

CHAMBER ACTION

1 The Criminal Justice Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5
6 A bill to be entitled

7 An act relating to secondhand dealers; amending s. 538.03,
8 F.S.; revising definitions; revising applicability of ch.
9 538, F.S.; amending s. 538.04, F.S.; revising
10 recordkeeping requirements for secondhand dealers;
11 providing penalties for knowingly giving false
12 verification of ownership or a false or altered
13 identification, and for receiving money from a secondhand
14 dealer for goods sold, consigned, or traded if the value
15 of the money received is less than \$300, and if the value
16 of the money received is \$300 or more; providing for the
17 electronic transfer of secondhand dealer transactions
18 under specified circumstances; authorizing appropriate law
19 enforcement agencies to provide a secondhand dealer with a
20 computer and other equipment necessary to electronically
21 transfer secondhand dealer transactions; providing
22 procedures with respect to electronic transfer of
23 secondhand dealer transactions; amending s. 538.05, F.S.;

HB 855

2005
CS

24 | revising provisions relating to the inspection of records
25 | and premises of secondhand dealers; amending s. 538.06,
26 | F.S.; revising provisions with respect to the holding
27 | period during which a secondhand dealer may not sell,
28 | barter, exchange, alter, adulterate, utilize, or dispose
29 | of secondhand goods; revising provisions with respect to
30 | the holding of goods upon probable cause that the goods
31 | are stolen; providing for payment of restitution,
32 | attorney's fees, and costs to a secondhand dealer under
33 | specified circumstances; increasing the time limit for
34 | maintenance of transaction records by dealers in
35 | secondhand property; amending s. 538.07, F.S.; revising
36 | provisions relating to restitution for stolen property
37 | recovered from a secondhand dealer; amending s. 538.09,
38 | F.S.; revising provisions with respect to registration as
39 | a secondhand dealer; increasing the period of time during
40 | which a secondhand dealer must hold secondhand goods at a
41 | registered location; revising conditions under which
42 | registration may be denied, revoked, restricted, or
43 | suspended by the Department of Revenue; repealing s.
44 | 538.16, F.S., relating to disposal of property by
45 | secondhand dealers; amending s. 516.02, F.S.; removing
46 | cross references; reenacting s. 790.335(3)(f), F.S., which
47 | provides a second degree felony penalty for any secondhand
48 | dealer who contracts with a specified third-party provider
49 | or electronically transmits certain records of firearms
50 | transactions to any third-party provider; providing an
51 | effective date.

Page 2 of 21

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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HB 855

2005
CS

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

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

538.03 Definitions; applicability.--

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

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

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

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

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

HB 855

2005
CS

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

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

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

90 (d)(f) "Consignment shop" means a shop engaging in the
 91 business of accepting for sale, on consignment, secondhand goods
 92 which, having once been used or transferred from the
 93 manufacturer to the dealer, are then received into the
 94 possession of a third party.

95 (e) "Acquire" means to obtain by purchase, consignment, or
 96 trade.

97 (f)(g) "Secondhand goods" means personal property
 98 previously owned or used, which is not regulated metals property
 99 regulated under part II and which is purchased, consigned, or
 100 traded ~~pawned~~ as used property. Such secondhand goods shall not
 101 include office furniture, pianos, books, clothing, organs,
 102 coins, motor vehicles, costume jewelry, and secondhand sports
 103 equipment that is not permanently labeled with a serial number.
 104 For purposes of this paragraph, "secondhand sports equipment"
 105 does not include golf clubs. ~~be limited to watches; diamonds,~~
 106 ~~gems, and other precious stones; fishing rods, reels, and~~
 107 ~~tackle; audio and video electronic equipment, including~~

