

1                                   A bill to be entitled  
2           An act relating to transactions by secondhand dealers,  
3           secondary metals recyclers, and pawnbrokers; amending s.  
4           538.03, F.S.; defining the term "appropriate law  
5           enforcement official" for purposes of provisions  
6           regulating secondhand goods transactions; conforming an  
7           applicability provision; amending s. 538.04, F.S.;  
8           conforming provisions requiring that secondhand dealer  
9           transaction forms be electronically transmitted or  
10          delivered to the appropriate law enforcement official;  
11          amending s. 538.18, F.S.; defining the term "appropriate  
12          law enforcement official" for purposes of provisions  
13          regulating secondary metals purchase transactions;  
14          amending s. 319.30, F.S.; conforming a cross-reference;  
15          amending s. 538.19, F.S.; requiring secondary metals  
16          recyclers to complete a purchase transaction form and  
17          deliver the form to the appropriate law enforcement  
18          official within a specified period; authorizing such  
19          recyclers to use an electronic database and transmit  
20          transaction forms electronically; providing for  
21          appropriate law enforcement officials to provide software  
22          and computer equipment to recyclers; requiring that a  
23          recycler deliver an original form under certain  
24          circumstances; amending s. 539.001, F.S.; revising the  
25          term "appropriate law enforcement official" for purposes  
26          of the Florida Pawnbroking Act; conforming provisions  
27          requiring that pawn transaction forms be electronically  
28          transmitted or delivered to the appropriate law

29 enforcement official; providing an effective date.

30

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

32

33 Section 1. Subsection (1) and paragraph (n) of subsection  
 34 (2) of section 538.03, Florida Statutes, are amended to read:

35 538.03 Definitions; applicability.—

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

37 (a)~~(e)~~ "Acquire" means to obtain by purchase, consignment,  
 38 or trade.

39 (b) "Appropriate law enforcement official" means the  
 40 sheriff of the county in which a secondhand dealer is located  
 41 or, if the secondhand dealer is located within a municipality,  
 42 both the police chief of the municipality and the sheriff;  
 43 however, the sheriff or police chief may designate as the  
 44 appropriate law enforcement official for that county or  
 45 municipality, as applicable, any law enforcement officer working  
 46 within that respective county or municipality. This paragraph  
 47 does not limit the authority or duties of the sheriff.

48 (c)~~(d)~~ "Consignment shop" means a shop engaging in the  
 49 business of accepting for sale, on consignment, secondhand goods  
 50 which, having once been used or transferred from the  
 51 manufacturer to the dealer, are then received into the  
 52 possession of a third party.

53 (d)~~(i)~~ "Department" means the Department of Revenue.

54 (e)~~(h)~~ "Precious metals" means any item containing any  
 55 gold, silver, or platinum, or any combination thereof, excluding  
 56 any chemical or any automotive, photographic, electrical,

57 | medical, or dental materials or electronic parts.

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

63 |       (g)~~(a)~~ "Secondhand dealer" means any person, corporation,  
 64 | or other business organization or entity which is not a  
 65 | secondary metals recycler subject to part II and which is  
 66 | engaged in the business of purchasing, consigning, or trading  
 67 | secondhand goods.

68 |       (h)~~(f)~~ "Secondhand goods" means personal property  
 69 | previously owned or used, which is not regulated metals property  
 70 | regulated under part II and which is purchased, consigned, or  
 71 | traded as used property. Such secondhand goods do not include  
 72 | office furniture, pianos, books, clothing, organs, coins, motor  
 73 | vehicles, costume jewelry, cardio and strength training or  
 74 | conditioning equipment designed primarily for indoor use, and  
 75 | secondhand sports equipment that is not permanently labeled with  
 76 | a serial number. For purposes of this paragraph, "secondhand  
 77 | sports equipment" does not include golf clubs.

78 |       (i)~~(e)~~ "Secondhand store" means the place or premises at  
 79 | which a secondhand dealer is registered to conduct business as a  
 80 | secondhand dealer or conducts business.

81 |       (j)~~(g)~~ "Transaction" means any purchase, consignment, or  
 82 | trade of secondhand goods by a secondhand dealer.

