

1999 SENATE POLITICAL SUBDIVISIONS

SB 2370


1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2370

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 5, 1999

Tape Number	Side A	Side B	Meter #
2	x		1786 - 2487
Committee Clerk Signature 			

Minutes:

SENATOR LEE: introduce SB2370, see testimony

SENATOR FLAKOLL: 50 per item

SENATOR LEE: correct, we are trying to protect the more expensive items

SENATOR FLAKOLL: items sold at antiques shops, furniture or other items like baseball cards and other items

SENATOR LEE: items that are sold for more than 50

SENATOR LYSON: anyone else in favor of SB2370

DICK PECK: support of this bill, see letter of support

SENATOR LEE: questions

SENATOR FLAKOLL: what provisions or waiting periods are there before items can be sold

DICK PECK: cant answer that



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Senate Political Subdivisions Committee

Bill/Resolution Number Sb2370

Hearing Date February 5, 1999

SENATOR LEE: any questions for Mr. Peck, copy of letter

REPRESENTATIVE Randerfeldt: opposed to bill in the current form but have the amendments which to add to the bill, amend out antique dealers and flea market people

SENATOR LEE: shut these businesses down with the forms that have to be bought because of this bill

SENATOR LEE: working well in other states, illumination of second hand stores

REPRESENTATIVE RANDERFELT: second hand stores in other states and having to be involved with these forms in other states

SENATOR LEE: any other questions

RALF MAUDER: Bismarck police department: SUPPORT FOR THIS BILL

SENATOR WATNE: what are the differences in the regulations between Minot and Bismarck

RALF MAUDER: Minot regulations and being tougher

SENATOR WATNE: Minot is stricter

SENATOR LEE: several cities that regulate this but nothing to keep the regulations uniform

RALF MAUDER: correct, looking at ordinance revision, uniformity would be beneficial

SENATOR LEE: how do you see the concern about pawn broker regulations

RALF MAUDER: second hand stores or pawn shops are a good place to dispose of stolen property

SENATOR LEE: 50 dollar figure

RALF MAUDER: NO, not a problem with this figure

MICHEAL MAHLUM: Opposed, see testimony

SENATOR WATNE: record keeping and whether it's a law or done voluntarily

MICHEAL MAHLUM: pawn brokers license and whether we need one or not, and telling of how items are stolen or not

SENATOR WATNE: what % of business is under 18

MICHEAL MAHLUM: don't have a hard figure to give you

SENATOR NELSON: definitions of pawn shops and second hand stores and how are you licensed

MICHEAL MAHLUM: as a retail outlet

SENATOR NELSON: base ball cards and what are the definitions of these businesses that sell these different kinds of items

MICHEAL MAHLUM: selling of a Vanilla Ice item

SENATOR NELSON: store is covered by this bill

SENATOR LEE: Fargo ordinance and dealing with people under 18, draft for Bismarck

MICHEAL MAHLUM: local subdivisions dealing with this as necessary, need for state law regarding this issue

SENATOR LEE: items not under 50

MICHEAL MAHLUM: over 50, and dispute with this bill

SENATOR LEE: clarification

MICHEAL MAHLUM: eye color and height not needed

SENATOR LEE: not intent of bill, concerned about this issue, benefit of having a state law and uniformity of having this law

MICHEAL MAHLUM: small scale purchases excluded, identification of people

SENATOR LEE: see the logistics of having a business man

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Senate Political Subdivisions Committee  
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MICHEAL MAHLUM: keeping in contact

LARRY SCHNIDER: see testimony

SENATOR LEE: any questions and confidentiality

LARRY SCHNIDER: making a shipment as an example

SENATOR LEE: talking to the postmaster, discussion

DISCUSSION

SENATOR LEE: catching the criminal verses returning the material stolen and efforts made to document this

LARRY SCHNIDER: wont do any good to document this

PERCY FIEBELSTED: OPPOSITION because of record keeping

SENATOR LEE: any questions

SENATOR LYSON: antique store and example of rocker that stolen from his farm, got to protect the public

SENATOR LEE: manage every bodies rights

PERCY FIEBELSTAD: working with everyone and reselling of items and regulation of good guys

SENATOR FLAKOLL: gun buying and laws that apply to this

PERCY FIEBELSTED: laws regarding guns are very strict and very different

SENATOR LEE: closed on SB2370

**FEBRUARY 12, 1999**

**MOTION: DO PASS AS AMENDED**

**BY SENATOR KELSH**

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Senate Political Subdivisions Committee

Bill/Resolution Number Sb2370

Hearing Date ~~February 5, 1999~~

2-12-99

**SECONDED BY SENATOR WATNE:**

**SENATOR LYSON: TO CARRY THE BILL ON THE FLOOR**

PROPOSED AMENDMENTS TO SENATE BILL NO. 2370

Page 1, line 2, remove "and secondhand stores"

Page 1, line 6, remove "**and secondhand stores**" and replace "person in the business of taking" with "pawnbroker"

