

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee on Criminal and Civil Justice

BILL: CS/SB 1252

INTRODUCER: Appropriations Committee on Criminal and Civil Justice and Senator Yarborough

SUBJECT: Statewide Pawn Data Database

DATE: April 11, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Renner</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	Fav/CS
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1252 requires the Department of Law Enforcement (FDLE) to conduct a feasibility study regarding the creation of a statewide pawn data database. The creation of a statewide pawn data database, at a minimum, must:

- Allow law enforcement agencies in all counties in this state to access, update, and share pawn data in real time;
- Be provided free of charge to all law enforcement agencies in this state;
- Be interoperable with different law enforcement databases, software solutions, and jurisdictions and meet established data standards to facilitate seamless communication between law enforcement agencies; and,
- Ensure compliance with applicable privacy and security laws.

By January 1, 2026, FDLE must report to the President of the Senate and the Speaker of the House of Representatives the results of the feasibility study.

Pawn data is defined by the bill to include information related to transactions of secondhand dealers and secondary metals recyclers under ch. 538, F.S., and pawn shops regulated under ch. 539, F.S.

The Fiscal Year 2025-2026 Senate General Appropriations Bill (SB 2500) appropriates \$250,000 in nonrecurring funds from FDLE's Operating Trust Fund to competitively procure a contract for the completion of the feasibility study. See Section V., Fiscal Impact Statement.

The bill takes effect July 1, 2025.

II. Present Situation:

Secondhand Dealers

Chapter 538, F.S., regulates secondhand dealers and secondary metal recyclers in the trade of secondhand goods. The purpose of such regulations is to assist law enforcement in recovering stolen property and in solving other theft-related crimes.¹

A secondhand dealer is defined as any person, corporation, or other business organization or entity that is not a secondary metals recycler and is engaged in purchasing, consigning, or trading secondhand goods. The term also includes a secondhand dealer engaged in purchasing secondhand goods through an automated kiosk.²

Secondhand goods are previously owned or used personal property purchased, consigned, or traded as used property.³ The term also includes gift certificates and credit memos⁴ that are purchased, consigned, or traded by a secondhand dealer. Secondhand goods do not include office furniture, pianos, books, clothing, organs, coins, motor vehicles, costume jewelry; gold, silver, platinum, palladium, or rhodium bullion that has been assayed and is properly marked as to its weight and fineness; cardio and strength training or conditioning equipment designed primarily for indoor use, and secondhand sports equipment that is not permanently labeled with a serial number.⁵

A secondhand dealer must annually register his or her business with the Department of Revenue (DOR).⁶

¹ See ss. 538.04, 538.06, F.S. (identifying recordkeeping requirements and holding periods in connection with secondhand goods); see also Jarret C. Oeltjen, *Florida Pawnbroking: An Industry in Transition*, 23 FLA. ST. U. L. REV. 995, 1013 (Spring 1996) (noting that “[t]he main impetus behind [ch. 538, F.S.] was to confront the problem of property theft and drug-related crimes by facilitating recovery of stolen goods and apprehending those criminals who may turn to secondhand dealers for cash”).

² Section 538.03(1)(h), F.S.

³ Section 538.03(1)(i), F.S.

⁴ Section 501.95, F.S., defines “credit memo” as a certificate, card, stored value card, or similar instrument issued in exchange for returned merchandise when the certificate, card, or similar instrument is redeemable for merchandise, food, or services regardless of whether any cash may be paid to the owner of the certificate, card, or instrument as part of the redemption transaction.

⁵ Section 538.03(1)(i), F.S.

⁶ See generally s. 538.09, F.S. (providing for registration).