83 |       (2) This chapter does not apply to:

84 |       (n) A business that contracts with other persons or

HB 343

2011

85 entities to offer its secondhand goods for sale, purchase,  
86 consignment, or trade via an Internet website, and that  
87 maintains a shop, store, or other business premises for this  
88 purpose, if all of the following apply:

89 1. The secondhand goods must be available on the website  
90 for viewing by the public at no charge;

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

93 3. The records of the sale, purchase, consignment, or  
94 trade, and the description of the secondhand goods as listed on  
95 the website, must contain the serial number of each item, if  
96 any;

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

99 5. The business must provide the appropriate law  
100 enforcement official ~~agency~~ with the name or names under which  
101 it conducts business on the website;

102 6. The business must allow the appropriate law enforcement  
103 official ~~agency~~ to inspect its business premises at any time  
104 during normal business hours;

105 7. Any payment by the business resulting from such a sale,  
106 purchase, consignment, or trade must be made to the person or  
107 entity with whom the business contracted to offer the goods and  
108 must be made by check or via a money services business licensed  
109 under part II of chapter 560; and

110 8.a. At least 48 hours after the estimated time of  
111 contracting to offer the secondhand goods, the business must  
112 verify that any item having a serial number is not stolen

113 property by entering the serial number of the item into the  
 114 Department of Law Enforcement's stolen article database located  
 115 at the Florida Crime Information Center's public access system  
 116 website. The business shall record the date and time of such  
 117 verification on the contract covering the goods. If such  
 118 verification reveals that an item is stolen property, the  
 119 business shall immediately remove the item from any website on  
 120 which it is being offered and notify the appropriate law  
 121 enforcement official ~~agency~~; or

122       b. The business must provide the appropriate law  
 123 enforcement official ~~agency~~ with an electronic copy of the name,  
 124 address, phone number, driver's license number, and issuing  
 125 state of the person with whom the business contracted to offer  
 126 the goods, as well as an accurate description of the goods,  
 127 including make, model, serial number, and any other unique  
 128 identifying marks, numbers, names, or letters that may be on an  
 129 item, in a format agreed upon by the business and the  
 130 appropriate law enforcement official ~~agency~~. This information  
 131 must be provided to the appropriate law enforcement official  
 132 ~~agency~~ within 24 hours after entering into the contract unless  
 133 other arrangements are made between the business and the law  
 134 enforcement official ~~agency~~.

135       Section 2. Subsections (1), (6), and (7) of section  
 136 538.04, Florida Statutes, are amended to read:

137       538.04 Recordkeeping requirements; penalties.—

138       (1) A secondhand dealer ~~dealers~~ shall complete a  
 139 secondhand dealers transaction form at the time of the actual  
 140 transaction. A secondhand dealer shall maintain a copy of a

141 completed transaction form on the registered premises for at  
 142 least 1 year after the date of the transaction. However, the  
 143 secondhand dealer shall maintain a copy of the transaction form  
 144 for not less than 3 years. Unless other arrangements are ~~have~~  
 145 ~~been~~ agreed upon by the secondhand dealer and the appropriate  
 146 law enforcement official ~~agency~~, the secondhand dealer shall,  
 147 within 24 hours after acquiring ~~the acquisition of~~ any  
 148 secondhand goods, deliver to such official ~~the police department~~  
 149 ~~of the municipality where the goods were acquired or, if the~~  
 150 ~~goods were acquired outside of a municipality, to the sheriff's~~  
 151 ~~department of the county where the goods were acquired,~~ a record  
 152 of the transaction on a form approved by the Department of Law  
 153 Enforcement. Such record shall contain:

- 154 (a) The time, date, and place of the transaction.
- 155 (b) A complete and accurate description of the goods  
 156 acquired, including the following information, if applicable:
  - 157 1. Brand name.
  - 158 2. Model number.
  - 159 3. Manufacturer's serial number.
  - 160 4. Size.
  - 161 5. Color, as apparent to the untrained eye.
  - 162 6. Precious metal type, weight, and content if known.
  - 163 7. Gemstone description, including the number of stones,  
 164 if applicable.
  - 165 8. In the case of firearms, the type of action, caliber or  
 166 gauge, number of barrels, barrel length, and finish.
  - 167 9. Any other unique identifying marks, numbers, or  
 168 letters.

