

..Number
181124
..Version
ORIGINAL
..Reference

..Sponsor
ALD. BORKOWSKI
..Title

An ordinance relating to penalties for violating code provisions regulating pawnbrokers, secondhand dealers, secondhand motor vehicle dealers, and precious metal and gem dealers.

..Sections

92-1-8 am
92-2-9 am
92-3-17 am
92-10-8-a am
92-11-3 am
92-11.5-3 am
92-13-3-b am
92-13-3-c am

..Analysis

This ordinance increases the penalties for violating the code provisions for pawnbrokers, secondhand dealers, secondhand motor vehicle dealers, and precious metal and gem dealers as follows:

1. Pawnbroker's license: from \$250-\$1,000 to \$500-\$1,000.
2. Secondhand dealer's license: for first offense, from \$50-\$1,000 to \$200 to \$1,000. For second and subsequent offenses: from \$500-\$2,000 to \$750 to \$2,000.
3. Secondhand motor vehicle dealer's license: for first offense, from \$50-\$1,000 to \$250-\$1,000. For second and subsequent offenses: from \$500-\$2,000 to \$750-\$2,000.
4. Precious metal and gem dealer's license: for first offense, from \$50-\$1,000 to \$200-\$1,000. For second and subsequent offenses: from \$500-\$2,000 to \$750 to \$2,000.

In addition, the ordinance increases penalties for failure to obtain adequate identification, transactions involving articles not owned, website record entry failures, and failure to post and upload all transaction description records.

..Body

The Mayor and Common Council of the City of Milwaukee do ordain as follows:

Part 1: Section 92-1-8 of the code is amended to read:

92-1. Pawnbroker's License

8. PENALTY. Any person or firm violating this section shall, upon conviction, forfeit not less than ~~[[\$250]]~~ >>\$500<< nor more than \$1,000, together with the costs of prosecution; and, in default of payment, shall be imprisoned in the house of correction or the county jail not to exceed 90 days, or until such forfeiture costs are paid.

Part 2: Section 92-2-9 of the code is amended to read:

92-2. Secondhand Dealer's License.

9. PENALTY. a. Any person, firm, partnership, corporation or association violating this section shall, upon conviction for a first offense, forfeit not less than ~~[[\$50]]~~ >>\$200<< nor more than \$1,000, together with the costs of prosecution and, in default of payment, shall be imprisoned in the house of correction or county jail not to exceed 6 months or until such forfeiture costs are paid in full.
b. Any person, firm, partnership, corporation or association violating this section shall upon conviction for the second and subsequent offenses, forfeit not less than ~~[[\$500]]~~ >>\$750<< nor more than \$2,000, together with the costs of prosecution, and in default of payment, shall be imprisoned in the house of correction or county jail shall not exceed 6 months, or until such forfeiture costs are paid in full.

Part 3: Section 92-3-17 of the code is amended to read:

92-3. Secondhand Motor Vehicle Dealers.

17. PENALTY. a. Any person violating this section shall, upon conviction for a first offense, forfeit not less than ~~[[\$50]]~~ >>\$200<< nor more than \$1,000, together with the costs of prosecution and in default of payment, may be imprisoned as provided by law.
b. Any person violating this section shall, upon conviction for a second or subsequent offense, forfeit not less than ~~[[\$500]]~~ >>\$750<< nor more than \$2,000, together with the costs of prosecution, and in default of payment, may be imprisoned as provided by law.

Part 4: Section 92-10-8 of the code is amended to read:

92-10. Precious Metal and Gem Dealer's License.

8. PENALTY. a. Any person, firm or corporation violating this section shall, upon conviction for a first offense, forfeit not less than ~~[[\$50]]~~ >>\$200<< nor more than

\$1,000, together with the costs of prosecution and, in default of payment, may be imprisoned as provided by law.

b. Any person, firm or corporation violating this section shall upon conviction for the second and subsequent offenses, forfeit not less than ~~[[\$500]]~~ >>\$750<< nor more than \$2,000, together with the costs of prosecution, and in default of payment, may be imprisoned as provided by law.

Part 5: Section 92-11-3 of the code is amended to read:

92-11. Adequate Identification.

3. PENALTY. a. Any person violating this section shall, upon conviction for a first offense, forfeit not less than ~~[[\$50]]~~ >>\$200<< nor more than \$1,000, together with the costs of prosecution, and in default of payment, may be imprisoned as provided by law.

b. Any person violating this section shall, upon conviction for a second or subsequent offense, forfeit not less than ~~[[\$500]]~~ >>\$750<< nor more than \$2,000, together with the costs of prosecution, and in default of payment, may be imprisoned as provided by law.

Part 6: Section 92-11.5-3-a to b of the code is amended to read:

92-11.5. Transaction Involving Article Not Owned.

3. PENALTY. a. Any person violating this section shall, upon conviction for a first offense, forfeit not less than ~~[[\$50]]~~ >>\$200<< nor more than \$1,000, together with the costs of prosecution, and, in default of payment, may be imprisoned as provided by law.

b. Any person violating this section shall, upon conviction for a second or subsequent offense, forfeit not less than ~~[[\$500]]~~ >>\$750<< nor more than \$2,000, together with the costs of prosecution, and in default of payment, may be imprisoned as provided by law.

Part 7: Section 92-13-3-b of the code is amended to read:

92-13. Transaction Description Records.

3. WEBSITE RECORD ENTRY FAILURES.

b. If website post or upload failures are determined to be due to the licensee's system or internet connection, a licensee shall be charged a ~~[[\$100]]~~ >>\$200<< daily penalty beginning on the fourth business day following the initial post or upload failure and continuing until the transaction description records are again posted and uploaded to the police-approved Internet website. The Police department may delay, reduce or forego daily reporting penalties for posting or uploading failures as the chief of police, or the chief's designee, sees fit without cause.

c. A licensee shall post or upload to the police-approved Internet website all transaction description records described in ~~[[par]]~~ >>part<< [[a]] >>and<< no later than the close of the second business day following correction of the technical malfunction. Licensees shall be charged a ~~[[100]]~~ >>200<< daily penalty beginning on the third business day following correction of the technical malfunction and continuing until all transaction description records in arrears are properly posted and uploaded to the police-approved Internet website. The police department may delay, reduce or forego daily reporting penalties for posting or uploading failures as the chief of police, or the chief's designee, sees fit without cause.

..LRB
APPROVED AS TO FORM

Legislative Reference Bureau

Date: _____

..Attorney

IT IS OUR OPINION THAT THE ORDINANCE
IS LEGAL AND ENFORCEABLE

Office of the City Attorney

Date: _____

..Requestor

..Drafter

Kari B. Gipson

LRB 171687-2

10/23/2018