




TO : The Honorable Mayor and Members of the City Commission

FROM : Nicholas C. Mimms, P.E., City Manager 

RE : Pawnbroker Transaction Recordkeeping Inquiry

DATE : August 11, 2017

The City Manager's Office received an inquiry addressed to the Mayor regarding the recordkeeping requirements of pawnbrokers within the City of Fort Pierce. Chief Hobley-Burney's response to the inquiry is attached for your review, along with a copy of the inquiry.

If you have any questions or need additional information, please contact this office at your earliest convenience.

NCM:jdr

Attachment

c City Clerk
City Attorney



RECEIVED
TIME
AUG 08 2017
CITY OF FT. PIERCE
CITY MANAGER'S OFFICE

To: Nicholas Mimms, City Manager
From: Diane Hobleby-Burney, Chief of Police **DHB**
Subject: Pawn Broker Ordinance Inquiry, July 26, 2017
Date: August 4, 2017

Regarding the complaint from Mr. Herbert Boyd "Skip" Horne, Jr.; when we conducted our Pawn Shop Inspections of all the pawnshops in Fort Pierce, they were all in compliance by Florida Statue and the City Ordinance. However, neither statue nor ordinance contains language that requires a pawnbroker take a photograph of property pawned.

The Florida Pawn Broking Act is covered in Chapter 539 of the Florida State Statutes. The following Statutes are applicable to his complaint:

§ 539.001(9)(c), F.S.S., requires pawnbrokers to:

- Keep a copy of each completed pawnbroker transaction form on the premises for at least one year after the date of the transaction;
- Store any goods delivered in a pawn or purchase transaction for a period of 30 days after the transaction and may not sell or dispose of the goods prior to this period

§ 539.001(8)(b), F.S.S., requires the pawnbroker transaction form to contain:

- A complete and accurate description of the goods, including:
 - Brand name, model number, serial number, size, color, precious metal type, weight, and content if known, gemstone description, and any other unique identifying marks, numbers, names, or letters.
- The name, address, home telephone number, place of employment, date of birth, physical description, **and right thumbprint of the pledger or seller;**
- The type of identification accepted from the pledger or seller, including the issuing agency and the identification number.

To address Mr. Horne's complaint would require adding that a pawnbroker must photograph pawned items to the City's Ordinance.

Please see the attachments for additional details.



THE SUNRISE CITY

FORT PIERCE

Florida

POLICE DEPARTMENT
"In Honor We Serve"

Memorandum

TO : Diane Hobley-Burney, Chief of Police

FROM : W.E. Hall, Acting Deputy Chief

SUBJECT : Pawn Broker Ordinance Inquiry 7.26.2017

DATE : July 27, 2017

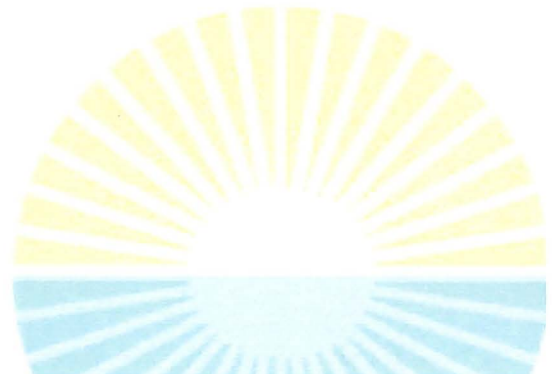
I reviewed the letter to the Mayor from Mr. Herbert Horne. He stated that he had valuable gold coins stolen from his home in St. Lucie County. Some of the coins were recovered at pawn shops. However, a pawn shop in Fort Pierce had already sold the coins prior to the Sheriff's Office placing a hold on the stolen items. Those transactions were unable to be proved in court since the only record of the transaction was a description of the coins. There were no photographs taken of the coins for use in court. Had the pawn shop taken photos, those transactions may have been better proven in court, as there would be presentable evidence in the case.

The City of Fort Pierce does have an ordinance regulating Pawn Shop sales. This ordinance is under Article VI, Section 9. There is nothing within the ordinance that indicates that photographs should be taken by the pawnbroker.

The City of Port St. Lucie does have language in their ordinance that photographs of pawned items should be taken by the pawnbroker.

I also checked Florida Statute 539.001 - Florida Pawnbroking Act. There is nothing within Florida Statute to indicate that photographs should be taken by the pawnbroker.

I would suggest that the City of Fort Pierce, and City Commission add language to include that a pawnbroker must take a photograph of pawned items during a transaction, and keep those photographs for a time period of at least 2 years, which they must give to law enforcement upon request.



William Hall

From: Diane Hobley-Burney
Sent: Thursday, July 27, 2017 9:54 AM
To: Caleta Scott
Cc: Linda Cox; Frank Amandro; William Hall; Cassandra Davis; Charles Courtoy; Kenny Norris; Rosetta Smith
Subject: RE: Pawnbroker Ordinance inquiry - Letter sent to Mayor/City Commission
Attachments: Horne Pawnbroker ordinance inquiry 7.26.2017.pdf

Good morning,

Earlier this year, we conducted a pawnshop inspection of all of the pawnshops in Fort Pierce. An official response to address the concerns in the inquiry will be forthcoming. The lead on the inquiry will be Acting Deputy Chief William (Bill) Hall.