HB 855

2005
CS

108 ~~television sets, compact disc players, radios, amplifiers,~~
 109 ~~receivers, turntables, tape recorders; video tape recorders;~~
 110 ~~speakers and citizens' band radios; computer equipment; radar~~
 111 ~~detectors; depth finders; trolling motors; outboard motors;~~
 112 ~~sterling silver flatware and serving pieces; photographic~~
 113 ~~equipment, including cameras, video and film cameras, lenses,~~
 114 ~~electronic flashes, tripods, and developing equipment; microwave~~
 115 ~~ovens; animal fur coats; marine equipment; video games and~~
 116 ~~cartridges; power lawn and landscape equipment; office equipment~~
 117 ~~such as copiers, fax machines, and postage machines but~~
 118 ~~excluding furniture; sports equipment; golf clubs; weapons,~~
 119 ~~including knives, swords, and air guns; telephones, including~~
 120 ~~cellular and portable; firearms; tools; calculators; musical~~
 121 ~~instruments, excluding pianos and organs; lawnmowers; bicycles;~~
 122 ~~typewriters; motor vehicles; gold, silver, platinum, and other~~
 123 ~~precious metals excluding coins; and jewelry, excluding costume~~
 124 ~~jewelry.~~

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

127 (h)(i) "Precious metals" means any item containing any
 128 gold, silver, or platinum, or any combination thereof,
 129 excluding:

130 ~~1.~~ any chemical or any automotive, photographic,
 131 electrical, medical, or dental materials or electronic parts.

132 ~~2. Any coin with an intrinsic value less than its~~
 133 ~~numismatic value.~~

134 ~~3. Any gold bullion coin.~~

135 ~~4. Any gold, silver, or platinum bullion that has been~~
 136 ~~assayed and is properly marked as to its weight and fineness.~~
 137 ~~5. Any coin which is mounted in a jewelry setting.~~
 138 (i)~~(j)~~ "Department" means the Department of Revenue.
 139 ~~(k) "Pledge" means pawn or buy-sell agreement.~~
 140 (2) This chapter does not apply to:
 141 (a) Any secondhand goods transaction involving an
 142 organization or entity registered with the state as a nonprofit,
 143 religious, or charitable organization or any school-sponsored
 144 association or organization other than a secondary metals
 145 recycler subject to the provisions of part II.
 146 (b) A law enforcement officer acting in an official
 147 capacity.
 148 (c) A trustee in bankruptcy, executor, administrator, or
 149 receiver who has presented proof of such status to the
 150 secondhand dealer.
 151 (d) Any public official acting under judicial process or
 152 authority who has presented proof of such status to the
 153 secondhand dealer.
 154 (e) A sale on the execution, or by virtue of any process
 155 issued by a court, if proof thereof has been presented to the
 156 secondhand dealer.
 157 (f) Any garage sale operator who holds garage sales less
 158 than 10 weekends per year.
 159 (g) Any person at antique, coin, or collectible shows or
 160 sales.

HB 855

2005
CS

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

164 (i) The purchase, consignment, or trade pawn of secondhand
165 goods from one secondhand dealer to another secondhand dealer
166 when the selling secondhand dealer has complied with the
167 requirements of this chapter.

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

170 (k) Any person selling ~~purchasing~~, consigning, or trading
171 ~~pawning~~ secondhand goods at a flea market regardless of whether
172 at a temporary or permanent business location at the flea
173 market.

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

175 (m) Any business that is registered with the Department of
176 Revenue for sales tax purposes as an antique dealer pursuant to
177 chapter 212 and that purchases secondhand goods from the
178 property owner or her or his representative at the property
179 owner's residence pursuant to a written agreement that states
180 the name, address, and telephone number of the property owner
181 and the type of property purchased.

182 ~~(n) Any person purchasing, consigning, or pawning~~
183 ~~secondhand goods ordered by mail, computer-assisted shopping,~~
184 ~~media-assisted, media-facilitated, or media-solicited shopping~~
185 ~~or shopping by other means of media communication, including,~~
186 ~~but not limited to, direct mail advertising, unsolicited~~
187 ~~distribution of catalogs, television, radio, or other electronic~~

HB 855

2005
CS

188 ~~media, telephone, magazine, or newspaper advertising, so long as~~
 189 ~~such person is in this state at the time of the order.~~

190 (n)~~(e)~~ A motor vehicle dealer as defined in s. 320.27.

