

By the Committee on Commerce and Tourism; and 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; providing an effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22 Section 1. Paragraph (j) is added to subsection (1) of  
23 section 538.03, Florida Statutes, to read:

24 538.03 Definitions; applicability.—

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

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

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

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

38 538.04 Recordkeeping requirements; penalties.—

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

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

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

58 1. Brand name.

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- 59           2. Model number.
- 60           3. Manufacturer's serial number.
- 61           4. Size.
- 62           5. Color, as apparent to the untrained eye.
- 63           6. Precious metal type, weight, and content if known.
- 64           7. Gemstone description, including the number of stones, if
- 65 applicable.
- 66           8. In the case of firearms, the type of action, caliber or
- 67 gauge, number of barrels, barrel length, and finish.
- 68           9. Any other unique identifying marks, numbers, or letters.
- 69           (c) A description of the person from whom the goods were
- 70 acquired, including:
- 71           1. Full name, current residential address, workplace, and
- 72 home and work phone numbers.
- 73           2. Height, weight, date of birth, race, gender, hair color,
- 74 eye color, and any other identifying marks.
- 75           3. The right thumbprint, free of smudges and smears, of the
- 76 person from whom the goods were acquired.
- 77           (d) Any other information required by the form approved by
- 78 the Department of Law Enforcement.

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

80 Florida Statutes, to read:

81           538.18 Definitions.—As used in this part, the term:

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

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

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

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

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

87 sheriff or police chief may designate as the appropriate law

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88 enforcement official for the county or municipality, as  
89 applicable, any law enforcement officer working within the  
90 county or municipality headed by that sheriff or police chief.  
91 This subsection does not limit the power and responsibilities of  
92 the sheriff.

93 Section 4. Section 538.19, Florida Statutes, is amended to  
94 read:

95 538.19 Records required.—

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

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

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

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

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

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

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

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

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

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

129 1. Full name, current residential address, workplace, and  
130 home and work phone numbers.

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

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

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

137 5. Any other information required by the form approved by  
138 the Department of Law Enforcement.

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

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

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

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

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

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175 electronically is not required to also provide the original or  
176 paper copies of the forms to the appropriate law enforcement  
177 official. However, such official may, for purposes of a criminal  
178 investigation, require the recycler to provide the original of a  
179 transaction form that has been electronically transferred within  
180 24 hours after receipt of the request.

181 (5)~~(4)~~ A secondary metals recycler shall maintain or cause  
182 to be maintained the information required by this section for  
183 not less than 5 years from the date of the purchase transaction.

184 (6)~~(5)~~ If a purchase transaction involves the transfer of  
185 regulated metals property from a secondary metals recycler  
186 registered with the department to another secondary metals  
187 recycler registered with the department, the secondary metals  
188 recycler receiving the regulated metals property shall record  
189 the name and address of the secondary metals recycler from which  
190 it received the regulated metals property in lieu of the  
191 requirements of paragraph (2) (h).

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