Have a Blessed day,

Diane Hobley-Burney | Chief of Police | City of Fort Pierce

Police Department

Phone: 772.467.6803 • Fax: 772.461.2005 • 920 South U.S. Highway 1 • Fort Pierce • 34950

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THE SUNRISE CITY
FORT PIERCE
POLICE DEPARTMENT
"In Honor We Serve" *Florida*

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From: Caleta Scott [mailto:CScott@city-ftpierce.com]
Sent: Thursday, July 27, 2017 9:39 AM
To: Diane Hobley-Burney <dhobley-burney@fppd.org>; Frank Amandro <amandro@fppd.org>
Cc: Linda Cox <lcox@city-ftpierce.com>
Subject: Pawnbroker Ordinance inquiry - Letter sent to Mayor/City Commission

Good morning!

We received the attached letter yesterday in reference to a Pawnbroker ordinance in Fort Pierce. This was given to the Mayor and City Commission, Linda Cox and Mr. Mimms. Please let me know if you need anything further.

Caleta Scott | Deputy City Clerk | City of Fort Pierce

City Clerk's Office

Phone: 772.467.3065 Fax: 772.467.3841 100 North U.S. 1 Fort Pierce, FL 34950

[Website](#) | [Facebook](#) | [Survey](#)



"To provide community leadership, quality public service, and a safe environment for all citizens, by an empowered team of employees motivated by pride in themselves and their work."

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Skip Horne

Herbert Boyd "Skip" Horne, Jr.
2996 Conifer Drive
Fort Pierce, FL 34951
Ph. (772) 464-5080 Cell (772) 284-7000

July 20, 2017

Mayor Linda Hudson
Office of the Mayor & City Commissioners
100 N. U.S. Hwy. 1
Fort Pierce, FL 34950

Re: Pawnbroker Record Keeping Requirements

Dear Mayor Hudson,

I would like to address an issue or ordinance regarding pawnbroker purchasing requirements. According to Detective Morash with the St. Lucie County Sheriff's Department, the City of Fort Pierce does not require a photograph or digital image of items sold to/purchased by pawnbrokers, while the City of Port St. Lucie does require photos/digital images of items purchased.

Please indulge me. I had numerous gold coins stolen, twenty-two (22), and reported the theft to the St. Lucie County Sheriff's Department. They were able to only recover three (3) coins. I was perplexed when I learned of the record keeping requirements for pawnbrokers being so lax. I opened and own **Atlantic Coast Recycling, Inc.**, a **Secondary Metal Recycler**, on Avenue D in Fort Pierce in 1977, forty (40) years ago. My business is required to keep much more data on purchase transactions than a pawnbroker. Along with what is required from a pawnbroker, we must also include their vehicle description, tag number, etc., amongst which **we must also take a photograph, videotape, or digital image of each type metal purchased**, i.e., aluminum cans, copper, lead, etc., **whereas, a pawnbroker in the city of Fort Pierce is not**. Is this asking too much? I think you will agree more stolen items tend to go to a "pawnshop" rather than a "recycling center". I would be partial to consider no one would be predisposed to buy stolen material, but **it does happen!**

I would take interest in seeing the **City of Fort Pierce** adopt an ordinance to require pawnbrokers to take a digital image or photograph of the item being purchased at the time of the transaction, similar to **Port St. Lucie** and **Atlantic Coast Recycling**. There is a gap which needs to be filled.

- Seventeen (17) more coins stolen from me by the alleged thief (the culprit is a relative) cannot be used to prosecute the defendant, according to the State Attorneys' office, because no photo or image was taken by the pawnbroker (Value Pawn) for me to identify the coins. Only a very **generic** description was gathered by this pawnbroker. Although it is too late for my case, this minor change in the ordinance might benefit someone in the future recover what was wrongly taken from them and/or assist in the prosecution of such individuals. Even though the sheriff's department located the buyers of these 17 coins, they weren't recovered, out \$21,000+, present value.
- Photographs would make a much stronger case for the State Attorney.
- And, photographs or digital images would also prove to be a valuable tool for law enforcement. Just ask anyone in the police or sheriff's department.

I believe this refinement to the current ordinance would be a good thing for our community and hope it draws interest and meets with your approval. If this topic is brought up at a commission meeting I would appreciate the opportunity to listen in on this important issue and briefly speak if given a chance. My contacts are listed above....

Thank you, Ms Hudson, for your service to our city. Please thank the Commissioners also for their service as well. And a thank you for your assistance and guidance, Ms Scott.

Sincerely,



Skip Horne

Encl: (3) Port St. Lucie Ordinance
Page 7 of PSL Ordinance
Secondary Metals Recycler's Record Requirement Statute

Cc: Linda Cox, City Clerk
Nicholas Mimms, City Manager

ENCLOSURE 1



Port St. Lucie Police Department

COUNCIL ITEM 12A
DATE 9-24-12

memorandum

TO : Gregory J. Oravec
City Manager

FROM : John A. Bolduc *JAB*
Chief of Police

DATE : September 20, 2012

SUBJECT : Pawnbroker & Secondhand Dealer Ordinance

It was brought to my attention the recently approved City Ordinance, Chapter 116, Pawnbrokers and Secondhand Dealers was unnecessarily impeding sales for secondhand dealers and consignment shops of household furniture and goods.

The original need for the ordinance was to prevent evidence from residential and auto burglaries from being disposed of without records through pawn shops and secondhand dealers. The ordinance was also constructed to restrict the trade and disposition of possibly stolen items long enough for a proper investigation to reveal their whereabouts. Additionally, the ordinance was constructed to require the documentation of secondhand dealings through a statewide database program which would give investigators the opportunity to locate stolen items before they were sold or disposed of by another means.

