

1 amending s. 538.06, F.S.; revising provisions
2 with respect to the holding of goods upon
3 probable cause that the goods are stolen;
4 providing for payment of restitution,
5 attorney's fees, and costs to a secondhand
6 dealer under specified circumstances;
7 increasing the time limit for maintenance of
8 transaction records by dealers in secondhand
9 property; amending s. 538.07, F.S.; revising
10 provisions relating to restitution for stolen
11 property recovered from a secondhand dealer;
12 amending s. 538.09, F.S.; revising provisions
13 with respect to registration as a secondhand
14 dealer; revising conditions under which
15 registration may be denied, revoked,
16 restricted, or suspended by the Department of
17 Revenue; repealing s. 538.16, F.S., relating to
18 disposal of property by secondhand dealers;
19 amending s. 516.02, F.S.; removing
20 cross-references; reenacting s. 790.335(3)(f),
21 F.S., which provides a second degree felony
22 penalty for any secondhand dealer who contracts
23 with a specified third-party provider or
24 electronically transmits certain records of
25 firearms transactions to any third-party
26 provider; providing an effective date.

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

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

1 538.03 Definitions; applicability.--
2 (1) As used in this part, the term:
3 (a) "Secondhand dealer" means any person, corporation,
4 or other business organization or entity which is not a
5 secondary metals recycler subject to part II and which is
6 engaged in the business of purchasing, consigning, or trading
7 ~~pawning~~ secondhand goods. ~~However, secondhand dealers are not~~
8 ~~limited to dealing only in items defined as secondhand goods~~
9 ~~in paragraph (g). Except as provided in subsection (2), the~~
10 ~~term means pawnbrokers, jewelers, precious metals dealers,~~
11 ~~garage sale operators, secondhand stores, and consignment~~
12 ~~shops.~~
13 (b) "Precious metals dealer" means a secondhand dealer
14 who normally or regularly engages in the business of buying
15 used precious metals for resale. The term does not include
16 those persons involved in the bulk sale of precious metals
17 from one secondhand or precious metals dealer to another.
18 ~~(c) "Pawnbroker" means any person, corporation, or~~
19 ~~other business organization or entity which is regularly~~
20 ~~engaged in the business of making pawns but does not include a~~
21 ~~financial institution as defined in s. 655.005 or any person~~
22 ~~who regularly loans money or any other thing of value on~~
23 ~~stocks, bonds, or other securities.~~
24 ~~(d) "Pawn" means either of the following transactions:~~
25 1. ~~Loan of money. A written or oral bailment of~~
26 ~~personal property as security for an engagement or debt,~~
27 ~~redeemable on certain terms and with the implied power of sale~~
28 ~~on default.~~
29 2. ~~Buy sell agreement. An agreement whereby a~~
30 ~~purchaser agrees to hold property for a specified period of~~
31

1 ~~time to allow the seller the exclusive right to repurchase the~~
2 ~~property. A buy sell agreement is not a loan of money.~~

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

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

12 (e) "Acquire" means to obtain by purchase,
13 consignment, or trade.

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

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

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

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

16 ~~1.~~ any chemical or any automotive, photographic,
17 electrical, medical, or dental materials or electronic parts.

18 ~~2.~~ Any coin with an intrinsic value less than its
19 numismatic value.

20 ~~3.~~ Any gold bullion coin.

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

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

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

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

26 (2) This chapter does not apply to:

27 (a) Any secondhand goods transaction involving an
28 organization or entity registered with the state as a
29 nonprofit, religious, or charitable organization or any
30 school-sponsored association or organization other than a
31

1 secondary metals recycler subject to the provisions of part
2 II.

3 (b) A law enforcement officer acting in an official
4 capacity.

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

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

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

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

16 (g) Any person at antique, coin, or collectible shows
17 or sales.

