

By Senator Crist

12-1113-05

See HB 855

1 A bill to be entitled

2 An act relating to secondhand dealers; amending

3 s. 538.03, F.S.; revising definitions; revising

4 applicability of ch. 538, F.S.; amending s.

5 538.04, F.S.; revising recordkeeping

6 requirements for secondhand dealers; providing

7 penalties for knowingly giving false

8 verification of ownership or a false or altered

9 identification, and for receiving money from a

10 secondhand dealer for goods sold, consigned, or

11 traded if the value of the money received is

12 less than \$300, and if the value of the money

13 received is \$300 or more; providing for the

14 electronic transfer of secondhand dealer

15 transactions under specified circumstances;

16 authorizing appropriate law enforcement

17 agencies to provide a secondhand dealer with a

18 computer and other equipment necessary to

19 electronically transfer secondhand dealer

20 transactions; providing procedures with respect

21 to electronic transfer of secondhand dealer

22 transactions; amending s. 538.05, F.S.;

23 revising provisions relating to the inspection

24 of records and premises of secondhand dealers;

25 amending s. 538.06, F.S.; revising provisions

26 with respect to the holding period during which

27 a secondhand dealer may not sell, barter,

28 exchange, alter, adulterate, use, or dispose of

29 secondhand goods; revising provisions with

30 respect to the holding of goods upon probable

31 cause that the goods are stolen; providing for

1 payment of restitution, attorney's fees, and
2 costs to a secondhand dealer under specified
3 circumstances; increasing the time limit for
4 maintenance of transaction records by dealers
5 in secondhand property; amending s. 538.07,
6 F.S.; revising provisions relating to
7 restitution for stolen property recovered from
8 a secondhand dealer; amending s. 538.09, F.S.;
9 revising provisions with respect to
10 registration as a secondhand dealer; increasing
11 the period of time during which a secondhand
12 dealer must hold secondhand goods at a
13 registered location; revising conditions under
14 which registration may be denied, revoked,
15 restricted, or suspended by the Department of
16 Revenue; repealing s. 538.16, F.S., relating to
17 disposal of property by secondhand dealers;
18 amending s. 516.02, F.S.; removing
19 cross-references; reenacting s. 790.335(3)(f),
20 F.S., which provides a second-degree felony
21 penalty for any secondhand dealer who contracts
22 with a specified third-party provider or
23 electronically transmits certain records of
24 firearms transactions to any third-party
25 provider; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Section 538.03, Florida Statutes, is
30 amended to read:

31 538.03 Definitions; applicability.--

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

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

12 (b) "Precious metals dealer" means a secondhand dealer
13 who normally or regularly engages in the business of buying
14 used precious metals for resale. The term does not include
15 those persons involved in the bulk sale of precious metals
16 from one secondhand or precious metals dealer to another.

17 ~~(c) "Pawnbroker" means any person, corporation, or~~
18 ~~other business organization or entity which is regularly~~
19 ~~engaged in the business of making pawns but does not include a~~
20 ~~financial institution as defined in s. 655.005 or any person~~
21 ~~who regularly loans money or any other thing of value on~~
22 ~~stocks, bonds, or other securities.~~

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

24 1. ~~Loan of money. A written or oral bailment of~~
25 ~~personal property as security for an engagement or debt,~~
26 ~~redeemable on certain terms and with the implied power of sale~~
27 ~~on default.~~

28 2. ~~Buy sell agreement. An agreement whereby a~~
29 ~~purchaser agrees to hold property for a specified period of~~
30 ~~time to allow the seller the exclusive right to repurchase the~~
31 ~~property. A buy sell agreement is not a loan of money.~~

1 ~~(c)(e)~~ "Secondhand store" means the place or premises
2 at which a secondhand dealer is registered to conduct business
3 as a secondhand dealer, ~~or conducts business, including pawn~~
4 ~~shops.~~

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

10 ~~(e)~~ "Acquire" means to obtain by purchase,
11 consignment, or trade.

