

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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1 Representative(s) Sansom offered the following:

2

3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

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

7 538.03 Definitions; applicability.--

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

9 (a) "Secondhand dealer" means any person, corporation, or  
10 other business organization or entity which is not a secondary  
11 metals recycler subject to part II and which is engaged in the  
12 business of purchasing, consigning, or trading ~~pawning~~  
13 secondhand goods. ~~However, secondhand dealers are not limited to~~  
14 ~~dealing only in items defined as secondhand goods in paragraph~~  
15 ~~(g). Except as provided in subsection (2), the term means~~

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16 ~~pawnbrokers, jewelers, precious metals dealers, garage sale~~  
17 ~~operators, secondhand stores, and consignment shops.~~

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

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

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

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

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

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

40 ~~(d)(f)~~ "Consignment shop" means a shop engaging in the  
41 business of accepting for sale, on consignment, secondhand goods  
42 which, having once been used or transferred from the

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43 manufacturer to the dealer, are then received into the  
44 possession of a third party.

45 (e) "Acquire" means to obtain by purchase, consignment, or  
46 trade.

47 (f)(g) "Secondhand goods" means personal property  
48 previously owned or used, which is not regulated metals property  
49 regulated under part II and which is purchased, consigned, or  
50 traded pawned as used property. Such secondhand goods shall not  
51 include office furniture, pianos, books, clothing, organs,  
52 coins, motor vehicles, costume jewelry, and secondhand sports  
53 equipment that is not permanently labeled with a serial number.

54 For purposes of this paragraph, "secondhand sports equipment"  
55 does not include golf clubs. be limited to watches; diamonds,  
56 gems, and other precious stones; fishing rods, reels, and  
57 tackle; audio and video electronic equipment, including  
58 television sets, compact disc players, radios, amplifiers,  
59 receivers, turntables, tape recorders; video tape recorders;  
60 speakers and citizens' band radios; computer equipment; radar  
61 detectors; depth finders; trolling motors; outboard motors;  
62 sterling silver flatware and serving pieces; photographic  
63 equipment, including cameras, video and film cameras, lenses,  
64 electronic flashes, tripods, and developing equipment; microwave  
65 ovens; animal fur coats; marine equipment; video games and  
66 cartridges; power lawn and landscape equipment; office equipment  
67 such as copiers, fax machines, and postage machines but  
68 excluding furniture; sports equipment; golf clubs; weapons,  
69 including knives, swords, and air guns; telephones, including

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70 ~~cellular and portable; firearms; tools; calculators; musical~~  
71 ~~instruments, excluding pianos and organs; lawnmowers; bicycles;~~  
72 ~~typewriters; motor vehicles; gold, silver, platinum, and other~~  
73 ~~precious metals excluding coins; and jewelry, excluding costume~~  
74 ~~jewelry.~~

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

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

80 1. ~~any chemical or any automotive, photographic,~~  
81 ~~electrical, medical, or dental materials or electronic parts.~~

82 2. ~~Any coin with an intrinsic value less than its~~  
83 ~~numismatic value.~~

84 3. ~~Any gold bullion coin.~~

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

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

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

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

90 (2) This chapter does not apply to:

91 (a) Any secondhand goods transaction involving an  
92 organization or entity registered with the state as a nonprofit,  
93 religious, or charitable organization or any school-sponsored  
94 association or organization other than a secondary metals  
95 recycler subject to the provisions of part II.

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96 (b) A law enforcement officer acting in an official  
97 capacity.

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

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

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

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

109 (g) Any person at antique, coin, or collectible shows or  
110 sales.