After the ordinance was approved and we entered the compliance mode, we began to notice there were some unnecessary and foreseen ramifications of the ordinance. Specifically, the trade and consignment of household furniture and other household items not normally the target of theft during burglaries were being unnecessarily restricted and documented. It is evident the ordinance needed to be amended to more narrowly focus the scope and avoid items that are not normally the target of larceny.

Additionally, during the last legislative session, the Florida Legislation amended F.S.S. 538, which deals with secondhand dealers and secondhand metals recyclers to better define some of the items covered by the law, and clarify which types of businesses should be regulated such as flea markets and estate sales.

I met with the Criminal Investigations Division Commander and the Pawn Compliance Officer and we have drafted language to address these concerns. I met with City Attorney Roger Orr and he has reviewed the recommended amendments and advised us to proceed with placing this matter on the agenda for City Council approval.

Attached, please find the attached Agenda Item Request, as well as a draft of the amended Chapter 116, Port St. Lucie Code of Ordinances. Should you need further information, please contact me at your convenience.

JAB/jk

RECEIVED

SEP 21 2012

City Manager's Office

**PORT ST. LUCIE CITY COUNCIL
AGENDA ITEM REQUEST**

TYPE OF MEETING: REGULAR X SPECIAL

DATE OF MEETING: September 24, 2012

ORDINANCE X RESOLUTION MOTION

OTHER:

ITEM: Chapter 116 Pawnbrokers and Secondhand Dealers

RECOMMENDED ACTION: Approval and Signature

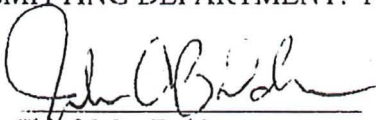
EXHIBITS: Amendment to ordinance

SUMMARY EXPLANATION/BACKGROUND INFORMATION:

IF PRESENTATION IS TO BE MADE, HOW MUCH TIME WILL BE REQUIRED?

5 min.

SUBMITTING DEPARTMENT: Police

BY: 
Chief John Bolduc

DATE:

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SEP 21 2012

City Manager's Office

CHAPTER 116.01 - PAWNBROKERS AND SECONDHAND DEALERS

Sec. 116.01. - Title.

This chapter shall be known as the Pawnbroker and Secondhand Dealer Ordinance of the City of Port St. Lucie, Florida.

Sec. 116.02. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consignment shop means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.

Electronic item means any computer and accessories, mobile or desktop; tablets; notebooks, E- readers; I- devices; video game systems; audio and video equipment, including television sets, compact disc players, Blu-ray players, DVD players, radios, amplifiers, receivers, turntables, tape recorders, speakers, and CB radios; radar detectors; telephones, including cellular and portable; calculators; musical instruments; home theater systems; MP3 players; electrical appliances, stove/range, refrigerator; microwave, oven, freezer, washer; dryer; headphones; cameras; electrical marine equipment; GPS navigation systems; air purifiers; dehumidifiers; and AC units.

Pawn means 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 the terms and conditions contained in section 539.001, et seq., Florida Statutes.

Pawnbroker means any person duly licensed under Chapter 539, Florida Statutes, 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. A pawnbroker may also engage in the business of purchasing goods which includes consignment and trade.

Pledge means either of the following transactions:

DRAFT- Amendment to existing Chapter 116 ordinance. Revision date: 9/19/2012.

(a) *Buy-sell agreement* means an agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

(b) *Loan of money* means a written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.

Precious metals means any item containing any gold, silver, or platinum or any combination thereof, excluding the following:

- (1) Any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.
- (2) Any coin with an intrinsic value less than its numismatic value.
- (3) Any gold bullion coin.
- (4) Any gold, silver, or platinum bullion that has been assayed and that is properly marked as to its weight and fineness.
- (5) Any coin which is mounted in a jewelry setting.

Precious metals dealer means a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

Secondhand dealer means any person who is not a secondary metals recycler and who is engaged in the business of purchasing, consigning, or trading secondhand goods or entering into title loan transactions. However, secondhand dealers are not limited to dealing only in items defined as secondhand goods this section. Except as provided in subsection ~~446.03(A)(4)~~ 116.03(a)(1), the term "secondhand dealer" means jewelers, precious metals dealers, garage sale operators, secondhand stores, and consignment shops.

Secondhand goods means personal property previously owned or used, which is not regulated metals property, regulated under Section 538.18 et seq., Florida Statutes and which is purchased, consigned, or traded as used property. Such secondhand goods do not include household furniture, lamps, glassware, everyday eating utensils, baby/children toys, baby essentials, office furniture, pianos, books, clothing, organs,

coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use and secondhand sports equipment that is ~~not permanently labeled with a~~ does not have a manufacturer's applied serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

Secondhand store means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer or conducts business, including pawnshops.

Title loan means a loan of money secured by bailment of a certificate of title to a motor vehicle. A title loan is not a pawn if the secondhand dealer does not maintain physical possession of the vehicle throughout the term of the transaction.

Transaction means any title loan, purchase, consignment, or pawn of secondhand goods by a secondhand dealer.

Sec. 116 .03. - Exemptions.

(a) This chapter does not apply to the following:

(1)

Any secondhand goods transaction involving an organization or entity registered with the state as a nonprofit, religious, or charitable organization or any school-sponsored association or organization other than a secondary metals recycler subject to Section 538.18, et seq., Florida Statutes.

(2) A law enforcement officer acting in an official capacity.

(3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondhand dealer.

(4) Any public official acting under judicial process or authority who has presented proof of such status to the secondhand dealer.

(5) A sale on the execution or by virtue of any process issued by a court, if proof thereof has been presented to the secondhand dealer.

