

1 A bill to be entitled

2 An act relating to secondhand dealers; amending s. 538.03,
3 F.S.; revising definitions; revising applicability of ch.
4 538, F.S.; exempting persons or entities offering
5 secondhand goods or personal property for sale, purchase,
6 consignment, or trade via the Internet from the provisions
7 of ch. 538, F.S., under certain circumstances; amending s.
8 538.04, F.S.; revising recordkeeping requirements for
9 secondhand dealers; providing penalties for knowingly
10 giving false verification of ownership or a false or
11 altered identification, and for receiving money from a
12 secondhand dealer for goods sold, consigned, or traded if
13 the value of the money received is less than \$300, and if
14 the value of the money received is \$300 or more; providing
15 for the electronic transfer of secondhand dealer
16 transactions under specified circumstances; authorizing
17 appropriate law enforcement agencies to provide a
18 secondhand dealer with a computer and other equipment
19 necessary to electronically transfer secondhand dealer
20 transactions; providing procedures with respect to
21 electronic transfer of secondhand dealer transactions;
22 amending s. 538.05, F.S.; revising provisions relating to
23 the inspection of records and premises of secondhand
24 dealers; amending s. 538.06, F.S.; revising provisions
25 with respect to the holding period during which a
26 secondhand dealer may not sell, barter, exchange, alter,
27 adulterate, use, or dispose of secondhand goods; revising
28 provisions with respect to the holding of goods upon

29 | probable cause that the goods are stolen; providing for
30 | payment of restitution, attorney's fees, and costs to a
31 | secondhand dealer under specified circumstances;
32 | increasing the time limit for maintenance of transaction
33 | records by dealers in secondhand property; amending s.
34 | 538.07, F.S.; revising provisions relating to restitution
35 | for stolen property recovered from a secondhand dealer;
36 | amending s. 538.09, F.S.; revising provisions with respect
37 | to registration as a secondhand dealer; increasing the
38 | period of time during which a secondhand dealer must hold
39 | secondhand goods at a registered location; revising
40 | conditions under which registration may be denied,
41 | revoked, restricted, or suspended by the Department of
42 | Revenue; repealing s. 538.16, F.S., relating to disposal
43 | of property by secondhand dealers; amending s. 516.02,
44 | F.S.; removing cross-references; reenacting s.
45 | 790.335(3)(f), F.S., which provides a second degree felony
46 | penalty for any secondhand dealer who contracts with a
47 | specified third-party provider or electronically transmits
48 | certain records of firearms transactions to any third-
49 | party provider; providing an effective date.

50 |
51 | Be It Enacted by the Legislature of the State of Florida:

52 |
53 | Section 1. Section 538.03, Florida Statutes, is amended to
54 | read:

55 | 538.03 Definitions; applicability.--

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

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

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

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

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

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

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

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

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

93 (e) "Acquire" means to obtain by purchase, consignment, or
 94 trade.

95 (f)~~(g)~~ "Secondhand goods" means personal property
 96 previously owned or used, which is not regulated metals property
 97 regulated under part II and which is purchased, consigned, or
 98 traded ~~pawned~~ as used property. Such secondhand goods shall not
 99 include office furniture, pianos, books, clothing, organs,
 100 coins, motor vehicles, costume jewelry, and secondhand sports
 101 equipment that is not permanently labeled with a serial number.
 102 For purposes of this paragraph, "secondhand sports equipment"
 103 does not include golf clubs. ~~be limited to watches, diamonds,~~
 104 ~~gems, and other precious stones, fishing rods, reels, and~~
 105 ~~tackle; audio and video electronic equipment, including~~
 106 ~~television sets, compact disc players, radios, amplifiers,~~
 107 ~~receivers, turntables, tape recorders, video tape recorders,~~
 108 ~~speakers and citizens' band radios, computer equipment, radar~~
 109 ~~detectors, depth finders, trolling motors, outboard motors,~~
 110 ~~sterling silver flatware and serving pieces, photographic~~
 111 ~~equipment, including cameras, video and film cameras, lenses,~~
 112 ~~electronic flashes, tripods, and developing equipment; microwave~~