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

171 1. Full name, current residential address, workplace, and  
 172 home and work phone numbers.

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

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

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

179 (6) If the appropriate law enforcement official ~~agency~~  
 180 supplies a secondhand dealer with the appropriate software and  
 181 the secondhand dealer has the computer capability, the  
 182 secondhand dealer ~~transactions~~ shall ~~be~~ electronically transmit  
 183 secondhand dealer transactions required by this section to such  
 184 official ~~transferred~~. If a secondhand dealer does not have the  
 185 computer capability, the appropriate law enforcement official  
 186 ~~agency~~ may provide the secondhand dealer with a computer and all  
 187 equipment necessary to ~~equipment for the purpose of~~  
 188 electronically transmit ~~transferring~~ secondhand dealer  
 189 transactions. The appropriate law enforcement official ~~agency~~  
 190 shall retain ownership of the computer, unless otherwise agreed  
 191 upon, and the secondhand dealer shall maintain the computer in  
 192 good working order, except for ordinary wear ~~and tear~~ ~~excepted~~.  
 193 A ~~If the~~ secondhand dealer who transmits ~~transfers~~ secondhand  
 194 dealer transactions electronically, ~~the secondhand dealer~~ is not  
 195 required to also deliver ~~to the appropriate law enforcement~~  
 196 ~~agency~~ the original or paper copies of the secondhand

197 transaction forms to the appropriate law enforcement official.  
 198 However, such official may, for purposes ~~the purpose~~ of a  
 199 criminal investigation, ~~the appropriate law enforcement agency~~  
 200 ~~may request that~~ the secondhand dealer to deliver the ~~produce an~~  
 201 original ~~of a~~ transaction form that was ~~has been~~ electronically  
 202 transmitted ~~transferred~~. The secondhand dealer shall deliver the  
 203 ~~this~~ form to the appropriate law enforcement official ~~agency~~  
 204 within 24 hours after receipt of the request.

205 (7) If the original transaction form is lost or destroyed  
 206 by the appropriate law enforcement official ~~agency~~, a copy may  
 207 be used by the secondhand dealer as evidence in court. When an  
 208 electronic image of a customer's identification is accepted for  
 209 a transaction, the secondhand dealer must maintain the  
 210 electronic image in order to meet the recordkeeping requirements  
 211 applicable to the original transaction form. If a criminal  
 212 investigation occurs, the secondhand dealer shall, upon request,  
 213 provide a clear and legible copy of the image to the appropriate  
 214 law enforcement official ~~agency~~.

215 Section 3. Subsections (1) through (8) of section 538.18,  
 216 Florida Statutes, are renumbered as subsections (3) through  
 217 (10), respectively, present subsection (9) is amended, and a new  
 218 subsection (1) is added to that section, to read:

219 538.18 Definitions.—As used in this part, the term:

220 (1) "Appropriate law enforcement official" means the  
 221 sheriff of the county in which a secondary metals recycler is  
 222 located or, if the secondary metals recycler is located within a  
 223 municipality, both the police chief of the municipality and the  
 224 sheriff; however, the sheriff or police chief may designate as



225 the appropriate law enforcement official for that county or  
 226 municipality, as applicable, any law enforcement officer working  
 227 within that respective county or municipality. This subsection  
 228 does not limit the authority or duties of the sheriff.

229 ~~(2)(9)~~ "Department" means the Department of Revenue.

230 Section 4. Paragraph (u) of subsection (1) of section  
 231 319.30, Florida Statutes, is amended to read:

232 319.30 Definitions; dismantling, destruction, change of  
 233 identity of motor vehicle or mobile home; salvage.—

234 (1) As used in this section, the term:

235 (u) "Secondary metals recycler" means secondary metals  
 236 recycler as defined in s. 538.18~~(8)~~.

