

Intro. Res. No. 1106-2015

Laid on Table 2/3/2015

Introduced by Presiding Officer, on request of the County Executive and Legislators Lindsay, Hahn

RESOLUTION NO. 258 -2015, ADOPTING LOCAL LAW NO. 19 -2015, A LOCAL LAW TO AMEND CHAPTER 563-49, 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 563-49 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. 19 -2015, SUFFOLK COUNTY, NEW YORK

A LOCAL LAW TO AMEND CHAPTER 563-49, 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, frequently known as Dealers in Secondhand Articles, has proved to be useful in recovering stolen property that has been sold to dealers in secondhand articles.

This Legislature further finds there has been a rise in the number of larceny incidents in which persons steal merchandise from merchants and then return the merchandise to the merchants pursuant to claims for refunds without a receipt.

This Legislature further finds that when merchandise is returned to a merchant without a receipt, merchants will frequently issue credit for such refunds on a gift card or certificate.

This Legislature further finds that merchants frequently do not ascertain that the stolen merchandise that has been returned was in fact stolen until after the gift cards or certificates have been issued pursuant to refund claims.

This Legislature further finds that persons who commit such larcenies often sell the gift cards or certificates to secondhand dealers for an amount of cash which is less than the actual value of such gift cards or certificates.

This Legislature additionally finds that persons who sell stolen property to dealers in secondhand articles at times provide false names and false identification documents to such dealers, and investigative and prosecutorial efforts concerning stolen property sold to dealers in secondhand articles will be augmented if sellers are required to produce photo identification.

This Legislature further finds that in order to improve the effectiveness of Chapter 563, Article V of the Suffolk County Code, gift cards and certificates shall be added to the list of articles specified in the definition of Dealer in Secondhand Articles articulated in Section 563-49 of the Suffolk County Code, and the definition of Proper Identification articulated in Section 563-49 of the Suffolk County Code shall be limited to identification documents that depict the name, address, and photograph of the seller.

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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§ 563-49. Definitions.

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

ANTIQUÉ FIREARMS Any unloaded muzzle-loading pistol or revolver with a matchlock, flintlock, percussion cap or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade.

BUSINESS DAY Any calendar day except Sunday or any County holiday.

DEALER IN SECONDHAND ARTICLES

A. Any person corporation, partnership, collateral loan broker, as defined in Article 5 of the New York General Business Law, or other entity and its employees that, as a business, transacts more than five deals in the purchase of, sale of, or transaction for a collateral loan against any of the following articles within a twelve-month period:

[Amended 9-15-2011 by L.L. No. 49-2011; 12-6-2011 by L.L. No. 2-2012]

- (1) Antique firearms.
- (2) Rifles.
- (3) Shotguns.
- (4) Cameras and other photography equipment.
- (5) Business machines, including but not limited to typewriters, copying machines, sorting machines, calculators, word processing equipment and data processing equipment.

- (6) Electronic equipment or component parts thereof, including but not limited to televisions, stereos, videocassette recorders, video games, computers, citizen band radios and cable television converters and descramblers.
- (7) Electrical appliances other than refrigerators, washers, dryers, stoves, ovens and home freezers.
- (8) Marine equipment, including but not limited to in-board and outboard motors, anchors, fenders and radio and navigation equipment. This equipment shall not include boats.
- (9) Telescopes.
- (10) Binoculars.
- (11) Musical instruments.
- (12) Cellular telephones and pagers.
- (13) Electric- and gas-powered yard or garden equipment and tools.
- (14) Electric-, pneumatic-, or hydraulic-powered construction or mechanic's equipment or tools.
- (15) Gift cards, gift certificates, or any other instrument or document evidencing credit or value that can be used to purchase merchandise or services.**

B. Exempted operation

- (1) "Dealer in secondhand articles" shall not include any organizations formed for charitable purposes which accept donations of secondhand articles and resell them to raise funds for purposes consistent with the formation of the organization, nor any persons, corporations, partnerships or other entities and their employees that, as a business, are principally engaged in the service and/or repair of electronic equipment or component parts thereof and who, from time to time, sell electronic equipment or component parts thereof, which have been left for repair and later abandoned.
- (2) The sale of secondhand goods at events commonly known as "garage sales," "yard sales," or "estate sales," provided:
 - (a) The sale is held on noncommercial property;
 - (b) None of the items offered for sale have been purchased for resale;
 - (c) The owner of the property receives all proceeds; and

(d) The sale period is no longer than 72 hours. At no time shall the property owner be permitted to conduct more than two events within a twelve-month period.

(3) Secondhand books, comic books, magazines, post cards, and postage stamps.

(4) Organizations or persons that resell secondhand articles acquired solely from:

[Added 12-15-2009 by L.L. No. 43-2009]

(a) Other organizations or persons who or which received the secondhand articles by way of gift or donation; or

(b) Members of the general public by way of gift or donation.

DEPARTMENT

The Office of Consumer Affairs.

PROPER IDENTIFICATION

Identification documents that contain the person's name, **address**, and **[either] a photograph [or a physical description]** of said person. Social security cards, draft registration cards, voter registration cards and comparable documents shall not be considered sufficient identification for the purpose of this article.

SECONDHAND ARTICLE

An article or object which:

A. Has been previously sold at retail; or

B. Has been previously used or is not in a new condition.

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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 immediately upon 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