

By the Committee on Law Enforcement & Crime Prevention and
Representative Bloom

1 A bill to be entitled
2 An act relating to pawnbroking, secondhand
3 dealers, and stolen property; amending s.
4 539.001, F.S.; providing that the Division of
5 Consumer Services of the Department of
6 Agriculture and Consumer Services must approve
7 the design and format of pawnbroker transaction
8 forms in consultation with the Florida
9 Department of Law Enforcement; revising
10 recordkeeping requirements for pawnbrokers to
11 provide that the sheriff or the director of the
12 department of public safety is designated as
13 the central repository for specified pawn
14 ticket information collected by the appropriate
15 law enforcement official in the county;
16 providing for submission of specified pawn
17 ticket information to the sheriff or public
18 safety director upon request; providing for the
19 submission of additional information under
20 certain circumstances; providing for a
21 statewide system for collecting and accessing
22 pawnshop ticket and secondhand dealer
23 information; requiring the Florida Sheriffs'
24 Association Statewide Task Force to administer
25 the system; providing authorized law
26 enforcement officials access to the Florida
27 Sheriffs' Association Property Recovery
28 Database; designating the sheriffs or public
29 safety directors as central repositories
30 responsible for all pawnshop ticket and
31 secondhand dealer information collected in each

1 county; requiring the sheriffs or public safety
2 directors to transfer such information to the
3 statewide property recovery database; providing
4 for the establishment of standards and
5 requirements with respect to the transfer of
6 such information; providing for access and
7 approval fees; amending s. 538.04, F.S. ;
8 providing for electronic transfer of
9 transactions of secondhand goods; authorizing
10 the appropriate law enforcement agency to
11 provide a secondhand dealer with a computer and
12 necessary equipment for the electronic transfer
13 of transactions of secondhand goods; providing
14 procedures with respect to the electronic
15 transfer of transactions of secondhand goods;
16 providing an effective date.

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18 Be It Enacted by the Legislature of the State of Florida:

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20 Section 1. Subsections (8) and (9) of section 539.001,
21 Florida Statutes, are amended to read:

22

539.001 The Florida Pawnbroking Act.--

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(8) PAWNBROKER TRANSACTION FORM.--

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(a) At the time the pawnbroker enters into any pawn or
25 purchase transaction, the pawnbroker shall complete a
26 pawnbroker transaction form for such transaction, including an
27 indication of whether the transaction is a pawn or a purchase,
28 and the pledgor or seller shall sign such completed form. The
29 agency, in consultation with the Florida Department of Law
30 Enforcement, must approve the design and format of the
31 pawnbroker transaction form, which must be 8 1/2 inches x 11

1 inches in size and elicit the information required under this
2 section. In completing the pawnbroker transaction form, the
3 pawnbroker shall record the following information, which must
4 be typed or written indelibly and legibly in English.

5 (b) The front of the pawnbroker transaction form must
6 include:

- 7 1. The name and address of the pawnshop.
- 8 2. A complete and accurate description of the pledged
9 goods or purchased goods, including the following information,
10 if applicable:
 - 11 a. Brand name.
 - 12 b. Model number.
 - 13 c. Manufacturer's serial number.
 - 14 d. Size.
 - 15 e. Color, as apparent to the untrained eye.
 - 16 f. Precious metal type, weight, and content, if known.
 - 17 g. Gemstone description, including the number of
18 stones.
 - 19 h. In the case of firearms, the type of action,
20 caliber or gauge, number of barrels, barrel length, and
21 finish.
 - 22 i. Any other unique identifying marks, numbers, names,
23 or letters.

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25 Notwithstanding sub-subparagraphs a.-i., in the case of
26 multiple items of a similar nature delivered together in one
27 transaction which do not bear serial or model numbers and
28 which do not include precious metal or gemstones, such as
29 musical or video recordings, books, and hand tools, the
30 description of the items is adequate if it contains the
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1 quantity of items and a description of the type of items
2 delivered.

