



Legislation Text

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ORDINANCE AMENDING TITLE VIII, BUSINESS AND OCCUPATIONS, OF THE REVISED GENERAL ORDINANCES OF THE CITY OF NEWARK, NEW JERSEY, 2000, AS AMENDED AND SUPPLEMENTED, BY ADDING CHAPTER 31, REGULATION OF THE PURCHASE OF SECONDHAND CELL PHONES AND OTHER WIRELESS COMMUNICATION EQUIPMENT BY PAWNBROKERS AND SECONDHAND DEALERS

Sponsors: Ramos/Osborne

WHEREAS, the City of Newark has seen an increase in criminal activity associated with the theft and resale of cell phones and other wireless communications devices to secondhand dealers; and

WHEREAS, the lack of adequate records of these transactions and the identity of the sellers have made it difficult for law enforcement to track the businesses and perpetrators involved in these illegal transactions; and

WHEREAS, it is hereby declared to be the purpose of this ordinance to use the inherent power of a municipality to protect and regulate the health, welfare, and safety of its citizens and exercise its police powers to require businesses to keep adequate records of transactions involving the purchase of secondhand cell phones and other wireless communications devices; and

WHEREAS, it is hereby declared to be in the best interests of the health, safety and welfare of the residents of the City of Newark to require businesses to ask sellers of secondhand cellphones and other wireless communications devices to produce identification and have their information recorded prior to completing any transactions.

NOW, THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF NEWARK, NEW JERSEY, THAT:

Section 1. Title VIII, of the Revised General Ordinances of the City of Newark, New Jersey, 2000, shall be amended by including a new Chapter 31, Regulation of the Purchase of Secondhand Cell Phones and other Wireless Communication Equipment by Secondhand Dealers.

8:31-1. Definitions

In this Chapter, the following words and phrases shall have the meanings stated in this Section, unless the context otherwise requires:

Wireless Communication Device means any device through which personal wireless services, as defined in 47 U.S.C. 332(c)(7)(C)(i), are transmitted.

Secondhand Dealer means any person who engages in the business of purchasing, selling, receiving, trading, consignment selling or otherwise transferring for value any secondhand property. This shall not include providers of commercial mobile service, as defined in 47 USC 332(d), and such provider's authorized agents and retailers that have contractual relationships with the provider to sell the provider's authorized products and

services.

Secondhand Property means any previously owned device or equipment.

8:31-2. Maintenance of records.

a. At the time of each transaction, each Secondhand Dealer must document the description of each cell phone or wireless communication device and shall include the Mobile Equipment Identifier (MEID), International Mobile Station Equipment Identity (IMEI) or Electronic Serial Number (ESN) of the Wireless Communication Device.

b. The record under this subsection shall also contain a receipt with the purchase amount and a statement that the person selling the device is of lawful age; that the driver's license number or other government-issued identification number and all other identifying information provided by the seller of such property are true and correct; and that the person selling such property is the lawful owner of such article of property with absolute authority to sell such property.

8:31-3. False Statements - Prohibited.

It shall be unlawful for any person who sells a cell phone or Wireless Communication Device to a Secondhand Dealer to submit false or fraudulent information on any receipt required under this section.

8:31-4. Identification of Seller - Required.

a. Prior to purchase, every Secondhand Dealer shall require two forms of identification to be shown by each person attempting to sell any cell phone or wireless communication device. At least one of the two forms of identification must list the person's name and residence address. At least one of the two forms of identification must be a photographic identification issued by a federal, state or local governmental entity. Forms of identification may include, but are not limited to, a state driver's license, a state identification card, a passport, a military identification card, or a credit card or utility bill.

b. If the seller does not have a photographic identification card issued by a federal, state or local governmental entity, the business shall photograph the customer. The photograph shall be in color. On the reverse side of the photograph, the secondhand dealer shall record the seller's name, residence address, and date of birth, gender, height and weight.

8:31-5. Removal of identifying marks prohibited.

No Secondhand Dealer shall remove, alter or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon a cell phone or Wireless Communication Device. In addition, no business shall purchase a cell phone or wireless communication device where the manufacturer's make, model, or serial number, personal identification number or identifying marks engraved or etched upon the device has been removed, altered or obliterated.

8:31-6. Inspection of Records.

The records required under this Section shall, at all times during the Secondhand Dealer's business hours, be open to inspection by any member of the police force or designee.

8:31-7. Violation and Penalty.

In addition to any other penalty provided by law, any person, firm, corporation, limited liability company, partnership or other business entity or commercial establishment of any type whatsoever violating the provisions of this Section or any other sections in this chapter shall, upon conviction, pay a fine of at least one hundred (\$100.00) dollars but not more than five hundred dollars (\$500.00) and may be subject to imprisonment for not more than sixty (60) days. A separate offense shall be deemed committed on each transaction.

Section 2. Repealer.

All ordinances and provisions thereof inconsistent or conflicting with the provisions of this ordinance shall be repealed to the extent of such conflict or inconsistency.

Section 3. Severability.

If any paragraph or provision of this ordinance shall be adjudicated invalid or unenforceable, such determination shall not, to the extent severable, affect any other paragraph or provision of this ordinance, which shall otherwise remain in full force and effect.

Section 4. Effective Date.

This ordinance shall Take effect upon final passage and publication in accordance with the laws of the State of New Jersey.

STATEMENT

This ordinance amends Title VIII, Businesses and Occupations, to require all businesses in the City of Newark that purchase secondhand cellphones and other wireless communication equipment to maintain adequate records of the transactions and require identification be produced by the seller of the devices.