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

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

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

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

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

1 (m) Any business that is registered with the
2 Department of Revenue for sales tax purposes as an antique
3 dealer pursuant to chapter 212 and that purchases secondhand
4 goods from the property owner or her or his representative at
5 the property owner's residence pursuant to a written agreement
6 that states the name, address, and telephone number of the
7 property owner and the type of property purchased.

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

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

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

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

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

23 5. The business must provide the appropriate law
24 enforcement agency with the name or names under which it
25 conducts business on the website;

26 6. The business must allow the appropriate law
27 enforcement agency to inspect its business premises at any
28 time during normal business hours;

29 7. Any payment by the business resulting from such a
30 sale, purchase, consignment, or trade must be made to the
31 person or entity with whom the business contracted to offer

1 the goods and must be made by check or via a money transmitter
2 licensed under part II of chapter 560; and

3 8.a. At least 48 hours after the estimated time of
4 contracting to offer the secondhand goods, the business must
5 verify that any item having a serial number is not stolen
6 property by entering the serial number of the item into the
7 Department of Law Enforcement's stolen article database
8 located at the Florida Crime Information Center's public
9 access system website. The business shall record the date and
10 time of such verification on the contract covering the goods.
11 If such verification reveals that an item is stolen property,
12 the business shall immediately remove the item from any
13 website on which it is being offered and notify the
14 appropriate law enforcement agency; or

15 b. The business must provide the appropriate law
16 enforcement agency with an electronic copy of the name,
17 address, phone number, driver's license number, and issuing
18 state of the person with whom the business contracted to offer
19 the goods, as well as an accurate description of the goods,
20 including make, model, serial number, and any other unique
21 identifying marks, numbers, names, or letters that may be on
22 an item, in a format agreed upon by the business and the
23 appropriate law enforcement agency. This information must be
24 provided to the appropriate law enforcement agency within 24
25 hours after entering into the contract unless other
26 arrangements are made between the business and the law
27 enforcement agency. Any person purchasing, consigning, or
28 pawning secondhand goods ordered by mail, computer assisted
29 shopping, media assisted, media facilitated, or
30 media solicited shopping or shopping by other means of media
31 communication, including, but not limited to, direct mail

1 ~~advertising, unsolicited distribution of catalogs, television,~~
2 ~~radio, or other electronic media, telephone, magazine, or~~
3 ~~newspaper advertising, so long as such person is in this state~~
4 ~~at the time of the order.~~

5 (o) Any person offering his or her own personal
6 property for sale, purchase, consignment, or trade via an
7 Internet website, or a person or entity offering the personal
8 property of others for sale, purchase, consignment, or trade
9 via an Internet website, when that person or entity does not
10 have, and is not required to have, a local occupational or
11 business license for this purpose.

12 (p) A business whose primary business is the sale,
13 rental, or trade of motion picture videos or video games, if
14 the business:

15 1. Requires the sellers of secondhand goods to have a
16 current account with the business;

17 2. Has on file in a readily accessible format the
18 name, current residential address, home and work telephone
19 numbers, government-issued identification number, place of
20 employment, date of birth, gender, and right thumbprint of
21 each seller of secondhand goods;

22 3. Purchases secondhand goods from the property owner
23 or his or her representative at the place of business pursuant
24 to an agreement in writing and signed by the property owner
25 which describes the property purchased, states the date and
26 time of the purchase, and states that the seller is the lawful
27 owner of the property;

28 4. Retains such purchase agreements for not less than
29 1 year; and

30 5. Pays for the purchased property in the form of a
31 store credit that is issued to the seller and is redeemable

1 solely by the seller or another authorized user of the
2 seller's account with that business.

3 ~~(g)(e)~~ A motor vehicle dealer as defined in s. 320.27.

4 (3) This part does not apply to secondary metals
5 recyclers regulated under part II, except for s. 538.11, which
6 applies to both secondhand dealers and secondary metals
7 recyclers.

8 Section 2. Section 538.04, Florida Statutes, is
9 amended to read:

10 538.04 Recordkeeping requirements; penalties.--

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

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

31

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

5 1. Brand name.

6 2. Model number.

