

RESOLUTION NO. 260 -2015, ADOPTING LOCAL LAW NO. 18 -2015, A LOCAL LAW TO AMEND CHAPTER 563-52, ARTICLE V OF THE SUFFOLK COUNTY CODE COMMONLY KNOWN AS "DEALERS IN SECONDHAND ARTICLES"

WHEREAS, there was duly presented and introduced to this County Legislature at a regular meeting held on February 3, 2015, a proposed local law entitled, "**A LOCAL LAW TO AMEND CHAPTER 563-52 ARTICLE V OF THE SUFFOLK COUNTY CODE COMMONLY KNOWN AS 'DEALERS IN SECONDHAND ARTICLES'**"; and said local law in final form is the same as when presented and introduced; now, therefore be it

RESOLVED, that said local law be enacted in form as follows:

LOCAL LAW NO. 18 -2015, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO AMEND CHAPTER 563-52, ARTICLE V OF THE SUFFOLK COUNTY CODE COMMONLY KNOWN AS "DEALERS IN SECONDHAND ARTICLES"

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

Section 1. Legislative Intent.

This Legislature hereby finds and determines that Chapter 563, Article V, commonly known as "Dealers in Secondhand Articles," has proved to be useful in recovering stolen property that has been sold to dealers in secondhand articles, and has also proved to be useful in prosecuting those persons who possessed such stolen property.

This Legislature further finds that persons who sell stolen property to dealers in secondhand articles sometimes provide false names and false identification documents to such dealers.

This Legislature further finds that the required record keeping regarding the purchase of secondhand articles by dealers in secondhand articles is often insufficient to properly identify such articles and the sellers.

This Legislature additionally finds that the ownership of stolen electronic equipment that maintains identifying or unique data cannot be determined if dealers in secondhand articles erase or alter data or programs maintained on such electronic equipment during any applicable holding period as set forth in the Suffolk County Code.

This Legislature also finds that the transactional records retention time period of three-years currently imposed upon dealers in secondhand articles is sometimes insufficient for investigative and prosecutorial purposes when persons sell stolen property to such dealers.

This Legislature further finds that in order to improve the effectiveness of Chapter 563, Article V of the Suffolk County Code, the following amendments to the Suffolk County Code shall be effected:

- Section 563-52 (Dealers in Secondhand Articles/Required Records) shall require that such dealers shall take digital photographs of:

The persons selling secondhand articles, or the identification produced by persons selling secondhand articles; and

The secondhand articles that are sold to such dealers.

- Section 563-52 (Dealers in Secondhand Articles/Required Records) shall require that such dealers must retain transactional records for a period of seven-years.
- Section 563-54 (Dealers in Secondhand Articles/Required Holding Period) shall require that secondhand dealers are prohibited from erasing or altering data or programs maintained on electronic equipment during the required holding period.

Section 2. Amendments.

Chapter 563 of the SUFFOLK COUNTY CODE is hereby amended as follows:

Chapter 563, Licensed Occupations

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ARTICLE V, Dealers in Secondhand Articles

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§ 563-52. Required records.

A. Each licensee shall keep records, legibly written in English, in a bound book. All entries shall be made in ink at the time of each transaction and shall include the computer transaction number. Each transaction shall also include:

- (1) An accurate account and description of the article or thing bought, including but not limited to the make, model, color and serial number when present.
- (2) The amount paid for the article.
- (3) The date of transaction.
- (4) The name, home residence, date of birth, sex and race of the person selling the items.
- (5) The type of identification produced by the person selling the article. **For the purposes of this section, proper identification shall be government issued identification documents that depict the person's name, address, and photograph. Social security cards, draft registration cards, voter registration cards and other similar documents shall not be considered sufficient identification for the purposes of this section.**
- (6) The signature of the person identified in the transaction.

B. No alterations or erasures are to be made to records. Erroneous entries are to have a simple line drawn through them and the corrected entry made on the next line.

C. The records shall be retained in the possession of the licensee for at least **[three] seven** years.

D. A written receipt shall be issued to the seller with the serial number of the transaction and the information required in Subsections **A, B** and **C** of this section.

E. Each licensee shall take digital photographs of the following:

(1) The article purchased, each item to be separately photographed; and

(2) The head and face of the person selling the article (with any and all obstructions – i.e., hat, hood, sunglasses, etc. – removed), or the photograph identification produced by the person selling the article.

§ 563-54. Required holding period.

A. No article purchased by a dealer in secondhand articles shall be sold or otherwise disposed of until the expiration of at least 21 business days from the date of purchase.

B. All articles subject to this holding period shall be available for inspection by the Director of the Office of Consumer Affairs, the Police Commissioner, the Chief of Police or any officer duly authorized by them.

C. Purchases or sales between licensed secondhand dealers shall be exempt from the provisions of this section only if evidence of full compliance with all provisions and conditions set forth in this article is obtained by the purchasing secondhand dealer from the selling secondhand dealer in the form of a receipt. This receipt shall be retained by the purchasing secondhand dealer for the period required by § **563-52C** hereof.

D. During the required holding period -- which includes the holding period required under Sections 563-54(a) and 563-55 – it shall be unlawful for dealers in secondhand articles to erase or alter any data or programs maintained on electronic equipment that has been purchased by such dealers.

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Section 3. Severability.

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 4. SEQRA Determination.

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20) and (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

Section 5. Applicability.

This law shall apply to all actions and transactions occurring on or after the effective date.

Section 6. Effective Date.

This law shall take effect 90 days after filing in the Office of the Secretary of State.

[] Brackets denote deletion of existing language
___ Underlining denotes addition of new language

DATED: April 28, 2015

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: May 28, 2015

After a public hearing duly held on May 13, 2015
Filed with the Secretary of State on June 25, 2015