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

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

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

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

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- 123 (l) Any auction business as defined in s. 468.382(1).  
124 (m) Any business that is registered with the Department of  
125 Revenue for sales tax purposes as an antique dealer pursuant to  
126 chapter 212 and that purchases secondhand goods from the  
127 property owner or her or his representative at the property  
128 owner's residence pursuant to a written agreement that states  
129 the name, address, and telephone number of the property owner  
130 and the type of property purchased.
- 131 (n) A business that contracts with other persons or  
132 entities to offer its secondhand goods for sale, purchase,  
133 consignment, or trade via an Internet website, and that  
134 maintains a shop, store, or other business premises for this  
135 purpose, if all of the following apply:
- 136 1. The secondhand goods must be available on the website  
137 for viewing by the general public at no charge;
  - 138 2. The records of the sale, purchase, consignment, or  
139 trade must be maintained for at least 2 years;
  - 140 3. The records of the sale, purchase, consignment, or  
141 trade, and the description of the secondhand goods as listed on  
142 the website, must contain the serial number of each item, if  
143 any;
  - 144 4. The secondhand goods listed on the website must be  
145 searchable based upon the state or zip code;
  - 146 5. The business must provide the appropriate law  
147 enforcement agency with the name or names under which it  
148 conducts business on the website;

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

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

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

169       b. The business must provide the appropriate law  
170 enforcement agency with an electronic copy of the name, address,  
171 phone number, driver's license number, and issuing state of the  
172 person with whom the business contracted to offer the goods, as  
173 well as an accurate description of the goods, including make,  
174 model, serial number, and any other unique identifying marks,  
175 numbers, names, or letters that may be on an item, in a format

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176 agreed upon by the business and the appropriate law enforcement  
177 agency. This information must be provided to the appropriate law  
178 enforcement agency within 24 hours after entering into the  
179 contract unless other arrangements are made between the business  
180 and the law enforcement agency. ~~Any person purchasing,~~  
181 ~~consigning, or pawning secondhand goods ordered by mail,~~  
182 ~~computer-assisted shopping, media-assisted, media-facilitated,~~  
183 ~~or media-solicited shopping or shopping by other means of media~~  
184 ~~communication, including, but not limited to, direct mail~~  
185 ~~advertising, unsolicited distribution of catalogs, television,~~  
186 ~~radio, or other electronic media, telephone, magazine, or~~  
187 ~~newspaper advertising, so long as such person is in this state~~  
188 ~~at the time of the order.~~

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

196 (p)(e) A motor vehicle dealer as defined in s. 320.27.

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

200 Section 2. Section 538.04, Florida Statutes, is amended to  
201 read:

202 538.04 Recordkeeping requirements; penalties.--

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203           (1) Secondhand dealers shall complete a secondhand dealers  
204 transaction form at the time of the actual transaction. A  
205 secondhand dealer shall maintain a copy of a completed  
206 transaction form on the registered premises for at least 1 year  
207 after the date of the transaction. However, the secondhand  
208 dealer shall maintain a copy of the transaction form for a  
209 period of no less than 3 years. ~~Secondhand dealers shall~~  
210 ~~maintain records of all transactions of secondhand goods on the~~  
211 ~~premises. Unless other arrangements have been agreed upon by the~~  
212 ~~secondhand dealer and the appropriate law enforcement agency,~~  
213 ~~the secondhand dealer shall, within 24 hours of the acquisition~~  
214 ~~of any secondhand goods, by purchase or pledge as security for a~~  
215 ~~loan, a secondhand dealer shall deliver to the police department~~  
216 ~~of the municipality where the goods were acquired~~ purchased or,  
217 if the goods were acquired ~~purchased~~ outside of a municipality,  
218 to the sheriff's department of the county where the goods were  
219 ~~acquired~~ purchased, a record of the transaction on a form  
220 approved by the Department of Law Enforcement. Such record shall  
221 contain:

- 222           (a) The time, date, and place of the transaction.
- 223           (b) A complete and accurate description of the goods  
224 acquired, including the following information, if applicable:  
225 ~~any serial numbers, manufacturer's numbers, or other identifying~~  
226 ~~marks or characteristics.~~
- 227                 1. Brand name.
- 228                 2. Model number.
- 229                 3. Manufacturer's serial number.

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- 230        4. Size.
- 231        5. Color, as apparent to the untrained eye.
- 232        6. Precious metal type, weight, and content if known.
- 233        7. Gemstone description, including the number of stones,
- 234 if applicable.
- 235        8. In the case of firearms, the type of action, caliber or
- 236 gauge, number of barrels, barrel length, and finish.
- 237        9. Any other unique identifying marks, numbers, or
- 238 letters.

