

ARTICLE I. DEALERS IN USED GOODS^{1[1]}

Sec. 16A-1. Definitions.

The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Antiques means goods and articles which have a greater collectible, historic or nostalgic rather than utilitarian value.

Antique dealer means any person operating a place of business that buys, sells or otherwise deals in antiques. Additionally, to qualify as an antique dealer, such person must meet the following additional requirements:

- (1) Such person's inventory must consist of more than fifty percent (50%) antiques by each licensed dealer;
- (2) Such person must have a minimum of two (2) years experience as an antique dealer or an employee thereof;
- (3) Such person must furnish receipts for property both sold, purchased or traded; and
- (4) Such person must provide a written guarantee that the article sold is what it purports to be.

Auction house means any person operating a place of business where property is received from other persons or businesses, when such property is to be resold either publicly or privately for cash, other property or other consideration to a third party by auction.

Pawnbrokers means any person engaged in conducting, managing or carrying on the business of pawnbroking, or the business of loaning money for himself or for any other person, receiving as security for the repayment thereof, pawns or pledges of personal property, or the business of purchasing personal property and reselling or agreeing to resell such articles to vendors, their personal representatives or their assignees, at prices agreed upon at or before the time of such purchase, whether such business be principal or sole business so carried on, managed or conducted, or merely incidental to, in connection

^{1[1]}**State law references**—Dealers in precious items, A.R.S. § 44-1601 et seq.; pawnbrokers, A.R.S. § 14-1621 et seq.; scrap metal dealers, A.R.S. § 44-1641 et seq.; jewelry auctions, A.R.S. § 44-1671 et seq.

Editor's note—Section 5 of Ord. No. 88.32, adopted April 28, 1988, amended the Code by transferring provisions formerly codified as Arts. IX—XI of Ch. 16 to a newly created Ch. 16A as Arts. I—III.

Cross reference—Advertising and signs, Ch. 3; Alcoholic beverages, Ch. 4; Amusement, Ch. 5; registration of bicycles, § 7-11 et seq.; maintenance electrician's or plumber's certificate of registration, § 8-104.9; Mobile homes and trailer coaches, Ch. 18; Peddlers, solicitors and itinerant merchants, Ch. 24.

with or a branch or department of some other business or businesses.

Scrap dealer means any person, engaged in the business of purchasing or obtaining material of any kind, such as any vehicle parts or accessories, machinery, iron, copper, brass, lead, zinc, tin, steel, aluminum and other metals, metal alloys, metallic cables, wire, batteries, rope, rubber and other like materials which are purchased or obtained from persons other than the original manufacturer or authorized distributor selling the same for money, credit or exchange. The material purchased or obtained is put to a use inconsistent with the original purpose of the property; to be scrapped, dismantled, melted, pressed or otherwise disfigured, and to be resold to others in the form so altered, or used by the purchaser in its altered form. The provisions of this article shall not apply to any persons engaged solely in recycling metal cans, paper, cardboard or glass.

Secondhand dealer means any person(s) engaged in conducting, managing or carrying on the business of buying, selling, trading or exchanging, or otherwise dealing in secondhand goods, wares, merchandise or articles, coins, jewelry, precious metals, semiprecious stones and similar items, whether such business is the principal or sole business so carried on, managed or conducted or is merely incidental to, in connection with or a branch or a department of some other business. The term "secondhand dealer" shall not be construed to include dealers or auctioneers in articles of property the transfer of title to which is required by the laws of the state. Such is evidenced by written instrument and recorded in the appropriate department of the state or county government.

Sec. 16A-2. Exemptions.

(a) Notwithstanding any of the provisions of this article, isolated and causal transactions of the kinds described in § 16A-1 shall be deemed exempt from the requirements of this article.

(b) Notwithstanding any of the provisions of this article, activities of the types described in § 16A-1 shall be exempt from the requirements of this article when conducted by not for profit corporation, duly incorporated under the laws of Arizona or any other state.

(c) Notwithstanding any of the provisions of this article, activities of the types described in § 16A-1 involving books and other printed materials, clothing, phonograph records, audio cassette tapes, compact discs, videotapes, video games, computer software, digital video discs or like items shall be deemed exempt from the requirements of this article.

Sec. 16A-3. Reports of transactions required; exceptions.

(a) Every person engaged in the business of auction house, scrap dealer, pawnbroker or secondhand dealer shall make out and deliver to the chief of police a true, complete and legible report of all goods and articles received on deposit, in pawn, pledge, trade or exchange, or by purchase. The report shall be made upon sheets furnished by the police

department, and shall be delivered within twenty-four (24) hours after receipt of the property concerned. Each sheet shall contain for each item received:

- (1) A complete description of the property, including brand name and serial number, if any. If more than one of any item, the number of the like-type items received;
- (2) The date and time when the property was received;
- (3) The signature of the person from whom the property was received;
- (4) The name (printed), address and date of birth of such person. The reporting party shall require each person to show proof of his name, address and age by exhibiting a valid driver's license, State of Arizona identification card, armed forces identification card or selective service registration certificate, and the number of such identification certificate shall be recorded;
- (5) The dealers name and the name of person receiving the property; and
- (6) A description of such person, consisting of height, sex, weight, race, complexion, hair color and identifying marks, scars or tattoos.