(6) Any garage sale operator who holds garage sales less than four (4) weekends per calendar year. This exemption comports with the provisions of ~~section 155.03(i)~~ section 155.03 (1) prohibiting more than three (3) garage sales per calendar year within the city.

- (7) Any person at antique, coin, or collectible shows or sales.
- (8) Any person who sells household personal property as an agent for the property owner or the owner's representative pursuant to a written agreement at that person's residence.
- (9) The purchase, consignment, or pawn of secondhand goods from one secondhand dealer to another secondhand dealer when the selling secondhand dealer has complied with the requirements of this article.
- (10) Any person accepting a secondhand good, with the exception of any electronic item as defined in 116.02 or any item with a manufacturer's applied serial number, as a trade-in for a similar item of greater value.
- ~~(11) Any person purchasing, consigning, or trading secondhand goods at a flea market regardless of whether at a temporary or permanent business location at the flea market, unless said vendor conducts business transactions otherwise governed by the State of Florida.~~
- ~~(12)~~ (11) Any auction business as defined in Section 468.382(1), Florida Statutes, operating as an auction business in the buying and selling of estates, business inventory, surplus merchandise, or business liquidations.
- (12) Any business that is registered with the State Department of Revenue for sales tax purposes as an antique dealer pursuant to Chapter 212, Florida Statutes, and that purchases secondhand goods from the property owner or such owner's representative at the property owner's residence pursuant to a written agreement that states the name, address, and telephone number of the property owner and the type of property purchased.
- (13) Any person purchasing, consigning, or pawning secondhand goods ordered by mail; computer-assisted shopping; media-assisted, media-facilitated, or media-solicited shopping; or shopping by other means of media communication, including but not limited to direct mail advertising; unsolicited distribution of catalogs; television, radio, or other electronic media; telephone, magazine, or newspaper advertising, so long as such person is in this state at the time of the order.
- (14) A motor vehicle dealer as defined in Section 320.27, Florida Statutes.

(b) This chapter does not apply to secondary metals recyclers regulated under Section 538.18, et seq., Florida Statutes.

Sec. 116 .04. - Business tax receipt.

Secondhand dealers, precious metals dealers, pawnbrokers, and junk dealers, shall obtain a City of Port St. Lucie business tax receipt from the city before engaging in business, as required by Section 111.45, Port St. Lucie Code of Ordinances.

Sec. 116 .05. - Recordkeeping requirements.

(a) The City of Port St. Lucie Police Department shall designate an electronic reporting system for all pawn and secondhand dealer transactions, and shall provide copies of the electronic reporting system software to all pawnbrokers and secondhand dealers, as necessary.

(b) A pawnbroker shall comply with the recordkeeping requirements set forth in Section 539.001(9), Florida Statutes, including but not limited to electronic transfer to the Port St. Lucie Police Department of all pawn transactions using the electronic reporting system designated by the chief of police.

(c) In addition to the recordkeeping requirements set forth in Section 538.04, Florida Statutes, secondhand dealers shall also comply with the recordkeeping requirements set forth in this section.

(d) A second hand dealer as defined in this chapter shall provide an electronic transaction of all articles of any kind purchased or received using the electronic reporting system designated by the police department pursuant to Sections 538.04 and 539.001(9), Florida Statutes. The electronic transaction record shall at all times during business hours be open to the inspection of the police department. The report shall be a full, true, and complete report of all goods, wares, merchandise, or things received on deposit or purchased the previous day. The report shall contain the following:

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

(2) A complete and accurate description of the goods acquired, including digital images, any serial numbers, manufacturer's numbers, or other identifying marks or characteristics.

(3) A description of the person from whom the goods were acquired, including:

DRAFT- Amendment to existing Chapter 116 ordinance. Revision date: 9/19/2012.

- a. Full name, address, place of employment, and home telephone number.
 - b. Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.
 - c. The right thumbprint, free of smudges and smears, of the person from whom the goods were acquired.
- (4) If any article has engraved thereon a number, word, or initial, or contains settings of any kind, the description of the article in the report shall contain the number, word, or initial and shall show the kind of settings and the number of each kind.
- (5) In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.
- (6) Any other information required by the Florida Department of Law Enforcement.
- (e) A secondhand dealer shall require verification of the identification of the seller by the exhibition of a government-issued photographic identification card such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon.
- (f) A second hand dealer shall require a seller to sign a statement verifying that the seller is the rightful owner of the goods or is entitled to sell the goods.
- (g) Each receipt issued by a secondhand dealer shall be numbered consecutively, and if stubs are used in connection with the record of the transaction retained by the secondhand dealer, each stub shall be numbered consecutively to conform to the receipt.
- (h) The electronic reporting system will provide for an upload of a complete electronic report as described in this section. Each second hand dealer and pawnbroker shall, at the end of each business day, provide an electronic upload to the electronic reporting system of all transactions that occurred during that business day.
- (i) Secondhand dealers are exempt from this section for all transactions involving secondhand sports equipment, except secondhand sports equipment that is permanently labeled with a serial number.

Sec. 116~~2~~.06. - Inspection of records and premises.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(a) The premises and required records of each secondhand dealer and pawnbroker are subject to inspection during regular business hours by the Port St. Lucie Police Department and by any state law enforcement officer who has jurisdiction over the dealer.

(b) The inspection authorized by subsection (a) of this section shall consist of an examination on the premises of the inventory and required records to determine whether the records and inventory are being maintained on the premises as required by Section 116.05, and whether the secondhand dealer or pawnbroker has complied with the holding period requirements of Section 116.07.