12 ~~(f)(g)~~ "Secondhand goods" means personal property
13 previously owned or used, which is not regulated metals
14 property regulated under part II and which is purchased,
15 consigned, or traded ~~pawned~~ as used property. Such secondhand
16 goods shall not include office furniture, pianos, books,
17 clothing, organs, coins, motor vehicles, costume jewelry, and
18 secondhand sports equipment that is not permanently labeled
19 with a serial number. For purposes of this paragraph,
20 "secondhand sports equipment" does not include golf clubs. be
21 limited to watches; diamonds, gems, and other precious stones;
22 fishing rods, reels, and tackle; audio and video electronic
23 equipment, including television sets, compact disc players,
24 radios, amplifiers, receivers, turntables, tape recorders;
25 video tape recorders; speakers and citizens' band radios;
26 computer equipment; radar detectors; depth finders; trolling
27 motors; outboard motors; sterling silver flatware and serving
28 pieces; photographic equipment, including cameras, video and
29 film cameras, lenses, electronic flashes, tripods, and
30 developing equipment; microwave ovens; animal fur coats;
31 marine equipment; video games and cartridges; power lawn and

1 ~~landscape equipment; office equipment such as copiers, fax~~
2 ~~machines, and postage machines but excluding furniture; sports~~
3 ~~equipment; golf clubs; weapons, including knives, swords, and~~
4 ~~air guns; telephones, including cellular and portable;~~
5 ~~firearms; tools; calculators; musical instruments, excluding~~
6 ~~pianos and organs; lawnmowers; bicycles; typewriters; motor~~
7 ~~vehicles; gold, silver, platinum, and other precious metals~~
8 ~~excluding coins; and jewelry, excluding costume jewelry.~~

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

11 (h)(i) "Precious metals" means any item containing any
12 gold, silver, or platinum, or any combination thereof,
13 excluding:

14 ~~1.~~ any chemical or any automotive, photographic,
15 electrical, medical, or dental materials or electronic parts.

16 ~~2.~~ Any coin with an intrinsic value less than its
17 numismatic value.

18 ~~3.~~ Any gold bullion coin.

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

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

22 (i)(j) "Department" means the Department of Revenue.

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

24 (2) This chapter does not apply to:

25 (a) Any secondhand goods transaction involving an
26 organization or entity registered with the state as a
27 nonprofit, religious, or charitable organization or any
28 school-sponsored association or organization other than a
29 secondary metals recycler subject to the provisions of part
30 II.
31

1 (b) A law enforcement officer acting in an official
2 capacity.

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

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

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

12 (f) Any garage sale operator who holds garage sales
13 less than 10 weekends per year.

14 (g) Any person at antique, coin, or collectible shows
15 or sales.

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

19 (i) The purchase, consignment, or trade pawn of
20 secondhand goods from one secondhand dealer to another
21 secondhand dealer when the selling secondhand dealer has
22 complied with the requirements of this chapter.

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

25 (k) Any person selling ~~purchasing~~, consigning, or
26 trading pawning secondhand goods at a flea market regardless
27 of whether at a temporary or permanent business location at
28 the flea market.

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

30 (m) Any business that is registered with the
31 Department of Revenue for sales tax purposes as an antique

1 dealer pursuant to chapter 212 and that purchases secondhand
2 goods from the property owner or her or his representative at
3 the property owner's residence pursuant to a written agreement
4 that states the name, address, and telephone number of the
5 property owner and the type of property purchased.

6 ~~(n) Any person purchasing, consigning, or pawning~~
7 ~~secondhand goods ordered by mail, computer assisted shopping,~~
8 ~~media assisted, media facilitated, or media solicited shopping~~
9 ~~or shopping by other means of media communication, including,~~
10 ~~but not limited to, direct mail advertising, unsolicited~~
11 ~~distribution of catalogs, television, radio, or other~~
12 ~~electronic media, telephone, magazine, or newspaper~~
13 ~~advertising, so long as such person is in this state at the~~
14 ~~time of the order.~~

15 ~~(o) A motor vehicle dealer as defined in s. 320.27.~~

16 (3) This part does not apply to secondary metals
17 recyclers regulated under part II, except for s. 538.11, which
18 applies to both secondhand dealers and secondary metals
19 recyclers.

