

# **HOUSE . . . . . No. 4062**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, May 8, 2014.

The committee on Public Safety and Homeland Security to whom were referred the petition (accompanied by bill, House, No. 2143) of Robert F. Fennell and Thomas J. Calter for legislation to further regulate licensed pawnbrokers and the joint petition (accompanied by bill, House, No. 3277) of Kathi-Anne Reinstein and others that the Executive Office of Public Safety and Security in cooperation with the Criminal History Systems Board establish a secondary metals registry and further regulating the licensing of secondary metals dealers, reports recommending that the accompanying bill (House, No. 4062) ought to pass.

For the committee,

HAROLD P. NAUGHTON, JR.

**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Fourteen**  
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An Act regulating secondary metals dealing.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 75 of chapter 140, as so appearing, is hereby amended by striking  
2 out, in line 5, the words “fifty dollars” and inserting in place thereof the following words: - two  
3 hundred dollars for the first offense, and by a fine of not more than five hundred dollars for each  
4 subsequent offense. A violation of this section shall constitute a violation of section 2 of Chapter  
5 93A.

6           SECTION 2. Section 76 of chapter 140, as so appearing, is hereby amended by striking  
7 out, in lines 1 and 2, the words, “in any city or in any town of ten thousand or more inhabitants.”.

8           SECTION 3. Chapter 140 is hereby further amended by striking out section 79, as so  
9 appearing, and inserting in place thereof the following section: -

10           Section 79. Every person who carries on the business of a pawnbroker shall at the time  
11 of making a loan record information pertaining to every transaction, including but not limited to  
12 the name, address and date of birth of the person pawning an article, the amount of money  
13 loaned thereon, the rate of interest to be paid on such loan, a full description of the article  
14 including all distinguishing marks and numbers, and the time and date of the transaction, and  
15 shall not accept an article unless the person offering it shows an identification card bearing the  
16 person’s photograph. The pawnbroker or any employee thereof shall photograph the person  
17 offering an article in pawn, and shall photograph the articles being pawned. Said transaction  
18 information, the photographs of the person pawning the article or articles, the article or articles  
19 pawned, shall be transmitted electronically on the date of the transaction, using the New  
20 England State Police Information Network, to housed by the Executive Office of Public Safety,  
21 and shall be retained on the licensed premises a printed copy of the transaction information and  
22 photographs as part of his records. All information gathered, recorded or transmitted in any

23 manner by pawnbrokers pursuant to this section shall be available to any law enforcement officer  
24 at any time for any reason, or to the licensing authority of any city or town or their designee, and  
25 no pawnbroker or person pawning any article shall have an expectation of privacy concerning  
26 any information about the transaction, including but not limited to any photographs taken. No  
27 item carrying an identifiable serial number shall be required to be photographed, so long as  
28 serial and model number are submitted with the transaction information.

29 Any person offering any article for pawn who provides a wrong name, address or date of  
30 birth, or shows false, forged or counterfeit identification shall be punished by a fine of not more  
31 than one thousand dollars or by imprisonment for not more than six months. A police officer  
32 may arrest without a warrant any person whom he has probable cause to believe has provided a  
33 wrong name, address or date of birth, or has shown false, forged or counterfeit identification as  
34 described above. Any pawnbroker who knowingly records or transmits false information about a  
35 transaction shall be fined not more than one thousand dollars for the first offense, and upon a  
36 second offense shall be fined not more than two thousand dollars and his license may be  
37 revoked, and he may not be permitted to conduct the business of a pawnbroker in the  
38 commonwealth for one year.

39 The Executive Office of Public Safety shall not impose a fee on anyone submitting  
40 information to this system.

41 SECTION 4. Chapter 140 of the general laws is hereby amended after Section 84 by  
42 adding the following new section.

43 Section 84A. If it appears to the police commissioner and of the superintendent and  
44 chief inspector of police of Boston, of the colonel of the state police, and of the chief of police  
45 and selectmen of their respective cities or towns, or of an officer specially authorized by any of  
46 them in writing for that purpose that any articles pledged under the provisions of section 70 of  
47 chapter 140 have been stolen, he may give written notice to the pledgee to hold such articles, and  
48 they shall thereafter be held by the pledgee for sixty days unless said notice shall be recalled in  
49 writing by the officer giving it, and be subject to inspection and examination at all reasonable  
50 times; and they shall be produced, upon notice or summons by the district attorney or other  
51 prosecuting officer, before any court or grand jury if the question of the larceny of the same is  
52 under investigation, and said pledgee shall not be liable in damages or otherwise on account of  
53 such detention.

54 SECTION 5. Section 71 of Chapter 140 is amended by striking it in its entirety and  
55 inserting in place thereof the following new section.

56 Section 71. Articles deposited in pawn with a licensed pawnbroker shall, unless  
57 redeemed, be retained by him on the premises occupied by him for his business for at least four  
58 months after the date of deposit, if not of a perishable nature; and, if perishable, for at least one  
59 month after said date. After the expiration of the applicable period of time, he may sell the

60 articles, apply the proceeds thereof in satisfaction of the debt or demand and the expense of the  
61 notice and sale, and pay any surplus to the person entitled thereto on demand, provided that such  
62 demand is made in writing within one year of said sale; provided, that no such sale of any article  
63 which is not of a perishable nature shall be made unless not less than ten days prior to the sale a  
64 written notice of the intended sale shall have been sent to the person entitled to the payment of  
65 any surplus as aforesaid, addressed to his residence, as appearing in the records of such  
66 pawnbroker. No article taken in pawn by such pawnbroker exceeding twenty-five dollars in  
67 value shall be disposed of otherwise than as above provided, any agreement or contract between  
68 the parties thereto to the contrary notwithstanding. Articles of personal apparel shall not be  
69 deemed to be of a perishable nature within the meaning of this section.

70 SECTION 6. Section 81 of chapter 140 is hereby repealed.

71 SECTION 7. Section 83 of chapter 140 is hereby repealed.

72 SECTION 8. Section 84 of chapter 140 is hereby repealed.

73 SECTION 9. This act shall take effect 180 days after its passage.