Sec. 116.07. - Holding period.

(a) A pawnbroker shall comply with the holding requirements set forth in Section 539.001(9), Florida Statutes.

(b) A secondhand dealer shall comply with the following holding requirements:

(1) A secondhand dealer shall not sell, barter, exchange, alter, adulterate, or in any way dispose of any secondhand goods within thirty (30) calendar days of the date of acquisition of the goods. Such holding period is not applicable when the person known by the secondhand dealer to be the person from whom the goods were acquired desires to redeem, repurchase, or recover the goods, provided the dealer can produce the record of the original transaction with verification that the customer is the person from whom the goods were originally acquired.

(2) A secondhand dealer shall maintain actual physical possession of all secondhand goods throughout a transaction. It is unlawful for a secondhand dealer to accept title or any other form of security in secondhand goods in lieu of actual physical possession.

(3) Upon probable cause that goods held by a secondhand dealer are stolen, a law enforcement officer with jurisdiction may extend the holding period to a maximum of ninety (90) days. The law enforcement officer must make the hold order, and the secondhand dealer must act, in compliance with the provisions of Section 538.06(3), Florida Statutes. However, the holding period may be extended beyond ninety (90) days by a court of competent jurisdiction upon a finding of probable cause that the property is stolen and further holding is necessary for the purposes of trial or to safeguard such property. The dealer shall assume all responsibility, civil or criminal, relative to the property or evidence in question, including responsibility for the actions of any employee with respect thereto.

(4) All dealers in secondhand property regulated by this article shall maintain transaction records for five (5) years.

(c) Subject to the requirements of Chapter 537, Florida Statutes, and the restrictions in Section 538.15, Florida Statutes, a secondhand dealer may engage in a title loan transaction, and the physical possession requirements of Subsection 116.07 (b) (2) of this section shall not apply if the following conditions are met:

(1) The secondhand dealer maintains physical possession of the motor vehicle title.

(2) The owner maintains possession of or control over the motor vehicle throughout the transaction.

(3) The owner is not required to pay rent or any other charge for the use of the motor vehicle.

(4) A secondhand dealer who engages in a motor vehicle title loan transaction has the right to repossess the motor vehicle upon failure of the owner to redeem the title. The secondhand dealer shall only repossess a motor vehicle through an agent who is licensed by the state to repossess motor vehicles. The secondhand dealer may dispose of the motor vehicle as provided in Section 538.16, Florida Statutes. Any sale or disposal of the motor vehicle shall be made through a motor vehicle dealer licensed under Section 320.27, Florida Statutes.

(5) No charges other than those charges permitted in Section 537.011, Florida Statutes, shall be allowed, and such charges shall be fully disclosed, conspicuously in writing, and initialed by the motor vehicle owner at the initiation of the transaction.

Sec. 116 ~~08~~ .08. - Certain acts and practices prohibited.

It is unlawful for a secondhand dealer or any employee of the secondhand dealer to do or allow any of the following acts:

- (a) Knowingly make a transaction with any person who is:
- (1) Under the influence of drugs or alcohol when such condition is visible or apparent;
 - (2) Under the age of eighteen (18) years; or

- (3) Using a name other than such person's own name or the registered name of such person's business.

- (b) Have a secondhand store open or engage in or conduct business as a secondhand dealer between the hours of 10:00 p.m. and 7:00 a.m. A secondhand dealer shall not conduct any transaction at a drive-through window or similar device.

- (c) Fail to pay any sales tax owed to the Florida Department of Revenue or fail to have a sales tax registration number.

- (d) Engage in title loan transactions from at, within or adjoining a licensed pawn shop or secondhand dealer location.

- (e) Use the word "pawn" or "pawnbroker" in any transaction, documentation, advertising or promotional materials, signs, displays, banners, or other materials of any nature relating to the secondhand dealer's business.

Sec. 116 ~~1~~.09. - Penalties.

Any person willfully violating the provisions of this chapter, other than clerical or recordkeeping errors, shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred and dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days, or both such fine and imprisonment. Each day of noncompliance with this chapter shall be deemed a separate offense.

Sec. 116 ~~1~~.10. - Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

ENCLOSURE 2

DRAFT- Amendment to existing Chapter 116 ordinance. Revision date: 9/19/2012.

(b) This chapter does not apply to secondary metals recyclers regulated under Section 538.18, et seq., Florida Statutes.

Sec. 116.04. - Business tax receipt.

Secondhand dealers, precious metals dealers, pawnbrokers, and junk dealers, shall obtain a City of Port St. Lucie business tax receipt from the city before engaging in business, as required by Section 111.45, Port St. Lucie Code of Ordinances.

Sec. 116.05. - Recordkeeping requirements.

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(b) A pawnbroker shall comply with the recordkeeping requirements set forth in Section 539.001(9), Florida Statutes, including but not limited to electronic transfer to the Port St. Lucie Police Department of all pawn transactions using the electronic reporting system designated by the chief of police.

(c) In addition to the recordkeeping requirements set forth in Section 538.04, Florida Statutes, secondhand dealers shall also comply with the recordkeeping requirements set forth in this section.

(d) A second hand dealer as defined in this chapter shall provide an electronic transaction of all articles of any kind purchased or received using the electronic reporting system designated by the police department pursuant to Sections 538.04 and 539.001(9), Florida Statutes. The electronic transaction record shall at all times during business hours be open to the inspection of the police department. The report shall be a full, true, and complete report of all goods, wares, merchandise, or things received on deposit or purchased the previous day. The report shall contain the following:

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

(2) A complete and accurate description of the goods acquired, including digital images, any serial numbers, manufacturer's numbers, or other identifying marks or characteristics.