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

194 Section 2. Section 538.04, Florida Statutes, is amended to
 195 read:

196 538.04 Recordkeeping requirements; penalties.--

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

HB 855

2005
CS

- 216 (a) The time, date, and place of the transaction.
- 217 (b) A complete and accurate description of the goods
- 218 acquired, including the following information, if applicable:
- 219 ~~any serial numbers, manufacturer's numbers, or other identifying~~
- 220 ~~marks or characteristics.~~
- 221 1. Brand name.
- 222 2. Model number.
- 223 3. Manufacturer's serial number.
- 224 4. Size.
- 225 5. Color, as apparent to the untrained eye.
- 226 6. Precious metal type, weight, and content if known.
- 227 7. Gemstone description, including the number of stones,
- 228 if applicable.
- 229 8. In the case of firearms, the type of action, caliber or
- 230 gauge, number of barrels, barrel length, and finish.
- 231 9. Any other unique identifying marks, numbers, or
- 232 letters.
- 233 (c) A description of the person from whom the goods were
- 234 acquired, including:
- 235 1. Full name, current residential address, workplace, and
- 236 home and work phone numbers.
- 237 2. Height, weight, date of birth, race, gender, hair
- 238 color, eye color, and any other identifying marks.
- 239 3. The right thumbprint, free of smudges and smears, of
- 240 the person from whom the goods were acquired.
- 241 (d) Any other information required by the form approved by
- 242 the Department of Law Enforcement.

HB 855

2005
CS

243 (2) The secondhand dealer shall require verification of
244 the identification by the exhibition of a government-issued
245 photographic identification card such as a driver's license or
246 military identification card. The record shall contain the type
247 of identification exhibited, the issuing agency, and the number
248 thereon.

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

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

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

259 (b) If the value of the money received is \$300 or more, a
260 felony of the second ~~third~~ degree, punishable as provided in s.
261 775.082, s. 775.083, or s. 775.084.

262 (5) Secondhand dealers are exempt from the provisions of
263 this section for all transactions involving secondhand sports
264 equipment except secondhand sports equipment that is permanently
265 labeled with a serial number.

266 If the appropriate law enforcement agency supplies a
267 secondhand dealer with appropriate software and the secondhand
268 dealer has computer capability, secondhand dealer transactions
269 shall be electronically transferred. If a secondhand dealer does
270 not have computer capability, the appropriate law enforcement

HB 855

2005
CS

271 agency may provide the secondhand dealer with a computer and all
 272 necessary equipment for the purpose of electronically
 273 transferring secondhand dealer transactions. The appropriate law
 274 enforcement agency shall retain ownership of the computer,
 275 unless otherwise agreed upon. The secondhand dealer shall
 276 maintain the computer in good working order, ordinary wear and
 277 tear excepted. In the event the secondhand dealer transfers
 278 secondhand dealer transactions electronically, the secondhand
 279 dealer is not required to also deliver to the appropriate law
 280 enforcement agency the original or copies of the secondhand
 281 transaction forms. For the purpose of a criminal investigation,
 282 the appropriate law enforcement agency may request that the
 283 secondhand dealer produce an original of a transaction form that
 284 has been electronically transferred. The secondhand dealer shall
 285 deliver this form to the appropriate law enforcement agency
 286 within 24 hours of the request.

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

297 Section 3. Section 538.05, Florida Statutes, is amended to
 298 read:

HB 855

2005
CS

299 538.05 Inspection of records and premises of secondhand
300 dealers.--

301 (1) The entire registered premises and required records of
302 each secondhand dealer are subject to inspection during regular
303 business hours by any law enforcement officer with jurisdiction
304 ~~the police department if the premises are located within a~~
305 ~~municipality or, if located outside a municipality, by the~~
306 ~~sheriff's department of the county in which the premises are~~
307 ~~located, and by any state law enforcement officer who has~~
308 ~~jurisdiction over the dealer.~~

309 (2) The inspection authorized by subsection (1) shall
310 consist of an examination on the registered premises of the
311 inventory and required records to determine whether the records
312 and inventory are being maintained on the registered premises as
313 required by s. 538.04 and whether the holding period required by
314 s. 538.06 is being complied with.

