

Bill No. SB 1864

Barcode 205834

CHAMBER ACTION

Senate

House

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The Committee on Banking and Insurance (Fasano) recommended the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause

and insert:

Section 1. Section 538.03, Florida Statutes, is amended to read:

538.03 Definitions; applicability.--

(1) As used in this part, the term:

(a) "Secondhand dealer" means any person, corporation, or other business organization or entity which is not a secondary metals recycler subject to part II and which is engaged in the business of purchasing, consigning, or trading ~~pawning~~ secondhand goods. ~~However, secondhand dealers are not limited to dealing only in items defined as secondhand goods in paragraph (g). Except as provided in subsection (2), the term means pawnbrokers, jewelers, precious metals dealers, garage sale operators, secondhand stores, and consignment shops.~~

Bill No. SB 1864

Barcode 205834

1           (b) "Precious metals dealer" means a secondhand dealer  
 2 who normally or regularly engages in the business of buying  
 3 used precious metals for resale. The term does not include  
 4 those persons involved in the bulk sale of precious metals  
 5 from one secondhand or precious metals dealer to another.

6           ~~(c) "Pawnbroker" means any person, corporation, or~~  
 7 ~~other business organization or entity which is regularly~~  
 8 ~~engaged in the business of making pawns but does not include a~~  
 9 ~~financial institution as defined in s. 655.005 or any person~~  
 10 ~~who regularly loans money or any other thing of value on~~  
 11 ~~stocks, bonds, or other securities.~~

12           ~~(d) "Pawn" means either of the following transactions:~~

13           ~~1. Loan of money.--A written or oral bailment of~~  
 14 ~~personal property as security for an engagement or debt,~~  
 15 ~~redeemable on certain terms and with the implied power of sale~~  
 16 ~~on default.~~

17           ~~2. Buy-sell agreement.--An agreement whereby a~~  
 18 ~~purchaser agrees to hold property for a specified period of~~  
 19 ~~time to allow the seller the exclusive right to repurchase the~~  
 20 ~~property. A buy-sell agreement is not a loan of money.~~

21           ~~(c)(e)~~ "Secondhand store" means the place or premises  
 22 at which a secondhand dealer is registered to conduct business  
 23 as a secondhand dealer, or conducts business, ~~including pawn~~  
 24 ~~shops.~~

25           ~~(d)(f)~~ "Consignment shop" means a shop engaging in the  
 26 business of accepting for sale, on consignment, secondhand  
 27 goods which, having once been used or transferred from the  
 28 manufacturer to the dealer, are then received into the  
 29 possession of a third party.

30           (e) "Acquire" means to obtain by purchase,  
 31 consignment, or trade.

Bill No. SB 1864

Barcode 205834

1           ~~(f)(g)~~ "Secondhand goods" means personal property  
 2 previously owned or used, which is not regulated metals  
 3 property regulated under part II and which is purchased,  
 4 consigned, or traded ~~pawned~~ as used property. Such secondhand  
 5 goods shall not include office furniture, pianos, books,  
 6 clothing, organs, coins, motor vehicles, costume jewelry, and  
 7 secondhand sports equipment that is not permanently labeled  
 8 with a serial number. For purposes of this paragraph,  
 9 "secondhand sports equipment" does not include golf clubs. ~~be~~  
 10 limited to watches; diamonds, gems, and other precious stones;  
 11 fishing rods, reels, and tackle; audio and video electronic  
 12 equipment, including television sets, compact disc players,  
 13 radios, amplifiers, receivers, turntables, tape recorders;  
 14 video tape recorders; speakers and citizens' band radios;  
 15 computer equipment; radar detectors; depth finders; trolling  
 16 motors; outboard motors; sterling silver flatware and serving  
 17 pieces; photographic equipment, including cameras, video and  
 18 film cameras, lenses, electronic flashes, tripods, and  
 19 developing equipment; microwave ovens; animal fur coats;  
 20 marine equipment; video games and cartridges; power lawn and  
 21 landscape equipment; office equipment such as copiers, fax  
 22 machines, and postage machines but excluding furniture; sports  
 23 equipment; golf clubs; weapons, including knives, swords, and  
 24 air guns; telephones, including cellular and portable;  
 25 firearms; tools; calculators; musical instruments, excluding  
 26 pianos and organs; lawnmowers; bicycles; typewriters; motor  
 27 vehicles; gold, silver, platinum, and other precious metals  
 28 excluding coins; and jewelry, excluding costume jewelry.

