



847994

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/09/2016	.	
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The Committee on Judiciary (Bean) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 103 - 127

and insert:

The plaintiff is entitled to the summary procedure provided in s. 51.011. Upon ~~the~~ receipt of the complaint ~~a petition for a writ by a secondhand dealer~~, the secondhand dealer shall hold the property at issue until the court determines the respective interests of the parties.

(4) In addition to the civil complaint ~~petition~~ for return remedy, the state may file a motion as part of a pending



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12 criminal case related to the property. The criminal court has  
13 jurisdiction to determine ownership, to order return or other  
14 disposition of the property, and to order ~~any~~ appropriate  
15 restitution to any person. Such order shall be entered upon  
16 hearing after proper notice has been given to the secondhand  
17 dealer, the victim, and the defendant in the criminal case.

18 (5) A secondhand dealer commits a noncriminal violation,  
19 punishable as provided in s. 775.083 by a fine of up to \$2,500,  
20 if all of the following occur:

21 (a) An owner or a lienor makes a written demand for return  
22 of the property and provides proof of ownership or proof of the  
23 right of possession to the secondhand dealer at least 5 calendar  
24 days before filing a replevin action.

25 (b) The secondhand dealer knows or should have known based  
26 on the proof provided under paragraph (a) that the property  
27 belongs to the owner or lienor.

28 (c) The secondhand dealer fails to return the property and  
29 does not file an action in interpleader to determine conflicting  
30 claims to the property.

31 (d) The owner or lienor prevails in the replevin action  
32 against the secondhand dealer.

33 Section 4. Paragraph (h) of subsection (1) of section  
34 538.03, Florida Statutes, is amended to read:

35 538.03 Definitions; applicability.—

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

37 (h) "Secondhand goods" means personal property previously  
38 owned or used, which is not regulated metals property regulated  
39 under part II and which is purchased, consigned, or traded as  
40 used property. The term includes gift certificates and credit



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41 memos as defined in s. 501.95. The term does ~~Such secondhand~~  
42 ~~goods do~~ not include office furniture, pianos, books, clothing,  
43 organs, coins, motor vehicles, costume jewelry, cardio and  
44 strength training or conditioning equipment designed primarily  
45 for indoor use, and secondhand sports equipment that is not  
46 permanently labeled with a serial number. As used in ~~For~~  
47 ~~purposes of~~ this paragraph, the term "secondhand sports  
48 equipment" does not include golf clubs.

49 Section 5. Subsection (3) of section 538.09, Florida  
50 Statutes, is amended to read:

51 538.09 Registration.—

52 (3) The secondhand dealer's registration shall be  
53 conspicuously displayed at her or his registered location. A  
54 secondhand dealer must hold secondhand goods at the registered  
55 location ~~until~~ for the period required by s. 538.06 ~~15 days~~  
56 ~~after the secondhand transaction~~ or until any extension of the  
57 holding period has expired, whichever is later.

58  
59 ===== T I T L E A M E N D M E N T =====

60 And the title is amended as follows:

61 Delete lines 12 - 16

62 and insert:

63 plaintiff in a replevin action is entitled to a  
64 certain summary procedure; providing that a secondhand  
65 dealer commits a noncriminal violation under certain  
66 circumstances; providing a penalty; amending s.  
67 538.03, F.S.; revising the definition of the term  
68 "secondhand goods"; amending s. 538.09, F.S.; revising  
69 the period of time a secondhand dealer must hold



70  
71

secondhand goods at a registered location; providing  
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