

By Senator Hays

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1                   A bill to be entitled  
2       An act relating to secondhand dealers and secondary  
3       metals recyclers; amending ss. 538.03 and 538.18,  
4       F.S.; defining the term "appropriate law enforcement  
5       official"; amending s. 538.04, F.S.; clarifying a  
6       provision requiring that the secondhand dealers  
7       transaction form be delivered to the appropriate law  
8       enforcement official; amending s. 538.19, F.S.;  
9       requiring that a secondary metals recycler complete a  
10      transaction form and transmit it to the appropriate  
11      law enforcement official within 24 hours after the  
12      acquisition of regulated metals; authorizing such  
13      recyclers to use an electronic database and transmit  
14      transaction forms electronically; providing for  
15      appropriate law enforcement officials to provide  
16      software and computer equipment to recyclers;  
17      requiring that a recycler produce an original form in  
18      certain situations; amending s. 539.001, F.S.;  
19      clarifying a definition for purposes of the Florida  
20      Pawnbroking Act; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

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

26       538.03 Definitions; applicability.—

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

28       (j) "Appropriate law enforcement official" means the  
29       sheriff of the county in which a secondhand dealer is located

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30 and, in the case of a secondhand dealer located within a  
31 municipality, the police chief of the municipality in which the  
32 secondhand dealer is located; however, any sheriff or police  
33 chief may designate as the appropriate law enforcement official  
34 for the county or municipality, as applicable, any law  
35 enforcement officer working within the county or municipality  
36 headed by that sheriff or police chief. This paragraph does not  
37 limit the power and responsibilities of the sheriff.

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

40 538.04 Recordkeeping requirements; penalties.—

41 (1) Secondhand dealers shall complete a secondhand dealers  
42 transaction form at the time of the actual transaction. A  
43 secondhand dealer shall maintain a copy of a completed  
44 transaction form on the registered premises for at least 1 year  
45 after the date of the transaction. However, the secondhand  
46 dealer shall maintain a copy of the transaction form for not  
47 less than 3 years. Unless other arrangements have been agreed  
48 upon by the secondhand dealer and the appropriate law  
49 enforcement agency, the secondhand dealer shall, within 24 hours  
50 after the acquisition of any secondhand goods, deliver to the  
51 appropriate law enforcement official ~~police department of the~~  
52 ~~municipality where the goods were acquired or, if the goods were~~  
53 ~~acquired outside of a municipality, to the sheriff's department~~  
54 ~~of the county where the goods were acquired,~~ a record of the  
55 transaction on a form approved by the Department of Law  
56 Enforcement. Such record shall contain:

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

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

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59 acquired, including the following information, if applicable:

- 60 1. Brand name.
- 61 2. Model number.
- 62 3. Manufacturer's serial number.
- 63 4. Size.
- 64 5. Color, as apparent to the untrained eye.
- 65 6. Precious metal type, weight, and content if known.
- 66 7. Gemstone description, including the number of stones, if
- 67 applicable.
- 68 8. In the case of firearms, the type of action, caliber or
- 69 gauge, number of barrels, barrel length, and finish.
- 70 9. Any other unique identifying marks, numbers, or letters.

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

- 73 1. Full name, current residential address, workplace, and
- 74 home and work phone numbers.
- 75 2. Height, weight, date of birth, race, gender, hair color,
- 76 eye color, and any other identifying marks.
- 77 3. The right thumbprint, free of smudges and smears, of the
- 78 person from whom the goods were acquired.

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

81 Section 3. Subsection (10) is added to section 538.18,  
82 Florida Statutes, to read:

83 538.18 Definitions.—As used in this part, the term:

84 (10) "Appropriate law enforcement official" means the  
85 sheriff of the county in which a secondary metals recycler is  
86 located and, in the case of a secondary metals recycler located  
87 within a municipality, the police chief of the municipality in

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88 which the secondary metals recycler is located; however, any  
89 sheriff or police chief may designate as the appropriate law  
90 enforcement official for the county or municipality, as  
91 applicable, any law enforcement officer working within the  
92 county or municipality headed by that sheriff or police chief.  
93 This subsection does not limit the power and responsibilities of  
94 the sheriff.

95 Section 4. Section 538.19, Florida Statutes, is amended to  
96 read:

97 538.19 Records required.—

98 (1) A secondary metals recycler shall complete a  
99 transaction form at the time of the actual transaction. Unless  
100 other arrangements have been agreed upon, the secondary metals  
101 recycler shall, within 24 hours after acquiring the regulated  
102 metals, deliver to the appropriate law enforcement official a  
103 record of the transaction on a form approved by the Department  
104 of Law Enforcement. The recycler shall also maintain a legible  
105 record of all purchase transactions to which the ~~such~~ secondary  
106 metals recycler is a party.

