, the date and time of their purchase, and the name and residence, verified by photo identification issued by a governmental agency, of the seller.

**Source.** 2008, 287:3, eff. June 27, 2008.

### **Section 322:7**

**322:7 Inspection.** – Any officer, having jurisdiction may enter upon any premises used by a licensee for the purpose of his or her business, ascertain how the licensee conducts business and examine all commodities purchased, obtained, kept, or stored in or upon said premises, and all books and inventories relating thereto. Every such licensee, his or her clerk, agent, or other person in charge of the premises shall exhibit to such officer on demand any or all of such commodities, books, and inventories.

**Source.** 1917, 94:5. PL 159:7. RL 190:7. 2008, 287:4, eff. June 27, 2008.



## Section 322:8

**322:8 Obstructing Officer.** – Any such licensee, his clerk, agent or other person in charge of such premises, who refuses to admit thereto an officer authorized to enter the same, or who fails to exhibit to him on demand all such commodities, books and inventories; or any person who wilfully hinders, obstructs or prevents such officer from entering the premises or from making the examination authorized in RSA 322:7 shall be guilty of a misdemeanor.

**Source.** 1917, 94:6. PL 159:8. RL 190:8. RSA 322:8. 1973, 528:209, eff. Oct. 31, 1973, at 11:59 p.m.

## Section 322:9

**322:9 Number.** – Every license shall be numbered, and each licensee transporting any of the commodities specified in RSA 322:1 in any wagon or vehicle shall have placed upon the outside of such wagon or vehicle, and upon each side of the same, the number of the license in plain, legible figures not less than 3 inches high so that the same may be distinctly seen and read.

**Source.** 1917, 94:7. PL 159:9. RL 190:9. 2008, 287:5, eff. June 27, 2008.

## Section 322:10

**322:10 Identification.** – Every licensee or employee of a licensee shall carry a photocopy of his or her license or the license of his or her employer on or about his or her person. The identification may be required to be furnished by the licensing authority upon payment of a suitable fee therefor.

**Source.** 1917, 94:7. PL 159:10. RL 190:10. 2008, 287:5, eff. June 27, 2008.



## Section 322:11

**322:11 Fee.** – The fee for such license or renewal thereof shall be fixed by the board which issues the license, and shall be paid into the treasury of the city or town in which the license is to be in force, and no person shall be required to pay a larger fee for said license than that required to be paid by any other person in the same city or town for a similar license.

**Source.** 1917, 94:8. PL 159:11. RL 190:11.

## Section 322:12

**322:12 Unlicensed Person.** – No person not licensed shall purchase any of the commodities above specified unless he or she acts as a helper to, and is accompanied by, some licensee.

**Source.** 1917, 94:7. PL 159:12. RL 190:12. 2008, 287:6, eff. June 27, 2008.

## Section 322:12-a

**322:12-a Metal Kegs for Malt Beverages.** – No junk or scrap metal dealer licensed by a governing body under the authority of this chapter shall purchase any metal keg for malt beverages, as defined in RSA 179:5-a, V, or pieces of such metal keg, unless the seller is the brewer whose name or marking appears on the keg. If the brewer's name or marking has been removed or obliterated, the licensee shall not purchase the keg.

**Source.** 2008, 287:10, eff. June 27, 2008.

## Section 322:13

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**322:13 Penalty.** – Any person who shall violate any provision of RSA 322 or of his license, for which offense no other punishment is provided, shall be guilty of a misdemeanor.

**Source.** 1917, 94:9. PL 159:13. RL 190:13. RSA 322:13. 1973, 528:210, eff. Oct. 31, 1973, at 11:59 p.m.

<http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XXX-322.htm>

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