29           ~~(g)(h)~~ "Transaction" means any purchase, consignment,  
 30 or trade ~~pawn~~ of secondhand goods by a secondhand dealer.

31           ~~(h)(i)~~ "Precious metals" means any item containing any

Bill No. SB 1864

Barcode 205834

1 gold, silver, or platinum, or any combination thereof,

2 excluding:

3 ~~1. any chemical or any automotive, photographic,~~  
4 ~~electrical, medical, or dental materials or electronic parts.~~

5 ~~2. Any coin with an intrinsic value less than its~~  
6 ~~numismatic value.~~

7 ~~3. Any gold bullion coin.~~

8 ~~4. Any gold, silver, or platinum bullion that has been~~  
9 ~~assayed and is properly marked as to its weight and fineness.~~

10 ~~5. Any coin which is mounted in a jewelry setting.~~

11 ~~(i)(j)~~ "Department" means the Department of Revenue.

12 ~~(k)~~ "Pledge" means pawn or buy-sell agreement.

13 (2) This chapter does not apply to:

14 (a) Any secondhand goods transaction involving an  
15 organization or entity registered with the state as a  
16 nonprofit, religious, or charitable organization or any  
17 school-sponsored association or organization other than a  
18 secondary metals recycler subject to the provisions of part  
19 II.

20 (b) A law enforcement officer acting in an official  
21 capacity.

22 (c) A trustee in bankruptcy, executor, administrator,  
23 or receiver who has presented proof of such status to the  
24 secondhand dealer.

25 (d) Any public official acting under judicial process  
26 or authority who has presented proof of such status to the  
27 secondhand dealer.

28 (e) A sale on the execution, or by virtue of any  
29 process issued by a court, if proof thereof has been presented  
30 to the secondhand dealer.

31 (f) Any garage sale operator who holds garage sales

Bill No. SB 1864

Barcode 205834

1 less than 10 weekends per year.

2 (g) Any person at antique, coin, or collectible shows  
3 or sales.

4 (h) Any person who sells household personal property  
5 as an agent for the property owner or their representative  
6 pursuant to a written agreement at that person's residence.

7 (i) The purchase, consignment, or trade pawn of  
8 secondhand goods from one secondhand dealer to another  
9 secondhand dealer when the selling secondhand dealer has  
10 complied with the requirements of this chapter.

11 (j) Any person accepting a secondhand good as a  
12 trade-in for a similar item of greater value.

13 (k) Any person purchasing, consigning, or trading  
14 pawning secondhand goods at a flea market regardless of  
15 whether at a temporary or permanent business location at the  
16 flea market.

17 (l) Any auction business as defined in s. 468.382(1).

18 (m) Any business that is registered with the  
19 Department of Revenue for sales tax purposes as an antique  
20 dealer pursuant to chapter 212 and that purchases secondhand  
21 goods from the property owner or her or his representative at  
22 the property owner's residence pursuant to a written agreement  
23 that states the name, address, and telephone number of the  
24 property owner and the type of property purchased.

25 (n) A business that contracts with other persons or  
26 entities to offer its secondhand goods for sale, purchase,  
27 consignment, or trade via an Internet website, and that  
28 maintains a shop, store, or other business premises for this  
29 purpose, if all of the following apply:

30 1. The secondhand goods must be available on the  
31 website for viewing by the general public at no charge;

Bill No. SB 1864

Barcode 205834

1           2. The records of the sale, purchase, consignment, or  
2 trade must be maintained for at least 2 years;

3           3. The records of the sale, purchase, consignment, or  
4 trade, and the description of the secondhand goods as listed  
5 on the website, must contain the serial number of each item,  
6 if any;

7           4. The secondhand goods listed on the website must be  
8 searchable based upon the state or zip code;

9           5. The business must provide the appropriate law  
10 enforcement agency with the name or names under which it  
11 conducts business on the website;

