

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; exempting  
8 certain businesses that sell, rent, or trade motion  
9 picture videos or video games from ch. 538, F.S.; amending  
10 s. 538.04, F.S.; revising recordkeeping requirements for  
11 secondhand dealers; providing penalties for knowingly  
12 giving false verification of ownership or a false or  
13 altered identification, and for receiving money from a  
14 secondhand dealer for goods sold, consigned, or traded if  
15 the value of the money received is less than \$300, and if  
16 the value of the money received is \$300 or more; providing  
17 for the electronic transfer of secondhand dealer  
18 transactions under specified circumstances; authorizing  
19 appropriate law enforcement agencies to provide a  
20 secondhand dealer with a computer and other equipment  
21 necessary to electronically transfer secondhand dealer  
22 transactions; providing procedures with respect to  
23 electronic transfer of secondhand dealer transactions;  
24 amending s. 538.05, F.S.; revising provisions relating to  
25 the inspection of records and premises of secondhand  
26 dealers; amending s. 538.06, F.S.; revising provisions  
27 with respect to the holding of goods upon probable cause  
28 that the goods are stolen; providing for payment of

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

47  
48 Be It Enacted by the Legislature of the State of Florida:

49  
50 Section 1. Section 538.03, Florida Statutes, is amended to  
51 read:

52 538.03 Definitions; applicability.--

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

54 (a) "Secondhand dealer" means any person, corporation, or  
55 other business organization or entity which is not a secondary  
56 metals recycler subject to part II and which is engaged in the

57 business of purchasing, consigning, or trading ~~pawning~~  
 58 secondhand goods. ~~However, secondhand dealers are not limited to~~  
 59 ~~dealing only in items defined as secondhand goods in paragraph~~  
 60 ~~(g). Except as provided in subsection (2), the term means~~  
 61 ~~pawnbrokers, jewelers, precious metals dealers, garage sale~~  
 62 ~~operators, secondhand stores, and consignment shops.~~

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

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

74 ~~(d) "Pawn" means either of the following transactions:~~  
 75 ~~1. Loan of money. A written or oral bailment of personal~~  
 76 ~~property as security for an engagement or debt, redeemable on~~  
 77 ~~certain terms and with the implied power of sale on default.~~  
 78 ~~2. Buy sell agreement. An agreement whereby a purchaser~~  
 79 ~~agrees to hold property for a specified period of time to allow~~  
 80 ~~the seller the exclusive right to repurchase the property. A~~  
 81 ~~buy sell agreement is not a loan of money.~~

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

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

90            (e) "Acquire" means to obtain by purchase, consignment, or  
 91 trade.

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

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113 ~~excluding furniture, sports equipment, golf clubs, weapons,~~  
114 ~~including knives, swords, and air guns, telephones, including~~  
115 ~~cellular and portable, firearms, tools, calculators, musical~~  
116 ~~instruments, excluding pianos and organs, lawnmowers, bicycles,~~  
117 ~~typewriters, motor vehicles, gold, silver, platinum, and other~~  
118 ~~precious metals excluding coins, and jewelry, excluding costume~~  
119 ~~jewelry.~~

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

122 (h) ~~(i)~~ "Precious metals" means any item containing any  
123 gold, silver, or platinum, or any combination thereof,  
124 excluding:

125 ~~1.~~ any chemical or any automotive, photographic,  
126 electrical, medical, or dental materials or electronic parts.

127 ~~2.~~ Any coin with an intrinsic value less than its  
128 numismatic value.

129 ~~3.~~ Any gold bullion coin.

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

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

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

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

135 (2) This chapter does not apply to:

136 (a) Any secondhand goods transaction involving an  
137 organization or entity registered with the state as a nonprofit,  
138 religious, or charitable organization or any school-sponsored  
139 association or organization other than a secondary metals  
140 recycler subject to the provisions of part II.

