

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Sansom offered the following:

2

3 **Substitute Amendment for Amendment (957863) (with title**
4 **amendment)**

5 Remove everything after the enacting clause and insert:

6

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

9 538.03 Definitions; applicability.--

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

11 (a) "Secondhand dealer" means any person, corporation, or
12 other business organization or entity which is not a secondary
13 metals recycler subject to part II and which is engaged in the
14 business of purchasing, consigning, or trading ~~pawning~~
15 secondhand goods. ~~However, secondhand dealers are not limited to~~

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16 ~~dealing only in items defined as secondhand goods in paragraph~~
17 ~~(g). Except as provided in subsection (2), the term means~~
18 ~~pawnbrokers, jewelers, precious metals dealers, garage sale~~
19 ~~operators, secondhand stores, and consignment shops.~~

20 (b) "Precious metals dealer" means a secondhand dealer who
21 normally or regularly engages in the business of buying used
22 precious metals for resale. The term does not include those
23 persons involved in the bulk sale of precious metals from one
24 secondhand or precious metals dealer to another.

25 ~~(c) "Pawnbroker" means any person, corporation, or other~~
26 ~~business organization or entity which is regularly engaged in~~
27 ~~the business of making pawns but does not include a financial~~
28 ~~institution as defined in s. 655.005 or any person who regularly~~
29 ~~loans money or any other thing of value on stocks, bonds, or~~
30 ~~other securities.~~

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

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

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

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

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

47 (e) "Acquire" means to obtain by purchase, consignment, or
48 trade.

49 ~~(f)(g)~~ "Secondhand goods" means personal property
50 previously owned or used, which is not regulated metals property
51 regulated under part II and which is purchased, consigned, or
52 traded ~~owned~~ as used property. Such secondhand goods shall not
53 include office furniture, pianos, books, clothing, organs,
54 coins, motor vehicles, costume jewelry, and secondhand sports
55 equipment that is not permanently labeled with a serial number.
56 For purposes of this paragraph, "secondhand sports equipment"
57 does not include golf clubs. ~~be limited to watches; diamonds,~~
58 ~~gems, and other precious stones; fishing rods, reels, and~~
59 ~~tackle; audio and video electronic equipment, including~~
60 ~~television sets, compact disc players, radios, amplifiers,~~
61 ~~receivers, turntables, tape recorders; video tape recorders;~~
62 ~~speakers and citizens' band radios; computer equipment; radar~~
63 ~~detectors; depth finders; trolling motors; outboard motors;~~
64 ~~sterling silver flatware and serving pieces; photographic~~
65 ~~equipment, including cameras, video and film cameras, lenses,~~
66 ~~electronic flashes, tripods, and developing equipment; microwave~~
67 ~~ovens; animal fur coats; marine equipment; video games and~~
68 ~~cartridges; power lawn and landscape equipment; office equipment~~

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69 ~~such as copiers, fax machines, and postage machines but~~
70 ~~excluding furniture; sports equipment; golf clubs; weapons,~~
71 ~~including knives, swords, and air guns; telephones, including~~
72 ~~cellular and portable; firearms; tools; calculators; musical~~
73 ~~instruments, excluding pianos and organs; lawnmowers; bicycles;~~
74 ~~typewriters; motor vehicles; gold, silver, platinum, and other~~
75 ~~precious metals excluding coins; and jewelry, excluding costume~~
76 ~~jewelry.~~

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

79 ~~(h)(i)~~ "Precious metals" means any item containing any
80 gold, silver, or platinum, or any combination thereof,
81 excluding:

82 1. ~~any chemical or any automotive, photographic,~~
83 ~~electrical, medical, or dental materials or electronic parts.~~

84 2. ~~Any coin with an intrinsic value less than its~~
85 ~~numismatic value.~~

86 3. ~~Any gold bullion coin.~~

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

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

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

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

92 (2) This chapter does not apply to:

93 (a) Any secondhand goods transaction involving an
94 organization or entity registered with the state as a nonprofit,
95 religious, or charitable organization or any school-sponsored

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96 association or organization other than a secondary metals
97 recycler subject to the provisions of part II.