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

240 acquired, including:

- 241        1. Full name, current residential address, workplace, and
- 242 home and work phone numbers.
- 243        2. Height, weight, date of birth, race, gender, hair
- 244 color, eye color, and any other identifying marks.
- 245        3. The right thumbprint, free of smudges and smears, of
- 246 the person from whom the goods were acquired.

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

248 the Department of Law Enforcement.

249        (2) The secondhand dealer shall require verification of

250 the identification by the exhibition of a government-issued

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

252 military identification card. The record shall contain the type

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

254 thereon.

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

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

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

265 (b) If the value of the money received is \$300 or more, a  
266 felony of the second ~~third~~ degree, punishable as provided in s.  
267 775.082, s. 775.083, or s. 775.084.

268 (5) Secondhand dealers are exempt from the provisions of  
269 this section for all transactions involving secondhand sports  
270 equipment except secondhand sports equipment that is permanently  
271 labeled with a serial number.

272 (6) If the appropriate law enforcement agency supplies a  
273 secondhand dealer with appropriate software and the secondhand  
274 dealer has computer capability, secondhand dealer transactions  
275 shall be electronically transferred. If a secondhand dealer does  
276 not have computer capability, the appropriate law enforcement  
277 agency may provide the secondhand dealer with a computer and all  
278 necessary equipment for the purpose of electronically  
279 transferring secondhand dealer transactions. The appropriate law  
280 enforcement agency shall retain ownership of the computer,  
281 unless otherwise agreed upon. The secondhand dealer shall

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282 maintain the computer in good working order, ordinary wear and  
283 tear excepted. In the event the secondhand dealer transfers  
284 secondhand dealer transactions electronically, the secondhand  
285 dealer is not required to also deliver to the appropriate law  
286 enforcement agency the original or copies of the secondhand  
287 transaction forms. For the purpose of a criminal investigation,  
288 the appropriate law enforcement agency may request that the  
289 secondhand dealer produce an original of a transaction form that  
290 has been electronically transferred. The secondhand dealer shall  
291 deliver this form to the appropriate law enforcement agency  
292 within 24 hours of the request.

293 (7) If the original transaction form is lost or destroyed  
294 by the appropriate law enforcement agency, a copy may be used by  
295 the secondhand dealer as evidence in court. When an electronic  
296 image of a customer's identification is accepted for a  
297 transaction, the secondhand dealer must maintain the electronic  
298 image in order to meet the recordkeeping requirements applicable  
299 to the original transaction form. If a criminal investigation  
300 occurs, the secondhand dealer shall, upon request, provide a  
301 clear and legible copy of the image to the appropriate law  
302 enforcement agency.

303 Section 3. Section 538.05, Florida Statutes, is amended to  
304 read:

305 538.05 Inspection of records and premises of secondhand  
306 dealers.--

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

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309 business hours by any law enforcement officer with jurisdiction  
310 ~~the police department if the premises are located within a~~  
311 ~~municipality or, if located outside a municipality, by the~~  
312 ~~sheriff's department of the county in which the premises are~~  
313 ~~located, and by any state law enforcement officer who has~~  
314 ~~jurisdiction over the dealer.~~

315 (2) The inspection authorized by subsection (1) shall  
316 consist of an examination on the registered premises of the  
317 inventory and required records to determine whether the records  
318 and inventory are being maintained on the registered premises as  
319 required by s. 538.04 and whether the holding period required by  
320 s. 538.06 is being complied with.

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

323 538.06 Holding period.--

324 (1) A secondhand dealer shall not sell, barter, exchange,  
325 alter, adulterate, use, or in any way dispose of any secondhand  
326 goods within 30 ~~15~~ calendar days of the date of acquisition of  
327 the goods. ~~Such holding periods are not applicable when the~~  
328 ~~person known by the secondhand dealer to be the person from whom~~  
329 ~~the goods were acquired desires to redeem, repurchase, or~~  
330 ~~recover the goods, provided the dealer can produce the record of~~  
331 ~~the original transaction with verification that the customer is~~  
332 ~~the person from whom the goods were originally acquired.~~

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

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336 form of security in secondhand goods in lieu of actual physical  
337 possession. A secondhand dealer who accepts title or any other  
338 form of security in secondhand goods in lieu of actual physical  
339 possession commits a misdemeanor of the first degree, punishable  
340 as provided in s. 775.082 or s. 775.083.

