

CHAMBER ACTION

1 The Justice Council 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.;

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.

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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:~~

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~~

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.

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 purchasing, consigning, or trading ~~pawning~~
 171 secondhand goods at a flea market regardless of whether at a
 172 temporary or permanent business location at the flea market.

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

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

181 (n) A business that contracts with other persons or
 182 entities to offer their secondhand goods for sale, purchase,
 183 consignment, or trade via an Internet website and that maintains
 184 a shop, store, or other business premises for this purpose, if
 185 all of the following apply:

186 1. The secondhand goods must be available on the website
 187 for viewing by the general public at no charge.

188 2. The records of the sale, purchase, consignment, or
 189 trade must be maintained for at least 2 years.

190 3. The records of the sale, purchase, consignment, or
 191 trade and the description of the secondhand goods as listed on
 192 the website must contain the serial number of each item, if any.

193 4. The secondhand goods listed on the website must be
 194 searchable based upon the applicable state or zip code.

195 5. The business must provide the appropriate law
 196 enforcement agency with the name or names under which it
 197 conducts business on the website.

198 6. The business must allow the appropriate law enforcement
 199 agency to inspect its business premises at any time during
 200 normal business hours.

201 7. Any payment by the business resulting from such a sale,
 202 purchase, consignment, or trade must be made to the person or
 203 entity with whom the business contracted to offer the goods and
 204 must be made by check or via licensed money transmitter.

205 8.a. At least 48 hours after the estimated time of
 206 contracting to offer the secondhand goods, the business must
 207 verify that any item with a serial number is not stolen property
 208 by entering the serial number of the item into the Florida
 209 Department of Law Enforcement stolen article database located at
 210 the Florida Crime Information Center Public Access System
 211 website. The business shall record the date and time of such
 212 verification on the contract covering the goods. If such
 213 verification reveals that an item is stolen property, the
 214 business shall immediately remove the item from any website on

215 which it is being offered and notify the appropriate law
 216 enforcement agency; or

217 b. The business must provide the appropriate law
 218 enforcement agency with an electronic copy of the name, address,
 219 phone number, driver's license number, and issuing state of the
 220 person with whom the business contracted to offer the goods, as
 221 well as an accurate description of the goods, including make,
 222 model, serial number, and any other unique identifying marks,
 223 numbers, names, or letters that may be on an item, in a format
 224 agreed upon by the business and the appropriate law enforcement
 225 agency. This information must be provided to the appropriate law
 226 enforcement agency within 24 hours of entering into the contract
 227 unless other arrangements are made between the business and the
 228 law enforcement agency. ~~Any person purchasing, consigning, or~~
 229 ~~pawning secondhand goods ordered by mail, computer-assisted~~
 230 ~~shopping, media-assisted, media-facilitated, or media-solicited~~
 231 ~~shopping or shopping by other means of media communication,~~
 232 ~~including, but not limited to, direct mail advertising,~~
 233 ~~unsolicited distribution of catalogs, television, radio, or~~
 234 ~~other electronic media, telephone, magazine, or newspaper~~
 235 ~~advertising, so long as such person is in this state at the time~~
 236 ~~of the order.~~

237 (o) Any person or entity offering their own personal
 238 property for sale, purchase, consignment, or trade via an
 239 Internet website; or a person offering the personal property of
 240 others for sale, purchase, consignment, or trade via an Internet
 241 website when that person does not have, and is not required to
 242 have, a local occupational or business license for this purpose.