98 (b) A law enforcement officer acting in an official
99 capacity.

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

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

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

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

111 (g) Any person at antique, coin, or collectible shows or
112 sales.

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

116 (i) The purchase, consignment, or trade pawn of secondhand
117 goods from one secondhand dealer to another secondhand dealer
118 when the selling secondhand dealer has complied with the
119 requirements of this chapter.

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

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122 (k) Any person purchasing, consigning, or trading ~~pawning~~
123 secondhand goods at a flea market regardless of whether at a
124 temporary or permanent business location at the flea market.

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

126 (m) Any business that is registered with the Department of
127 Revenue for sales tax purposes as an antique dealer pursuant to
128 chapter 212 and that purchases secondhand goods from the
129 property owner or her or his representative at the property
130 owner's residence pursuant to a written agreement that states
131 the name, address, and telephone number of the property owner
132 and the type of property purchased.

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

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

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

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

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

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148 5. The business must provide the appropriate law
149 enforcement agency with the name or names under which it
150 conducts business on the website;

151 6. The business must allow the appropriate law enforcement
152 agency to inspect its business premises at any time during
153 normal business hours;

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

159 8.a. At least 48 hours after the estimated time of
160 contracting to offer the secondhand goods, the business must
161 verify that any item having a serial number is not stolen
162 property by entering the serial number of the item into the
163 Department of Law Enforcement's stolen article database located
164 at the Florida Crime Information Center's public access system
165 website. The business shall record the date and time of such
166 verification on the contract covering the goods. If such
167 verification reveals that an item is stolen property, the
168 business shall immediately remove the item from any website on
169 which it is being offered and notify the appropriate law
170 enforcement agency; or

171 b. The business must provide the appropriate law
172 enforcement agency with an electronic copy of the name, address,
173 phone number, driver's license number, and issuing state of the
174 person with whom the business contracted to offer the goods, as

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175 well as an accurate description of the goods, including make,
176 model, serial number, and any other unique identifying marks,
177 numbers, names, or letters that may be on an item, in a format
178 agreed upon by the business and the appropriate law enforcement
179 agency. This information must be provided to the appropriate law
180 enforcement agency within 24 hours after entering into the
181 contract unless other arrangements are made between the business
182 and the law enforcement agency. Any person purchasing,
183 ~~consigning, or pawning secondhand goods ordered by mail,~~
184 ~~computer-assisted shopping, media-assisted, media-facilitated,~~
185 ~~or media-solicited shopping or shopping by other means of media~~
186 ~~communication, including, but not limited to, direct mail~~
187 ~~advertising, unsolicited distribution of catalogs, television,~~
188 ~~radio, or other electronic media, telephone, magazine, or~~
189 ~~newspaper advertising, so long as such person is in this state~~
190 ~~at the time of the order.~~

191 (o) Any person offering his or her own personal property
192 for sale, purchase, consignment, or trade via an Internet
193 website, or a person or entity offering the personal property of
194 others for sale, purchase, consignment, or trade via an Internet
195 website, when that person or entity does not have, and is not
196 required to have, a local occupational or business license for
197 this purpose.

198 (p) Any business whose primary business is the sale,
199 rental, and/or trading of motion picture videos and/or video
200 games, provided that the business:

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- 201 1. Requires the sellers of secondhand goods to have a
202 current account with the business.
- 203 2. Has on file in any readily accessible format the name,
204 current residential address, home and work telephone numbers,
205 government-issued identification number, place of employment,
206 date of birth, gender, and right thumbprint of each seller of
207 secondhand goods.
- 208 3. Purchases secondhand goods from the property owner or
209 his or her representative at the place of business pursuant to a
210 written agreement signed by the property owner that describes
211 the property purchased and states the date and time of the
212 purchase and that the seller is the lawful owner of such
213 property.
- 214 4. Retains such purchase agreements for not less than 1
215 year.
- 216 5. Pays for the purchased property in the form of a store
217 credit issued to the seller which is redeemable solely by the
218 seller or other authorized user of the seller's account with
219 that business.