20 Section 2. Section 538.04, Florida Statutes, is
21 amended to read:

22 538.04 Recordkeeping requirements; penalties.--

23 (1) Secondhand dealers shall complete a secondhand
24 dealers transaction form at the time of the actual
25 transaction. A secondhand dealer shall maintain a copy of a
26 completed transaction form on the registered premises for at
27 least 1 year after the date of the transaction. However, the
28 secondhand dealer shall maintain a copy of the transaction
29 form for a period of no less than 3 years. Secondhand dealers
30 ~~shall maintain records of all transactions of secondhand goods~~
31 ~~on the premises. Unless other arrangements have been agreed~~

1 upon by the secondhand dealer and the appropriate law
2 enforcement agency, the secondhand dealer shall, within 24
3 hours of the acquisition of any secondhand goods, ~~by purchase~~
4 ~~or pledge as security for a loan, a secondhand dealer shall~~
5 deliver to the police department of the municipality where the
6 goods were acquired ~~purchased~~ or, if the goods were acquired
7 ~~purchased~~ outside of a municipality, to the sheriff's
8 department of the county where the goods were acquired
9 ~~purchased~~, a record of the transaction on a form approved by
10 the Department of Law Enforcement. Such record shall contain:
11 (a) The time, date, and place of the transaction.
12 (b) A complete and accurate description of the goods
13 acquired, including the following information, if applicable:
14 ~~any serial numbers, manufacturer's numbers, or other~~
15 ~~identifying marks or characteristics.~~
16 1. Brand name.
17 2. Model number.
18 3. Manufacturer's serial number.
19 4. Size.
20 5. Color, as apparent to the untrained eye.
21 6. Precious metal type, weight, and content if known.
22 7. Gemstone description, including the number of
23 stones, if applicable.
24 8. In the case of firearms, the type of action,
25 caliber or gauge, number of barrels, barrel length, and
26 finish.
27 9. Any other unique identifying marks, numbers, or
28 letters.
29 (c) A description of the person from whom the goods
30 were acquired, including:
31

1 1. Full name, current residential address, workplace,
2 and home and work phone numbers.

3 2. Height, weight, date of birth, race, gender, hair
4 color, eye color, and any other identifying marks.

5 3. The right thumbprint, free of smudges and smears,
6 of the person from whom the goods were acquired.

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

9 (2) The secondhand dealer shall require verification
10 of the identification by the exhibition of a government-issued
11 photographic identification card such as a driver's license or
12 military identification card. The record shall contain the
13 type of identification exhibited, the issuing agency, and the
14 number thereon.

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

18 (4) Any person who knowingly gives false verification
19 of ownership or who gives a false or altered identification,
20 and who receives money from a secondhand dealer for goods
21 sold, consigned, or traded ~~pledged~~ commits:

22 (a) If the value of the money received is less than
23 \$300, a felony ~~misdemeanor~~ of the third ~~first~~ degree,
24 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
25 775.084.

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

29 (5) Secondhand dealers are exempt from the provisions
30 of this section for all transactions involving secondhand
31

1 sports equipment except secondhand sports equipment that is
2 permanently labeled with a serial number.

3 (6) If the appropriate law enforcement agency supplies
4 a secondhand dealer with appropriate software and the
5 secondhand dealer has computer capability, secondhand dealer
6 transactions shall be electronically transferred. If a
7 secondhand dealer does not have computer capability, the
8 appropriate law enforcement agency may provide the secondhand
9 dealer with a computer and all necessary equipment for the
10 purpose of electronically transferring secondhand dealer
11 transactions. The appropriate law enforcement agency shall
12 retain ownership of the computer, unless otherwise agreed
13 upon. The secondhand dealer shall maintain the computer in
14 good working order, ordinary wear and tear excepted. In the
15 event the secondhand dealer transfers secondhand dealer
16 transactions electronically, the secondhand dealer is not
17 required to also deliver to the appropriate law enforcement
18 agency the original or copies of the secondhand transaction
19 forms. For the purpose of a criminal investigation, the
20 appropriate law enforcement agency may request that the
21 secondhand dealer produce an original of a transaction form
22 that has been electronically transferred. The secondhand
23 dealer shall deliver this form to the appropriate law
24 enforcement agency within 24 hours of the request.