(3) A description of the person from whom the goods were acquired, including:

ENCLOSURE 3

Select Year:

The 2016 Florida Statutes

[Title XXXIII](#)
REGULATION OF TRADE, COMMERCE,
INVESTMENTS, AND SOLICITATIONS

[Chapter 538](#)
SECONDHAND DEALERS AND
SECONDARY METALS RECYCLERS

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Chapter](#)

538.19 Records required; limitation of liability.—

(1) A secondary metals recycler shall maintain a legible paper record of all purchase transactions to which such secondary metals recycler is a party. A secondary metals recycler shall also maintain a legible electronic record, in the English language, of all such purchase transactions. The appropriate law enforcement official may provide data specifications regarding the electronic record format, but such format must be approved by the Department of Law Enforcement. An electronic record of a purchase transaction shall be electronically transmitted to the appropriate law enforcement official no later than 10 a.m. of the business day following the date of the purchase transaction. The record transmitted to the appropriate law enforcement official must not contain the price paid for the items. A secondary metals recycler who transmits such records electronically is not required to also deliver the original or paper copies of the transaction forms to the appropriate law enforcement official. However, such official may, for purposes of a criminal investigation, request the secondary metals recycler to make available the original transaction form that was electronically transmitted. This original transaction form must include the price paid for the items. The secondary metals recycler shall make the form available to the appropriate law enforcement official within 24 hours after receipt of the request.

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

- (a) The name and address of the secondary metals recycler.
- (b) The name, initials, or other identification of the individual entering the information on the ticket.
- (c) The date and time of the transaction.
- (d) The weight, quantity, or volume, and a description of the type of regulated metals property purchased in a purchase transaction.
- (e) The amount of consideration given in a purchase transaction for the regulated metals property.
- (f) A signed statement from the person delivering the regulated metals property stating that she or he is the rightful owner of, or is entitled to sell, the regulated metals property being sold. If the purchase involves a stainless steel beer keg, the seller must provide written documentation from the manufacturer that the seller is the owner of the stainless steel beer keg or is an employee or agent of the manufacturer.
- (g) The distinctive number from the personal identification card of the person delivering the regulated metals property to the secondary metals recycler.
- (h) A description of the person from whom the regulated metals property was acquired, including:

1. Full name, current residential address, workplace, and home and work phone numbers.
2. Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.
3. The right thumbprint, free of smudges and smears.
4. Vehicle description to include the make, model, and tag number of the vehicle and trailer of the person selling the regulated metals property.
5. Any other information required by the form approved by the Department of Law Enforcement.
 - (i) A photograph, videotape, or digital image of the regulated metals being sold.
 - (j) A photograph, videotape, or similar likeness of the person receiving consideration in which such person's facial features are clearly visible.

(3) A secondary metals recycler complies with the requirements of this section if it maintains an electronic database containing the information required by subsection (2) as long as the electronic information required by subsection (2), along with an electronic oath of ownership with an electronic signature of the seller of the secondary metals being purchased by the secondary metals recyclers and an electronic image of the seller's right thumbprint that has no smudges and smears, can be downloaded onto a paper form in the image of the form approved by the Department of Law Enforcement as provided in subsection (2).

(4) A secondary metals recycler shall maintain or cause to be maintained the information required by this section for not less than 3 years from the date of the purchase transaction.

(5) A secondary metals recycler registered with the department that purchases a motor vehicle from a licensed salvage motor vehicle dealer as defined in s. [320.27](#) or another secondary metals recycler registered with the department and uses a mechanical crusher to convert the vehicle to scrap metal must obtain a signed statement from the seller stating that the seller has surrendered the vehicle's certificate of title to the Department of Highway Safety and Motor Vehicles as provided in s. [319.30](#) or otherwise complied with the titling requirements provided by law for conversion of the vehicle to scrap metal. A secondary metals recycler is not liable for the seller's failure to comply with the titling requirements provided by law for conversion of a motor vehicle to scrap metal if the secondary metals recycler obtains and maintains the seller's signed statement.

History.—s. 2, ch. 89-533; s. 1, ch. 90-192; s. 4, ch. 91-429; s. 748, ch. 97-103; s. 2, ch. 2008-69; s. 5, ch. 2012-179.

(k) "Pawn service charge" means a charge for investigating the title, storage, and insuring of the security; closing the transaction; making daily reports to appropriate law enforcement officials; expenses and losses; and all other services.

(l) "Pawnshop" means the location at which a pawnbroker conducts business.

(m) "Permitted vendor" means a vendor who furnishes a pawnbroker with an invoice specifying the vendor's name and address, the date of the sale, a description of the items sold, and the sales price, and who has an established place of business, or, in the case of a secondhand dealer as defined in s. 538.03, has represented in writing that such dealer has complied with all applicable recordkeeping, reporting, and retention requirements pertaining to goods sold or otherwise delivered to a pawnbroker.

(n) "Person" means an individual, partnership, corporation, joint venture, trust, association, or other legal entity.

(o) "Pledged goods" means tangible personal property that is deposited with, or otherwise delivered into the possession of a pawnbroker in connection with a pawn. "Pledged goods" does not include titles or any other form of written security in tangible property in lieu of actual physical possession, including, but not limited to, choses in action, securities, printed evidence of indebtedness, or certificates of title and other instruments evidencing title to separate items of property, including motor vehicles. For purposes of federal and state bankruptcy laws, a pledgor's interest in his or her pledged goods during the pendency of a pawn is a right of redemption only.