3 3. The name, address, home telephone number, place of
4 employment, date of birth, physical description, and right
5 thumbprint of the pledgor or seller.

6 4. The date and time of the transaction.

7 5. The type of identification accepted from the
8 pledgor or seller, including the issuing agency and the
9 identification number.

10 6. In the case of a pawn:

11 a. The amount of money advanced, which must be
12 designated as the amount financed;

13 b. The maturity date of the pawn, which must be 30
14 days after the date of the pawn;

15 c. The default date of the pawn and the amount due on
16 the default date;

17 d. The total pawn service charge payable on the
18 maturity date, which must be designated as the finance charge;

19 e. The amount financed plus the finance charge that
20 must be paid to redeem the pledged goods on the maturity date,
21 which must be designated as the total of payments;

22 f. The annual percentage rate, computed according to
23 the regulations adopted by the Federal Reserve Board under the
24 federal Truth in Lending Act; and

25 g. The front or back of the pawnbroker transaction
26 form must include a statement that:

27 (I) Any personal property pledged to a pawnbroker
28 within this state which is not redeemed within 30 days
29 following the maturity date of the pawn, if the 30th day is
30 not a business day, then the following business day, is
31 automatically forfeited to the pawnbroker, and absolute right,

1 title, and interest in and to the property vests in and is
2 deemed conveyed to the pawnbroker by operation of law, and no
3 further notice is necessary;

4 (II) The pledgor is not obligated to redeem the
5 pledged goods; and

6 (III) If the pawnbroker transaction form is lost,
7 destroyed, or stolen, the pledgor must immediately advise the
8 issuing pawnbroker in writing by certified or registered mail,
9 return receipt requested, or in person evidenced by a signed
10 receipt.

11 (IV) A pawn may be extended upon mutual agreement of
12 the parties.

13 7. In the case of a purchase, the amount of money paid
14 for the goods or the monetary value assigned to the goods in
15 connection with the transaction.

16 8. A statement that the pledgor or seller of the item
17 represents and warrants that it is not stolen, that it has no
18 liens or encumbrances against it, and that the pledgor or
19 seller is the rightful owner of the goods and has the right to
20 enter into the transaction.

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22 Any person who knowingly gives false verification of ownership
23 or gives a false or altered identification and who receives
24 money from a pawnbroker for goods sold or pledged commits:

25 a. If the value of the money received is less than
26 \$300, a felony of the third degree, punishable as provided in
27 s. 775.082, s. 775.083, or s. 775.084.

28 b. If the value of the money received is \$300 or more,
29 a felony of the second degree, punishable as provided in s.
30 775.082, s. 775.083, or s. 775.084.

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1 (c) A pawnbroker transaction form must provide a space
2 for the imprint of the right thumbprint of the pledgor or
3 seller and a blank line for the signature of the pledgor or
4 seller.

5 (d) At the time of the pawn or purchase transaction,
6 the pawnbroker shall deliver to the pledgor or seller an exact
7 copy of the completed pawnbroker transaction form.

8 (9) RECORDKEEPING; REPORTING; HOLD PERIOD.--

9 (a) A pawnbroker must maintain a copy of each
10 completed pawnbroker transaction form on the pawnshop premises
11 for at least 1 year after the date of the transaction. On or
12 before the end of each business day, the pawnbroker must
13 deliver to the appropriate law enforcement official the
14 original pawnbroker transaction forms for each of the
15 transactions occurring during the previous business day,
16 unless other arrangements have been agreed upon between the
17 pawnbroker and the appropriate law enforcement official. The
18 sheriff, as chief law enforcement officer of the county, or
19 the director of the department of public safety when there is
20 no sheriff, is designated as the central repository for pawn
21 ticket information collected by the appropriate law
22 enforcement official in the county as provided in
23 subparagraphs (8)(b)1., 2., and 4. Upon request by the sheriff
24 or public safety director, the appropriate law enforcement
25 official shall submit the pawn ticket information as provided
26 in subparagraphs (8)(b)1., 2., and 4. to the sheriff or public
27 safety director within a time and in such form as is
28 determined by the sheriff or public safety director after
29 consultation with the appropriate law enforcement official.
30 The sheriff or public safety director, based upon a showing of
31 probable cause that a reported item has been misappropriated,