25 (7) If the original transaction form is lost or
26 destroyed by the appropriate law enforcement agency, a copy
27 may be used by the secondhand dealer as evidence in court.
28 When an electronic image of a customer's identification is
29 accepted for a transaction, the secondhand dealer must
30 maintain the electronic image in order to meet the
31 recordkeeping requirements applicable to the original

1 transaction form. If a criminal investigation occurs, the
2 secondhand dealer shall, upon request, provide a clear and
3 legible copy of the image to the appropriate law enforcement
4 agency.

5 Section 3. Section 538.05, Florida Statutes, is
6 amended to read:

7 538.05 Inspection of records and premises of
8 secondhand dealers.--

9 (1) The entire registered premises and required
10 records of each secondhand dealer are subject to inspection
11 during regular business hours by any law enforcement officer
12 with jurisdiction ~~the police department if the premises are~~
13 ~~located within a municipality or, if located outside a~~
14 ~~municipality, by the sheriff's department of the county in~~
15 ~~which the premises are located, and by any state law~~
16 ~~enforcement officer who has jurisdiction over the dealer.~~

17 (2) The inspection authorized by subsection (1) shall
18 consist of an examination on the registered premises of the
19 inventory and required records to determine whether the
20 records and inventory are being maintained on the registered
21 premises as required by s. 538.04 and whether the holding
22 period required by s. 538.06 is being complied with.

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

25 538.06 Holding period.--

26 (1) A secondhand dealer shall not sell, barter,
27 exchange, alter, adulterate, use, or in any way dispose of any
28 secondhand goods within 30 ~~15~~ calendar days of the date of
29 acquisition of the goods. ~~Such holding periods are not~~
30 ~~applicable when the person known by the secondhand dealer to~~
31 ~~be the person from whom the goods were acquired desires to~~

1 ~~redeem, repurchase, or recover the goods, provided the dealer~~
2 ~~can produce the record of the original transaction with~~
3 ~~verification that the customer is the person from whom the~~
4 ~~goods were originally acquired.~~

5 (2) A secondhand dealer must maintain actual physical
6 possession of all secondhand goods throughout a transaction.
7 It is unlawful for a secondhand dealer to accept title or any
8 other form of security in secondhand goods in lieu of actual
9 physical possession. A secondhand dealer who accepts title or
10 any other form of security in secondhand goods in lieu of
11 actual physical possession commits a misdemeanor of the first
12 degree, punishable as provided in s. 775.082 or s. 775.083.

13 (3) Upon probable cause that goods held by a
14 secondhand dealer are stolen, a law enforcement officer with
15 jurisdiction may place a 90-day written hold order on the
16 goods ~~extend the holding period to a maximum of 60 days.~~
17 However, the hold ~~holding period~~ may be extended beyond 90 ~~60~~
18 days by a court of competent jurisdiction upon a finding of
19 probable cause that the property is stolen and further holding
20 is necessary for the purposes of trial or to safeguard such
21 property. The dealer shall assume all responsibility, civil or
22 criminal, relative to the property or evidence in question,
23 including responsibility for the actions of any employee with
24 respect thereto.

25 (4) While a hold order is in effect, the secondhand
26 dealer must, upon request, release the property subject to the
27 hold order to the custody of a law enforcement officer with
28 jurisdiction for use in a criminal investigation. The release
29 of the property to the custody of the law enforcement officer
30 is not considered a waiver or release of the secondhand
31 dealer's rights or interest in the property. Upon completion

1 of the criminal proceeding, the property must be returned to
2 the secondhand dealer unless the court orders other
3 disposition. When such other disposition is ordered, the court
4 shall additionally order the person from whom the secondhand
5 dealer acquired the property to pay restitution to the
6 secondhand dealer in the amount that the secondhand dealer
7 paid for the property together with reasonable attorney's fees
8 and costs.

9 ~~(5)(4)~~ All dealers in secondhand property regulated by
10 this chapter shall maintain transaction records for 3 5 years.