Page 1, remove line 7

Page 1, line 8, remove "forfeiture or purchase", replace "that" with "any", and after "property" insert "the pawn broker takes in pledge or buys for resale"

Page 1, line 9, replace "pledgee or purchaser" with "pawnbroker"

Page 1, line 12, replace "pledgee or purchaser" with "pawnbroker"

Page 1, line 13, replace "pledgee or purchaser" with "pawnbroker"

Page 1, replace line 15 with "pawnbroker"

Page 1, line 16, remove "selling that property to the public after forfeiture purchase"

Renumber accordingly

February 11, 1999

2-11-99  
212177  
1182

PROPOSED AMENDMENTS TO SENATE BILL NO. 2370

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 51 of the North Dakota Century Code, relating to pawnshops and certain secondhand stores; and to provide a penalty.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

**SECTION 1.** A new chapter to title 51 of the North Dakota Century Code is created and enacted as follows:

**Definitions.** In this chapter:

1. "Pawnshop" means a business in which money is loaned at interest in exchange for personal property left as security.
2. "Secondhand store" means a business that buys and sells previously used merchandise and the majority of the items purchased or sold are purchased or sold for consideration exceeding fifty dollars per item. The term does not include a business that deals mainly in used clothing or sports items or memorabilia.

**Identification and recordkeeping.**

1. If a person working in a pawnshop or secondhand store takes a pledge or buys an item for consideration exceeding fifty dollars, that person shall:
  - a. Require the pledgor or seller to present two forms of identification, including one photograph identification.
  - b. Record the pledgor's or seller's social security number or motor vehicle operator's license identification number, and record the consideration given.
  - c. Require the pledgor or seller to sign the form on which the information required under subdivision b is recorded.
2. A person working in a pawnshop or secondhand store may not take in pledge or buy personal property exceeding fifty dollars from anyone under eighteen years of age.
3. Before a person working in a pawnshop or secondhand store may sell an item for consideration exceeding fifty dollars, the person shall obtain the name and address of the buyer and verify the buyer's name through one form of picture identification.

**Inspection of records.** Any record required to be kept by this chapter is open to inspection by law enforcement officers during regular business hours.

**Application in home rule cities and counties.** A home rule charter or ordinance implementing a home rule charter of a city or county may not be less stringent than the requirements of this chapter.

**Penalty.** A person who willfully violates this chapter is guilty of an infraction."

Renumber accordingly

Date: 2-12-99  
Roll Call Vote #:

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2370

Senate Political Subdivisions Committee Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number Do pass as amended

Action Taken Do pass as amended

Motion Made By Watne Seconded By Flakoll

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	/				
Senator Lyson (Vice-Chairman)	/	open			
Senator Flakoll	/				
Senator Watne	/				
Senator Kelsh	/				
Senator Nelson	/				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment Sen. Lee

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**SB 2370: Political Subdivisions Committee (Sen. Lee, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2370 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new chapter to title 51 of the North Dakota Century Code, relating to pawnshops and certain secondhand stores; and to provide a penalty.

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**Application in home rule cities and counties.** A home rule charter or ordinance implementing a home rule charter of a city or county may not be less stringent than the requirements of this chapter.

**Penalty.** A person who willfully violates this chapter is guilty of an infraction."

Renumber accordingly

1999 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2370

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2370

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-1-99

Tape Number	Side A	Side B	Meter #
1		x	4685 - end
2	x		0 - 3670
Committee Clerk Signature <i>Lisa Horner</i>			

Minutes: **SB 2370**

Sen. Lee introduced SB 2370 relating to Pawnshops and certain secondhand stores; and to provide a penalty. (See written testimony)

Rep. Aarsvold testified in support of SB 2370.

**End of tape 1, side B. Start tape 2.**

Ron Ness of ND Retail Assoc. testified in support of SB 2370.

**OPPOSITION**

Bonnie Heinrich testified in opposition of SB 2370. (See written testimony)

Dave McIver President of Bismarck-Mandan Chamber of Commerce testified in opposition of SB 2370. (See written testimony)

LeRoy Walker of Walker and Daughter Jewelers testified in opposition of SB 2370.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number Sb 2370

Hearing Date 3-1-99

Chairman Berg: Are there any cases where you have purchased any stolen items?

LeRoy Walker: Yes. The person who sold the item to me admitted it and I was the one that was out the money for the sale of the item.

Larry Naegle testified in opposition of SB 2370.

This could make it easier for the criminal to get a hold of certain items if there were a list that could be made available to them.

Larry Schneider testified in opposition of SB 2370. Handed out a brochure on security systems from MDU.

Bob Rood testified in opposition of SB 2370.

Carole Bordenkercker testified in opposition of SB 2370.

Rep. Keiser made a motion for a Do Not Pass.

Rep. Ekstrom second the motion.

The roll call vote was 14 yea, 0 nay, 1 absent.

The motion carried.

Rep. Brekke will carry the bill.