1 may request and shall receive any additional information
2 pertaining to such item as provided in subparagraphs (8)(b)
3 3., 5., and 6. or may request and receive a copy of the pawn
4 transaction form.If the original transaction form is lost or
5 destroyed by the appropriate law enforcement official, a copy
6 may be used by the pawnbroker as evidence in court. When an
7 electronic image of a pledgor or seller identification is
8 accepted for a transaction, the pawnbroker must maintain the
9 electronic image in order to meet the same recordkeeping
10 requirements as for the original transaction form. If a
11 criminal investigation occurs, the pawnbroker shall, upon
12 request, provide a clear and legible copy of the image to the
13 appropriate law enforcement official.

14 (b) If the appropriate law enforcement agency supplies
15 the appropriate software and the pawnbroker presently has the
16 computer ability, pawn transactions shall be electronically
17 transferred. If a pawnbroker does not presently have the
18 computer ability, the appropriate law enforcement agency may
19 provide the pawnbroker with a computer and all necessary
20 equipment for the purpose of electronically transferring pawn
21 transactions. The appropriate law enforcement agency shall
22 retain ownership of the computer, unless otherwise agreed
23 upon. The pawnbroker shall maintain the computer in good
24 working order, ordinary wear and tear excepted. In the event
25 the pawnbroker transfers pawn transactions electronically, the
26 pawnbroker is not required to also deliver to the appropriate
27 law enforcement official the original or copies of the
28 pawnbroker transaction forms. The appropriate law enforcement
29 official may, for the purposes of a criminal investigation,
30 request that the pawnbroker produce an original of a
31 transaction form that has been electronically transferred. The

1 pawnbroker shall deliver this form to the appropriate law
2 enforcement official within 24 hours of the request.

3 (c) There shall be a statewide system for collecting
4 and accessing pawnshop ticket and secondhand dealer
5 information as defined in chapters 538 and 539. The system
6 shall be administered by the Florida Sheriffs' Association
7 Statewide Task Force, which shall include the database known
8 as the Florida Sheriffs' Property Recovery Database. This
9 database shall be the officially recognized statewide database
10 for all pawnshop ticket and secondhand dealer information for
11 which collection is required by law.

12 1. Any law enforcement official who is authorized by
13 law, and who meets the requirements established by and is
14 approved by the Florida Sheriffs' Association Statewide Task
15 Force, shall have access to the Florida Sheriffs' Property
16 Recovery Database in a manner prescribed by the Florida
17 Sheriffs' Association Statewide Task Force.

18 2. In order to establish a more efficient and
19 effective statewide system for collecting and accessing
20 pawnshop ticket and secondhand dealer information, the
21 sheriff, as chief law enforcement officer of the county, or
22 the director of the department of public safety when there is
23 no sheriff, shall be designated as the central repository for
24 all pawnshop ticket and secondhand dealer information
25 collected in the county. Any other law enforcement agency
26 collecting this information shall deliver the information,
27 once collected, to the sheriff of the county in which it is
28 collected, or the director of the department of public safety
29 of the county in which it is collected when there is no
30 sheriff, in a manner prescribed by the Florida Sheriffs'
31 Association Statewide Task Force. Upon receiving the

1 information, the sheriff or the public safety director, as
2 appropriate, shall cause the information to be transferred to
3 the Florida Sheriffs' Property Recovery Database by electronic
4 transmission or by other means approved by the Florida
5 Sheriffs' Association Statewide Task Force. Pawn ticket
6 information initially transferred to the Florida Sheriff's
7 Association Property Recovery Database shall be the
8 information as contained in subparagraphs (8)(b) 1., 2., and
9 4. The Florida Sheriff's Task Force, based upon a showing of
10 probable cause that a reported item has been misappropriated,
11 may request and shall receive any additional information
12 pertaining to such item as contained in subparagraphs (8)(b)
13 3., 5., and 6.