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

317 538.06 Holding period.--

318 (1) A secondhand dealer shall not sell, barter, exchange,
319 alter, adulterate, utilize, or in any way dispose of any
320 secondhand goods within 30 ~~15~~ calendar days of the date of
321 acquisition of the goods. ~~Such holding periods are not~~
322 ~~applicable when the person known by the secondhand dealer to be~~
323 ~~the person from whom the goods were acquired desires to redeem,~~
324 ~~repurchase, or recover the goods, provided the dealer can~~
325 ~~produce the record of the original transaction with verification~~

HB 855

2005
CS

326 ~~that the customer is the person from whom the goods were~~
327 ~~originally acquired.~~

328 (2) A secondhand dealer must maintain actual physical
329 possession of all secondhand goods throughout a transaction. It
330 is unlawful for a secondhand dealer to accept title or any other
331 form of security in secondhand goods in lieu of actual physical
332 possession. A secondhand dealer who accepts title or any other
333 form of security in secondhand goods in lieu of actual physical
334 possession commits a misdemeanor of the first degree, punishable
335 as provided in s. 775.082 or s. 775.083.

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

347 (4) While a hold order is in effect, the secondhand dealer
348 must, upon request, release the property subject to the hold
349 order to the custody of a law enforcement officer with
350 jurisdiction for use in a criminal investigation. The release of
351 the property to the custody of the law enforcement officer is
352 not considered a waiver or release of the secondhand dealer's
353 rights or interest in the property. Upon completion of the

HB 855

2005
CS

354 criminal proceeding, the property must be returned to the
 355 secondhand dealer unless the court orders other disposition.
 356 When such other disposition is ordered, the court shall
 357 additionally order the person from whom the secondhand dealer
 358 acquired the property to pay restitution to the secondhand
 359 dealer in the amount that the secondhand dealer paid for the
 360 property together with reasonable attorney's fees and costs.

361 ~~(5)(4)~~ All dealers in secondhand property regulated by
 362 this chapter shall maintain transaction records for 3 5 years.

363 Section 5. Section 538.07, Florida Statutes, is amended to
 364 read:

365 538.07 Penalty for violation of chapter.--

366 (1) Except where otherwise provided herein, a person who
 367 knowingly violates any provision of this chapter commits a
 368 misdemeanor of the first degree, punishable as provided in s.
 369 775.082 and by a fine not to exceed \$10,000.

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

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

379 538.09 Registration.--

380 (1) A secondhand dealer shall not engage in the business
 381 of purchasing, consigning, or trading ~~pawning~~ secondhand goods

HB 855

2005
CS

382 | from any location without registering with the Department of
383 | Revenue. A fee equal to the federal and state costs for
384 | processing required fingerprints must be submitted to the
385 | department with each application for registration. One
386 | application is required for each dealer. If a secondhand dealer
387 | is the owner of more than one secondhand store location, the
388 | application must list each location, and the department shall
389 | issue a duplicate registration for each location. For purposes
390 | of subsections (4) and (5) of this section, these duplicate
391 | registrations shall be deemed individual registrations. A dealer
392 | shall pay a fee of \$6 per location at the time of registration
393 | and an annual renewal fee of \$6 per location on October 1 of
394 | each year. All fees collected, less costs of administration,
395 | shall be transferred into a trust fund to be established and
396 | entitled the Secondhand Dealer and Secondary Metals Recycler
397 | Clearing Trust Fund. The Department of Revenue shall forward the
398 | full set of fingerprints to the Department of Law Enforcement
399 | for state and federal processing, provided the federal service
400 | is available, to be processed for any criminal justice
401 | information as defined in s. 943.045. The cost of processing
402 | such fingerprints shall be payable to the Department of Law
403 | Enforcement by the Department of Revenue. The department may
404 | issue a temporary registration to each location pending
405 | completion of the background check by state and federal law
406 | enforcement agencies, but shall revoke such temporary
407 | registration if the completed background check reveals a
408 | prohibited criminal background. An applicant for a secondhand

HB 855

2005
CS

409 dealer registration must be a natural person who has reached the
410 age of 18 years.