- 141 (b) A law enforcement officer acting in an official  
 142 capacity.
- 143 (c) A trustee in bankruptcy, executor, administrator, or  
 144 receiver who has presented proof of such status to the  
 145 secondhand dealer.
- 146 (d) Any public official acting under judicial process or  
 147 authority who has presented proof of such status to the  
 148 secondhand dealer.
- 149 (e) A sale on the execution, or by virtue of any process  
 150 issued by a court, if proof thereof has been presented to the  
 151 secondhand dealer.
- 152 (f) Any garage sale operator who holds garage sales less  
 153 than 10 weekends per year.
- 154 (g) Any person at antique, coin, or collectible shows or  
 155 sales.
- 156 (h) Any person who sells household personal property as an  
 157 agent for the property owner or their representative pursuant to  
 158 a written agreement at that person's residence.
- 159 (i) The purchase, consignment, or trade pawn of secondhand  
 160 goods from one secondhand dealer to another secondhand dealer  
 161 when the selling secondhand dealer has complied with the  
 162 requirements of this chapter.
- 163 (j) Any person accepting a secondhand good as a trade-in  
 164 for a similar item of greater value.
- 165 (k) Any person purchasing, consigning, or trading pawning  
 166 secondhand goods at a flea market regardless of whether at a  
 167 temporary or permanent business location at the flea market.
- 168 (l) Any auction business as defined in s. 468.382(1).

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

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

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

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

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

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

191 5. The business must provide the appropriate law  
192 enforcement agency with the name or names under which it  
193 conducts business on the website;

194 6. The business must allow the appropriate law enforcement  
195 agency to inspect its business premises at any time during  
196 normal business hours;

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

202        8.a. At least 48 hours after the estimated time of  
203 contracting to offer the secondhand goods, the business must  
204 verify that any item having a serial number is not stolen  
205 property by entering the serial number of the item into the  
206 Department of Law Enforcement's stolen article database located  
207 at the Florida Crime Information Center's public access system  
208 website. The business shall record the date and time of such  
209 verification on the contract covering the goods. If such  
210 verification reveals that an item is stolen property, the  
211 business shall immediately remove the item from any website on  
212 which it is being offered and notify the appropriate law  
213 enforcement agency; or

214        b. The business must provide the appropriate law  
215 enforcement agency with an electronic copy of the name, address,  
216 phone number, driver's license number, and issuing state of the  
217 person with whom the business contracted to offer the goods, as  
218 well as an accurate description of the goods, including make,  
219 model, serial number, and any other unique identifying marks,  
220 numbers, names, or letters that may be on an item, in a format  
221 agreed upon by the business and the appropriate law enforcement  
222 agency. This information must be provided to the appropriate law  
223 enforcement agency within 24 hours after entering into the  
224 contract unless other arrangements are made between the business



225 and the law enforcement agency. ~~Any person purchasing,~~  
 226 ~~consigning, or pawning secondhand goods ordered by mail,~~  
 227 ~~computer assisted shopping, media assisted, media facilitated,~~  
 228 ~~or media solicited shopping or shopping by other means of media~~  
 229 ~~communication, including, but not limited to, direct mail~~  
 230 ~~advertising, unsolicited distribution of catalogs, television,~~  
 231 ~~radio, or other electronic media, telephone, magazine, or~~  
 232 ~~newspaper advertising, so long as such person is in this state~~  
 233 ~~at the time of the order.~~

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

241 (p) A business whose primary business is the sale, rental,  
 242 or trade of motion picture videos or video games, if the  
 243 business:

244 1. Requires the sellers of secondhand goods to have a  
 245 current account with the business;

246 2. Has on file in a readily accessible format the name,  
 247 current residential address, home and work telephone numbers,  
 248 government-issued identification number, place of employment,  
 249 date of birth, gender, and right thumbprint of each seller of  
 250 secondhand goods;

251 3. Purchases secondhand goods from the property owner or  
 252 his or her representative at the place of business pursuant to

253 an agreement in writing and signed by the property owner which  
 254 describes the property purchased, states the date and time of  
 255 the purchase, and states that the seller is the lawful owner of  
 256 the property;

257 4. Retains such purchase agreements for not less than 1  
 258 year; and

259 5. Pays for the purchased property in the form of a store  
 260 credit that is issued to the seller and is redeemable solely by  
 261 the seller or another authorized user of the seller's account  
 262 with that business.

263 (q) ~~(e)~~ A motor vehicle dealer as defined in s. 320.27.