341 (3) Upon probable cause that goods held by a secondhand  
342 dealer are stolen, a law enforcement officer with jurisdiction  
343 may place a 90-day written hold order on the goods ~~extend the~~  
344 ~~holding period to a maximum of 60 days~~. However, the hold  
345 ~~holding period~~ may be extended beyond 90 ~~60~~ days by a court of  
346 competent jurisdiction upon a finding of probable cause that the  
347 property is stolen and further holding is necessary for the  
348 purposes of trial or to safeguard such property. The dealer  
349 shall assume all responsibility, civil or criminal, relative to  
350 the property or evidence in question, including responsibility  
351 for the actions of any employee with respect thereto.

352 (4) While a hold order is in effect, the secondhand dealer  
353 must, upon request, release the property subject to the hold  
354 order to the custody of a law enforcement officer with  
355 jurisdiction for use in a criminal investigation. The release of  
356 the property to the custody of the law enforcement officer is  
357 not considered a waiver or release of the secondhand dealer's  
358 rights or interest in the property. Upon completion of the  
359 criminal proceeding, the property must be returned to the  
360 secondhand dealer unless the court orders other disposition.  
361 When such other disposition is ordered, the court shall  
362 additionally order the person from whom the secondhand dealer

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363 acquired the property to pay restitution to the secondhand  
364 dealer in the amount that the secondhand dealer paid for the  
365 property together with reasonable attorney's fees and costs.

366 ~~(5)(4)~~ All dealers in secondhand property regulated by  
367 this chapter shall maintain transaction records for 3 ~~5~~ years.

368 Section 5. Section 538.07, Florida Statutes, is amended to  
369 read:

370 538.07 Penalty for violation of chapter.--

371 (1) Except where otherwise provided herein, a person who  
372 knowingly violates any provision of this chapter commits a  
373 misdemeanor of the first degree, punishable as provided in s.  
374 775.082 and by a fine not to exceed \$10,000.

375 (2) When the lawful owner recovers stolen property from a  
376 secondhand dealer and the person who sold or pledged the stolen  
377 property to the secondhand dealer is convicted of theft, a  
378 violation of this section, or dealing in stolen property, the  
379 court shall order the defendant to make restitution to either  
380 the secondhand dealer or the lawful owner as applicable pursuant  
381 to s. 775.089.

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

384 538.09 Registration.--

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

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390 department with each application for registration. One  
391 application is required for each dealer. If a secondhand dealer  
392 is the owner of more than one secondhand store location, the  
393 application must list each location, and the department shall  
394 issue a duplicate registration for each location. For purposes  
395 of subsections (4) and (5) of this section, these duplicate  
396 registrations shall be deemed individual registrations. A dealer  
397 shall pay a fee of \$6 per location at the time of registration  
398 and an annual renewal fee of \$6 per location on October 1 of  
399 each year. All fees collected, less costs of administration,  
400 shall be transferred into a trust fund to be established and  
401 entitled the Secondhand Dealer and Secondary Metals Recycler  
402 Clearing Trust Fund. The Department of Revenue shall forward the  
403 full set of fingerprints to the Department of Law Enforcement  
404 for state and federal processing, provided the federal service  
405 is available, to be processed for any criminal justice  
406 information as defined in s. 943.045. The cost of processing  
407 such fingerprints shall be payable to the Department of Law  
408 Enforcement by the Department of Revenue. The department may  
409 issue a temporary registration to each location pending  
410 completion of the background check by state and federal law  
411 enforcement agencies, but shall revoke such temporary  
412 registration if the completed background check reveals a  
413 prohibited criminal background. An applicant for a secondhand  
414 dealer registration must be a natural person who has reached the  
415 age of 18 years.

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416 (a) If the applicant is a partnership, all the partners  
417 must apply.