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

221 (3) This part does not apply to secondary metals recyclers
222 regulated under part II, except for s. 538.11, which applies to
223 both secondhand dealers and secondary metals recyclers.

224 Section 2. Section 538.04, Florida Statutes, is amended to
225 read:

226 538.04 Recordkeeping requirements; penalties.--

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227 (1) Secondhand dealers shall complete a secondhand dealers
228 transaction form at the time of the actual transaction. A
229 secondhand dealer shall maintain a copy of a completed
230 transaction form on the registered premises for at least 1 year
231 after the date of the transaction. However, the secondhand
232 dealer shall maintain a copy of the transaction form for a
233 period of no less than 3 years. ~~Secondhand dealers shall~~
234 ~~maintain records of all transactions of secondhand goods on the~~
235 ~~premises. Unless other arrangements have been agreed upon by the~~
236 ~~secondhand dealer and the appropriate law enforcement agency,~~
237 ~~the secondhand dealer shall, within 24 hours of the acquisition~~
238 ~~of any secondhand goods, by purchase or pledge as security for a~~
239 ~~loan, a secondhand dealer shall deliver to the police department~~
240 ~~of the municipality where the goods were acquired~~ purchased or,
241 if the goods were acquired ~~purchased~~ outside of a municipality,
242 to the sheriff's department of the county where the goods were
243 ~~acquired~~ purchased, a record of the transaction on a form
244 approved by the Department of Law Enforcement. Such record shall
245 contain:

- 246 (a) The time, date, and place of the transaction.
- 247 (b) A complete and accurate description of the goods
248 acquired, including the following information, if applicable:
249 ~~any serial numbers, manufacturer's numbers, or other identifying~~
250 ~~marks or characteristics.~~
- 251 1. Brand name.
- 252 2. Model number.
- 253 3. Manufacturer's serial number.

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- 254 4. Size.
- 255 5. Color, as apparent to the untrained eye.
- 256 6. Precious metal type, weight, and content if known.
- 257 7. Gemstone description, including the number of stones,
- 258 if applicable.
- 259 8. In the case of firearms, the type of action, caliber or
- 260 gauge, number of barrels, barrel length, and finish.
- 261 9. Any other unique identifying marks, numbers, or
- 262 letters.

263 (c) A description of the person from whom the goods were

264 acquired, including:

- 265 1. Full name, current residential address, workplace, and
- 266 home and work phone numbers.
- 267 2. Height, weight, date of birth, race, gender, hair
- 268 color, eye color, and any other identifying marks.
- 269 3. The right thumbprint, free of smudges and smears, of
- 270 the person from whom the goods were acquired.

271 (d) Any other information required by the form approved by

272 the Department of Law Enforcement.

273 (2) The secondhand dealer shall require verification of

274 the identification by the exhibition of a government-issued

275 photographic identification card such as a driver's license or

276 military identification card. The record shall contain the type

277 of identification exhibited, the issuing agency, and the number

278 thereon.

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

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

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

289 (b) If the value of the money received is \$300 or more, a
290 felony of the second ~~third~~ degree, punishable as provided in s.
291 775.082, s. 775.083, or s. 775.084.

292 (5) Secondhand dealers are exempt from the provisions of
293 this section for all transactions involving secondhand sports
294 equipment except secondhand sports equipment that is permanently
295 labeled with a serial number.