Date: 3-1-99  
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. SB 2370

House Industry, Business and Labor Committee

Subcommittee on \_\_\_\_\_  
or  
 Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken do not pass

Motion Made By Keiser Seconded By Ekstrom

Representatives	Yes	No	Representatives	Yes	No
Chairman Berg	/		Rep. Thorpe	/	
Vice Chairman Kempenich	/				
Rep. Brekke	/				
Rep. Ekstrom	/				
Rep. Froseth	/				
Rep. Glassheim	/				
Rep. Johnson	/				
Rep. Keiser	/				
Rep. Klein	/				
Rep. Koppang	/				
Rep. Lemieux					
Rep. Martinson	/				
Rep. Severson	/				
Rep. Stefonowicz	/				

Total (Yes) 14 No \_\_\_\_\_

Absent 2

Floor Assignment Brekke

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)  
March 1, 1999 4:33 p.m.

Module No: HR-36-3818  
Carrier: Brekke  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**

**SB 2370: Industry, Business and Labor Committee (Rep. Berg, Chairman)** recommends **DO NOT PASS** (13 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2370 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2370



**To:** Senator Judy Lee

**From:** Arland H. Rasmussen, Chief of Police

**Subject:** Pawnshops (SB 2370)

**Date:** February 12, 1999



## MEMORANDUM

I would like to state my support for SB 2370. Our community is a growing bedroom community. Luckily we do not have a lot of violent crime. Most crime that occurs is related to thefts of property.

Just like other crimes or events it is easy to notice and focus on large or especially serious events that occur in our lives and or community. However, as we focus on those few, many other smaller events are also taking place that do not get our attention and sometimes are considered insignificant. This is true also and especially in thefts. While a large theft makes news and people are alarmed that something like that could happen often times many smaller thefts are occurring also that if added up really are more significant than that large theft.

This is where I see the pawnshop bill can help us in law enforcement help our average crime victim. This bill doesn't address "the big one", it addresses the needs of the average citizen that often times is missed as we "fish to hard for that big one".

Please support SB-2370.

POLITICAL SUBDIVISIONS COMMITTEE

February 5, 1999

Testimony: S.B.2370

By: Senator Judy Lee

Senate Bill 2370 will require pawnshops and secondhand stores to keep records of purchasers of items valued at more than \$50 and will not permit such businesses to purchase items from people under 18 years of age.

Ordinarily I might not be familiar with this issue, but an incident involving someone in my family brought a big problem to my attention. My father who was living in an assisted living facility in Minnesota had several items stolen from him, including a diamond ring which was given to him by my mother. Eventually the offender, a caregiver at the facility, was caught. The law says that the rightful owner is entitled to have the stolen property returned, but the ring had been pawned. If it had been pawned in Moorhead, MN or Sioux Falls, SD, records of the purchaser would have been available and the ring, valuable for sentimental as well as financial reasons, could have been returned to the owner. But because North Dakota has no such requirements, the ring could not be retrieved, even though the police had a copy of the pawn ticket for the ring.

Attached to this testimony is a copy of an article from the Walsh County Record which discusses the problem with break-ins in rural homes and the resulting thefts. There have been many incidents of that type in our rural areas, and in many instances the stolen merchandise turns up in second-hand shops. In one case, the victim of such a theft saw her own furniture in a local store! Record-keeping would at least allow a chance at retrieving such items, and it also might deter the thefts, if the thieves knew it would be difficult to profit from the crime.

In conversations with various law enforcement officers from throughout ND, I have learned that pawning of stolen goods is a huge problem. Several thousand pawns take place each week in my home area, and the police can do little to trace the items. Pawning stolen jewelry, electronic equipment such as TVs and VCRs, tools, and compact discs is a proliferating problem.

This bill calls for identifying buyers of items selling for more than \$50. If the items were stolen, the buyers are entitled to their money back, when the items are returned to the rightful owners. I hope it might also make pawnshop owners a bit more careful about purchasing items which might have been stolen.

The 18-year age component should help control the ongoing problem of stolen CDs being pawned. There is a big problem with CDs being stolen and then sold at second-hand music shops.

Please give law enforcement a simple tool which they need to have to complete their investigations and permit people, such as my father, to recover what is rightfully theirs. I urge your support of SB 2370.

Senator Judy Lee

Proposed amendments to SB 2370

February 5, 1999

page 1, line 10 after number add "or birth date"

page 1 line 14 after the period insert "Any record required to be kept by this section is open to inspection by a law enforcement officer during regular business hours."

# Rural homes fall victim to 'treasure hunters'

By Susan Suda

REGIONAL—Oval hall table vintage 1910, Blue Danube pattern china, carnival glass items, 1847 Rodgers 12-place setting silver plate with serving pieces; the list of items stolen from Junis Dostert's western Walsh County home goes on and on.

Dostert's home is just one of many homes in the region that have been broken into in recent months. Chief deputy Bob Thomas of the Walsh County Sheriff's Department said five such cases have been reported to his office.

"Most are vacant farmsteads where families have moved into town and left property unattended," Thomas said. "That's the type of place these people are seeking."

He said items taken include furniture, dishes and crocks or "anything antique looking."