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

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

247 Section 2. Section 538.04, Florida Statutes, is amended to
248 read:

249 538.04 Recordkeeping requirements; penalties.--

250 (1) Secondhand dealers shall complete a secondhand dealers
251 transaction form at the time of the actual transaction. A
252 secondhand dealer shall maintain a copy of a completed
253 transaction form on the registered premises for at least 1 year
254 after the date of the transaction. However, the secondhand
255 dealer shall maintain a copy of the transaction form for a
256 period of no less than 3 years. ~~Secondhand dealers shall~~
257 ~~maintain records of all transactions of secondhand goods on the~~
258 ~~premises. Unless other arrangements have been agreed upon by the~~
259 ~~secondhand dealer and the appropriate law enforcement agency,~~
260 ~~the secondhand dealer shall,~~ within 24 hours of the acquisition
261 ~~of any secondhand goods, by purchase or pledge as security for a~~
262 ~~loan, a secondhand dealer shall~~ deliver to the police department
263 of the municipality where the goods were acquired ~~purchased~~ or,
264 if the goods were acquired ~~purchased~~ outside of a municipality,
265 to the sheriff's department of the county where the goods were
266 ~~acquired~~ acquired ~~purchased~~, a record of the transaction on a form
267 approved by the Department of Law Enforcement. Such record shall
268 contain:

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

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

- 274 1. Brand name.
- 275 2. Model number.
- 276 3. Manufacturer's serial number.
- 277 4. Size.
- 278 5. Color, as apparent to the untrained eye.
- 279 6. Precious metal type, weight, and content if known.
- 280 7. Gemstone description, including the number of stones,
 281 if applicable.
- 282 8. In the case of firearms, the type of action, caliber or
 283 gauge, number of barrels, barrel length, and finish.
- 284 9. Any other unique identifying marks, numbers, or
 285 letters.

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

- 288 1. Full name, current residential address, workplace, and
 289 home and work phone numbers.
- 290 2. Height, weight, date of birth, race, gender, hair
 291 color, eye color, and any other identifying marks.
- 292 3. The right thumbprint, free of smudges and smears, of
 293 the person from whom the goods were acquired.

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

296 (2) The secondhand dealer shall require verification of
 297 the identification by the exhibition of a government-issued

298 | photographic identification card such as a driver's license or
 299 | military identification card. The record shall contain the type
 300 | of identification exhibited, the issuing agency, and the number
 301 | thereon.

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

305 | (4) Any person who knowingly gives false verification of
 306 | ownership or who gives a false or altered identification, and
 307 | who receives money from a secondhand dealer for goods sold,
 308 | consigned, or traded ~~pledged~~ commits:

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

312 | (b) If the value of the money received is \$300 or more, a
 313 | felony of the second ~~third~~ degree, punishable as provided in s.
 314 | 775.082, s. 775.083, or s. 775.084.

315 | (5) Secondhand dealers are exempt from the provisions of
 316 | this section for all transactions involving secondhand sports
 317 | equipment except secondhand sports equipment that is permanently
 318 | labeled with a serial number.

319 | (6) If the appropriate law enforcement agency supplies a
 320 | secondhand dealer with appropriate software and the secondhand
 321 | dealer has computer capability, secondhand dealer transactions
 322 | shall be electronically transferred. If a secondhand dealer does
 323 | not have computer capability, the appropriate law enforcement
 324 | agency may provide the secondhand dealer with a computer and all
 325 | necessary equipment for the purpose of electronically

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326 transferring secondhand dealer transactions. The appropriate law
327 enforcement agency shall retain ownership of the computer,
328 unless otherwise agreed upon. The secondhand dealer shall
329 maintain the computer in good working order, ordinary wear and
330 tear excepted. In the event the secondhand dealer transfers
331 secondhand dealer transactions electronically, the secondhand
332 dealer is not required to also deliver to the appropriate law
333 enforcement agency the original or copies of the secondhand
334 transaction forms. For the purpose of a criminal investigation,
335 the appropriate law enforcement agency may request that the
336 secondhand dealer produce an original of a transaction form that
337 has been electronically transferred. The secondhand dealer shall
338 deliver this form to the appropriate law enforcement agency
339 within 24 hours of the request.