12           6. The business must allow the appropriate law  
13 enforcement agency to inspect its business premises at any  
14 time during normal business hours;

15           7. Any payment by the business resulting from such a  
16 sale, purchase, consignment, or trade must be made to the  
17 person or entity with whom the business contracted to offer  
18 the goods and must be made by check or via a money transmitter  
19 licensed under part II of chapter 560; and

20           8.a. At least 48 hours after the estimated time of  
21 contracting to offer the secondhand goods, the business must  
22 verify that any item having a serial number is not stolen  
23 property by entering the serial number of the item into the  
24 Department of Law Enforcement's stolen article database  
25 located at the Florida Crime Information Center's public  
26 access system website. The business shall record the date and  
27 time of such verification on the contract covering the goods.  
28 If such verification reveals that an item is stolen property,  
29 the business shall immediately remove the item from any  
30 website on which it is being offered and notify the  
31 appropriate law enforcement agency; or

Bill No. SB 1864

Barcode 205834

1           b. The business must provide the appropriate law  
 2 enforcement agency with an electronic copy of the name,  
 3 address, phone number, driver's license number, and issuing  
 4 state of the person with whom the business contracted to offer  
 5 the goods, as well as an accurate description of the goods,  
 6 including make, model, serial number, and any other unique  
 7 identifying marks, numbers, names, or letters that may be on  
 8 an item, in a format agreed upon by the business and the  
 9 appropriate law enforcement agency. This information must be  
 10 provided to the appropriate law enforcement agency within 24  
 11 hours after entering into the contract unless other  
 12 arrangements are made between the business and the law  
 13 enforcement agency. Any person purchasing, consigning, or  
 14 pawning secondhand goods ordered by mail, computer-assisted  
 15 shopping, media-assisted, media-facilitated, or  
 16 media-solicited shopping or shopping by other means of media  
 17 communication, including, but not limited to, direct mail  
 18 advertising, unsolicited distribution of catalogs, television,  
 19 radio, or other electronic media, telephone, magazine, or  
 20 newspaper advertising, so long as such person is in this state  
 21 at the time of the order.

22           (o) Any person offering his or her own personal  
 23 property for sale, purchase, consignment, or trade via an  
 24 Internet website, or a person or entity offering the personal  
 25 property of others for sale, purchase, consignment, or trade  
 26 via an Internet website, when that person or entity does not  
 27 have, and is not required to have, a local occupational or  
 28 business license for this purpose.

29           (p)(o) A motor vehicle dealer as defined in s. 320.27.

30           (3) This part does not apply to secondary metals  
 31 recyclers regulated under part II, except for s. 538.11, which

Bill No. SB 1864

Barcode 205834

1 applies to both secondhand dealers and secondary metals  
2 recyclers.

3 Section 2. Section 538.04, Florida Statutes, is  
4 amended to read:

5 538.04 Recordkeeping requirements; penalties.--

6 (1) Secondhand dealers shall complete a secondhand  
7 dealers transaction form at the time of the actual  
8 transaction. A secondhand dealer shall maintain a copy of a  
9 completed transaction form on the registered premises for at  
10 least 1 year after the date of the transaction. However, the  
11 secondhand dealer shall maintain a copy of the transaction  
12 form for a period of no less than 3 years. ~~Secondhand dealers~~  
13 ~~shall maintain records of all transactions of secondhand goods~~  
14 ~~on the premises. Unless other arrangements have been agreed~~  
15 ~~upon by the secondhand dealer and the appropriate law~~  
16 ~~enforcement agency, the secondhand dealer shall, within 24~~  
17 ~~hours of the acquisition of any secondhand goods, by purchase~~  
18 ~~or pledge as security for a loan, a secondhand dealer shall~~  
19 ~~deliver to the police department of the municipality where the~~  
20 ~~goods were acquired ~~purchased~~ or, if the goods were acquired~~  
21 ~~~~purchased~~ outside of a municipality, to the sheriff's~~  
22 ~~department of the county where the goods were acquired~~  
23 ~~~~purchased~~, a record of the transaction on a form approved by~~  
24 ~~the Department of Law Enforcement. Such record shall contain:~~

25 (a) The time, date, and place of the transaction.