237 Section 5. Section 538.19, Florida Statutes, is amended to  
 238 read:

239 538.19 Records required.—

240 (1) A secondary metals recycler shall complete a regulated  
 241 metals transaction form at the time of the actual purchase  
 242 transaction. Unless other arrangements are agreed upon by the  
 243 secondary metals recycler and the appropriate law enforcement  
 244 official, the recycler shall, within 24 hours after acquiring  
 245 the regulated metals, deliver to such official a record of the  
 246 purchase transaction on a form approved by the Department of Law  
 247 Enforcement. The secondary metals recycler shall also maintain a  
 248 legible record of all purchase transactions to which the ~~such~~  
 249 secondary metals recycler is a party.

250 (2) The following information must be maintained on the ~~a~~  
 251 form approved by the Department of Law Enforcement for each  
 252 purchase transaction:

HB 343

2011

253 (a) The name and address of the secondary metals recycler.

254 (b) The name, initials, or other identification of the  
 255 individual entering the information on the ticket.

256 (c) The date and time of the transaction.

257 (d) The weight, quantity, or volume, and a description of  
 258 the type of regulated metals property purchased in a purchase  
 259 transaction.

260 (e) The amount of consideration given in a purchase  
 261 transaction for the regulated metals property.

262 (f) A signed statement from the person delivering the  
 263 regulated metals property stating that she or he is the rightful  
 264 owner of, or is entitled to sell, the regulated metals property  
 265 being sold. If the purchase involves a stainless steel beer keg,  
 266 the seller must provide written documentation from the  
 267 manufacturer that the seller is the owner of the stainless steel  
 268 beer keg or is an employee or agent of the manufacturer.

269 (g) The distinctive number from the personal  
 270 identification card of the person delivering the regulated  
 271 metals property to the secondary metals recycler.

272 (h) A description of the person from whom the goods were  
 273 acquired, including:

274 1. Full name, current residential address, workplace, and  
 275 home and work phone numbers.

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

278 3. The right thumbprint, free of smudges and smears.

HB 343

2011

279 | 4. Vehicle description to include the make, model, and tag  
280 | number of the vehicle and trailer of the person selling the  
281 | regulated metals property.

282 | 5. Any other information required by the form approved by  
283 | the Department of Law Enforcement.

284 | (i) A photograph, videotape, or digital image of the  
285 | regulated metals being sold.

286 | (j) A photograph, videotape, or similar likeness of the  
287 | person receiving consideration in which such person's facial  
288 | features are clearly visible.

289 | (3) Any secondary metals recycler may, with the approval  
290 | of the appropriate law enforcement official, use that maintains  
291 | an electronic database containing the information required in  
292 | subsection (2) paragraph (2) (h), along with an oath of ownership  
293 | with a signature of the seller of the secondary metals being  
294 | purchased by the secondary metals recycler and a right  
295 | thumbprint that has no smudges and smears on the oath of  
296 | ownership for each purchase transaction, shall be exempt from  
297 | the records requirement of paragraph (2) (h). A secondary metals  
298 | recycler complies with the requirements of this section if it  
299 | maintains an electronic database containing the information  
300 | required by subsection (2) paragraph (2) (h) as long as the  
301 | electronic information required by subsection (2) paragraph  
302 | (2) (h), along with an electronic oath of ownership with an  
303 | electronic signature of the seller of the secondary metals being  
304 | purchased by the secondary metals recyclers and an electronic  
305 | image of the seller's right thumbprint that has no smudges and  
306 | smears, can be downloaded onto a paper form in the image of the

HB 343

2011

307 form approved by the Department of Law Enforcement as provided  
308 in subsection (2).

309 (4) If the appropriate law enforcement official supplies a  
310 secondary metals recycler with the appropriate software and the  
311 recycler has the computer capability, the recycler shall  
312 electronically transmit the regulated metals transactions  
313 required by this section to such official. If a secondary metals  
314 recycler does not have the computer capability, the appropriate  
315 law enforcement official may provide the recycler with a  
316 computer and all equipment necessary to electronically transmit  
317 regulated metals transactions. The appropriate law enforcement  
318 official shall retain ownership of the computer, unless  
319 otherwise agreed upon, and the secondary metals recycler shall  
320 maintain the computer in good working order, except for ordinary  
321 wear. A secondary metals recycler who transmits regulated metals  
322 transactions electronically is not required to also deliver the  
323 original or paper copies of the regulated metals transaction  
324 forms to the appropriate law enforcement official. However, such  
325 official may, for purposes of a criminal investigation, request  
326 the secondary metals recycler to deliver the original  
327 transaction form that was electronically transmitted. The  
328 secondary metals recycler shall deliver the form to the  
329 appropriate law enforcement official within 24 hours after  
330 receipt of the request.