418 (b) If the applicant is a joint venture, association, or  
419 other noncorporate entity, all members of such joint venture,  
420 association, or other noncorporate entity must make application  
421 for registration as natural persons.

422 (c) If the applicant is a corporation, the registration  
423 must include the name and address of such corporation's  
424 registered agent for service of process in the state and a  
425 certified copy of statement from the Secretary of State that the  
426 corporation is duly organized in the state or, if the  
427 corporation is organized in a state other than Florida, a  
428 certified copy of statement from the Secretary of State that the  
429 corporation is duly qualified to do business in this state. If  
430 the dealer has more than one location, the application must list  
431 each location owned by the same legal entity and the department  
432 shall issue a duplicate registration for each location.

433 (2) The secondhand dealer shall furnish with her or his  
434 registration a complete set of her or his fingerprints,  
435 certified by an authorized law enforcement officer, and a recent  
436 fullface photographic identification card of herself or himself.  
437 The Department of Law Enforcement shall report its findings to  
438 the Department of Revenue within 30 days after the date  
439 fingerprint cards are submitted for criminal justice  
440 information.

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

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443 ~~principal place of business. A secondhand dealer must hold~~  
444 ~~secondhand goods at the registered location until 30 15 days~~  
445 ~~after the secondhand transaction or until any extension of the~~  
446 ~~holding period has expired, whichever is later, and must retain~~  
447 ~~records of each transaction which is not specifically exempted~~  
448 ~~by this chapter. A secondhand dealer shall not dispose of~~  
449 ~~property at any location until the holding period has expired~~  
450 ~~unless the transaction is specifically exempted by this chapter.~~

451 (4) The department may impose a civil fine of up to  
452 \$10,000 for each violation of this section, which fine shall be  
453 transferred into the General Revenue Fund. If the fine is not  
454 paid within 60 days, the department may bring a civil action  
455 under s. 120.69 to recover the fine.

456 (5) In addition to the fine provided in subsection (4),  
457 registration under this section may be denied or any  
458 registration granted may be revoked, restricted, or suspended by  
459 the department if the department determines that the applicant  
460 or registrant:

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

463 (b) Has made a material false statement in the application  
464 for registration;

465 (c) Has been guilty of a fraudulent act in connection with  
466 any purchase or sale or has been or is engaged in or is about to  
467 engage in any practice, purchase, or sale which is fraudulent or  
468 in violation of the law;

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

472 (e) Is making purchases or sales through any business  
473 associate not registered in compliance with the provisions of  
474 this chapter;

475 (f) Has, within the preceding 10-year ~~5-year~~ period for  
476 new registrants who apply for registration on or after October  
477 1, 2005, been convicted of, or has entered a plea of guilty or  
478 nolo contendere to, or had adjudication withheld for, a crime  
479 against the laws of this state or any other state or of the  
480 United States which relates to registration as a secondhand  
481 dealer or which involves theft, larceny, dealing in stolen  
482 property, receiving stolen property, burglary, embezzlement,  
483 obtaining property by false pretenses, possession of altered  
484 property, any felony drug offense, any violation of s. 812.015,  
485 or any fraudulent ~~or dishonest~~ dealing;

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

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

491  
492 In the event the department determines to deny an application or  
493 revoke a registration, it shall enter a final order with its  
494 findings on the register of secondhand dealers and their  
495 business associates, if any; and denial, suspension, or

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Amendment No. (for drafter's use only)

496 revocation of the registration of a secondhand dealer shall also  
497 deny, suspend, or revoke the registration of such secondhand  
498 dealer's business associates.

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

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

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

506 516.02 Loans; lines of credit; rate of interest;  
507 license.--

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

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

520 790.335 Prohibition of registration of firearms.--

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

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523 (f) Firearm records, including paper pawn transaction  
524 forms and contracts on firearm transactions, required by  
525 chapters 538 and 539.

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

529 2. Electronic firearm records held pursuant to chapter 539  
530 may only be kept by a pawnbroker for 30 days after the  
531 expiration of the loan that is secured by a firearm or 30 days  
532 after the date of purchase of a firearm, whichever is  
533 applicable.