26 (b) A complete and accurate description of the goods  
27 acquired, including the following information, if applicable:  
28 ~~any serial numbers, manufacturer's numbers, or other~~  
29 ~~identifying marks or characteristics.~~

30 1. Brand name.

31 2. Model number.



Bill No. SB 1864

Barcode 205834

- 1           3. Manufacturer's serial number.
- 2           4. Size.
- 3           5. Color, as apparent to the untrained eye.
- 4           6. Precious metal type, weight, and content if known.
- 5           7. Gemstone description, including the number of
- 6 stones, if applicable.
- 7           8. In the case of firearms, the type of action,
- 8 caliber or gauge, number of barrels, barrel length, and
- 9 finish.
- 10          9. Any other unique identifying marks, numbers, or
- 11 letters.

12           (c) A description of the person from whom the goods  
13 were acquired, including:

- 14           1. Full name, current residential address, workplace,
- 15 and home and work phone numbers.
- 16           2. Height, weight, date of birth, race, gender, hair
- 17 color, eye color, and any other identifying marks.
- 18           3. The right thumbprint, free of smudges and smears,
- 19 of the person from whom the goods were acquired.

20           (d) Any other information required by the form  
21 approved by the Department of Law Enforcement.

22           (2) The secondhand dealer shall require verification  
23 of the identification by the exhibition of a government-issued  
24 photographic identification card such as a driver's license or  
25 military identification card. The record shall contain the  
26 type of identification exhibited, the issuing agency, and the  
27 number thereon.

28           (3) The seller shall sign a statement verifying that  
29 the seller is the rightful owner of the goods or is entitled  
30 to sell, consign, or trade ~~pledge~~ the goods.

31           (4) Any person who knowingly gives false verification

Bill No. SB 1864

Barcode 205834

1 of ownership or who gives a false or altered identification,  
2 and who receives money from a secondhand dealer for goods  
3 sold, consigned, or traded ~~pledged~~ commits:

4 (a) If the value of the money received is less than  
5 \$300, a felony ~~misdemeanor~~ of the third ~~first~~ degree,  
6 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.  
7 775.084.

8 (b) If the value of the money received is \$300 or  
9 more, a felony of the second ~~third~~ degree, punishable as  
10 provided in s. 775.082, s. 775.083, or s. 775.084.

11 (5) Secondhand dealers are exempt from the provisions  
12 of this section for all transactions involving secondhand  
13 sports equipment except secondhand sports equipment that is  
14 permanently labeled with a serial number.

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

Bill No. SB 1864

Barcode 205834

1 appropriate law enforcement agency may request that the  
 2 secondhand dealer produce an original of a transaction form  
 3 that has been electronically transferred. The secondhand  
 4 dealer shall deliver this form to the appropriate law  
 5 enforcement agency within 24 hours of the request.

6 (7) If the original transaction form is lost or  
 7 destroyed by the appropriate law enforcement agency, a copy  
 8 may be used by the secondhand dealer as evidence in court.

9 When an electronic image of a customer's identification is  
 10 accepted for a transaction, the secondhand dealer must  
 11 maintain the electronic image in order to meet the  
 12 recordkeeping requirements applicable to the original  
 13 transaction form. If a criminal investigation occurs, the  
 14 secondhand dealer shall, upon request, provide a clear and  
 15 legible copy of the image to the appropriate law enforcement  
 16 agency.

17 Section 3. Section 538.05, Florida Statutes, is  
 18 amended to read:

19 538.05 Inspection of records and premises of  
 20 secondhand dealers.--

21 (1) The entire registered premises and required  
 22 records of each secondhand dealer are subject to inspection  
 23 during regular business hours by any law enforcement officer  
 24 ~~with jurisdiction the police department if the premises are~~  
 25 ~~located within a municipality or, if located outside a~~  
 26 ~~municipality, by the sheriff's department of the county in~~  
 27 ~~which the premises are located, and by any state law~~  
 28 ~~enforcement officer who has jurisdiction over the dealer.~~

29 (2) The inspection authorized by subsection (1) shall  
 30 consist of an examination on the registered premises of the  
 31 inventory and required records to determine whether the

Bill No. SB 1864

Barcode 205834

1 records and inventory are being maintained on the registered  
2 premises as required by s. 538.04 and whether the holding  
3 period required by s. 538.06 is being complied with.