7 3. Manufacturer's serial number.

8 4. Size.

9 5. Color, as apparent to the untrained eye.

10 6. Precious metal type, weight, and content if known.

11 7. Gemstone description, including the number of
12 stones, if applicable.

13 8. In the case of firearms, the type of action,
14 caliber or gauge, number of barrels, barrel length, and
15 finish.

16 9. Any other unique identifying marks, numbers, or
17 letters.

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

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

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

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

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

28 (2) The secondhand dealer shall require verification
29 of the identification by the exhibition of a government-issued
30 photographic identification card such as a driver's license or
31 military identification card. The record shall contain the

1 type of identification exhibited, the issuing agency, and the
2 number thereon.

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

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

10 (a) If the value of the money received is less than
11 \$300, a felony ~~misdemeanor~~ of the third ~~first~~ degree,
12 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
13 775.084.

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

17 (5) Secondhand dealers are exempt from the provisions
18 of this section for all transactions involving secondhand
19 sports equipment except secondhand sports equipment that is
20 permanently labeled with a serial number.

21 (6) If the appropriate law enforcement agency supplies
22 a secondhand dealer with appropriate software and the
23 secondhand dealer has computer capability, secondhand dealer
24 transactions shall be electronically transferred. If a
25 secondhand dealer does not have computer capability, the
26 appropriate law enforcement agency may provide the secondhand
27 dealer with a computer and all necessary equipment for the
28 purpose of electronically transferring secondhand dealer
29 transactions. The appropriate law enforcement agency shall
30 retain ownership of the computer, unless otherwise agreed
31 upon. The secondhand dealer shall maintain the computer in

1 good working order, ordinary wear and tear excepted. In the
2 event the secondhand dealer transfers secondhand dealer
3 transactions electronically, the secondhand dealer is not
4 required to also deliver to the appropriate law enforcement
5 agency the original or copies of the secondhand transaction
6 forms. For the purpose of a criminal investigation, the
7 appropriate law enforcement agency may request that the
8 secondhand dealer produce an original of a transaction form
9 that has been electronically transferred. The secondhand
10 dealer shall deliver this form to the appropriate law
11 enforcement agency within 24 hours of the request.

12 (7) If the original transaction form is lost or
13 destroyed by the appropriate law enforcement agency, a copy
14 may be used by the secondhand dealer as evidence in court.
15 When an electronic image of a customer's identification is
16 accepted for a transaction, the secondhand dealer must
17 maintain the electronic image in order to meet the
18 recordkeeping requirements applicable to the original
19 transaction form. If a criminal investigation occurs, the
20 secondhand dealer shall, upon request, provide a clear and
21 legible copy of the image to the appropriate law enforcement
22 agency.

23 Section 3. Section 538.05, Florida Statutes, is
24 amended to read:

25 538.05 Inspection of records and premises of
26 secondhand dealers.--

27 (1) The entire registered premises and required
28 records of each secondhand dealer are subject to inspection
29 during regular business hours by any law enforcement officer
30 ~~with jurisdiction the police department if the premises are~~
31 ~~located within a municipality or, if located outside a~~

1 ~~municipality, by the sheriff's department of the county in~~
2 ~~which the premises are located, and by any state law~~
3 ~~enforcement officer who has jurisdiction over the dealer.~~

4 (2) The inspection authorized by subsection (1) shall
5 consist of an examination on the registered premises of the
6 inventory and required records to determine whether the
7 records and inventory are being maintained on the registered
8 premises as required by s. 538.04 and whether the holding
9 period required by s. 538.06 is being complied with.

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

12 538.06 Holding period.--

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

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

31

1 (3) Upon probable cause that goods held by a
2 secondhand dealer are stolen, a law enforcement officer with
3 jurisdiction may place a 90-day written hold order on the
4 goods ~~extend the holding period to a maximum of 60 days.~~
5 However, the hold ~~holding period~~ may be extended beyond 90 ~~60~~
6 days by a court of competent jurisdiction upon a finding of
7 probable cause that the property is stolen and further holding
8 is necessary for the purposes of trial or to safeguard such
9 property. The dealer shall assume all responsibility, civil or
10 criminal, relative to the property or evidence in question,
11 including responsibility for the actions of any employee with
12 respect thereto.