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

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

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

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

114 (d) The weight, quantity, or volume, and a description of  
115 the type of regulated metals property purchased in a purchase  
116 transaction.

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

119 (f) A signed statement from the person delivering the  
120 regulated metals property stating that she or he is the rightful  
121 owner of, or is entitled to sell, the regulated metals property  
122 being sold. If the purchase involves a stainless steel beer keg,  
123 the seller must provide written documentation from the  
124 manufacturer that the seller is the owner of the stainless steel  
125 beer keg or is an employee or agent of the manufacturer.

126 (g) The distinctive number from the personal identification  
127 card of the person delivering the regulated metals property to  
128 the secondary metals recycler.

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

131 1. Full name, current residential address, workplace, and  
132 home and work phone numbers.

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

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

136 4. Vehicle description to include the make, model, and tag  
137 number of the vehicle and trailer of the person selling the  
138 regulated metals property.

139 5. Any other information required by the form approved by  
140 the Department of Law Enforcement.

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

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

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146           (3) Any secondary metals recycler may, with the approval of  
147 the appropriate law enforcement official, use ~~that maintains~~ an  
148 electronic database containing the information required in  
149 subsection (2) paragraph (2) (h), ~~along with an oath of ownership~~  
150 ~~with a signature of the seller of the secondary metals being~~  
151 ~~purchased by the secondary metals recycler and a right~~  
152 ~~thumbprint that has no smudges and smears on the oath of~~  
153 ~~ownership for each purchase transaction, shall be exempt from~~  
154 ~~the records requirement of paragraph (2) (h).~~ A secondary metals  
155 recycler complies with the requirements of this section if it  
156 maintains an electronic database containing the information  
157 required by subsection (2) paragraph (2) (h) as long as the  
158 electronic information required by subsection (2) paragraph  
159 ~~(2) (h),~~ along with an electronic oath of ownership with an  
160 electronic signature of the seller of the secondary metals being  
161 purchased by the secondary metals recyclers and an electronic  
162 image of the seller's right thumbprint that has no smudges and  
163 smears, can be downloaded onto a paper form in the image of the  
164 form approved by the Department of Law Enforcement as provided  
165 in subsection (2).

166           (4) If an appropriate law enforcement official supplies the  
167 software and the secondary metals recycler has the computer  
168 ability, the recycler shall electronically transmit regulated  
169 metals transaction records required by this section. If a  
170 recycler does not have such ability, the appropriate law  
171 enforcement official may provide the recycler with a computer  
172 and necessary equipment to electronically transmit such records.  
173 The appropriate law enforcement official shall retain ownership  
174 of the computer, unless otherwise agreed upon, and the recycler

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175 shall maintain the computer in good working order, ordinary wear  
176 and tear excepted. A recycler who transmits such records  
177 electronically is not required to also provide the original or  
178 paper copies of the forms to the appropriate law enforcement  
179 official. However, such official may, for purposes of a criminal  
180 investigation, require the recycler to provide the original of a  
181 transaction form that has been electronically transferred within  
182 24 hours after receipt of the request.

183 (5)~~(4)~~ A secondary metals recycler shall maintain or cause  
184 to be maintained the information required by this section for  
185 not less than 5 years from the date of the purchase transaction.

186 (6)~~(5)~~ If a purchase transaction involves the transfer of  
187 regulated metals property from a secondary metals recycler  
188 registered with the department to another secondary metals  
189 recycler registered with the department, the secondary metals  
190 recycler receiving the regulated metals property shall record  
191 the name and address of the secondary metals recycler from which  
192 it received the regulated metals property in lieu of the  
193 requirements of paragraph (2) (h).

194 Section 5. Paragraph (b) of subsection (2) of section  
195 539.001, Florida Statutes, is amended to read:

196 539.001 The Florida Pawnbroking Act.—

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

198 (b) "Appropriate law enforcement official" means the  
199 sheriff of the county in which a pawnshop is located and ~~or~~, in  
200 the case of a pawnshop located within a municipality, the police  
201 chief of the municipality in which the pawnshop is located;  
202 however, any sheriff or police chief may designate as the  
203 appropriate law enforcement official for the county or

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204 municipality, as applicable, any law enforcement officer working  
205 within the county or municipality headed by that sheriff or  
206 police chief. ~~Nothing in~~ This subsection does not limit ~~limits~~  
207 the power and responsibilities of the sheriff.

208 Section 6. This act shall take effect July 1, 2011.