(b) Notwithstanding the provisions of paragraph (a), the report described therein need not be filed if a transaction in used goods constitutes a partial trade for new or used merchandise of like kind. This exemption applies only if the dealer maintains accurate records including a complete description of the property (brand name, serial number and any other identifying data) of the new or used merchandise sold and similar identifying information insofar as the used good constituting the partial trade for such new or used merchandise of like kind. These records shall be open for inspection to members of the Tempe police department during all business hours.

(c) Notwithstanding the provisions of paragraph (a), the report described therein need not be filed with respect to transactions solely between merchants licensed under this article or between merchants who would be required by this article to secure licenses if their establishment were located in the city.

(d) Notwithstanding the provisions of paragraph (a), the report described therein need not be filed for certain antique dealers if the following conditions are met:

- (1) More than five (5) secondhand dealers rent or share common or contiguous space at the same business location; and
- (2) For goods and articles received on deposit, in pawn, pledge, trade or exchange, or by purchase excepting jewelry, precious and semiprecious metals (including articles composed of or plated with precious or

semiprecious metals), precious and semiprecious stones and all on-site pawns, pledges, trades, exchanges or purchases for which the normal reporting requirements must be met.

(e) Notwithstanding the provisions of paragraph (a), the report described therein need not be filed for antique dealers if the following condition is met: For goods and articles received on deposit, in pawn, pledge, trade or exchange, or by purchase excepting jewelry, precious and semiprecious metals (including articles composed of or plated with precious or semiprecious metals) and precious and semiprecious stones for which the normal reporting requirements must be met.

State law references—Reports by precious metals dealers, A.R.S. § 44-1602; reports by pawnbrokers, A.R.S. § 44-1622; records of scrap metal dealers, A.R.S. § 44-1642; inventory to be submitted of items at jewelry auctions, A.R.S. § 44-1674.

Sec. 16A-4. Holding period prior to resale or exchange.

(a) No article shall be sold or exchanged by any auction house, scrap dealer, pawnbroker or secondhand dealer until it shall have been in the custody thereof for ten (10) days after making out and delivering to the chief of police the report required under § 16A-3. In the case of property consigned to an auction house, such property shall not be sold or exchanged until it shall have been in the custody thereof for five (5) days after delivery to the chief of police the report required under § 16A-3. This subsection shall not apply to redemption of pawned articles.

(b) The holding period described in paragraph (a) shall not apply to nonfabricated precious and semiprecious metals. An item shall be deemed nonfabricated for the purpose of this chapter only if at the time of the transaction it is in ingot, bullion or coin form.

(c) The holding period described in paragraph (a) shall not apply to certain antique dealers if the following conditions are met:

- (1) More than five (5) antique dealers rent or share common or contiguous space at the same business location; and
- (2) For goods and articles received on deposit, in pawn, pledge, trade or exchange, or by purchase excepting jewelry, precious and semiprecious metals (including articles composed of or plated with precious or semiprecious metals), precious and semiprecious stones and all on-site pawns, pledges, trades, exchanges or purchases for which the normal ten-day holding period shall be applicable.

(d) The holding period described in paragraph (a) shall not apply to antique dealers if the following condition is met: For goods and articles received on deposit, in pawn, pledge, trade or exchange, or by purchase excepting jewelry, precious and semiprecious metals (including articles composed of or plated with precious or semiprecious metals) and precious and semiprecious stones which the normal ten-day holding period shall be

applicable.

State law references—Holding period for precious items, A.R.S. § 44-1602(D); holding period for pawned items, A.R.S. § 44-1625.

Sec. 16A-5. Transactions with minors.

(a) No merchant, regardless of whether he is required to be licensed under the provisions of this article, shall buy, pledge, pawn or otherwise accept merchandise from any person under the age of eighteen (18) years, unless such minor first produces a notarized letter, signed by the minor's parent or guardian, granting permission to the minor to transfer an interest in the property.

(b) It shall not be a defense to an alleged violation of subsection (a) that the merchant reasonably believed the minor to be eighteen (18) years or older unless the minor produced an Arizona driver's license, or other identification as specified in § 16A-3 and that identification purported to identify the minor as someone eighteen (18) years of age or older.

State law reference—Pawnbrokers not to receive junk, metal or mechanical tools from child under sixteen (16), A.R.S. § 44-1627.