340 (7) If the original transaction form is lost or destroyed
341 by the appropriate law enforcement agency, a copy may be used by
342 the secondhand dealer as evidence in court. When an electronic
343 image of a customer's identification is accepted for a
344 transaction, the secondhand dealer must maintain the electronic
345 image in order to meet the recordkeeping requirements applicable
346 to the original transaction form. If a criminal investigation
347 occurs, the secondhand dealer shall, upon request, provide a
348 clear and legible copy of the image to the appropriate law
349 enforcement agency.

350 Section 3. Section 538.05, Florida Statutes, is amended to
351 read:

352 538.05 Inspection of records and premises of secondhand
353 dealers.--

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354 (1) The entire registered premises and required records of
 355 each secondhand dealer are subject to inspection during regular
 356 business hours by any law enforcement officer with jurisdiction
 357 ~~the police department if the premises are located within a~~
 358 ~~municipality or, if located outside a municipality, by the~~
 359 ~~sheriff's department of the county in which the premises are~~
 360 ~~located, and by any state law enforcement officer who has~~
 361 ~~jurisdiction over the dealer.~~

362 (2) The inspection authorized by subsection (1) shall
 363 consist of an examination on the registered premises of the
 364 inventory and required records to determine whether the records
 365 and inventory are being maintained on the registered premises as
 366 required by s. 538.04 and whether the holding period required by
 367 s. 538.06 is being complied with.

368 Section 4. Section 538.06, Florida Statutes, is amended to
 369 read:

370 538.06 Holding period.--

371 (1) A secondhand dealer shall not sell, barter, exchange,
 372 alter, adulterate, utilize, or in any way dispose of any
 373 secondhand goods within 30 ~~15~~ calendar days of the date of
 374 acquisition of the goods. ~~Such holding periods are not~~
 375 ~~applicable when the person known by the secondhand dealer to be~~
 376 ~~the person from whom the goods were acquired desires to redeem,~~
 377 ~~repurchase, or recover the goods, provided the dealer can~~
 378 ~~produce the record of the original transaction with verification~~
 379 ~~that the customer is the person from whom the goods were~~
 380 ~~originally acquired.~~

381 (2) A secondhand dealer must maintain actual physical
 382 possession of all secondhand goods throughout a transaction. It
 383 is unlawful for a secondhand dealer to accept title or any other
 384 form of security in secondhand goods in lieu of actual physical
 385 possession. A secondhand dealer who accepts title or any other
 386 form of security in secondhand goods in lieu of actual physical
 387 possession commits a misdemeanor of the first degree, punishable
 388 as provided in s. 775.082 or s. 775.083.

389 (3) Upon probable cause that goods held by a secondhand
 390 dealer are stolen, a law enforcement officer with jurisdiction
 391 may place a 90-day written hold order on the goods ~~extend the~~
 392 ~~holding period to a maximum of 60 days~~. However, the hold
 393 ~~holding period~~ may be extended beyond 90 ~~60~~ days by a court of
 394 competent jurisdiction upon a finding of probable cause that the
 395 property is stolen and further holding is necessary for the
 396 purposes of trial or to safeguard such property. The dealer
 397 shall assume all responsibility, civil or criminal, relative to
 398 the property or evidence in question, including responsibility
 399 for the actions of any employee with respect thereto.

400 (4) While a hold order is in effect, the secondhand dealer
 401 must, upon request, release the property subject to the hold
 402 order to the custody of a law enforcement officer with
 403 jurisdiction for use in a criminal investigation. The release of
 404 the property to the custody of the law enforcement officer is
 405 not considered a waiver or release of the secondhand dealer's
 406 rights or interest in the property. Upon completion of the
 407 criminal proceeding, the property must be returned to the
 408 secondhand dealer unless the court orders other disposition.

409 When such other disposition is ordered, the court shall
 410 additionally order the person from whom the secondhand dealer
 411 acquired the property to pay restitution to the secondhand
 412 dealer in the amount that the secondhand dealer paid for the
 413 property together with reasonable attorney's fees and costs.

414 (5)(4) All dealers in secondhand property regulated by
 415 this chapter shall maintain transaction records for 3 ~~5~~ years.