296 (6) If the appropriate law enforcement agency supplies a
297 secondhand dealer with appropriate software and the secondhand
298 dealer has computer capability, secondhand dealer transactions
299 shall be electronically transferred. If a secondhand dealer does
300 not have computer capability, the appropriate law enforcement
301 agency may provide the secondhand dealer with a computer and all
302 necessary equipment for the purpose of electronically
303 transferring secondhand dealer transactions. The appropriate law
304 enforcement agency shall retain ownership of the computer,
305 unless otherwise agreed upon. The secondhand dealer shall

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306 maintain the computer in good working order, ordinary wear and
307 tear excepted. In the event the secondhand dealer transfers
308 secondhand dealer transactions electronically, the secondhand
309 dealer is not required to also deliver to the appropriate law
310 enforcement agency the original or copies of the secondhand
311 transaction forms. For the purpose of a criminal investigation,
312 the appropriate law enforcement agency may request that the
313 secondhand dealer produce an original of a transaction form that
314 has been electronically transferred. The secondhand dealer shall
315 deliver this form to the appropriate law enforcement agency
316 within 24 hours of the request.

317 (7) If the original transaction form is lost or destroyed
318 by the appropriate law enforcement agency, a copy may be used by
319 the secondhand dealer as evidence in court. When an electronic
320 image of a customer's identification is accepted for a
321 transaction, the secondhand dealer must maintain the electronic
322 image in order to meet the recordkeeping requirements applicable
323 to the original transaction form. If a criminal investigation
324 occurs, the secondhand dealer shall, upon request, provide a
325 clear and legible copy of the image to the appropriate law
326 enforcement agency.

327 Section 3. Section 538.05, Florida Statutes, is amended to
328 read:

329 538.05 Inspection of records and premises of secondhand
330 dealers.--

331 (1) The entire registered premises and required records of
332 each secondhand dealer are subject to inspection during regular

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333 business hours by any law enforcement officer with jurisdiction
334 ~~the police department if the premises are located within a~~
335 ~~municipality or, if located outside a municipality, by the~~
336 ~~sheriff's department of the county in which the premises are~~
337 ~~located, and by any state law enforcement officer who has~~
338 ~~jurisdiction over the dealer.~~

339 (2) The inspection authorized by subsection (1) shall
340 consist of an examination on the registered premises of the
341 inventory and required records to determine whether the records
342 and inventory are being maintained on the registered premises as
343 required by s. 538.04 and whether the holding period required by
344 s. 538.06 is being complied with.

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

347 538.06 Holding period.--

348 (1) A secondhand dealer shall not sell, barter, exchange,
349 alter, adulterate, use, or in any way dispose of any secondhand
350 goods within 15 calendar days of the date of acquisition of the
351 goods. Such holding periods are not applicable when the person
352 known by the secondhand dealer to be the person from whom the
353 goods were acquired desires to redeem, repurchase, or recover
354 the goods, provided the dealer can produce the record of the
355 original transaction with verification that the customer is the
356 person from whom the goods were originally acquired.

357 (2) A secondhand dealer must maintain actual physical
358 possession of all secondhand goods throughout a transaction. It
359 is unlawful for a secondhand dealer to accept title or any other

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360 form of security in secondhand goods in lieu of actual physical
361 possession. A secondhand dealer who accepts title or any other
362 form of security in secondhand goods in lieu of actual physical
363 possession commits a misdemeanor of the first degree, punishable
364 as provided in s. 775.082 or s. 775.083.

365 (3) Upon probable cause that goods held by a secondhand
366 dealer are stolen, a law enforcement officer with jurisdiction
367 may place a 90-day written hold order on the goods ~~extend the~~
368 ~~holding period to a maximum of 60 days~~. However, the hold
369 ~~holding period~~ may be extended beyond 90 ~~60~~ days by a court of
370 competent jurisdiction upon a finding of probable cause that the
371 property is stolen and further holding is necessary for the
372 purposes of trial or to safeguard such property. The dealer
373 shall assume all responsibility, civil or criminal, relative to
374 the property or evidence in question, including responsibility
375 for the actions of any employee with respect thereto.