(p) "Pledgor" means an individual who delivers pledged goods into the possession of a pawnbroker in connection with a pawn.

(q) "Purchase" means the transfer and delivery of goods, by a person other than a permitted vendor, to a pawnbroker by acquisition for value, consignment, or trade for other goods.

(r) "Amount financed" is used interchangeably to mean the same as "amount of money advanced" or "principal amount".

(s) "Default date" means that date upon which the pledgor's right of redemption expires and absolute right, title, and interest in and to the pledged goods shall vest in and shall be deemed conveyed to the pawnbroker by operation of law.

(t) "Beneficial owner" means a person who does not have title to property but has rights in the property which are the normal incident of owning the property.

(u) "Operator" means a person who has charge of a corporation or company and has control of its business, or of its branch establishments, divisions, or departments, and who is vested with a certain amount of discretion and independent judgment.

(3) LICENSE REQUIRED.—

(a) A person may not engage in business as a pawnbroker unless the person has a valid license issued by the agency. A separate license is required for each pawnshop. The agency must issue more than one license to a person if that person complies with the requirements for each license.

(b) A licensee who seeks to move a pawnshop to another location must give written notice to the agency at least 30 days before the move, and the agency must amend the license to indicate the new location. The licensee must also give such written notice to the appropriate law enforcement official.

(c) Each license is valid for a period of 1 year unless it is earlier relinquished, suspended, or revoked. Each license shall be renewed annually, and each licensee shall, initially and annually thereafter, pay to the agency a license fee of \$300 for each license held. The agency shall waive the initial license fee for an honorably discharged veteran of the United States Armed Forces, the spouse of such a veteran, or a business entity that has a majority ownership held by such a veteran or spouse if the agency receives an application, in a format prescribed by the agency, within 60 months after the

date of the veteran's discharge from any branch of the United States Armed Forces. To qualify for the waiver, a veteran must provide to the agency a copy of his or her DD Form 214, as issued by the United States Department of Defense, or another acceptable form of identification as specified by the Department of Veterans' Affairs; the spouse of a veteran must provide to the agency a copy of the veteran's DD Form 214, as issued by the United States Department of Defense, or another acceptable form of identification as specified by the Department of Veterans' Affairs, and a copy of a valid marriage license or certificate verifying that he or she was lawfully married to the veteran at the time of discharge; or a business entity must provide to the agency proof that a veteran or the spouse of a veteran holds a majority ownership in the business, a copy of the veteran's DD Form 214, as issued by the United States Department of Defense, or another acceptable form of identification as specified by the Department of Veterans' Affairs, and, if applicable, a copy of a valid marriage license or certificate verifying that the spouse of the veteran was lawfully married to the veteran at the time of discharge.

(d) The agency may issue a temporary pawnbroker's license for the operation of a pawnshop either upon receipt of an application to transfer an existing license from one person to another or upon receipt of an application for a license involving principals and owners that are substantially identical to those of the existing licensee. The temporary license is effective until the permanent license is issued or denied by the agency.

(e) A person must apply to the agency for a new license or for a temporary license upon any change, directly or beneficially, in the ownership of any pawnshop. An application for a license or an application to transfer an existing license is not required upon any change, directly or beneficially, in the ownership of a pawnshop if one or more holders of at least 90 percent of the outstanding equity interest of the pawnshop before the change in ownership continue to hold at least 90 percent of the outstanding equity interest after the change in ownership.

(f) Any person applying for or renewing a local occupational license to engage in business as a pawnbroker must exhibit a current license from the agency before the local business tax receipt may be issued or reissued.

(4) ELIGIBILITY FOR LICENSE.—

(a) To be eligible for a pawnbroker's license, an applicant must:

1. Be of good moral character;
2. Have a net worth of at least \$50,000 or file with the agency a bond issued by a surety company qualified to do business in this state in the amount of \$10,000 for each license. In lieu of the bond required in this section, the applicant may establish a certificate of deposit or an irrevocable letter of credit in a Florida banking institution in the amount of the bond. The original bond, certificate of deposit, or letter of credit shall be filed with the agency on a form adopted by agency rule, and the agency shall be the beneficiary to said document. The bond, certificate of deposit, or letter of credit must be in favor of the agency for the use and benefit of a consumer who is injured by the fraud, misrepresentation, breach of contract, financial failure, or violation of this section by the pawnbroker. Such liability may be enforced by proceeding in an administrative action or by filing a civil action. However, in such civil action, the bond, certificate of deposit, or letter of credit posted with the agency may not be amenable or subject to a judgment or other legal process issuing out of or from such court in connection with such civil action, but such bond, certificate of deposit, or letter of credit shall be amenable to and enforceable only by and through administrative proceedings before the agency. It is the intent of the Legislature that such bond, certificate of deposit, or letter of credit be applicable and liable only for the payment of claims duly adjudicated by order of the agency. The bond, certificate of deposit, or letter of credit shall be payable on a pro rata basis as determined by the agency, but the

aggregate amount awarded may not exceed the amount of the bond, certificate of deposit, or letter of credit. A consumer may file a claim against the bond, certificate of deposit, or letter of credit. Such claim, which must be submitted in writing on an affidavit form adopted by agency rule, must be submitted to the agency within 120 days after an alleged injury has occurred or is discovered to have occurred or a judgment has been entered. The proceedings shall be conducted pursuant to chapter 120. For proceedings conducted pursuant to ss. 120.569 and 120.57, the agency shall act only as a nominal party. Any indebtedness determined by final order of the agency shall be paid by the pawnbroker to the agency within 30 days after the order is entered for disbursement to the consumer. If the pawnbroker fails to make payment within 30 days, the agency shall make a demand for payment upon the surety which includes an institution issuing a letter of credit or depository on a certificate of deposit. Upon failure of a surety to comply with a demand for payment pursuant to a final order, the agency may file an action in circuit court to recover payment, up to the amount of the bond or other form of security, pursuant to s. 120.69. If the agency prevails in such action, the agency may recover court costs and reasonable attorney fees;