Similar incidents have occurred in surrounding counties. Pembina County Sheriff Joe Martindale said he received one report of theft from a rural home.

"They call it treasure hunting," Martindale said. "They go out and steal items, then go and re-sell them."

Cavalier County Sheriff David Zeis said four incidents of rural theft have been reported to his office in the past month. The homes were either abandoned or hadn't been lived in for several years. Again, items stolen were ones which appeared to be antiques.

## Treasured memories

A break-in last month at an empty farm house near Edmore resulted in several items being taken, including an 80-year-old china cabinet. The nephew of the home owner, who wished to remain anonymous, said the thieves took several older-looking items.

"They pretty much take what they want," he said.

Raymond and Alice Setness moved off their rural Adams farm five years ago, and this spring the home was broken into more than once.

Alice said not too many items were taken during the first break-in.

"They had taken some dishes that we had left in the cupboards," she said. "They hadn't taken so much, but they had dug in everything there was."

While the doors were locked, a second break-in occurred in which an antique trunk, two older stereos and a few more items were taken. Since then, she said they removed

anything worth value to them, and have had a third break-in.

"It was locked up, but that doesn't mean a thing," Alice said.

Not all the homes broken into were abandoned. Dostert, who had been visiting a daughter in Moorhead, had clothes in her closet and pictures on the piano. She had a neighbor check her home daily during her absence, and it was he who noticed something amiss after Easter weekend.

"He came in and right away thought, 'didn't Junis have some blue dishes over there?'" Junis said. "Then, he looked in the kitchen and saw the set of china canisters missing."

From the kitchen and dining room, the intruders went to the living room. There, they took pictures off a 1910 circa end table, moved a different end table with little value into its spot and put the pictures back.

Next, it was into her bedroom to sort through dresser drawers containing all her jewelry. In addition to the costume jewelry, also taken

Break-ins: See page A-8



Junis Dostert shows the photograph of her grandmother that was ripped from its frame by thieves. The pile of newspapers right once wrapped crates of carnival glass that were also stolen.



Thieves took two posters like this one when they entered Dostert's home. (Photos by Larry Birn)

## Break-ins: Continued from page A-1

were a pair of earrings one of Junis' daughters brought back from Israel.

Upstairs in a linen closet, behind some sheets, sat an antique alarm clock engraved with the name of Junis' grandfather, John Rorvik. The thieves also took that.

"They knew how to ransack a house, not a single sheet was out of place," Junis said. "That's good; that's really good."

Up in the attic, barrel crates which once held individually wrapped pieces of carnival glass collected by Junis' mother were unwrapped and taken. Left behind were the empty barrels and a pile of newspapers which once safe-guarded the items.

"They had to have been in here at least two or three hours," Junis said. "Every individual glass was unwrapped and looked at."

A trunk containing framed photographs of Junis' ancestors was also scanned through. A photo of her grandmother was ripped from its oval frame and glass covering. Other photos, in less valuable frames, were left untouched.

Having lived in various cities throughout the United States, she said she finds it hard to believe her rural North Dakota home was broken into.

"I've lived in Colorado, Texas, Florida, Washington, D.C., and never been robbed," Junis said. "I have to come home to the house I was born in to be robbed."

She has since distributed a poster containing a list of the stolen collectibles to antique dealers in various states including Minnesota and Texas. Junis is also offering a \$300 reward to anyone with information

leading to the recovery of items.

Area sheriffs said there are precautions residents can take.

"If they see a strange vehicle in the area, write down the license plate number and get a good description of the vehicle," Martindale said.

Zeis encouraged people to take any valuables with them when leaving a rural residence for an extended period.

"If anyone is living away from their farm, make sure they take these items with them," Zeis said. "It's an open invitation for people looking for these kind of antiques."

While Thomas said the main focus of these burglaries appears to be in western Walsh County, he said anyone witnessing suspicious activity is asked to call the Sheriff's Department at (701) 352-2041.

**COMMANDER OF POLICE INVESTIGATIONS DIVISION  
MINOT POLICE DEPARTMENT  
CAPTAIN ALLAN HANSON**

SB2370

515 2ND AVE S.W.  
MINOT, N.D. 58701

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Phone 701-852-0111  
Office Phone 701-857-4715  
Fax 701-839-4804  
Email [cptalh@yahoo.com](mailto:cptalh@yahoo.com)

February 4, 1999.

Senate Political Subdivisions Committee

Senator Lee - chair  
Senator Lyson  
Senator Flakoll  
Senator Kelsh  
Senator Nelson  
Senator Watne

Chair Lee, and Committee members:

I would like speak for the Minot Police Dept. and go on record as supporting senate bill 2370. The bill as written is less restrictive than the current city of Minot pawn ordinance which requires the reporting of all items pawned or purchased, but we believe that this bill is a good place to start.

Please accept this letter in support of SB 2370, and my apologies for not being able to attend your committee hearing in person.