Secondhand Dealer Transaction Forms

Upon each acquisition of secondhand goods, a secondhand dealer must complete a transaction form that details the goods purchased and the seller's identity. The secondhand dealer must retain this document for at least 3 years and forward a copy to the appropriate law enforcement agency within 24 hours after the acquisition of the secondhand goods.⁷ In addition to the descriptive statements of the secondhand goods and the seller's identity, the transaction record must also include:

- A statement of the date, time, and place of the transaction;
- A summary of the goods acquired, including brand name, model number, serial number, and other unique identifiers;
- Digital photographs of the goods acquired in the report that is submitted to law enforcement; and
- A description of the person from whom the goods were acquired, including his or her right thumbprint, name and address, and a physical description.⁸

If the appropriate law enforcement official supplies a secondhand dealer with appropriate software and the secondhand dealer has computer capability, the secondhand dealer must electronically transmit the required transaction records.⁹ Additionally, if a secondhand dealer lacks computer capability, the appropriate law enforcement official may provide a computer and all of the equipment necessary to electronically transmit transactions.¹⁰

Secondhand dealers must hold all secondhand goods for at least 15 days after acquiring the property. However, secondhand dealers are required to hold a precious metal,¹¹ gemstone, jewelry; antique furnishings, fixtures, or decorative objects; or an item of art as defined in s. 686.501, F.S.,¹² for 30 days after they acquire the property.¹³ Additionally, a secondhand good must be held for 30 days if the secondhand dealer uses an automated kiosk.¹⁴

⁷ Section 538.04(1), F.S.

⁸ *Id.*

⁹ Section 538.04(6), F.S.

¹⁰ *Id.*

¹¹ Section 538.03(1)(f), F.S., defines "precious metals" as any item containing any gold, silver, or platinum, or any combination thereof, excluding any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.

¹² Section 686.501(1), F.S., defines "art" as a painting, sculpture, drawing, work of graphic art, pottery, weaving, batik, macramé, quilt, print, photograph, or craft work executed in materials including, but not limited to, clay, textile, paper, fiber, wood, tile, metal, plastic, or glass. The term includes a rare map which is offered as a limited edition or a map 80 years old or older; or a rare document or rare print which includes, a print, engraving, etching, woodcut, lithograph, or serigraph which is offered as a limited edition, or one 80 years old or older.

¹³ Section 538.06(1), F.S.

¹⁴ *Id.* An "automated kiosk" is an interactive device that is permanently installed within a secure retail space and that has the following technological functions: remotely monitored by a live representative during all business hours; verification of a seller's identity by government-issued photographic identification card; automated reading and recording of item serial numbers; ability to compare item serial numbers against databases of stolen items; secure storage of goods accepted by the kiosk; and capture and storage of images during the transaction. Section 538.03(1)(c), F.S.

Penalties

If a law enforcement officer has probable cause to believe that the goods held by a secondhand dealer are stolen, the officer may place a 90-day written hold order on the goods.¹⁵ This prevents the secondhand dealer from selling the goods and preserves them for use as evidence in a criminal trial. Additionally, it allows for the possibility of the goods being returned to their rightful owner.

Law enforcement agencies having jurisdiction enforce compliance with registration, record keeping, holding periods, and inspection requirements.¹⁶ A person who knowingly violates the requirements governing secondhand dealers in ch. 538, F.S., commits a first degree misdemeanor and is subject to a fine not to exceed \$10,000.¹⁷

Pawnbrokers

Pawnbrokers¹⁸ must apply for and obtain a license from the DACS annually.¹⁹ To be eligible for the license, each pawnshop must maintain a net worth of at least \$50,000 or file security in the form of a surety bond, letter of credit, or certificate of deposit of \$10,000 for each license.²⁰ DACS is authorized to impose penalties of up to \$5,000 for noncompliance with the law.²¹

Pawnbroker Transaction Forms

At the time a pawnbroker enters into any pawn or purchase transaction, the pawnbroker is required to complete a pawnbroker transaction form.²² The form must include an indication of whether the transaction is a pawn or a purchase, and the seller must also sign the form.²³

A pawnbroker is required to maintain a copy of each completed pawnbroker transaction form on the pawnshop premises for at least 1 year after the date of the transaction.²⁴ On or before the end of each business day, the pawnbroker must deliver the original pawnbroker transaction forms for each of the transactions occurring during the previous business day to the appropriate law enforcement official.²⁵ Additionally, an electronic image that is accepted for a transaction, must be maintained electronically in order to meet the same recordkeeping requirements.²⁶

¹⁵ Section 538.06(3), F.S.