411 (a) If the applicant is a partnership, all the partners
412 must apply.

413 (b) If the applicant is a joint venture, association, or
414 other noncorporate entity, all members of such joint venture,
415 association, or other noncorporate entity must make application
416 for registration as natural persons.

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

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

HB 855

2005
CS

436 (3) The secondhand dealer's registration shall be
437 conspicuously displayed at her or his registered location
438 ~~principal place of business~~. A secondhand dealer must hold
439 secondhand goods at the registered location until 30 ~~15~~ days
440 after the secondhand transaction or until any extension of the
441 holding period has expired, whichever is later, ~~and must retain~~
442 ~~records of each transaction which is not specifically exempted~~
443 ~~by this chapter~~. A secondhand dealer shall not dispose of
444 ~~property at any location until the holding period has expired~~
445 ~~unless the transaction is specifically exempted by this chapter~~.

446 (4) The department may impose a civil fine of up to
447 \$10,000 for each violation of this section, which fine shall be
448 transferred into the General Revenue Fund. If the fine is not
449 paid within 60 days, the department may bring a civil action
450 under s. 120.69 to recover the fine.

451 (5) In addition to the fine provided in subsection (4),
452 registration under this section may be denied or any
453 registration granted may be revoked, restricted, or suspended by
454 the department if the department determines that the applicant
455 or registrant:

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

458 (b) Has made a material false statement in the application
459 for registration;

460 (c) Has been guilty of a fraudulent act in connection with
461 any purchase or sale or has been or is engaged in or is about to
462 engage in any practice, purchase, or sale which is fraudulent or
463 in violation of the law;

HB 855

2005
CS

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

467 (e) Is making purchases or sales through any business
 468 associate not registered in compliance with the provisions of
 469 this chapter;

470 (f) Has, within the preceding 10-year ~~5-year~~ period, been
 471 convicted of, or has entered a plea of guilty or nolo contendere
 472 to, or had adjudication withheld for, a crime against the laws
 473 of this state or any other state or of the United States which
 474 relates to registration as a secondhand dealer or which involves
 475 theft, larceny, dealing in stolen property, receiving stolen
 476 property, burglary, embezzlement, obtaining property by false
 477 pretenses, possession of altered property, any felony drug
 478 offense, any violation of s. 812.015, or any fraudulent ~~or~~
 479 ~~dishonest~~ dealing;

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

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

485
 486 In the event the department determines to deny an application or
 487 revoke a registration, it shall enter a final order with its
 488 findings on the register of secondhand dealers and their
 489 business associates, if any; and denial, suspension, or
 490 revocation of the registration of a secondhand dealer shall also

HB 855

2005
CS

491 deny, suspend, or revoke the registration of such secondhand
492 dealer's business associates.

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

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

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

500 516.02 Loans; lines of credit; rate of interest;
501 license.--

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

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

514 790.335 Prohibition of registration of firearms.--

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

HB 855

2005
CS

517 (f) Firearm records, including paper pawn transaction
518 forms and contracts on firearm transactions, required by
519 chapters 538 and 539.

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

523 2. Electronic firearm records held pursuant to chapter 539
524 may only be kept by a pawnbroker for 30 days after the
525 expiration of the loan that is secured by a firearm or 30 days
526 after the date of purchase of a firearm, whichever is
527 applicable.

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

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

541 5. Notwithstanding subparagraph 3., secondhand dealers and
542 pawnbrokers may electronically submit limited firearms records
543 consisting solely of the manufacturer, model, serial number, and
544 caliber of pawned or purchased firearms to a third-party private

HB 855

2005
CS

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

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