Sincerely,



Captain Hanson  
Minot Police Investigations  
Division



**OWNERS**  
Larry P. Schneider  
David A. Holwegner

**MAILING ADDRESS**  
P.O. Box 364  
Bismarck, ND 58502

**INTRODUCTION:**

Senator Lee and members of the Senate Political Subdivision Committee – my name is Larry Schneider, co-owner of the Bismarck Gold & Silver Exchange. Because of the broad scope of SB2370, I am opposed to this Bill. All of the North Dakota Precious Metal dealers throughout the state have asked me to convey to this committee their opposition to SB2370. It appears to us that the broad definition of a secondhand store includes precious metals dealers.

**BACKGROUND OF PRECIOUS METALS DEALERS:**

Precious Metals dealers routinely buy and sell precious metal investments with the general public. These investments generally consist of gold, silver, copper, and platinum metal in the form of legal tender coins. The buyers and sellers, for security reasons, want their transactions kept confidential. Investors don't want someone keeping open records of their investment activity. I personally have traded in at least forty of our states and never had to keep open records of investment trades for any of the state jurisdictions.

**BUSINESS WILL LEAVE OUR STATE:**

Because SB2370 has both a buyer and seller identification requirement, the investment public will no longer trade locally if SB2370 is passed. People will trade out-of-state via toll free telephone services or via the Internet to remain anonymous. The result will be substantial sales loss to local precious metal dealers and we will cease to exist.

**SERVICES TO THE GENERAL PUBLIC:**

Precious Metals Dealers perform a tremendous service to the public. We organize coin clubs, coin shows and many public seminars to encourage coin collecting and our youth start a hobby. The public routinely stops in coin shops for valuation of their property. Generally this appraisal service is free. If SB2370 forces the local dealers out-of-business where will our North Dakota people go for this service.

**PRECIOUS METAL DEALERS ARE NOT WITHOUT STRICT REGULATIONS:**

1. The Internal Revenue Service has reporting requirements.
2. North Dakota has some of the toughest Consumer Fraud Laws in the Nation applicable to Dealers.
3. The North Dakota Security Commission has certain regulations applicable to Dealers.
4. Most major North Dakota cities have home rule charters and can regulate most any local problem they choose to address.

Special Note: SB2370 has tougher regulations than the IRS Requirements.

In closing, Chairman Lee and Members of the Senate Political Subdivision Committee, I recommend a do not pass of SB2370.

Submitted by:

A handwritten signature in black ink, appearing to read "Larry P. Schneider".  
Larry P. Schneider

*Specializing in Rare Coins, Gold, Silver, Diamonds and Stamps* • National Teletype No. 187

Music Syndicate  
220 South 3<sup>rd</sup> Street  
Bismarck, ND 58504

Dear Legislator:

I own and run a little music shop in south Bismarck called the Music Syndicate. We are a little teensy business with seven employees, and gross under \$175,000 annually. We have been open nearly eleven years, and about half our business is buying and selling used compact discs and records (still). Over 60% of that business is in the form of discs we buy for \$2 and sell for \$3.99 or less. It's not glamorous, but that's our business.

I'm writing because SB 2370 would directly affect us.

We certainly agree with the general intent of the bill. We're not fences and don't want to contribute to anyone's larcenous gains. That's why we ID EVERYONE we buy used merchandise from, and write down the license number on the form we use that lists the CD titles. Using these techniques, we have helped the Bismarck Police Dept apprehend several thieves, including one guy's stepson who sold off chunks of his CD collection.

The bill, however, requires 2 ID's, as well as laboriously writing down much of the information that is on the card.

Let's put the two ID's in perspective. You can write a \$500 check and only show one. Who that is driving up to sell some of their disc collection has stashed a backup ID?

Then, the bill would require that, as well as noting the number, you'd have to write down the seller's height, eye color, weight, gender, and all sorts of info, as well as have a signature. If you see the license and write the number, why should you then transcribe it? Should you use a scale, or trust that the weight on the license is correct? All this for buying a two dollar CD in the middle of a Saturday afternoon when you have four people in line. Since we are a dinky little shop, the clerk is probably working all alone at the time. If you have the license number written down, why should you have to take the time to transcribe the personal data on the license?

While we don't require a signature since we feel that the license info, written in by the sales clerk (None of this "What's your expiration date malarkey) means that the clerk can testify that the transaction was completed and who it was with.

I don't like the 18 year age limit, either, since there are kids selling off the bad CD grammar gave them last Christmas. It makes certain assumptions about youth. A large percentage of our business comes from kids who buy the hit music of today and trade it in 6 months later. Kids recycle music. They listen and move on.

We are a respectable establishment at the Music Syndicate. We have as regular customers district court judges, state officials, legislators, doctors, lawyers, policemen, prosecutors, as well as the



broad public. We take seriously our responsibilities. Please don't let it be harder for us to buy a two dollar used item than it is to take a thousand dollar check.

Thank you for your attention.