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

267 Section 2. Section 538.04, Florida Statutes, is amended to  
 268 read:

269 538.04 Recordkeeping requirements; penalties.--

270 (1) Secondhand dealers shall complete a secondhand dealers  
 271 transaction form at the time of the actual transaction. A  
 272 secondhand dealer shall maintain a copy of a completed  
 273 transaction form on the registered premises for at least 1 year  
 274 after the date of the transaction. However, the secondhand  
 275 dealer shall maintain a copy of the transaction form for a  
 276 period of no less than 3 years. ~~Secondhand dealers shall~~  
 277 ~~maintain records of all transactions of secondhand goods on the~~  
 278 ~~premises. Unless other arrangements have been agreed upon by the~~  
 279 ~~secondhand dealer and the appropriate law enforcement agency,~~  
 280 the secondhand dealer shall, within 24 hours after ~~of~~ the

281 acquisition of any secondhand goods, ~~by purchase or pledge as~~  
 282 ~~security for a loan, a secondhand dealer shall~~ deliver to the  
 283 police department of the municipality where the goods were  
 284 acquired ~~purchased~~ or, if the goods were acquired ~~purchased~~  
 285 outside of a municipality, to the sheriff's department of the  
 286 county where the goods were acquired ~~purchased~~, a record of the  
 287 transaction on a form approved by the Department of Law  
 288 Enforcement. Such record shall contain:

- 289 (a) The time, date, and place of the transaction.
- 290 (b) A complete and accurate description of the goods  
 291 acquired, including the following information, if applicable:  
 292 ~~any serial numbers, manufacturer's numbers, or other identifying~~  
 293 ~~marks or characteristics.~~

- 294 1. Brand name.
- 295 2. Model number.
- 296 3. Manufacturer's serial number.
- 297 4. Size.
- 298 5. Color, as apparent to the untrained eye.
- 299 6. Precious metal type, weight, and content, if known.
- 300 7. Gemstone description, including the number of stones,  
 301 if applicable.
- 302 8. In the case of firearms, the type of action, caliber or  
 303 gauge, number of barrels, barrel length, and finish.
- 304 9. Any other unique identifying marks, numbers, or  
 305 letters.

- 306 (c) A description of the person from whom the goods were  
 307 acquired, including:  
 308 1. Full name, current residential address, workplace, and

309 home and work phone numbers.

310 2. Height, weight, date of birth, race, gender, hair  
311 color, eye color, and any other identifying marks.

312 3. The right thumbprint, free of smudges and smears, of  
313 the person from whom the goods were acquired.

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

316 (2) The secondhand dealer shall require verification of  
317 the identification by the exhibition of a government-issued  
318 photographic identification card such as a driver's license or  
319 military identification card. The record shall contain the type  
320 of identification exhibited, the issuing agency, and the number  
321 thereon.

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

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

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

332 (b) If the value of the money received is \$300 or more, a  
333 felony of the second ~~third~~ degree, punishable as provided in s.  
334 775.082, s. 775.083, or s. 775.084.

335 (5) Secondhand dealers are exempt from the provisions of  
336 this section for all transactions involving secondhand sports

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337 equipment except secondhand sports equipment that is permanently  
338 labeled with a serial number.

339 (6) If the appropriate law enforcement agency supplies a  
340 secondhand dealer with appropriate software and the secondhand  
341 dealer has computer capability, secondhand dealer transactions  
342 shall be electronically transferred. If a secondhand dealer does  
343 not have computer capability, the appropriate law enforcement  
344 agency may provide the secondhand dealer with a computer and all  
345 necessary equipment for the purpose of electronically  
346 transferring secondhand dealer transactions. The appropriate law  
347 enforcement agency shall retain ownership of the computer,  
348 unless otherwise agreed upon. The secondhand dealer shall  
349 maintain the computer in good working order, ordinary wear and  
350 tear excepted. In the event the secondhand dealer transfers  
351 secondhand dealer transactions electronically, the secondhand  
352 dealer is not required to also deliver to the appropriate law  
353 enforcement agency the original or copies of the secondhand  
354 transaction forms. For the purpose of a criminal investigation,  
355 the appropriate law enforcement agency may request that the  
356 secondhand dealer produce an original of a transaction form that  
357 has been electronically transferred. The secondhand dealer shall  
358 deliver this form to the appropriate law enforcement agency  
359 within 24 hours after the request.

360 (7) If the original transaction form is lost or destroyed  
361 by the appropriate law enforcement agency, a copy may be used by  
362 the secondhand dealer as evidence in court. When an electronic  
363 image of a customer's identification is accepted for a  
364 transaction, the secondhand dealer must maintain the electronic

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365 image in order to meet the recordkeeping requirements applicable  
 366 to the original transaction form. If a criminal investigation  
 367 occurs, the secondhand dealer shall, upon request, provide a  
 368 clear and legible copy of the image to the appropriate law  
 369 enforcement agency.