416 Section 5. Section 538.07, Florida Statutes, is amended to
 417 read:

418 538.07 Penalty for violation of chapter.--

419 (1) Except where otherwise provided herein, a person who
 420 knowingly violates any provision of this chapter commits a
 421 misdemeanor of the first degree, punishable as provided in s.
 422 775.082 and by a fine not to exceed \$10,000.

423 (2) When the lawful owner recovers stolen property from a
 424 secondhand dealer and the person who sold or pledged the stolen
 425 property to the secondhand dealer is convicted of theft, a
 426 violation of this section, or dealing in stolen property, the
 427 court shall order the defendant to make restitution to either
 428 the secondhand dealer or the lawful owner as applicable pursuant
 429 to s. 775.089.

430 Section 6. Section 538.09, Florida Statutes, is amended to
 431 read:

432 538.09 Registration.--

433 (1) A secondhand dealer shall not engage in the business
 434 of purchasing, consigning, or trading ~~pawning~~ secondhand goods
 435 from any location without registering with the Department of
 436 Revenue. A fee equal to the federal and state costs for

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437 processing required fingerprints must be submitted to the
438 department with each application for registration. One
439 application is required for each dealer. If a secondhand dealer
440 is the owner of more than one secondhand store location, the
441 application must list each location, and the department shall
442 issue a duplicate registration for each location. For purposes
443 of subsections (4) and (5) of this section, these duplicate
444 registrations shall be deemed individual registrations. A dealer
445 shall pay a fee of \$6 per location at the time of registration
446 and an annual renewal fee of \$6 per location on October 1 of
447 each year. All fees collected, less costs of administration,
448 shall be transferred into a trust fund to be established and
449 entitled the Secondhand Dealer and Secondary Metals Recycler
450 Clearing Trust Fund. The Department of Revenue shall forward the
451 full set of fingerprints to the Department of Law Enforcement
452 for state and federal processing, provided the federal service
453 is available, to be processed for any criminal justice
454 information as defined in s. 943.045. The cost of processing
455 such fingerprints shall be payable to the Department of Law
456 Enforcement by the Department of Revenue. The department may
457 issue a temporary registration to each location pending
458 completion of the background check by state and federal law
459 enforcement agencies, but shall revoke such temporary
460 registration if the completed background check reveals a
461 prohibited criminal background. An applicant for a secondhand
462 dealer registration must be a natural person who has reached the
463 age of 18 years.

464 (a) If the applicant is a partnership, all the partners
465 must apply.

466 (b) If the applicant is a joint venture, association, or
467 other noncorporate entity, all members of such joint venture,
468 association, or other noncorporate entity must make application
469 for registration as natural persons.

470 (c) If the applicant is a corporation, the registration
471 must include the name and address of such corporation's
472 registered agent for service of process in the state and a
473 certified copy of statement from the Secretary of State that the
474 corporation is duly organized in the state or, if the
475 corporation is organized in a state other than Florida, a
476 certified copy of statement from the Secretary of State that the
477 corporation is duly qualified to do business in this state. If
478 the dealer has more than one location, the application must list
479 each location owned by the same legal entity and the department
480 shall issue a duplicate registration for each location.

481 (2) The secondhand dealer shall furnish with her or his
482 registration a complete set of her or his fingerprints,
483 certified by an authorized law enforcement officer, and a recent
484 fullface photographic identification card of herself or himself.
485 The Department of Law Enforcement shall report its findings to
486 the Department of Revenue within 30 days after the date
487 fingerprint cards are submitted for criminal justice
488 information.

489 (3) The secondhand dealer's registration shall be
490 conspicuously displayed at her or his registered location
491 ~~principal place of business~~. A secondhand dealer must hold

492 secondhand goods at the registered location until 30 ~~15~~ days
 493 after the secondhand transaction or until any extension of the
 494 holding period has expired, whichever is later, ~~and must retain~~
 495 ~~records of each transaction which is not specifically exempted~~
 496 ~~by this chapter. A secondhand dealer shall not dispose of~~
 497 ~~property at any location until the holding period has expired~~
 498 ~~unless the transaction is specifically exempted by this chapter.~~

499 (4) The department may impose a civil fine of up to
 500 \$10,000 for each violation of this section, which fine shall be
 501 transferred into the General Revenue Fund. If the fine is not
 502 paid within 60 days, the department may bring a civil action
 503 under s. 120.69 to recover the fine.