Sincerely,

Michael Mahlum  
store- 222-3027  
home 222-8177  
work (brief conversation, only) 328-2687

# TESTIMONY ON SB 2370

PRESENTED BY SENATOR JUDY LEE

MARCH 1, 1999

## INDUSTRY, BUSINESS & LABOR

SB 2370 addresses a long-standing concern of law enforcement in North Dakota. It will require pawnshops and secondhand stores to keep records of purchases of items valued at more than \$50 and will not permit such businesses to purchase items from people under 18 years of age.

Pawning of stolen goods is a big problem. There have been thefts of tools from construction sites, electronic equipment from homes, and antique furniture from farm sites where occupants are absent during the winter months. The most common items which are stolen and pawned include tools, jewelry, and electronics such as TVs and VCRs. I know that the vast majority of pawnshop and second-hand store owners are ethical and cooperate with law enforcement officials in tracking down the thieves and the merchandise. But without any organized system of keeping records and sharing information, the communication breaks down. The pawnshop owners do not know where that stolen item went.

Current law says that the victim of the theft is entitled to get his/her items back. But on many occasions, when it should have been possible to retrieve important personal items for victims, the door slams shut, because the item has been sold and the owner has no idea who bought it.

Ordinarily, I might not be familiar with this issue, but an incident involving someone on my family, brought a big problem to my attention. My father, who was living in an assisted living facility in Minnesota, had several items stolen from him including a diamond ring which was given to him by my mother. Eventually the offender, a caregiver at the facility, was caught. The law says that the rightful owner is entitled to have the stolen property returned, but the ring has been pawned. If it had been pawned in Moorhead, MN or Sioux Falls, SD, records of the purchaser would have been available and the ring could have been returned to its owner. But because North Dakota has no such requirement, the ring could not be retrieved, even though the police had a copy of the pawn ticket for the ring.

Attached to this testimony is a copy of an article from the Walsh County Record which discusses the problem with break-ins in rural homes and the resulting thefts. There have been many incidents of that type in our rural areas, and in many instances, the stolen merchandise turns up in the second-hand shops. IN one case, the victim of such a theft saw her own furniture in a local store! Record-keeping would at least allow a chance of retrieving such items, and it also might deter the thefts, if the thieves knew that it would be difficult to profit from the crime.

Several thousand pawns take place each week in my home are, and the police can do little to trace the items. Some of the larger cities in North Dakota have local ordinances, but there is no statewide system that would coordinate the efforts of law enforcement in rural areas with those in the cities.

This bill defines "pawnshop" and "secondhand store", sets up requirements for identification and record keeping, and allows records to be examined by law enforcement officials. Home ~~for~~<sup>rule</sup> cities and counties could have more stringent rules than this, but this bill provides a basic level of enforcement. It calls for identifying sellers and buyers of items being bought or sold for more than \$50.00. I hope that it also might make pawnshop owners a bit more careful about purchasing items which might have been stolen.

The 18 year old age portion of the bill is not intended to prevent a teenager from returning a CD he or she got for a birthday gift, that is the wrong kind of music. CDs would fall far below the \$50 limit in the bill. But it would mean that if a teenage stole a TV set and tried to pawn it, that an adult would have to sign for the transaction and would be responsible.

Representatives of city police departments and other law enforcement officials favor the bill. The amendments added in the Senate were adopted as a result of cooperative efforts among interested parties. One police chief state that he sees this bill as enabling law enforcement to help our average crime victim. While large thefts make news and people are alarmed that something like that could happen, often times, many smaller thefts are occurring, that, if added up, are more significant than that large theft. This bill doesn't address the "big one"; it addresses the needs of the average citizen that often times is missed as we "fish hard for that big one."

Please give law enforcement a simple tool which they need to complete their investigations and permit people to recover what is rightfully theirs. I urge your support of SB 2370.

I'm Bonnie Heinrich, here today as an antiques and collectibles dealer.

The sponsors of this bill should be commended for attempting to help solve a real problem in North Dakota. After all, most of us in this room have been victims of theft of fencible goods.

Yet many of us are here today to oppose the bill, even though it's a definite improvement over the original version introduced in the Senate.

That had serious problems—some of them life-threatening—like the requirement that a dealer buying something at a rummage sale for resale had to ask the lady of the house for identification and carefully note down her hair color, height, and weight.

So, this hoghouse is better. But I still must oppose it, because there are a number of problems, like the following:

First, the "definitions" section, subsection 2, defining a secondhand store:

1. The bill refers only to stores dealing in a majority of items exceeding \$50—but the only way for a store to prove that is to show somebody all its transactions, so all stores will have to keep the records.
2. Then, it excludes stores that sell "memorabilia"—and no two people define that very vague word the same way (my dictionary says "items worthy of remembrance"). I pity the judge who'd have to decide.

So, though it's not clear, what the bill seems to cover is the vast bulk of North Dakota's used sales businesses—sales of used furniture, mobile homes, boats, farm machinery, farm machinery parts, books, most collectibles and antiques, and undoubtedly more. Businesses that produce \$13 million a year in North Dakota sales tax income from their \$260 million a year in taxable sales (a number that's been steadily growing).