370 Section 3. Section 538.05, Florida Statutes, is amended to  
 371 read:

372 538.05 Inspection of records and premises of secondhand  
 373 dealers.--

374 (1) The entire registered premises and required records of  
 375 each secondhand dealer are subject to inspection during regular  
 376 business hours by any law enforcement officer with jurisdiction  
 377 ~~the police department if the premises are located within a~~  
 378 ~~municipality or, if located outside a municipality, by the~~  
 379 ~~sheriff's department of the county in which the premises are~~  
 380 ~~located, and by any state law enforcement officer who has~~  
 381 ~~jurisdiction over the dealer.~~

382 (2) The inspection authorized by subsection (1) shall  
 383 consist of an examination on the registered premises of the  
 384 inventory and required records to determine whether the records  
 385 and inventory are being maintained on the registered premises as  
 386 required by s. 538.04 and whether the holding period required by  
 387 s. 538.06 is being complied with.

388 Section 4. Section 538.06, Florida Statutes, is amended to  
 389 read:

390 538.06 Holding period.--

391 (1) A secondhand dealer shall not sell, barter, exchange,  
 392 alter, adulterate, use, or in any way dispose of any secondhand

393 goods within 15 calendar days after ~~of~~ the date of acquisition  
394 of the goods. Such holding periods are not applicable when the  
395 person known by the secondhand dealer to be the person from whom  
396 the goods were acquired desires to redeem, repurchase, or  
397 recover the goods, provided the dealer can produce the record of  
398 the original transaction with verification that the customer is  
399 the person from whom the goods were originally acquired.

400 (2) A secondhand dealer must maintain actual physical  
401 possession of all secondhand goods throughout a transaction. It  
402 is unlawful for a secondhand dealer to accept title or any other  
403 form of security in secondhand goods in lieu of actual physical  
404 possession. A secondhand dealer who accepts title or any other  
405 form of security in secondhand goods in lieu of actual physical  
406 possession commits a misdemeanor of the first degree, punishable  
407 as provided in s. 775.082 or s. 775.083.

408 (3) Upon probable cause that goods held by a secondhand  
409 dealer are stolen, a law enforcement officer with jurisdiction  
410 may place a 90-day written hold order on the goods ~~extend the~~  
411 ~~holding period to a maximum of 60 days~~. However, the hold  
412 ~~holding period~~ may be extended beyond 90 ~~60~~ days by a court of  
413 competent jurisdiction upon a finding of probable cause that the  
414 property is stolen and further holding is necessary for the  
415 purposes of trial or to safeguard such property. The dealer  
416 shall assume all responsibility, civil or criminal, relative to  
417 the property or evidence in question, including responsibility  
418 for the actions of any employee with respect thereto.

419 (4) While a hold order is in effect, the secondhand dealer  
420 must, upon request, release the property subject to the hold

421 order to the custody of a law enforcement officer with  
 422 jurisdiction for use in a criminal investigation. The release of  
 423 the property to the custody of the law enforcement officer is  
 424 not considered a waiver or release of the secondhand dealer's  
 425 rights or interest in the property. Upon completion of the  
 426 criminal proceeding, the property must be returned to the  
 427 secondhand dealer unless the court orders other disposition.  
 428 When such other disposition is ordered, the court shall  
 429 additionally order the person from whom the secondhand dealer  
 430 acquired the property to pay restitution to the secondhand  
 431 dealer in the amount that the secondhand dealer paid for the  
 432 property together with reasonable attorney's fees and costs.

433 (5)~~(4)~~ All dealers in secondhand property regulated by  
 434 this chapter shall maintain transaction records for 3 5 years.

435 Section 5. Section 538.07, Florida Statutes, is amended to  
 436 read:

437 538.07 Penalty for violation of chapter.--

438 (1) Except as ~~where~~ otherwise provided herein, a person  
 439 who knowingly violates any provision of this chapter commits a  
 440 misdemeanor of the first degree, punishable as provided in s.  
 441 775.082 and by a fine not to exceed \$10,000.