4 Section 4. Section 538.06, Florida Statutes, is  
5 amended to read:

6 538.06 Holding period.--

7 (1) A secondhand dealer shall not sell, barter,  
8 exchange, alter, adulterate, use, or in any way dispose of any  
9 secondhand goods within 30 ~~15~~ calendar days of the date of  
10 acquisition of the goods. ~~Such holding periods are not~~  
11 ~~applicable when the person known by the secondhand dealer to~~  
12 ~~be the person from whom the goods were acquired desires to~~  
13 ~~redeem, repurchase, or recover the goods, provided the dealer~~  
14 ~~can produce the record of the original transaction with~~  
15 ~~verification that the customer is the person from whom the~~  
16 ~~goods were originally acquired.~~

17 (2) A secondhand dealer must maintain actual physical  
18 possession of all secondhand goods throughout a transaction.  
19 It is unlawful for a secondhand dealer to accept title or any  
20 other form of security in secondhand goods in lieu of actual  
21 physical possession. A secondhand dealer who accepts title or  
22 any other form of security in secondhand goods in lieu of  
23 actual physical possession commits a misdemeanor of the first  
24 degree, punishable as provided in s. 775.082 or s. 775.083.

25 (3) Upon probable cause that goods held by a  
26 secondhand dealer are stolen, a law enforcement officer with  
27 jurisdiction may place a 90-day written hold order on the  
28 goods ~~extend the holding period to a maximum of 60 days.~~  
29 However, the hold ~~holding period~~ may be extended beyond 90 ~~60~~  
30 days by a court of competent jurisdiction upon a finding of  
31 probable cause that the property is stolen and further holding

Bill No. SB 1864

Barcode 205834

1 is necessary for the purposes of trial or to safeguard such  
 2 property. The dealer shall assume all responsibility, civil or  
 3 criminal, relative to the property or evidence in question,  
 4 including responsibility for the actions of any employee with  
 5 respect thereto.

6 (4) While a hold order is in effect, the secondhand  
 7 dealer must, upon request, release the property subject to the  
 8 hold order to the custody of a law enforcement officer with  
 9 jurisdiction for use in a criminal investigation. The release  
 10 of the property to the custody of the law enforcement officer  
 11 is not considered a waiver or release of the secondhand  
 12 dealer's rights or interest in the property. Upon completion  
 13 of the criminal proceeding, the property must be returned to  
 14 the secondhand dealer unless the court orders other  
 15 disposition. When such other disposition is ordered, the court  
 16 shall additionally order the person from whom the secondhand  
 17 dealer acquired the property to pay restitution to the  
 18 secondhand dealer in the amount that the secondhand dealer  
 19 paid for the property together with reasonable attorney's fees  
 20 and costs.

21 (5)(4) All dealers in secondhand property regulated by  
 22 this chapter shall maintain transaction records for 3 5 years.

23 Section 5. Section 538.07, Florida Statutes, is  
 24 amended to read:

25 538.07 Penalty for violation of chapter.--

26 (1) Except where otherwise provided herein, a person  
 27 who knowingly violates any provision of this chapter commits a  
 28 misdemeanor of the first degree, punishable as provided in s.  
 29 775.082 and by a fine not to exceed \$10,000.

30 (2) When the lawful owner recovers stolen property  
 31 from a secondhand dealer and the person who sold or pledged

Bill No. SB 1864

Barcode 205834

1 the stolen property to the secondhand dealer is convicted of  
 2 theft, a violation of this section, or dealing in stolen  
 3 property, the court shall order the defendant to make  
 4 restitution to either the secondhand dealer or the lawful  
 5 owner as applicable pursuant to s. 775.089.