"Identification and recordkeeping"

No. 1 in this section describes very sensible business practice for buying second-hand stuff. For the store owner, if he doesn't know the seller, had darned well better take every step he can to identify the source. After all, under current law, if he does buy something stolen, it can be confiscated and he becomes the victim when the item is returned to the rightful owner as it should be.

So any sensible dealer goes through all those outlined steps already. But under this bill, if an employee forgets one, it'll become a criminal offense rather than just gross stupidity.

No. 2 describes another sensible business practice, one most dealers adhere to carefully. However, a lot of kids like to buy or trade baseball cards, stamps, coins, and the like. So dealers make an exception for if the kid is accompanied by his parents or has their permission. This bill would allow no exception ever.

No. 3 contains one of the bill's real zingers. It would require any customer buying an item for over \$50—even if they PAY CASH—to submit identification and have their name and address taken down and put in store records for police inspection.

I don't know if any of you saw recently one of those "Candid Camera" type shows that used this as a premise for a trick—asking cash-paying customers to show identification. The indignation, swearing, and fury it created were really funny. But it wouldn't be funny to North Dakota businesses losing customers if they're forced to subject them to this treatment, thus telling the customer he's not trustworthy. He'll leave.

## “Inspection of records”

This subsection contains the other real zinger. It initiates what I strongly believe is forbidden by the U.S. Constitution as an unreasonable search. It says that the records of stores’ sales and purchases are open to search by any law enforcement officer (and that includes many besides police) during business hours—**WITHOUT A WARRANT**, without a judge’s permission, without needing a reason or grounds for suspicion.

That’s just not right, and is a terrible precedent to set—warrantless search of a private business’s records to see if maybe they could be caught at something. After all, new merchandise such as electronic equipment or furniture is also subject to frequent theft by the truckload. Would future amendments target those kinds of businesses as well?

## “Penalty”

The bill doesn’t punish the thief, or even a guilty storeowner. Only the employee or workers in the store can become guilty.

Other points to note:

1. There are no time limits; records must be kept forever.
2. The bill affects only established, storefront businesses—nobody else.

But the most serious problems with the bill are:

1. Future legislators would be seeing proposed amendments by the bushel about who the law will affect and how.
2. Our many thousands of good customers, who don’t want their privacy invaded so that records of what they’ve paid for things and what they’ve bought and sold are open for inspection, will take their business elsewhere, especially when they’re treated like suspicious characters.
3. Many good, honest, hardworking business people will be burdened with keeping thousands of useless records forever on the grounds that their business is just not trustworthy.
4. And, while they’re doing this and losing business, the thieves and fences will be selling under the counter, privately, over state lines, on the internet, and paying no attention to this law at all. If you were a fence, would you keep careful records of your transactions? And if you were a thief, would you use your own ID?

In short, this bill punishes the wrong people. That’s why so many of us are here today—to tell you that this big and growing business in North Dakota is not dishonest, as this bill implies. To agree that something should be done about this problem—but that this bill won’t help, and for many of us could mean real hurt.

It’s hard to know what to suggest instead. It would be most difficult to suggest amendments, for the basic problems I see are the guts of the bill. And, when an amendment is added, such as the exclusion in the definitions section of used clothing and sports equipment stores (suggested by the Retailers Association to exclude two of their members), more problems emerge. For the bill now excludes stolen fur coats and what I understand is the most stolen item in the country today—graphite-shafted golf clubs.

I only wish we had a bill, instead, to really help all of us. Perhaps increasing the penalties for fencing and theft. Perhaps a communications system where, at least in some cases, the pertinent kinds of businesses across the state are alerted to items stolen and could help nab the perpetrators. Perhaps a

statewide police task force to really co-ordinate and concentrate on the problem. I just don't know what to suggest right now other than more thorough study.

But, please—not this bill. I don't think North Dakotans—and I'm talking about the vast bulk of them, the honest ones—would stand for what this bill would do to their privacy, and their reputations, and their businesses.



Fifty-Sixth Legislative Assembly  
Of North Dakota

March 1, 1999  
House IB& L Committee

Testimony of Dave MacIver, President  
Bismarck-Mandan Chamber of Commerce  
On SB 2370

Chairman Berg, members of the committee, my name is Dave MacIver, President of the Bismarck-Mandan Chamber of Commerce, an organization representing roughly one thousand businesses in Bismarck and Mandan. Thank you for this opportunity for us to discuss our opposition to Senate Bill 2370.

First, let me make one point very clear, the Chamber understands and appreciates the need for Law Enforcement to be able to track stolen merchandise. However, we believe this bill is not the way to do it, for several reasons:

- We feel this measure imposes unnecessary mandates on business. It requires business owners to ask for identification from *buyers and sellers* of merchandise over \$50, and requires them keep records of all *sales and purchases* of everything over \$50. With the exception of maybe a gun dealer, no business is required to keep such records.
- We also feel this measure is poorly worded. Page 1, lines 9 and 10 refer to “previously used merchandise”. That’s a pretty wide door that could be opened to such things as auto and farm machinery parts, appliances, bicycles, boats, computers and many other items too numerous to mention.

