

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:

23
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.