376 (4) While a hold order is in effect, the secondhand dealer
377 must, upon request, release the property subject to the hold
378 order to the custody of a law enforcement officer with
379 jurisdiction for use in a criminal investigation. The release of
380 the property to the custody of the law enforcement officer is
381 not considered a waiver or release of the secondhand dealer's
382 rights or interest in the property. Upon completion of the
383 criminal proceeding, the property must be returned to the
384 secondhand dealer unless the court orders other disposition.
385 When such other disposition is ordered, the court shall
386 additionally order the person from whom the secondhand dealer

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387 acquired the property to pay restitution to the secondhand
388 dealer in the amount that the secondhand dealer paid for the
389 property together with reasonable attorney's fees and costs.

390 (5)(4) All dealers in secondhand property regulated by
391 this chapter shall maintain transaction records for 3 5 years.

392 Section 5. Section 538.07, Florida Statutes, is amended to
393 read:

394 538.07 Penalty for violation of chapter.--

395 (1) Except where otherwise provided herein, a person who
396 knowingly violates any provision of this chapter commits a
397 misdemeanor of the first degree, punishable as provided in s.
398 775.082 and by a fine not to exceed \$10,000.

399 (2) When the lawful owner recovers stolen property from a
400 secondhand dealer and the person who sold or pledged the stolen
401 property to the secondhand dealer is convicted of theft, a
402 violation of this section, or dealing in stolen property, the
403 court shall order the defendant to make restitution to either
404 the secondhand dealer or the lawful owner as applicable pursuant
405 to s. 775.089.

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

408 538.09 Registration.--

409 (1) A secondhand dealer shall not engage in the business
410 of purchasing, consigning, or trading ~~pawning~~ secondhand goods
411 from any location without registering with the Department of
412 Revenue. A fee equal to the federal and state costs for
413 processing required fingerprints must be submitted to the

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HOUSE AMENDMENT

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414 department with each application for registration. One
415 application is required for each dealer. If a secondhand dealer
416 is the owner of more than one secondhand store location, the
417 application must list each location, and the department shall
418 issue a duplicate registration for each location. For purposes
419 of subsections (4) and (5) of this section, these duplicate
420 registrations shall be deemed individual registrations. A dealer
421 shall pay a fee of \$6 per location at the time of registration
422 and an annual renewal fee of \$6 per location on October 1 of
423 each year. All fees collected, less costs of administration,
424 shall be transferred into a trust fund to be established and
425 entitled the Secondhand Dealer and Secondary Metals Recycler
426 Clearing Trust Fund. The Department of Revenue shall forward the
427 full set of fingerprints to the Department of Law Enforcement
428 for state and federal processing, provided the federal service
429 is available, to be processed for any criminal justice
430 information as defined in s. 943.045. The cost of processing
431 such fingerprints shall be payable to the Department of Law
432 Enforcement by the Department of Revenue. The department may
433 issue a temporary registration to each location pending
434 completion of the background check by state and federal law
435 enforcement agencies, but shall revoke such temporary
436 registration if the completed background check reveals a
437 prohibited criminal background. An applicant for a secondhand
438 dealer registration must be a natural person who has reached the
439 age of 18 years.

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440 (a) If the applicant is a partnership, all the partners
441 must apply.

442 (b) If the applicant is a joint venture, association, or
443 other noncorporate entity, all members of such joint venture,
444 association, or other noncorporate entity must make application
445 for registration as natural persons.

446 (c) If the applicant is a corporation, the registration
447 must include the name and address of such corporation's
448 registered agent for service of process in the state and a
449 certified copy of statement from the Secretary of State that the
450 corporation is duly organized in the state or, if the
451 corporation is organized in a state other than Florida, a
452 certified copy of statement from the Secretary of State that the
453 corporation is duly qualified to do business in this state. If
454 the dealer has more than one location, the application must list
455 each location owned by the same legal entity and the department
456 shall issue a duplicate registration for each location.