Testimony of Dave MacIver, President  
Bismarck-Mandan Chamber of Commerce  
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- Frankly, it's a burden on the customer. Imagine yourself going into a gold and silver dealer, laying out \$400 cash for some rare coins, only to have the clerk ask for your name, address and telephone number. If you were a collector, would you really want someone keeping a record of what you were buying??

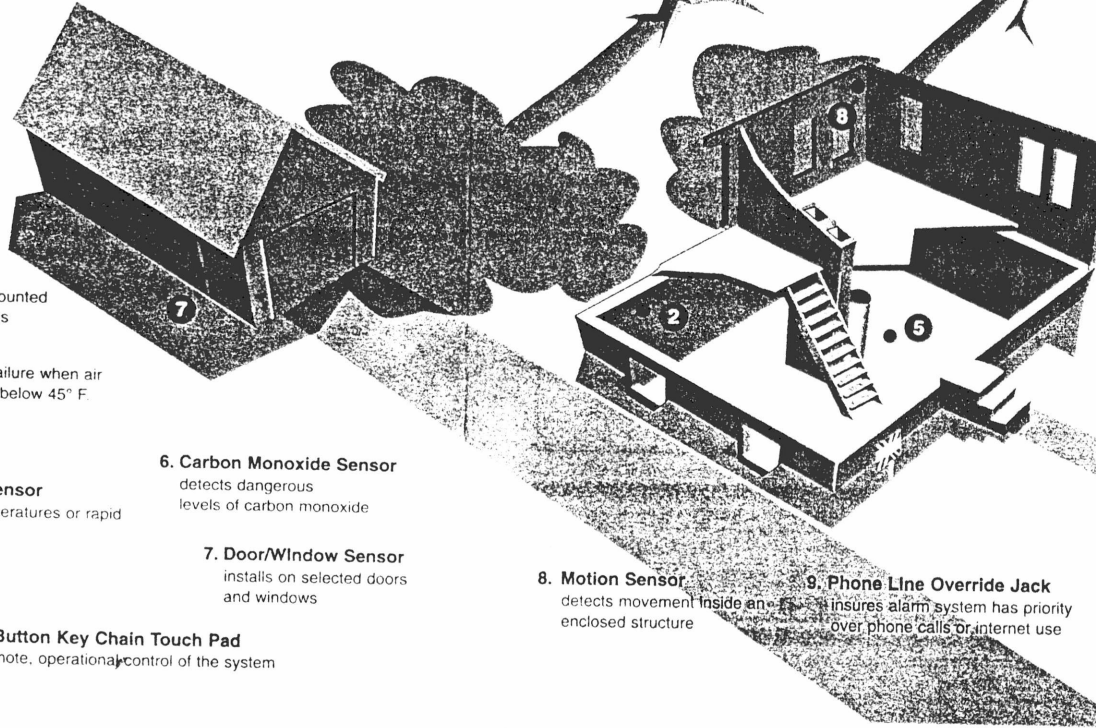
Mr. Chairman, members of the committee, there are numerous other arguments that can be made against this bill and I'm going to leave those up to several Chamber-member businesses that would be forced to deal directly with this proposal if it became law.

With that, I'll end my testimony and be happy to answer any questions.





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**HOME SECURITY**

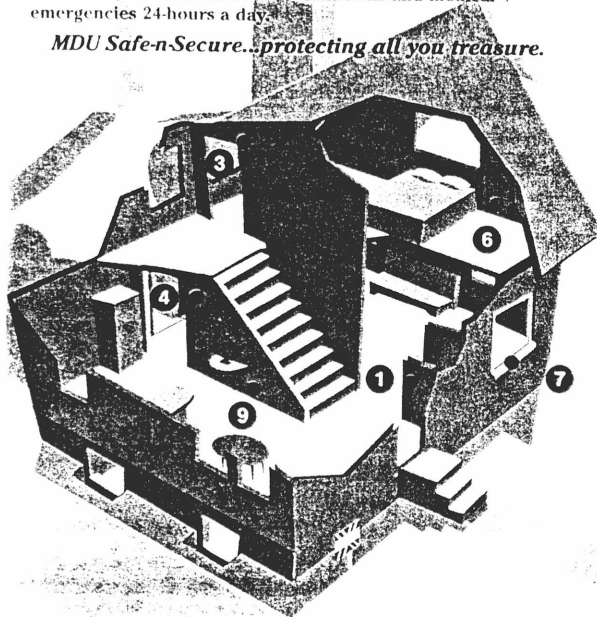
*You're in control - OFF and ON as you need it!*

- If you have MDU Safe-n-Secure installed in your home, garage, remote buildings or cabin, and a door opens, a window breaks or there's movement inside, Safe-n-Secure sensors are triggered. The sensor alerts the control panel and a call is made to MDU's Monitoring Center immediately. MDU dispatchers contact whoever you've designated - you at work, your neighbor or the police.



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