113 ~~evens; animal fur coats; marine equipment; video games and~~
114 ~~cartridges; power lawn and landscape equipment; office equipment~~
115 ~~such as copiers, fax machines, and postage machines but~~
116 ~~excluding furniture; sports equipment; golf clubs; weapons,~~
117 ~~including knives, swords, and air guns; telephones, including~~
118 ~~cellular and portable; firearms; tools; calculators; musical~~
119 ~~instruments, excluding pianos and organs; lawnmowers; bicycles,~~
120 ~~typewriters; motor vehicles; gold, silver, platinum, and other~~
121 ~~precious metals excluding coins; and jewelry, excluding costume~~
122 ~~jewelry.~~

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

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

128 1. ~~any chemical or any automotive, photographic,~~
129 ~~electrical, medical, or dental materials or electronic parts.~~

130 2. ~~Any coin with an intrinsic value less than its~~
131 ~~numismatic value.~~

132 3. ~~Any gold bullion coin.~~

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

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

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

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

138 (2) This chapter does not apply to:

139 (a) Any secondhand goods transaction involving an
140 organization or entity registered with the state as a nonprofit,

141 religious, or charitable organization or any school-sponsored
 142 association or organization other than a secondary metals
 143 recycler subject to the provisions of part II.

144 (b) A law enforcement officer acting in an official
 145 capacity.

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

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

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

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

157 (g) Any person at antique, coin, or collectible shows or
 158 sales.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 having a serial number is not stolen
208 property by entering the serial number of the item into the
209 Department of Law Enforcement's stolen article database located
210 at the Florida Crime Information Center's 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 after entering into the
227 contract unless other arrangements are made between the business
228 and the law enforcement agency. ~~Any person purchasing,~~
229 ~~consigning, or pawning secondhand goods ordered by mail,~~
230 ~~computer-assisted shopping, media-assisted, media-facilitated,~~
231 ~~or media solicited shopping or shopping by other means of media~~
232 ~~communication, including, but not limited to, direct mail~~
233 ~~advertising, unsolicited distribution of catalogs, television,~~
234 ~~radio, or other electronic media, telephone, magazine, or~~
235 ~~newspaper advertising, so long as such person is in this state~~
236 ~~at the time of the order.~~

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

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

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

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

250 538.04 Recordkeeping requirements; penalties.--

251 (1) Secondhand dealers shall complete a secondhand dealers

252 transaction form at the time of the actual transaction. A

253 secondhand dealer shall maintain a copy of a completed

254 transaction form on the registered premises for at least 1 year

255 after the date of the transaction. However, the secondhand

256 dealer shall maintain a copy of the transaction form for a

257 period of no less than 3 years. ~~Secondhand dealers shall~~

258 ~~maintain records of all transactions of secondhand goods on the~~

259 ~~premises. Unless other arrangements have been agreed upon by the~~

260 ~~secondhand dealer and the appropriate law enforcement agency,~~

261 the secondhand dealer shall, within 24 hours of the acquisition

262 of any secondhand goods, ~~by purchase or pledge as security for a~~

263 ~~loan, a secondhand dealer shall deliver to the police department~~

264 of the municipality where the goods were acquired ~~purchased~~ or,

265 if the goods were acquired ~~purchased~~ outside of a municipality,

266 to the sheriff's department of the county where the goods were

267 acquired ~~purchased~~, a record of the transaction on a form

268 approved by the Department of Law Enforcement. Such record shall

269 contain:

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

271 (b) A complete and accurate description of the goods

272 acquired, including the following information, if applicable:

273 ~~any serial numbers, manufacturer's numbers, or other identifying~~

274 ~~marks or characteristics.~~

275 1. Brand name.

276 2. Model number.

277 3. Manufacturer's serial number.

- 278 4. Size.
- 279 5. Color, as apparent to the untrained eye.
- 280 6. Precious metal type, weight, and content if known.
- 281 7. Gemstone description, including the number of stones,
 282 if applicable.
- 283 8. In the case of firearms, the type of action, caliber or
 284 gauge, number of barrels, barrel length, and finish.
- 285 9. Any other unique identifying marks, numbers, or
 286 letters.
- 287 (c) A description of the person from whom the goods were
 288 acquired, including:
- 289 1. Full name, current residential address, workplace, and
 290 home and work phone numbers.
- 291 2. Height, weight, date of birth, race, gender, hair
 292 color, eye color, and any other identifying marks.
- 293 3. The right thumbprint, free of smudges and smears, of
 294 the person from whom the goods were acquired.
- 295 (d) Any other information required by the form approved by
 296 the Department of Law Enforcement.
- 297 (2) The secondhand dealer shall require verification of
 298 the identification by the exhibition of a government-issued
 299 photographic identification card such as a driver's license or
 300 military identification card. The record shall contain the type
 301 of identification exhibited, the issuing agency, and the number
 302 thereon.
- 303 (3) The seller shall sign a statement verifying that the
 304 seller is the rightful owner of the goods or is entitled to
 305 sell, consign, or trade ~~pledge~~ the goods.