14 3. The Florida Sheriffs' Property Recovery Database
15 may be accessed through "FLASH," the Florida Sheriffs'
16 statewide computer networking system, or through any other
17 means approved by the Florida Sheriffs' Association Statewide
18 Task Force.

19 4. The Florida Sheriffs' Association Statewide Task
20 Force shall establish the standards and requirements for
21 transmitting and transferring the information into the
22 statewide system and access approval and fees.

23 (d)(c) All goods delivered to a pawnbroker in a pawn
24 or purchase transaction must be securely stored and maintained
25 in an unaltered condition within the jurisdiction of the
26 appropriate law enforcement official for a period of 30
27 calendar days after the transaction. Those goods delivered to
28 a pawnbroker in a purchase transaction may not be sold or
29 otherwise disposed of before the expiration of such period.
30 The pawnbroker shall make all pledged and purchased goods and
31 all records relating to such goods available for inspection by

1 the appropriate law enforcement official during normal
2 business hours throughout such period. The pawnbroker must
3 store and maintain pledged goods for the period prescribed in
4 subsection (10) unless the pledged goods are redeemed earlier;
5 provided, however, that within the first 30 days after the
6 original pawn, the pledged goods may be redeemed only by the
7 pledgor or the pledgor's attorney in fact.

8 Section 2. Subsections (4) and (5) of section 538.04,
9 Florida Statutes, 1998 Supplement, are renumbered as
10 subsections (5) and (6), respectively, and a new subsection
11 (4) is added to said section to read:

12 538.04 Recordkeeping requirements; penalties.--

13 (4) If the appropriate law enforcement agency supplies
14 the appropriate software and the secondhand dealer presently
15 has computer capability, transactions of secondhand goods
16 shall be electronically transferred. If a secondhand dealer
17 does not presently have computer capability, the appropriate
18 law enforcement agency may provide the secondhand dealer with
19 a computer and all necessary equipment for the purpose of
20 electronically transferring transactions of secondhand goods.
21 The appropriate law enforcement agency shall retain ownership
22 of the computer, unless otherwise agreed upon. The secondhand
23 dealer shall maintain the computer in good working order,
24 ordinary wear and tear excepted. In the event the secondhand
25 dealer transfers transactions of secondhand goods
26 electronically, the secondhand dealer is not required to also
27 deliver to the appropriate law enforcement official the
28 original or copies of the secondhand goods transaction forms.
29 The appropriate law enforcement official may, for the purposes
30 of a criminal investigation, request that the secondhand
31 dealer produce an original of a transaction form that has been

1 electronically transferred. The secondhand dealer shall
2 deliver this form to the appropriate law enforcement official
3 within 24 hours of the request.

4 (5)~~(4)~~ Any person who knowingly gives false
5 verification of ownership or who gives a false or altered
6 identification, and who receives money from a secondhand
7 dealer for goods sold or pledged commits:

8 (a) If the value of the money received is less than
9 \$300, a misdemeanor of the first degree, punishable as
10 provided in s. 775.082 or s. 775.083.

11 (b) If the value of the money received is \$300 or
12 more, a felony of the third degree, punishable as provided in
13 s. 775.082, s. 775.083, or s. 775.084.

14 (6)~~(5)~~ Secondhand dealers are exempt from the
15 provisions of this section for all transactions involving
16 secondhand sports equipment except secondhand sports equipment
17 that is permanently labeled with a serial number.

18 Section 3. This act shall take effect upon becoming a
19 law.

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