457 (2) The secondhand dealer shall furnish with her or his
458 registration a complete set of her or his fingerprints,
459 certified by an authorized law enforcement officer, and a recent
460 fullface photographic identification card of herself or himself.
461 The Department of Law Enforcement shall report its findings to
462 the Department of Revenue within 30 days after the date
463 fingerprint cards are submitted for criminal justice
464 information.

465 (3) The secondhand dealer's registration shall be
466 conspicuously displayed at her or his registered location

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467 ~~principal place of business. A secondhand dealer must hold~~
468 ~~secondhand goods at the registered location until 15 days after~~
469 ~~the secondhand transaction or until any extension of the holding~~
470 ~~period has expired, whichever is later, and must retain records~~
471 ~~of each transaction which is not specifically exempted by this~~
472 ~~chapter. A secondhand dealer shall not dispose of property at~~
473 ~~any location until the holding period has expired unless the~~
474 ~~transaction is specifically exempted by this chapter.~~

475 (4) The department may impose a civil fine of up to
476 \$10,000 for each violation of this section, which fine shall be
477 transferred into the General Revenue Fund. If the fine is not
478 paid within 60 days, the department may bring a civil action
479 under s. 120.69 to recover the fine.

480 (5) In addition to the fine provided in subsection (4),
481 registration under this section may be denied or any
482 registration granted may be revoked, restricted, or suspended by
483 the department if the department determines that the applicant
484 or registrant:

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

487 (b) Has made a material false statement in the application
488 for registration;

489 (c) Has been guilty of a fraudulent act in connection with
490 any purchase or sale or has been or is engaged in or is about to
491 engage in any practice, purchase, or sale which is fraudulent or
492 in violation of the law;

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

496 (e) Is making purchases or sales through any business
497 associate not registered in compliance with the provisions of
498 this chapter;

499 (f) Has, within the preceding 10-year ~~5-year~~ period for
500 new registrants who apply for registration on or after October
501 1, 2005, been convicted of, or has entered a plea of guilty or
502 nolo contendere to, or had adjudication withheld for, a crime
503 against the laws of this state or any other state or of the
504 United States which relates to registration as a secondhand
505 dealer or which involves theft, larceny, dealing in stolen
506 property, receiving stolen property, burglary, embezzlement,
507 obtaining property by false pretenses, possession of altered
508 property, any felony drug offense, any violation of s. 812.015,
509 or any fraudulent ~~or dishonest~~ dealing;

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

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

515
516 In the event the department determines to deny an application or
517 revoke a registration, it shall enter a final order with its
518 findings on the register of secondhand dealers and their
519 business associates, if any; and denial, suspension, or

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520 revocation of the registration of a secondhand dealer shall also
521 deny, suspend, or revoke the registration of such secondhand
522 dealer's business associates.

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

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

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

530 516.02 Loans; lines of credit; rate of interest;
531 license.--

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

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

544 790.335 Prohibition of registration of firearms.--

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

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547 (f) Firearm records, including paper pawn transaction
548 forms and contracts on firearm transactions, required by
549 chapters 538 and 539.

550 1. Electronic firearm records held pursuant to chapter 538
551 may only be kept by a secondhand dealer for 30 days after the
552 date of the purchase of the firearm by the secondhand dealer.

553 2. Electronic firearm records held pursuant to chapter 539
554 may only be kept by a pawnbroker for 30 days after the
555 expiration of the loan that is secured by a firearm or 30 days
556 after the date of purchase of a firearm, whichever is
557 applicable.

558 3. Except as required by federal law, any firearm records
559 kept pursuant to chapter 538 or chapter 539 shall not, at any
560 time, be electronically transferred to any public or private
561 entity, agency, business, or enterprise, nor shall any such
562 records be copied or transferred for purposes of accumulation of
563 such records into lists, registries, or databases.