¹⁶ Section 538.05, F.S.

¹⁷ Section 538.07(1), F.S. A first degree misdemeanor is punishable by up to 1 year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

¹⁸ A “pawnbroker” is a person who is engaged in the business of making pawns; who makes a public display containing the term “pawn,” “pawnbroker,” or “pawnshop” or any derivative thereof; or who publicly displays a sign or symbol historically identified with pawns. Pawnbrokers may also engage in purchasing goods which includes consignment and trade. Section 539.001(1)(i), F.S. A “pawn” is any advancement of funds on the security of pledged goods on condition that the pledged goods are left in the possession of the pawnbroker for the duration of the pawn and may be redeemed by the pledgor on certain terms and conditions. Section 539.001(1)(h), F.S.

¹⁹ Section 539.001(3), F.S.

²⁰ Section 539.001(4), F.S.

²¹ Fla. Admin. Code R. 5J-13.004 (2016).

²² Section 593.001(8)(a), F.S.

²³ *Id.*

²⁴ Section 593.001(9)(a), F.S.

²⁵ *Id.*

²⁶ *Id.*

In lieu of physically delivering the original pawnbroker transaction forms, a local law enforcement agency may supply software to a pawnbroker so the pawnbroker may electronically transfer the transaction forms to the law enforcement agency. If a pawnbroker does not have a computer to use such software, the law enforcement agency may provide a computer to the pawnbroker. The law enforcement agency retains ownership of the computer unless otherwise agreed upon. The pawnbroker must maintain the computer in good working order, ordinary wear and tear excepted.²⁷

Penalties

A person who willfully makes a false entry on a transaction form or any other record required under chapter 539, F.S., commits a first degree misdemeanor.²⁸ Clerical or recordkeeping errors on a document or required record does not constitute a willful violation.

At the department's request, the FDLE must supply the department with any arrest and conviction records in its possession of an individual applying for or holding a license.²⁹

Any person who traffics in, or endeavors to traffic in, property that he or she knows or should know was stolen is guilty of a second degree felony.³⁰

III. Effect of Proposed Changes:

CS/SB 1252 requires the Department of Law Enforcement (FDLE) to conduct a feasibility study regarding the creation of a statewide pawn data database. The creation of a statewide pawn data database, at a minimum, must:

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²⁷ Section 539.001(9)(b), F.S.

²⁸ Section 539.001(17), F.S. A first degree misdemeanor is punishable by up to 1 year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²⁹ Section 539.001(19), F.S.

³⁰ Section 812.019(1), F.S. A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

The bill takes effect July 1, 2025.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Fiscal Year 2025-2026 Senate General Appropriations Bill (SB 2500) appropriates \$250,000 in nonrecurring funds from FDLE's Operating Trust Fund to competitively procure a contract for the completion of a feasibility study to examine the technical requirements, costs, and impact on law enforcement of a statewide pawn database. The funds are contingent upon this bill, SB 1252, or similar legislation, becoming a law.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear if the bill requires the affected businesses to use the database.

Section 539.003, F.S., contains a public record exemption for records relating to pawnbroker transactions delivered to law enforcement. The bill uses the term “pawn data,” so it is unclear if the public records exemption would apply to the database.

The bill may immediately impact vendors who currently possess a substantial amount of pawn transaction data through existing contracts with local law enforcement agencies.

VIII. Statutes Affected:

This bill creates section 539.004 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Appropriations Committee on Criminal and Civil Justice on April 10, 2025:

The CS:

- Requires FDLE to conduct a statewide pawn database feasibility study rather than establishing a statewide pawn data sharing system.
- Removes data transfer prohibitions, data storage requirements, penalties for vendor violations, penalties for law enforcement agencies, and agency rulemaking authority for implementation.

- B. **Amendments:**

None.