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

28 ~~(5)~~(4) All dealers in secondhand property regulated by
29 this chapter shall maintain transaction records for 3 ~~5~~ years.

30 Section 5. Section 538.07, Florida Statutes, is
31 amended to read:

1 538.07 Penalty for violation of chapter.--

2 (1) Except where otherwise provided herein, a person
3 who knowingly violates any provision of this chapter commits a
4 misdemeanor of the first degree, punishable as provided in s.
5 775.082 and by a fine not to exceed \$10,000.

6 (2) When the lawful owner recovers stolen property
7 from a secondhand dealer and the person who sold or pledged
8 the stolen property to the secondhand dealer is convicted of
9 theft, a violation of this section, or dealing in stolen
10 property, the court shall order the defendant to make
11 restitution to either the secondhand dealer or the lawful
12 owner as applicable pursuant to s. 775.089.

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

15 538.09 Registration.--

16 (1) A secondhand dealer shall not engage in the
17 business of purchasing, consigning, or ~~trading~~ ~~pawning~~
18 secondhand goods from any location without registering with
19 the Department of Revenue. A fee equal to the federal and
20 state costs for processing required fingerprints must be
21 submitted to the department with each application for
22 registration. One application is required for each dealer. If
23 a secondhand dealer is the owner of more than one secondhand
24 store location, the application must list each location, and
25 the department shall issue a duplicate registration for each
26 location. For purposes of subsections (4) and (5) of this
27 section, these duplicate registrations shall be deemed
28 individual registrations. A dealer shall pay a fee of \$6 per
29 location at the time of registration and an annual renewal fee
30 of \$6 per location on October 1 of each year. All fees
31 collected, less costs of administration, shall be transferred

1 into a trust fund to be established and entitled the
2 Secondhand Dealer and Secondary Metals Recycler Clearing Trust
3 Fund. The Department of Revenue shall forward the full set of
4 fingerprints to the Department of Law Enforcement for state
5 and federal processing, provided the federal service is
6 available, to be processed for any criminal justice
7 information as defined in s. 943.045. The cost of processing
8 such fingerprints shall be payable to the Department of Law
9 Enforcement by the Department of Revenue. The department may
10 issue a temporary registration to each location pending
11 completion of the background check by state and federal law
12 enforcement agencies, but shall revoke such temporary
13 registration if the completed background check reveals a
14 prohibited criminal background. An applicant for a secondhand
15 dealer registration must be a natural person who has reached
16 the age of 18 years.

17 (a) If the applicant is a partnership, all the
18 partners must apply.

19 (b) If the applicant is a joint venture, association,
20 or other noncorporate entity, all members of such joint
21 venture, association, or other noncorporate entity must make
22 application for registration as natural persons.

23 (c) If the applicant is a corporation, the
24 registration must include the name and address of such
25 corporation's registered agent for service of process in the
26 state and a certified copy of statement from the Secretary of
27 State that the corporation is duly organized in the state or,
28 if the corporation is organized in a state other than Florida,
29 a certified copy of statement from the Secretary of State that
30 the corporation is duly qualified to do business in this
31 state. If the dealer has more than one location, the

1 application must list each location owned by the same legal
2 entity and the department shall issue a duplicate registration
3 for each location.

4 (2) The secondhand dealer shall furnish with her or
5 his registration a complete set of her or his fingerprints,
6 certified by an authorized law enforcement officer, and a
7 recent fullface photographic identification card of herself or
8 himself. The Department of Law Enforcement shall report its
9 findings to the Department of Revenue within 30 days after the
10 date fingerprint cards are submitted for criminal justice
11 information.