442 (2) When the lawful owner recovers stolen property from a  
 443 secondhand dealer and the person who sold or pledged the stolen  
 444 property to the secondhand dealer is convicted of theft, a  
 445 violation of this section, or dealing in stolen property, the  
 446 court shall order the defendant to make restitution to either  
 447 the secondhand dealer or the lawful owner, as applicable,  
 448 pursuant to s. 775.089.



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449 Section 6. Section 538.09, Florida Statutes, is amended to  
450 read:

451 538.09 Registration.--

452 (1) A secondhand dealer shall not engage in the business  
453 of purchasing, consigning, or trading ~~pawning~~ secondhand goods  
454 from any location without registering with the Department of  
455 Revenue. A fee equal to the federal and state costs for  
456 processing required fingerprints must be submitted to the  
457 department with each application for registration. One  
458 application is required for each dealer. If a secondhand dealer  
459 is the owner of more than one secondhand store location, the  
460 application must list each location, and the department shall  
461 issue a duplicate registration for each location. For purposes  
462 of subsections (4) and (5) of this section, these duplicate  
463 registrations shall be deemed individual registrations. A dealer  
464 shall pay a fee of \$6 per location at the time of registration  
465 and an annual renewal fee of \$6 per location on October 1 of  
466 each year. All fees collected, less costs of administration,  
467 shall be transferred into a trust fund to be established and  
468 entitled the Secondhand Dealer and Secondary Metals Recycler  
469 Clearing Trust Fund. The Department of Revenue shall forward the  
470 full set of fingerprints to the Department of Law Enforcement  
471 for state and federal processing, provided the federal service  
472 is available, to be processed for any criminal justice  
473 information as defined in s. 943.045. The cost of processing  
474 such fingerprints shall be payable to the Department of Law  
475 Enforcement by the Department of Revenue. The department may  
476 issue a temporary registration to each location pending

477 completion of the background check by state and federal law  
478 enforcement agencies, but shall revoke such temporary  
479 registration if the completed background check reveals a  
480 prohibited criminal background. An applicant for a secondhand  
481 dealer registration must be a natural person who has reached the  
482 age of 18 years.

483 (a) If the applicant is a partnership, all the partners  
484 must apply.

485 (b) If the applicant is a joint venture, association, or  
486 other noncorporate entity, all members of such joint venture,  
487 association, or other noncorporate entity must make application  
488 for registration as natural persons.

489 (c) If the applicant is a corporation, the registration  
490 must include the name and address of such corporation's  
491 registered agent for service of process in the state and a  
492 certified copy of statement from the Secretary of State that the  
493 corporation is duly organized in the state or, if the  
494 corporation is organized in a state other than Florida, a  
495 certified copy of statement from the Secretary of State that the  
496 corporation is duly qualified to do business in this state. If  
497 the dealer has more than one location, the application must list  
498 each location owned by the same legal entity and the department  
499 shall issue a duplicate registration for each location.

500 (2) The secondhand dealer shall furnish with her or his  
501 registration a complete set of her or his fingerprints,  
502 certified by an authorized law enforcement officer, and a recent  
503 fullface photographic identification card of herself or himself.  
504 The Department of Law Enforcement shall report its findings to

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505 the Department of Revenue within 30 days after the date  
506 fingerprint cards are submitted for criminal justice  
507 information.

508 (3) The secondhand dealer's registration shall be  
509 conspicuously displayed at her or his registered location  
510 ~~principal place of business~~. A secondhand dealer must hold  
511 secondhand goods at the registered location until 15 days after  
512 the secondhand transaction or until any extension of the holding  
513 period has expired, whichever is later, ~~and must retain records~~  
514 ~~of each transaction which is not specifically exempted by this~~  
515 ~~chapter. A secondhand dealer shall not dispose of property at~~  
516 ~~any location until the holding period has expired unless the~~  
517 ~~transaction is specifically exempted by this chapter.~~

518 (4) The department may impose a civil fine of up to  
519 \$10,000 for each violation of this section, which fine shall be  
520 transferred into the General Revenue Fund. If the fine is not  
521 paid within 60 days, the department may bring a civil action  
522 under s. 120.69 to recover the fine.