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

540 4. Notwithstanding subparagraph 3., secondhand dealers and  
541 pawnbrokers may electronically submit firearm transaction  
542 records to the appropriate law enforcement agencies as required  
543 by chapters 538 and 539; however, the law enforcement agencies  
544 may not electronically submit such records to any other person  
545 or entity and must destroy such records within 60 days after  
546 receipt of such records.

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

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550 caliber of pawned or purchased firearms to a third-party private  
 551 provider that is exclusively incorporated, exclusively owned,  
 552 and exclusively operated in the United States and that restricts  
 553 access to such information to only appropriate law enforcement  
 554 agencies for legitimate law enforcement purposes. Such records  
 555 must be destroyed within 30 days by the third-party provider. As  
 556 a condition of receipt of such records, the third-party provider  
 557 must agree in writing to comply with the requirements of this  
 558 section. Any pawnbroker or secondhand dealer who contracts with  
 559 a third-party provider other than as provided in this act or  
 560 electronically transmits any records of firearms transactions to  
 561 any third-party provider other than the records specifically  
 562 allowed by this paragraph commits a felony of the second degree,  
 563 punishable as provided in s. 775.082 or s. 775.083.

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

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

567 Remove the entire title and insert:

568 A bill to be entitled

569 An act relating to secondhand dealers; amending s. 538.03,  
 570 F.S.; revising definitions; revising applicability of ch.  
 571 538, F.S.; exempting persons or entities offering  
 572 secondhand goods or personal property for sale, purchase,  
 573 consignment, or trade via the Internet from the provisions  
 574 of ch. 538, F.S., under certain circumstances; amending s.  
 575 538.04, F.S.; revising recordkeeping requirements for  
 576 secondhand dealers; providing penalties for knowingly

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HOUSE AMENDMENT

Bill No. HB 855 CS

Amendment No. (for drafter's use only)

577 giving false verification of ownership or a false or  
578 altered identification, and for receiving money from a  
579 secondhand dealer for goods sold, consigned, or traded if  
580 the value of the money received is less than \$300, and if  
581 the value of the money received is \$300 or more; providing  
582 for the electronic transfer of secondhand dealer  
583 transactions under specified circumstances; authorizing  
584 appropriate law enforcement agencies to provide a  
585 secondhand dealer with a computer and other equipment  
586 necessary to electronically transfer secondhand dealer  
587 transactions; providing procedures with respect to  
588 electronic transfer of secondhand dealer transactions;  
589 amending s. 538.05, F.S.; revising provisions relating to  
590 the inspection of records and premises of secondhand  
591 dealers; amending s. 538.06, F.S.; revising provisions  
592 with respect to the holding period during which a  
593 secondhand dealer may not sell, barter, exchange, alter,  
594 adulterate, use, or dispose of secondhand goods; revising  
595 provisions with respect to the holding of goods upon  
596 probable cause that the goods are stolen; providing for  
597 payment of restitution, attorney's fees, and costs to a  
598 secondhand dealer under specified circumstances;  
599 increasing the time limit for maintenance of transaction  
600 records by dealers in secondhand property; amending s.  
601 538.07, F.S.; revising provisions relating to restitution  
602 for stolen property recovered from a secondhand dealer;  
603 amending s. 538.09, F.S.; revising provisions with respect

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HOUSE AMENDMENT

Bill No. HB 855 CS

Amendment No. (for drafter's use only)

604 to registration as a secondhand dealer; increasing the  
605 period of time during which a secondhand dealer must hold  
606 secondhand goods at a registered location; revising  
607 conditions under which registration may be denied,  
608 revoked, restricted, or suspended by the Department of  
609 Revenue; repealing s. 538.16, F.S., relating to disposal  
610 of property by secondhand dealers; amending s. 516.02,  
611 F.S.; removing cross-references; reenacting s.  
612 790.335(3)(f), F.S., which provides a second degree felony  
613 penalty for any secondhand dealer who contracts with a  
614 specified third-party provider or electronically transmits  
615 certain records of firearms transactions to any third-  
616 party provider; providing an effective date.

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