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

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

313 (b) If the value of the money received is \$300 or more, a
314 felony of the second ~~third~~ degree, punishable as provided in s.
315 775.082, s. 775.083, or s. 775.084.

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

320 (6) If the appropriate law enforcement agency supplies a
321 secondhand dealer with appropriate software and the secondhand
322 dealer has computer capability, secondhand dealer transactions
323 shall be electronically transferred. If a secondhand dealer does
324 not have computer capability, the appropriate law enforcement
325 agency may provide the secondhand dealer with a computer and all
326 necessary equipment for the purpose of electronically
327 transferring secondhand dealer transactions. The appropriate law
328 enforcement agency shall retain ownership of the computer,
329 unless otherwise agreed upon. The secondhand dealer shall
330 maintain the computer in good working order, ordinary wear and
331 tear excepted. In the event the secondhand dealer transfers
332 secondhand dealer transactions electronically, the secondhand
333 dealer is not required to also deliver to the appropriate law

334 enforcement agency the original or copies of the secondhand
335 transaction forms. For the purpose of a criminal investigation,
336 the appropriate law enforcement agency may request that the
337 secondhand dealer produce an original of a transaction form that
338 has been electronically transferred. The secondhand dealer shall
339 deliver this form to the appropriate law enforcement agency
340 within 24 hours of the request.

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

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

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

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

361 ~~located, and by any state law enforcement officer who has~~
362 ~~jurisdiction over the dealer.~~

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

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

371 538.06 Holding period.--

372 (1) A secondhand dealer shall not sell, barter, exchange,
373 alter, adulterate, use, or in any way dispose of any secondhand
374 goods within 30 ~~15~~ calendar days of the date of acquisition of
375 the goods. ~~Such holding periods are not applicable when the~~
376 ~~person known by the secondhand dealer to be the person from whom~~
377 ~~the goods were acquired desires to redeem, repurchase, or~~
378 ~~recover the goods, provided the dealer can produce the record of~~
379 ~~the original transaction with verification that the customer is~~
380 ~~the person from whom the goods were 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
 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 ~~45~~ 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 for
 524 new registrants who apply for registration on or after October
 525 1, 2005, been convicted of, or has entered a plea of guilty or
 526 nolo contendere to, or had adjudication withheld for, a crime

527 against the laws of this state or any other state or of the
528 United States which relates to registration as a secondhand
529 dealer or which involves theft, larceny, dealing in stolen
530 property, receiving stolen property, burglary, embezzlement,
531 obtaining property by false pretenses, possession of altered
532 property, any felony drug offense, any violation of s. 812.015,
533 or any fraudulent ~~or dishonest~~ dealing;

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

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

539

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

547 (6) Upon the request of a law enforcement official, the
548 Department of Revenue shall release to the official the name and
549 address of any secondhand dealer registered to do business
550 within the official's jurisdiction.

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

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

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

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

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

568 790.335 Prohibition of registration of firearms.--

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

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

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

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

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

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

595 5. Notwithstanding subparagraph 3., secondhand dealers and
596 pawnbrokers may electronically submit limited firearms records
597 consisting solely of the manufacturer, model, serial number, and
598 caliber of pawned or purchased firearms to a third-party private
599 provider that is exclusively incorporated, exclusively owned,
600 and exclusively operated in the United States and that restricts
601 access to such information to only appropriate law enforcement
602 agencies for legitimate law enforcement purposes. Such records
603 must be destroyed within 30 days by the third-party provider. As
604 a condition of receipt of such records, the third-party provider
605 must agree in writing to comply with the requirements of this
606 section. Any pawnbroker or secondhand dealer who contracts with
607 a third-party provider other than as provided in this act or
608 electronically transmits any records of firearms transactions to
609 any third-party provider other than the records specifically

HB 855, Engrossed 1

2005

610 | allowed by this paragraph commits a felony of the second degree,
611 | punishable as provided in s. 775.082 or s. 775.083.

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