



256688

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/12/2011	.	
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The Committee on Commerce and Tourism (Gaetz) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Paragraph (j) is added to subsection (1) of section 538.03, Florida Statutes, to read:

538.03 Definitions; applicability.—

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

(j) "Appropriate law enforcement official" means the sheriff of the county in which a secondhand dealer is located or, in the case of a secondhand dealer located within a municipality, the police chief of the municipality in which the



256688

13 secondhand dealer is located; however, any sheriff or police
14 chief may designate as the appropriate law enforcement official
15 for the county or municipality, as applicable, any law
16 enforcement officer working within the county or municipality
17 headed by that sheriff or police chief. This paragraph does not
18 limit the power and responsibilities of the sheriff.

19 Section 2. Subsection (1) of section 538.04, Florida
20 Statutes, is amended to read:

21 538.04 Recordkeeping requirements; penalties.—

22 (1) Secondhand dealers shall complete a secondhand dealers
23 transaction form at the time of the actual transaction. A
24 secondhand dealer shall maintain a copy of a completed
25 transaction form on the registered premises for at least 1 year
26 after the date of the transaction. However, the secondhand
27 dealer shall maintain a copy of the transaction form for not
28 less than 3 years. Unless other arrangements have been agreed
29 upon by the secondhand dealer and the appropriate law
30 enforcement agency, the secondhand dealer shall, within 24 hours
31 after the acquisition of any secondhand goods, deliver to the
32 appropriate law enforcement official ~~police department of the~~
33 ~~municipality where the goods were acquired or, if the goods were~~
34 ~~acquired outside of a municipality, to the sheriff's department~~
35 ~~of the county where the goods were acquired,~~ a record of the
36 transaction on a form approved by the Department of Law
37 Enforcement. Such record shall contain:

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

39 (b) A complete and accurate description of the goods
40 acquired, including the following information, if applicable:

41 1. Brand name.



256688

- 42 2. Model number.
- 43 3. Manufacturer's serial number.
- 44 4. Size.
- 45 5. Color, as apparent to the untrained eye.
- 46 6. Precious metal type, weight, and content if known.
- 47 7. Gemstone description, including the number of stones, if
- 48 applicable.
- 49 8. In the case of firearms, the type of action, caliber or
- 50 gauge, number of barrels, barrel length, and finish.
- 51 9. Any other unique identifying marks, numbers, or letters.
- 52 (c) A description of the person from whom the goods were
- 53 acquired, including:
- 54 1. Full name, current residential address, workplace, and
- 55 home and work phone numbers.
- 56 2. Height, weight, date of birth, race, gender, hair color,
- 57 eye color, and any other identifying marks.
- 58 3. The right thumbprint, free of smudges and smears, of the
- 59 person from whom the goods were acquired.

60 (d) Any other information required by the form approved by

61 the Department of Law Enforcement.

62 Section 3. Subsection (10) is added to section 538.18,

63 Florida Statutes, to read:

64 538.18 Definitions.—As used in this part, the term:

65 (10) "Appropriate law enforcement official" means the

66 sheriff of the county in which a secondary metals recycler is

67 located or, in the case of a secondary metals recycler located

68 within a municipality, the police chief of the municipality in

69 which the secondary metals recycler is located; however, any

70 sheriff or police chief may designate as the appropriate law



256688

71 enforcement official for the county or municipality, as
72 applicable, any law enforcement officer working within the
73 county or municipality headed by that sheriff or police chief.
74 This subsection does not limit the power and responsibilities of
75 the sheriff.

76 Section 4. Section 538.19, Florida Statutes, is amended to
77 read:

78 538.19 Records required.—

79 (1) A secondary metals recycler shall complete a
80 transaction form at the time of the actual transaction. Unless
81 other arrangements have been agreed upon, the secondary metals
82 recycler shall, within 24 hours after acquiring the regulated
83 metals, deliver to the appropriate law enforcement official a
84 record of the transaction on a form approved by the Department
85 of Law Enforcement. The recycler shall also maintain a legible
86 record of all purchase transactions to which ~~the~~ such secondary
87 metals recycler is a party.

88 (2) The following information must be maintained on the a
89 form approved by the Department of Law Enforcement for each
90 purchase transaction:

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

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

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

95 (d) The weight, quantity, or volume, and a description of
96 the type of regulated metals property purchased in a purchase
97 transaction.