6 Section 6. Section 538.09, Florida Statutes, is  
 7 amended to read:

8 538.09 Registration.--

9 (1) A secondhand dealer shall not engage in the  
 10 business of purchasing, consigning, or ~~trading~~ ~~pawning~~  
 11 secondhand goods from any location without registering with  
 12 the Department of Revenue. A fee equal to the federal and  
 13 state costs for processing required fingerprints must be  
 14 submitted to the department with each application for  
 15 registration. One application is required for each dealer. If  
 16 a secondhand dealer is the owner of more than one secondhand  
 17 store location, the application must list each location, and  
 18 the department shall issue a duplicate registration for each  
 19 location. For purposes of subsections (4) and (5) of this  
 20 section, these duplicate registrations shall be deemed  
 21 individual registrations. A dealer shall pay a fee of \$6 per  
 22 location at the time of registration and an annual renewal fee  
 23 of \$6 per location on October 1 of each year. All fees  
 24 collected, less costs of administration, shall be transferred  
 25 into a trust fund to be established and entitled the  
 26 Secondhand Dealer and Secondary Metals Recycler Clearing Trust  
 27 Fund. The Department of Revenue shall forward the full set of  
 28 fingerprints to the Department of Law Enforcement for state  
 29 and federal processing, provided the federal service is  
 30 available, to be processed for any criminal justice  
 31 information as defined in s. 943.045. The cost of processing

Bill No. SB 1864

Barcode 205834

1 such fingerprints shall be payable to the Department of Law  
 2 Enforcement by the Department of Revenue. The department may  
 3 issue a temporary registration to each location pending  
 4 completion of the background check by state and federal law  
 5 enforcement agencies, but shall revoke such temporary  
 6 registration if the completed background check reveals a  
 7 prohibited criminal background. An applicant for a secondhand  
 8 dealer registration must be a natural person who has reached  
 9 the age of 18 years.

10 (a) If the applicant is a partnership, all the  
 11 partners must apply.

12 (b) If the applicant is a joint venture, association,  
 13 or other noncorporate entity, all members of such joint  
 14 venture, association, or other noncorporate entity must make  
 15 application for registration as natural persons.

16 (c) If the applicant is a corporation, the  
 17 registration must include the name and address of such  
 18 corporation's registered agent for service of process in the  
 19 state and a certified copy of statement from the Secretary of  
 20 State that the corporation is duly organized in the state or,  
 21 if the corporation is organized in a state other than Florida,  
 22 a certified copy of statement from the Secretary of State that  
 23 the corporation is duly qualified to do business in this  
 24 state. If the dealer has more than one location, the  
 25 application must list each location owned by the same legal  
 26 entity and the department shall issue a duplicate registration  
 27 for each location.

28 (2) The secondhand dealer shall furnish with her or  
 29 his registration a complete set of her or his fingerprints,  
 30 certified by an authorized law enforcement officer, and a  
 31 recent fullface photographic identification card of herself or

Bill No. SB 1864

Barcode 205834

1 himself. The Department of Law Enforcement shall report its  
2 findings to the Department of Revenue within 30 days after the  
3 date fingerprint cards are submitted for criminal justice  
4 information.

5 (3) The secondhand dealer's registration shall be  
6 conspicuously displayed at her or his registered location  
7 ~~principal place of business~~. A secondhand dealer must hold  
8 secondhand goods at the registered location until 30 ~~15~~ days  
9 after the secondhand transaction or until any extension of the  
10 holding period has expired, whichever is later, ~~and must~~  
11 ~~retain records of each transaction which is not specifically~~  
12 ~~exempted by this chapter. A secondhand dealer shall not~~  
13 ~~dispose of property at any location until the holding period~~  
14 ~~has expired unless the transaction is specifically exempted by~~  
15 ~~this chapter.~~

16 (4) The department may impose a civil fine of up to  
17 \$10,000 for each violation of this section, which fine shall  
18 be transferred into the General Revenue Fund. If the fine is  
19 not paid within 60 days, the department may bring a civil  
20 action under s. 120.69 to recover the fine.