11 Section 5. Section 538.07, Florida Statutes, is
12 amended to read:

13 538.07 Penalty for violation of chapter.--

14 (1) Except where otherwise provided herein, a person
15 who knowingly violates any provision of this chapter commits a
16 misdemeanor of the first degree, punishable as provided in s.
17 775.082 and by a fine not to exceed \$10,000.

18 (2) When the lawful owner recovers stolen property
19 from a secondhand dealer and the person who sold or pledged
20 the stolen property to the secondhand dealer is convicted of
21 theft, a violation of this section, or dealing in stolen
22 property, the court shall order the defendant to make
23 restitution to either the secondhand dealer or the lawful
24 owner as applicable pursuant to s. 775.089.

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

27 538.09 Registration.--

28 (1) A secondhand dealer shall not engage in the
29 business of purchasing, consigning, or ~~trading pawning~~
30 secondhand goods from any location without registering with
31 the Department of Revenue. A fee equal to the federal and

1 state costs for processing required fingerprints must be
2 submitted to the department with each application for
3 registration. One application is required for each dealer. If
4 a secondhand dealer is the owner of more than one secondhand
5 store location, the application must list each location, and
6 the department shall issue a duplicate registration for each
7 location. For purposes of subsections (4) and (5) of this
8 section, these duplicate registrations shall be deemed
9 individual registrations. A dealer shall pay a fee of \$6 per
10 location at the time of registration and an annual renewal fee
11 of \$6 per location on October 1 of each year. All fees
12 collected, less costs of administration, shall be transferred
13 into a trust fund to be established and entitled the
14 Secondhand Dealer and Secondary Metals Recycler Clearing Trust
15 Fund. The Department of Revenue shall forward the full set of
16 fingerprints to the Department of Law Enforcement for state
17 and federal processing, provided the federal service is
18 available, to be processed for any criminal justice
19 information as defined in s. 943.045. The cost of processing
20 such fingerprints shall be payable to the Department of Law
21 Enforcement by the Department of Revenue. The department may
22 issue a temporary registration to each location pending
23 completion of the background check by state and federal law
24 enforcement agencies, but shall revoke such temporary
25 registration if the completed background check reveals a
26 prohibited criminal background. An applicant for a secondhand
27 dealer registration must be a natural person who has reached
28 the age of 18 years.

29 (a) If the applicant is a partnership, all the
30 partners must apply.

31

1 (b) If the applicant is a joint venture, association,
2 or other noncorporate entity, all members of such joint
3 venture, association, or other noncorporate entity must make
4 application for registration as natural persons.

5 (c) If the applicant is a corporation, the
6 registration must include the name and address of such
7 corporation's registered agent for service of process in the
8 state and a certified copy of statement from the Secretary of
9 State that the corporation is duly organized in the state or,
10 if the corporation is organized in a state other than Florida,
11 a certified copy of statement from the Secretary of State that
12 the corporation is duly qualified to do business in this
13 state. If the dealer has more than one location, the
14 application must list each location owned by the same legal
15 entity and the department shall issue a duplicate registration
16 for each location.

17 (2) The secondhand dealer shall furnish with her or
18 his registration a complete set of her or his fingerprints,
19 certified by an authorized law enforcement officer, and a
20 recent fullface photographic identification card of herself or
21 himself. The Department of Law Enforcement shall report its
22 findings to the Department of Revenue within 30 days after the
23 date fingerprint cards are submitted for criminal justice
24 information.

25 (3) The secondhand dealer's registration shall be
26 conspicuously displayed at her or his registered location
27 ~~principal place of business~~. A secondhand dealer must hold
28 secondhand goods at the registered location until 30 ~~15~~ days
29 after the secondhand transaction or until any extension of the
30 holding period has expired, whichever is later, ~~and must~~
31 ~~retain records of each transaction which is not specifically~~

1 ~~exempted by this chapter. A secondhand dealer shall not~~
2 ~~dispose of property at any location until the holding period~~
3 ~~has expired unless the transaction is specifically exempted by~~
4 ~~this chapter.~~

5 (4) The department may impose a civil fine of up to
6 \$10,000 for each violation of this section, which fine shall
7 be transferred into the General Revenue Fund. If the fine is
8 not paid within 60 days, the department may bring a civil
9 action under s. 120.69 to recover the fine.