523 (5) In addition to the fine provided in subsection (4),  
524 registration under this section may be denied or any  
525 registration granted may be revoked, restricted, or suspended by  
526 the department if the department determines that the applicant  
527 or registrant:

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

530 (b) Has made a material false statement in the application  
531 for registration;

532 (c) Has been guilty of a fraudulent act in connection with

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533 any purchase or sale or has been or is engaged in or is about to  
534 engage in any practice, purchase, or sale which is fraudulent or  
535 in violation of the law;

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

539 (e) Is making purchases or sales through any business  
540 associate not registered in compliance with the provisions of  
541 this chapter;

542 (f) Has, within the preceding 10-year ~~5-year~~ period for  
543 new registrants who apply for registration on or after October  
544 1, 2005, been convicted of, or has entered a plea of guilty or  
545 nolo contendere to, or had adjudication withheld for, a crime  
546 against the laws of this state or any other state or of the  
547 United States which relates to registration as a secondhand  
548 dealer or which involves theft, larceny, dealing in stolen  
549 property, receiving stolen property, burglary, embezzlement,  
550 obtaining property by false pretenses, possession of altered  
551 property, any felony drug offense, any violation of s. 812.015,  
552 or any fraudulent ~~or dishonest~~ dealing;

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

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

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560 In the event the department determines to deny an application or

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561 revoke a registration, it shall enter a final order with its  
 562 findings on the register of secondhand dealers and their  
 563 business associates, if any; and denial, suspension, or  
 564 revocation of the registration of a secondhand dealer shall also  
 565 deny, suspend, or revoke the registration of such secondhand  
 566 dealer's business associates.

567 (6) Upon the request of a law enforcement official, the  
 568 Department of Revenue shall release to the official the name and  
 569 address of any secondhand dealer registered to do business  
 570 within the official's jurisdiction.

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

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

574 516.02 Loans; lines of credit; rate of interest;  
 575 license.--

576 (4) This chapter does not apply to any person who does  
 577 business under, and as permitted by, any law of this state or of  
 578 the United States relating to banks, savings banks, trust  
 579 companies, building and loan associations, credit unions, or  
 580 industrial loan and investment companies. ~~This chapter also does~~  
 581 ~~not apply to title loans as defined in s. 538.03(1)(i) or pawns~~  
 582 ~~as defined in s. 538.03(1)(d).~~ A pawnbroker may not be licensed  
 583 to transact business under this chapter.

584 Section 9. For the purpose of incorporating the amendment  
 585 made by this act to section 538.03, Florida Statutes, in a  
 586 reference thereto, paragraph (f) of subsection (3) of section  
 587 790.335, Florida Statutes, is reenacted to read:

588 790.335 Prohibition of registration of firearms.--

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

591 (f) Firearm records, including paper pawn transaction  
 592 forms and contracts on firearm transactions, required by  
 593 chapters 538 and 539.

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

597 2. Electronic firearm records held pursuant to chapter 539  
 598 may only be kept by a pawnbroker for 30 days after the  
 599 expiration of the loan that is secured by a firearm or 30 days  
 600 after the date of purchase of a firearm, whichever is  
 601 applicable.

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

608 4. Notwithstanding subparagraph 3., secondhand dealers and  
 609 pawnbrokers may electronically submit firearm transaction  
 610 records to the appropriate law enforcement agencies as required  
 611 by chapters 538 and 539; however, the law enforcement agencies  
 612 may not electronically submit such records to any other person  
 613 or entity and must destroy such records within 60 days after  
 614 receipt of such records.

615 5. Notwithstanding subparagraph 3., secondhand dealers and  
 616 pawnbrokers may electronically submit limited firearms records

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617 | consisting solely of the manufacturer, model, serial number, and  
618 | caliber of pawned or purchased firearms to a third-party private  
619 | provider that is exclusively incorporated, exclusively owned,  
620 | and exclusively operated in the United States and that restricts  
621 | access to such information to only appropriate law enforcement  
622 | agencies for legitimate law enforcement purposes. Such records  
623 | must be destroyed within 30 days by the third-party provider. As  
624 | a condition of receipt of such records, the third-party provider  
625 | must agree in writing to comply with the requirements of this  
626 | section. Any pawnbroker or secondhand dealer who contracts with  
627 | a third-party provider other than as provided in this act or  
628 | electronically transmits any records of firearms transactions to  
629 | any third-party provider other than the records specifically  
630 | allowed by this paragraph commits a felony of the second degree,  
631 | punishable as provided in s. 775.082 or s. 775.083.

632 |       Section 10. This act shall take effect October 1, 2006.