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



256688

100 (f) A signed statement from the person delivering the
101 regulated metals property stating that she or he is the rightful
102 owner of, or is entitled to sell, the regulated metals property
103 being sold. If the purchase involves a stainless steel beer keg,
104 the seller must provide written documentation from the
105 manufacturer that the seller is the owner of the stainless steel
106 beer keg or is an employee or agent of the manufacturer.

107 (g) The distinctive number from the personal identification
108 card of the person delivering the regulated metals property to
109 the secondary metals recycler.

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

112 1. Full name, current residential address, workplace, and
113 home and work phone numbers.

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

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

117 4. Vehicle description to include the make, model, and tag
118 number of the vehicle and trailer of the person selling the
119 regulated metals property.

120 5. Any other information required by the form approved by
121 the Department of Law Enforcement.

122 (i) A photograph, videotape, or digital image of the
123 regulated metals being sold.

124 (j) A photograph, videotape, or similar likeness of the
125 person receiving consideration in which such person's facial
126 features are clearly visible.

127 (3) Any secondary metals recycler may, with the approval of
128 the appropriate law enforcement official, use ~~that maintains~~ an



256688

129 electronic database containing the information required in
130 subsection (2) paragraph (2) (h), ~~along with an oath of ownership~~
131 ~~with a signature of the seller of the secondary metals being~~
132 ~~purchased by the secondary metals recycler and a right~~
133 ~~thumbprint that has no smudges and smears on the oath of~~
134 ~~ownership for each purchase transaction, shall be exempt from~~
135 ~~the records requirement of paragraph (2) (h)~~. A secondary metals
136 recycler complies with the requirements of this section if it
137 maintains an electronic database containing the information
138 required by subsection (2) paragraph (2) (h) as long as the
139 electronic information required by subsection (2) paragraph
140 ~~(2) (h)~~, along with an electronic oath of ownership with an
141 electronic signature of the seller of the secondary metals being
142 purchased by the secondary metals recyclers and an electronic
143 image of the seller's right thumbprint that has no smudges and
144 smears, can be downloaded onto a paper form in the image of the
145 form approved by the Department of Law Enforcement as provided
146 in subsection (2).

147 (4) If an appropriate law enforcement official supplies the
148 software and the secondary metals recycler has the computer
149 ability, the recycler shall electronically transmit regulated
150 metals transaction records required by this section. If a
151 recycler does not have such ability, the appropriate law
152 enforcement official may provide the recycler with a computer
153 and necessary equipment to electronically transmit such records.
154 The appropriate law enforcement official shall retain ownership
155 of the computer, unless otherwise agreed upon, and the recycler
156 shall maintain the computer in good working order, ordinary wear
157 and tear excepted. A recycler who transmits such records



256688

158 electronically is not required to also provide the original or
159 paper copies of the forms to the appropriate law enforcement
160 official. However, such official may, for purposes of a criminal
161 investigation, require the recycler to provide the original of a
162 transaction form that has been electronically transferred within
163 24 hours after receipt of the request.

164 (5)-(4) A secondary metals recycler shall maintain or cause
165 to be maintained the information required by this section for
166 not less than 5 years from the date of the purchase transaction.

167 (6)-(5) If a purchase transaction involves the transfer of
168 regulated metals property from a secondary metals recycler
169 registered with the department to another secondary metals
170 recycler registered with the department, the secondary metals
171 recycler receiving the regulated metals property shall record
172 the name and address of the secondary metals recycler from which
173 it received the regulated metals property in lieu of the
174 requirements of paragraph (2) (h).

175 Section 5. This act shall take effect July 1, 2011.

176
177 ===== T I T L E A M E N D M E N T =====

178 And the title is amended as follows:

179 Delete everything before the enacting clause
180 and insert:

181 A bill to be entitled
182 An act relating to secondhand dealers and secondary
183 metals recyclers; amending ss. 538.03 and 538.18,
184 F.S.; defining the term "appropriate law enforcement
185 official"; amending s. 538.04, F.S.; clarifying a
186 provision requiring that the secondhand dealers



256688

187 transaction form be delivered to the appropriate law
188 enforcement official; amending s. 538.19, F.S.;
189 requiring that a secondary metals recycler complete a
190 transaction form and transmit it to the appropriate
191 law enforcement official within 24 hours after the
192 acquisition of regulated metals; authorizing such
193 recyclers to use an electronic database and transmit
194 transaction forms electronically; providing for
195 appropriate law enforcement officials to provide
196 software and computer equipment to recyclers;
197 requiring that a recycler produce an original form in
198 certain situations; providing an effective date.