10 (5) In addition to the fine provided in subsection
11 (4), registration under this section may be denied or any
12 registration granted may be revoked, restricted, or suspended
13 by the department if the department determines that the
14 applicant or registrant:

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

17 (b) Has made a material false statement in the
18 application for registration;

19 (c) Has been guilty of a fraudulent act in connection
20 with any purchase or sale or has been or is engaged in or is
21 about to engage in any practice, purchase, or sale which is
22 fraudulent or in violation of the law;

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

26 (e) Is making purchases or sales through any business
27 associate not registered in compliance with the provisions of
28 this chapter;

29 (f) Has, within the preceding 10-year ~~5-year~~ period,
30 been convicted of, or has entered a plea of guilty or nolo
31 contendere to, or had adjudication withheld for, a crime

1 against the laws of this state or any other state or of the
2 United States which relates to registration as a secondhand
3 dealer or which involves theft, larceny, dealing in stolen
4 property, receiving stolen property, burglary, embezzlement,
5 obtaining property by false pretenses, possession of altered
6 property, any felony drug offense, any violation of s.
7 812.015, or any fraudulent ~~or dishonest~~ dealing;

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

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

13
14 In the event the department determines to deny an application
15 or revoke a registration, it shall enter a final order with
16 its findings on the register of secondhand dealers and their
17 business associates, if any; and denial, suspension, or
18 revocation of the registration of a secondhand dealer shall
19 also deny, suspend, or revoke the registration of such
20 secondhand dealer's business associates.

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

25 Section 7. Section 538.16, Florida Statutes, is
26 repealed.

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

29 516.02 Loans; lines of credit; rate of interest;
30 license.--

31

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

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

13 790.335 Prohibition of registration of firearms.--

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

16 (f) Firearm records, including paper pawn transaction
17 forms and contracts on firearm transactions, required by
18 chapters 538 and 539.

19 1. Electronic firearm records held pursuant to chapter
20 538 may only be kept by a secondhand dealer for 30 days after
21 the date of the purchase of the firearm by the secondhand
22 dealer.

23 2. Electronic firearm records held pursuant to chapter
24 539 may only be kept by a pawnbroker for 30 days after the
25 expiration of the loan that is secured by a firearm or 30 days
26 after the date of purchase of a firearm, whichever is
27 applicable.

28 3. Except as required by federal law, any firearm
29 records kept pursuant to chapter 538 or chapter 539 shall not,
30 at any time, be electronically transferred to any public or
31 private entity, agency, business, or enterprise, nor shall any

1 such records be copied or transferred for purposes of
2 accumulation of such records into lists, registries, or
3 databases.

4 4. Notwithstanding subparagraph 3., secondhand dealers
5 and pawnbrokers may electronically submit firearm transaction
6 records to the appropriate law enforcement agencies as
7 required by chapters 538 and 539; however, the law enforcement
8 agencies may not electronically submit such records to any
9 other person or entity and must destroy such records within 60
10 days after receipt of such records.

11 5. Notwithstanding subparagraph 3., secondhand dealers
12 and pawnbrokers may electronically submit limited firearms
13 records consisting solely of the manufacturer, model, serial
14 number, and caliber of pawned or purchased firearms to a
15 third-party private provider that is exclusively incorporated,
16 exclusively owned, and exclusively operated in the United
17 States and that restricts access to such information to only
18 appropriate law enforcement agencies for legitimate law
19 enforcement purposes. Such records must be destroyed within 30
20 days by the third-party provider. As a condition of receipt of
21 such records, the third-party provider must agree in writing
22 to comply with the requirements of this section. Any
23 pawnbroker or secondhand dealer who contracts with a
24 third-party provider other than as provided in this act or
25 electronically transmits any records of firearms transactions
26 to any third-party provider other than the records
27 specifically allowed by this paragraph commits a felony of the
28 second degree, punishable as provided in s. 775.082 or s.
29 775.083.

30 Section 10. This act shall take effect July 1, 2005.
31