Sec. 16A-6. Property connected with crime.

Upon notification by representatives of the police department that goods and articles received are either the fruits of a crime, or weapons or other items used to perpetrate a crime, no auction house, scrap dealer, pawnbroker or secondhand dealer shall dispose of such property. Interest, if charged, upon the pawn, pledge or item for resale, shall cease to accrue as of the date of such notification. Upon receiving a receipt from a representative of the police department, the auction house, scrap dealer, pawnbroker or secondhand dealer shall turn over to the representatives of the police department such items.

Sec. 16A-7. Display of regulations.

Every person engaged in the business of auction house, scrap dealer, pawnbroker or secondhand dealer shall prominently display a copy of this article and required license in a conspicuous, place on the premises of the business.

Sec. 16A-8. Inspection of goods and records.

The business premises including stock of goods and articles and all ledgers, books, records or memoranda required to be kept by this article or state statute of any auction house, scrap dealer, pawnbroker or secondhand dealer shall be open for immediate inspection during regular business hours to representatives of the police department.

Sec. 16A-9. Fingerprinting.

Every owner or manager of an auction house, scrap dealer, pawnbroker or secondhand dealer prior to conducting such business or the issuance of a license shall submit a full set of fingerprints to the Tempe police department for the purpose of obtaining a state or federal, or both, criminal records check pursuant to A.R.S. § 41-1750 and Public Law (PL) 92-544. The Department of Public Safety is authorized to exchange this fingerprint data with the Federal Bureau of Investigation. Fingerprints must be submitted on fingerprint cards provided by the finance and technology director or designee.

Sec. 16A-10. Employing convicted violators of article.

No person engaged in the business of auction house, scrap dealer, pawnbroker or secondhand dealer shall knowingly permit a person whose license has been revoked under § 16A-28 to be employed in any capacity at such establishment. The chief of police shall keep a list of all persons convicted under this article and such names shall be available to operators above. Such operators will be assumed to have constructive notice thereof for purposes of prosecution under this article.

Sec. 16A-11. Employing persons with criminal record.

No person who has been convicted of any offense, felony or misdemeanor involving moral turpitude within the five-year period immediately prior to his application for either a license under this article or employment in an establishment required by this article to be licensed shall be issued a license to transact business pursuant to this article or employed by any person licensed to transact business pursuant to this article.

Secs. 16A-12—16A-25. Reserved.

Sec. 16A-26. Required; duration; fee.

- (a) It shall be unlawful for any person to act within the city as an auction house, scrap dealer, pawnbroker or secondhand dealer without first obtaining a license to do so from the finance and technology director or his authorized representative.
- (b) The license shall be issued for a calendar year or portion thereof, and a new application shall be required for each subsequent calendar year.
- (c) The license fee shall be established by city council (see Appendix A).

Sec. 16A-27. Application procedure; appeals from denial.

- (a) Any person desiring a license to act as an auction house, scrap dealer, pawnbroker or secondhand dealer shall file an application on forms provided for that purpose. Application shall include such information as the police chief deems necessary for the

complete investigation of the character and qualifications of the applicant.

(b) No license shall be issued by the finance and technology director or his authorized representative without the approval in writing of the police chief. The police chief shall approve the issuance of the license if the applicant has not been convicted of a felony or a misdemeanor involving moral turpitude. The recommendation of the police chief must be made within thirty (30) days after the application is filed.

(c) Any applicant whose license is denied may, within ten (10) days after being sent by registered or certified mail notice of such denial, give written notice to the finance and technology director or his authorized representative of intention to appeal to the city council. Appeals will be heard by the city council at the next regularly scheduled meeting but no sooner than five (5) working days from date of filing notice.

Sec. 16A-28. Suspension; appeals.

(a) Notwithstanding any other provisions of this article, the license of any auction house, scrap dealer, pawnbroker or secondhand dealer shall be suspended for six (6) months upon a showing that an operator or employee of such establishment has been convicted of violating any of the provisions of this code or a city ordinance or any of the statutes of the state regarding the conduct of the business of such an establishment more than one time during a three-year period. Violations of this article or state law by any person or his agents or employees regarding the operations of businesses defined in this article shall be grounds to deny issuance or renewals of the license required in this article.

(b) Conviction under any provision of this article shall be deemed conclusive evidence of such violation.

(c) Any licensee whose license is suspended may, within ten (10) days after being sent by registered or certified mail notice of such suspension, give written notice to the finance and technology director or his authorized representative of his intention to appeal the suspension to the city council. Appeals will be heard by the city council at the next regularly scheduled meeting but no sooner than five (5) working days from the date of filing notice.

Sec. 16A-29. Providing false information.

It shall be unlawful for any individual to provide false information on reports required by any section of this article or to provide false information on any license application.

Secs. 16A-30—16A-39. Reserved.