331 (5)~~(4)~~ A secondary metals recycler shall maintain or cause  
332 to be maintained the information required by this section for  
333 not less than 5 years from the date of the purchase transaction.

334        ~~(5)~~ (6) If a purchase transaction involves the transfer of  
 335 regulated metals property from a secondary metals recycler  
 336 registered with the department to another secondary metals  
 337 recycler registered with the department, the secondary metals  
 338 recycler receiving the regulated metals property shall record  
 339 the name and address of the secondary metals recycler from which  
 340 it received the regulated metals property in lieu of the  
 341 requirements of paragraph (2) (h).

342        Section 6. Paragraph (b) of subsection (2) and paragraph  
 343 (b) of subsection (9) of section 539.001, Florida Statutes, are  
 344 amended to read:

345        539.001 The Florida Pawnbroking Act.—

346        (2) DEFINITIONS.—As used in this section, the term:

347        (b) "Appropriate law enforcement official" means the  
 348 sheriff of the county in which a pawnshop is located or, if the  
 349 ~~in case of a~~ pawnshop is located within a municipality, both the  
 350 police chief of the municipality and the sheriff in which the  
 351 ~~pawnshop is located~~; however, the ~~any~~ sheriff or police chief  
 352 may designate as the appropriate law enforcement official for  
 353 that ~~the~~ county or municipality, as applicable, any law  
 354 enforcement officer working within that respective ~~the~~ county or  
 355 municipality ~~headed by that sheriff or police chief~~. Nothing in  
 356 This subsection does not limit ~~limits~~ the authority or duties  
 357 ~~power and responsibilities~~ of the sheriff.

358        (9) RECORDKEEPING; REPORTING; HOLD PERIOD.—

359        (b) If the appropriate law enforcement official ~~agency~~  
 360 supplies ~~the appropriate software and~~ the pawnbroker with the  
 361 appropriate software and the pawnbroker ~~presently~~ has the

HB 343

2011

362 computer capability ~~ability~~, the pawnbroker ~~pawn transactions~~  
 363 shall ~~be~~ electronically transmit pawn transactions required by  
 364 this section to such official ~~transferred~~. If a pawnbroker does  
 365 not ~~presently~~ have the computer capability ~~ability~~, the  
 366 appropriate law enforcement official ~~agency~~ may provide the  
 367 pawnbroker with a computer and all equipment necessary to  
 368 ~~equipment for the purpose of~~ electronically transmit  
 369 ~~transferring~~ pawn transactions. The appropriate law enforcement  
 370 official ~~agency~~ shall retain ownership of the computer, unless  
 371 otherwise agreed upon, ~~and~~ the pawnbroker shall maintain the  
 372 computer in good working order, except for ordinary wear ~~and~~  
 373 ~~tear~~ excepted. ~~A In the event the pawnbroker who transmits~~  
 374 ~~transfers~~ pawn transactions electronically, ~~the pawnbroker is~~  
 375 not required to also deliver ~~to the appropriate law enforcement~~  
 376 ~~official~~ the original or paper copies of the pawnbroker  
 377 transaction forms to the appropriate law enforcement official.  
 378 However, such ~~The appropriate law enforcement~~ official may, for  
 379 ~~the~~ purposes of a criminal investigation, request ~~that~~ the  
 380 pawnbroker to deliver the ~~produce an original of a~~ transaction  
 381 form that was ~~has been~~ electronically transmitted ~~transferred~~.  
 382 The pawnbroker shall deliver the ~~this~~ form to the appropriate  
 383 law enforcement official within 24 hours after receipt of the  
 384 request.

385 Section 7. This act shall take effect July 1, 2011.