21 (5) In addition to the fine provided in subsection  
22 (4), registration under this section may be denied or any  
23 registration granted may be revoked, restricted, or suspended  
24 by the department if the department determines that the  
25 applicant or registrant:

26 (a) Has violated any provision of this chapter or any  
27 rule or order made pursuant to this chapter;

28 (b) Has made a material false statement in the  
29 application for registration;

30 (c) Has been guilty of a fraudulent act in connection  
31 with any purchase or sale or has been or is engaged in or is



Bill No. SB 1864

Barcode 205834

1 about to engage in any practice, purchase, or sale which is  
2 fraudulent or in violation of the law;

3 (d) Has made a misrepresentation or false statement  
4 to, or concealed any essential or material fact from, any  
5 person in making any purchase or sale;

6 (e) Is making purchases or sales through any business  
7 associate not registered in compliance with the provisions of  
8 this chapter;

9 (f) Has, within the preceding 10-year ~~5-year~~ period  
10 for new registrants who apply for registration on or after  
11 October 1, 2005, been convicted of, or has entered a plea of  
12 guilty or nolo contendere to, or had adjudication withheld  
13 for, a crime against the laws of this state or any other state  
14 or of the United States which relates to registration as a  
15 secondhand dealer or which involves theft, larceny, dealing in  
16 stolen property, receiving stolen property, burglary,  
17 embezzlement, obtaining property by false pretenses,  
18 possession of altered property, any felony drug offense, any  
19 violation of s. 812.015, or any fraudulent ~~or dishonest~~  
20 dealing;

21 (g) Has had a final judgment entered against her or  
22 him in a civil action upon grounds of fraud, embezzlement,  
23 misrepresentation, or deceit; or

24 (h) Has failed to pay any sales tax owed to the  
25 Department of Revenue.

26  
27 In the event the department determines to deny an application  
28 or revoke a registration, it shall enter a final order with  
29 its findings on the register of secondhand dealers and their  
30 business associates, if any; and denial, suspension, or  
31 revocation of the registration of a secondhand dealer shall

Bill No. SB 1864

Barcode 205834

1 also deny, suspend, or revoke the registration of such  
2 secondhand dealer's business associates.

3 (6) Upon the request of a law enforcement official,  
4 the Department of Revenue shall release to the official the  
5 name and address of any secondhand dealer registered to do  
6 business within the official's jurisdiction.

7 Section 7. Section 538.16, Florida Statutes, is  
8 repealed.

9 Section 8. Subsection (4) of section 516.02, Florida  
10 Statutes, is amended to read:

11 516.02 Loans; lines of credit; rate of interest;  
12 license.--

13 (4) This chapter does not apply to any person who does  
14 business under, and as permitted by, any law of this state or  
15 of the United States relating to banks, savings banks, trust  
16 companies, building and loan associations, credit unions, or  
17 industrial loan and investment companies. ~~This chapter also~~  
18 ~~does not apply to title loans as defined in s. 538.03(1)(i) or~~  
19 ~~pawns as defined in s. 538.03(1)(d).~~ A pawnbroker may not be  
20 licensed to transact business under this chapter.

21 Section 9. For the purpose of incorporating the  
22 amendment to section 538.03, Florida Statutes, in a reference  
23 thereto, paragraph (f) of subsection (3) of section 790.335,  
24 Florida Statutes, is reenacted to read:

25 790.335 Prohibition of registration of firearms.--

26 (3) EXCEPTIONS.--The provisions of this section shall  
27 not apply to:

28 (f) Firearm records, including paper pawn transaction  
29 forms and contracts on firearm transactions, required by  
30 chapters 538 and 539.

31 1. Electronic firearm records held pursuant to chapter

Bill No. SB 1864

Barcode 205834

1 538 may only be kept by a secondhand dealer for 30 days after  
2 the date of the purchase of the firearm by the secondhand  
3 dealer.

4           2. Electronic firearm records held pursuant to chapter  
5 539 may only be kept by a pawnbroker for 30 days after the  
6 expiration of the loan that is secured by a firearm or 30 days  
7 after the date of purchase of a firearm, whichever is  
8 applicable.

9           3. Except as required by federal law, any firearm  
10 records kept pursuant to chapter 538 or chapter 539 shall not,  
11 at any time, be electronically transferred to any public or  
12 private entity, agency, business, or enterprise, nor shall any  
13 such records be copied or transferred for purposes of  
14 accumulation of such records into lists, registries, or  
15 databases.

16           4. Notwithstanding subparagraph 3., secondhand dealers  
17 and pawnbrokers may electronically submit firearm transaction  
18 records to the appropriate law enforcement agencies as  
19 required by chapters 538 and 539; however, the law enforcement  
20 agencies may not electronically submit such records to any  
21 other person or entity and must destroy such records within 60  
22 days after receipt of such records.