564 4. Notwithstanding subparagraph 3., secondhand dealers and
565 pawnbrokers may electronically submit firearm transaction
566 records to the appropriate law enforcement agencies as required
567 by chapters 538 and 539; however, the law enforcement agencies
568 may not electronically submit such records to any other person
569 or entity and must destroy such records within 60 days after
570 receipt of such records.

571 5. Notwithstanding subparagraph 3., secondhand dealers and
572 pawnbrokers may electronically submit limited firearms records
573 consisting solely of the manufacturer, model, serial number, and

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574 caliber of pawned or purchased firearms to a third-party private
 575 provider that is exclusively incorporated, exclusively owned,
 576 and exclusively operated in the United States and that restricts
 577 access to such information to only appropriate law enforcement
 578 agencies for legitimate law enforcement purposes. Such records
 579 must be destroyed within 30 days by the third-party provider. As
 580 a condition of receipt of such records, the third-party provider
 581 must agree in writing to comply with the requirements of this
 582 section. Any pawnbroker or secondhand dealer who contracts with
 583 a third-party provider other than as provided in this act or
 584 electronically transmits any records of firearms transactions to
 585 any third-party provider other than the records specifically
 586 allowed by this paragraph commits a felony of the second degree,
 587 punishable as provided in s. 775.082 or s. 775.083.

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

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

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Remove the entire title and insert:

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A bill to be entitled
 An act relating to secondhand dealers; amending s. 538.03,
 F.S.; revising definitions; revising applicability of ch.
 538, F.S.; exempting persons or entities offering
 secondhand goods or personal property for sale, purchase,
 consignment, or trade via the Internet from the provisions

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HOUSE AMENDMENT

Bill No. HB 855 CS

Amendment No. (for drafter's use only)

601 of ch. 538, F.S., under certain circumstances; amending s.
602 538.04, F.S.; revising recordkeeping requirements for
603 secondhand dealers; providing penalties for knowingly
604 giving false verification of ownership or a false or
605 altered identification, and for receiving money from a
606 secondhand dealer for goods sold, consigned, or traded if
607 the value of the money received is less than \$300, and if
608 the value of the money received is \$300 or more; providing
609 for the electronic transfer of secondhand dealer
610 transactions under specified circumstances; authorizing
611 appropriate law enforcement agencies to provide a
612 secondhand dealer with a computer and other equipment
613 necessary to electronically transfer secondhand dealer
614 transactions; providing procedures with respect to
615 electronic transfer of secondhand dealer transactions;
616 amending s. 538.05, F.S.; revising provisions relating to
617 the inspection of records and premises of secondhand
618 dealers; amending s. 538.06, F.S.; revising provisions
619 with respect to the holding period during which a
620 secondhand dealer may not sell, barter, exchange, alter,
621 adulterate, use, or dispose of secondhand goods; revising
622 provisions with respect to the holding of goods upon
623 probable cause that the goods are stolen; providing for
624 payment of restitution, attorney's fees, and costs to a
625 secondhand dealer under specified circumstances; amending
626 s. 538.07, F.S.; revising provisions relating to
627 restitution for stolen property recovered from a

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Amendment No. (for drafter's use only)

628 secondhand dealer; amending s. 538.09, F.S.; revising
629 provisions with respect to registration as a secondhand
630 dealer; increasing the period of time during which a
631 secondhand dealer must hold secondhand goods at a
632 registered location; revising conditions under which
633 registration may be denied, revoked, restricted, or
634 suspended by the Department of Revenue; repealing s.
635 538.16, F.S., relating to disposal of property by
636 secondhand dealers; amending s. 516.02, F.S.; removing
637 cross-references; reenacting s. 790.335(3)(f), F.S., which
638 provides a second degree felony penalty for any secondhand
639 dealer who contracts with a specified third-party provider
640 or electronically transmits certain records of firearms
641 transactions to any third-party provider; providing an
642 effective date.

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