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

23 (4) The department may impose a civil fine of up to
24 \$10,000 for each violation of this section, which fine shall
25 be transferred into the General Revenue Fund. If the fine is
26 not paid within 60 days, the department may bring a civil
27 action under s. 120.69 to recover the fine.

28 (5) In addition to the fine provided in subsection
29 (4), registration under this section may be denied or any
30 registration granted may be revoked, restricted, or suspended
31

1 by the department if the department determines that the
2 applicant or registrant:

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

5 (b) Has made a material false statement in the
6 application for registration;

7 (c) Has been guilty of a fraudulent act in connection
8 with any purchase or sale or has been or is engaged in or is
9 about to engage in any practice, purchase, or sale which is
10 fraudulent or in violation of the law;

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

14 (e) Is making purchases or sales through any business
15 associate not registered in compliance with the provisions of
16 this chapter;

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

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

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

3
4 In the event the department determines to deny an application
5 or revoke a registration, it shall enter a final order with
6 its findings on the register of secondhand dealers and their
7 business associates, if any; and denial, suspension, or
8 revocation of the registration of a secondhand dealer shall
9 also deny, suspend, or revoke the registration of such
10 secondhand dealer's business associates.

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

15 Section 7. Section 538.16, Florida Statutes, is
16 repealed.

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

19 516.02 Loans; lines of credit; rate of interest;
20 license.--

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

29 Section 9. For the purpose of incorporating the
30 amendment to section 538.03, Florida Statutes, in a reference
31

1 thereto, paragraph (f) of subsection (3) of section 790.335,
2 Florida Statutes, is reenacted to read:

3 790.335 Prohibition of registration of firearms.--

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

6 (f) Firearm records, including paper pawn transaction
7 forms and contracts on firearm transactions, required by
8 chapters 538 and 539.

9 1. Electronic firearm records held pursuant to chapter
10 538 may only be kept by a secondhand dealer for 30 days after
11 the date of the purchase of the firearm by the secondhand
12 dealer.

13 2. Electronic firearm records held pursuant to chapter
14 539 may only be kept by a pawnbroker for 30 days after the
15 expiration of the loan that is secured by a firearm or 30 days
16 after the date of purchase of a firearm, whichever is
17 applicable.

18 3. Except as required by federal law, any firearm
19 records kept pursuant to chapter 538 or chapter 539 shall not,
20 at any time, be electronically transferred to any public or
21 private entity, agency, business, or enterprise, nor shall any
22 such records be copied or transferred for purposes of
23 accumulation of such records into lists, registries, or
24 databases.

25 4. Notwithstanding subparagraph 3., secondhand dealers
26 and pawnbrokers may electronically submit firearm transaction
27 records to the appropriate law enforcement agencies as
28 required by chapters 538 and 539; however, the law enforcement
29 agencies may not electronically submit such records to any
30 other person or entity and must destroy such records within 60
31 days after receipt of such records.

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

20 Section 10. This act shall take effect October 1,
21 2005.

22
23
24
25
26
27
28
29
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 1864
4 The committee substitute provides the following changes:
5 o Provides an exemption from regulation as a secondhand
6 dealer for an internet consignment company, if certain
7 conditions are met.
8 o Authorizes an exemption from regulation as a secondhand
9 dealer for an individual selling his or her own property
10 through the internet, if such person is not required to
11 have a local occupational or business license.
12 o Authorizes an exemption from regulation as a secondhand
13 dealer for a business primarily engaged in the sale,
14 rental, or trade of motion picture videos or video games,
15 if certain conditions are met.
16 o Provides that the 10-year background check on applicants
17 would apply to persons applying on or after October 1,
18 2005, to coincide with the annual registration deadline
19 and to clarify that this provision only applies to new
20 applicants.
21 o Changes the effective date of the bill from July 1, 2005
22 to October 1, 2005 to coincide with the annual
23 registration deadline.
24 o Reinstates the current statutory holding period that
25 secondhand dealers must hold property prior to disposal.
26
27
28
29
30
31