23           5. Notwithstanding subparagraph 3., secondhand dealers  
24 and pawnbrokers may electronically submit limited firearms  
25 records consisting solely of the manufacturer, model, serial  
26 number, and caliber of pawned or purchased firearms to a  
27 third-party private provider that is exclusively incorporated,  
28 exclusively owned, and exclusively operated in the United  
29 States and that restricts access to such information to only  
30 appropriate law enforcement agencies for legitimate law  
31 enforcement purposes. Such records must be destroyed within 30

Bill No. SB 1864

Barcode 205834

1 days by the third-party provider. As a condition of receipt of  
 2 such records, the third-party provider must agree in writing  
 3 to comply with the requirements of this section. Any  
 4 pawnbroker or secondhand dealer who contracts with a  
 5 third-party provider other than as provided in this act or  
 6 electronically transmits any records of firearms transactions  
 7 to any third-party provider other than the records  
 8 specifically allowed by this paragraph commits a felony of the  
 9 second degree, punishable as provided in s. 775.082 or s.  
 10 775.083.

11 Section 10. This act shall take effect October 1,  
 12 2005.

13  
 14

15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete everything before the enacting clause

18

19 and insert:

20 A bill to be entitled  
 21 An act relating to secondhand dealers; amending  
 22 s. 538.03, F.S.; revising definitions; revising  
 23 applicability of ch. 538, F.S.; exempting  
 24 persons or entities offering secondhand goods  
 25 or personal property for sale, purchase,  
 26 consignment, or trade via the Internet from the  
 27 provisions of ch. 538, F.S., under certain  
 28 circumstances; amending s. 538.04, F.S.;  
 29 revising recordkeeping requirements for  
 30 secondhand dealers; providing penalties for  
 31 knowingly giving false verification of

Bill No. SB 1864

Barcode 205834

1 ownership or a false or altered identification,  
2 and for receiving money from a secondhand  
3 dealer for goods sold, consigned, or traded if  
4 the value of the money received is less than  
5 \$300, and if the value of the money received is  
6 \$300 or more; providing for the electronic  
7 transfer of secondhand dealer  
8 transactions under specified circumstances;  
9 authorizing appropriate law enforcement  
10 agencies to provide a secondhand dealer with a  
11 computer and other equipment necessary to  
12 electronically transfer secondhand dealer  
13 transactions; providing procedures with respect  
14 to electronic transfer of secondhand dealer  
15 transactions; amending s. 538.05, F.S.;  
16 revising provisions relating to the inspection  
17 of records and premises of secondhand dealers;  
18 amending s. 538.06, F.S.; revising provisions  
19 with respect to the holding period during which  
20 a secondhand dealer may not sell, barter,  
21 exchange, alter, adulterate, use, or dispose of  
22 secondhand goods; revising provisions with  
23 respect to the holding of goods upon probable  
24 cause that the goods are stolen; providing for  
25 payment of restitution, attorney's fees, and  
26 costs to a secondhand dealer under specified  
27 circumstances; increasing the time limit for  
28 maintenance of transaction records by dealers  
29 in secondhand property; amending s. 538.07,  
30 F.S.; revising provisions relating to  
31 restitution for stolen property recovered from

Bill No. SB 1864

Barcode 205834

1 a secondhand dealer; amending s. 538.09, F.S.;  
2 revising provisions with respect to  
3 registration as a secondhand dealer; increasing  
4 the period of time during which a secondhand  
5 dealer must hold secondhand goods at a  
6 registered location; revising conditions under  
7 which registration may be denied, revoked,  
8 restricted, or suspended by the Department of  
9 Revenue; repealing s. 538.16, F.S., relating to  
10 disposal of property by secondhand dealers;  
11 amending s. 516.02, F.S.; removing  
12 cross-references; reenacting s. 790.335(3)(f),  
13 F.S., which provides a second degree felony  
14 penalty for any secondhand dealer who contracts  
15 with a specified third-party provider or  
16 electronically transmits certain records of  
17 firearms transactions to any third-party  
18 provider; providing an effective date.

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