504 (5) In addition to the fine provided in subsection (4),
 505 registration under this section may be denied or any
 506 registration granted may be revoked, restricted, or suspended by
 507 the department if the department determines that the applicant
 508 or registrant:

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

511 (b) Has made a material false statement in the application
 512 for registration;

513 (c) Has been guilty of a fraudulent act in connection with
 514 any purchase or sale or has been or is engaged in or is about to
 515 engage in any practice, purchase, or sale which is fraudulent or
 516 in violation of the law;

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

520 (e) Is making purchases or sales through any business
521 associate not registered in compliance with the provisions of
522 this chapter;

523 (f) Has, within the preceding 10-year ~~5-year~~ period, been
524 convicted of, or has entered a plea of guilty or nolo contendere
525 to, or had adjudication withheld for, a crime against the laws
526 of this state or any other state or of the United States which
527 relates to registration as a secondhand dealer or which involves
528 theft, larceny, dealing in stolen property, receiving stolen
529 property, burglary, embezzlement, obtaining property by false
530 pretenses, possession of altered property, any felony drug
531 offense, any violation of s. 812.015, or any fraudulent ~~or~~
532 ~~dishonest~~ dealing;

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

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

538
539 In the event the department determines to deny an application or
540 revoke a registration, it shall enter a final order with its
541 findings on the register of secondhand dealers and their
542 business associates, if any; and denial, suspension, or
543 revocation of the registration of a secondhand dealer shall also
544 deny, suspend, or revoke the registration of such secondhand
545 dealer's business associates.

546 (6) Upon the request of a law enforcement official, the
547 Department of Revenue shall release to the official the name and

548 address of any secondhand dealer registered to do business
549 within the official's jurisdiction.

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

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

553 516.02 Loans; lines of credit; rate of interest;
554 license.--

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

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

567 790.335 Prohibition of registration of firearms.--

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

570 (f) Firearm records, including paper pawn transaction
571 forms and contracts on firearm transactions, required by
572 chapters 538 and 539.

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

576 2. Electronic firearm records held pursuant to chapter 539
577 may only be kept by a pawnbroker for 30 days after the
578 expiration of the loan that is secured by a firearm or 30 days
579 after the date of purchase of a firearm, whichever is
580 applicable.

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

587 4. Notwithstanding subparagraph 3., secondhand dealers and
588 pawnbrokers may electronically submit firearm transaction
589 records to the appropriate law enforcement agencies as required
590 by chapters 538 and 539; however, the law enforcement agencies
591 may not electronically submit such records to any other person
592 or entity and must destroy such records within 60 days after
593 receipt of such records.

594 5. Notwithstanding subparagraph 3., secondhand dealers and
595 pawnbrokers may electronically submit limited firearms records
596 consisting solely of the manufacturer, model, serial number, and
597 caliber of pawned or purchased firearms to a third-party private
598 provider that is exclusively incorporated, exclusively owned,
599 and exclusively operated in the United States and that restricts
600 access to such information to only appropriate law enforcement
601 agencies for legitimate law enforcement purposes. Such records
602 must be destroyed within 30 days by the third-party provider. As
603 a condition of receipt of such records, the third-party provider

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604 | must agree in writing to comply with the requirements of this
605 | section. Any pawnbroker or secondhand dealer who contracts with
606 | a third-party provider other than as provided in this act or
607 | electronically transmits any records of firearms transactions to
608 | any third-party provider other than the records specifically
609 | allowed by this paragraph commits a felony of the second degree,
610 | punishable as provided in s. 775.082 or s. 775.083.

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