3. Not have been convicted of, or found guilty of, or pled guilty or nolo contendere to, or not have been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a felony within the last 10 years and not be acting as a beneficial owner for someone who has been convicted of, or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a felony within the last 10 years; and

4. Not have been convicted of, or found guilty of, or pled guilty or nolo contendere to, or not have been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime that involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any other fraudulent or dishonest dealing within the last 10 years, and not be acting as a beneficial owner for someone who has been convicted, of, or found guilty of, or pled guilty or nolo contendere to, or has been incarcerated within the last 10 years as a result of having previously been convicted of, or found guilty of, or pled guilty or nolo contendere to, regardless of adjudication, a crime that involves theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any other fraudulent or dishonest dealing within the last 10 years.

(b) Any applicant claiming to have a net worth of \$50,000 or more shall file with the agency, at the time of applying for a license, the following documentation:

1. A current financial statement prepared by a Florida certified public accountant; or
2. An affidavit stating the applicant's net worth is at least \$50,000, accompanied by supporting documentation; or
3. If the applicant is a corporation, a copy of the applicant's most recently filed federal tax return.

If the agency cannot verify that the applicant meets the net worth requirement for a license, the agency may require a finding, including the presentation of a current balance sheet, by an accounting firm or individual holding a permit to practice public accounting in this state, that the accountant has reviewed the books and records of the applicant and that the applicant meets the net worth requirement.

(c) If an applicant for a pawnbroker's license is not an individual, the eligibility requirements of this subsection, other than the requirements of subparagraph (a)2., apply to each operator of the pawnshop

and to each direct or beneficial owner of at least 10 percent of the outstanding equity interest of the pawnshop and, if the applicant is a corporation, to each officer and director of the corporation.

(5) APPLICATION FOR LICENSE.—

(a) An application for a pawnbroker's license, for the transfer of an existing pawnbroker's license, or for the approval of a change in the ownership of a licensee's pawnshop must be under oath and must state the full name and place of residence of the applicant, the place where the business is to be conducted, and other relevant information required by the agency.

(b)1. If the applicant is not an individual, the applicant must state the full name and address of each direct or beneficial owner of at least a 10-percent equity interest in such person. If the applicant is a corporation, the application must also state the full name and address of each officer and director.

2. Notwithstanding the provisions of subparagraph 1., the application need not state the full name and address of each officer, director, and shareholder if the applicant is owned directly or beneficially by a person that as an issuer has a class of securities registered under s. 12 of the Securities Exchange Act of 1934, or under s. 15(d) thereof, and is an issuer of registered securities required to file reports with the Securities and Exchange Commission and if the person files with the agency the information, documents, and reports required to be filed with the Securities and Exchange Commission.

(c) Each initial application for a license must be accompanied by a complete set of fingerprints taken by an authorized law enforcement officer or a fingerprinting service provider approved by the Department of Law Enforcement, \$300 for the first year's license fee, and the actual cost to the agency for fingerprint analysis for each person subject to the eligibility requirements. The agency shall submit the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. These fees and costs are not refundable.

(d) When the application and the required fees are received, the agency shall investigate the facts, approve the application, and issue a license to the applicant if the agency finds that the eligibility requirements for the license are satisfied. The license must be prominently displayed at the front desk or counter at each pawnshop.

(e) Fees and fines collected under this section by the agency shall be deposited into the General Inspection Trust Fund.

(6) SUSPENSION, REVOCATION, AND SURRENDER OF LICENSE; NET WORTH REQUIREMENT.—

(a) The agency may, after notice and a hearing, suspend or revoke any license upon a finding that:

1. The licensee, either knowingly or without the exercise of due care, has violated this section or has aided or conspired with another person to violate this section;

2. A condition exists that, had it existed when the license was issued, would have justified the agency's refusal to issue a license;

3. The licensee or its applicable agents or employees who are subject to the eligibility requirements no longer meet the eligibility requirements to hold a pawnbroker's license; or

4. The licensee has through gross negligence or willful noncompliance failed to comply with a written hold order.

(b) The agency may conditionally license or place on probation a person whose license has been suspended or may reprimand a licensee for a violation of this section.

(c) The manner of giving notice and conducting a hearing, as required by paragraph (a), must conform to chapter 120.

(d) Any licensee may surrender a license by delivering it, by certified or registered mail, return receipt requested, to the agency with written notice of its surrender. The surrender of a license does

not affect the civil or criminal liability of the licensee for acts committed before the surrender of the license.

(e) The revocation, suspension, or surrender of a license does not impair or affect the obligation of any preexisting lawful contract between the licensee and any pledgor. Any pawn transaction made by a person without benefit of a license is voidable, in which case the person forfeits the right to collect any moneys, including principal and any charges, from the pledgor in connection with such transaction and is obligated to return to the pledgor the pledged goods in connection with such transaction.

(f) The agency may reinstate a suspended license or issue a new license to a person whose license has been revoked, if after a hearing it determines that no fact or condition then exists that would have justified the agency in originally refusing to issue a license.

(g) Each licensee must maintain a net worth of \$50,000 or the bond specified in subsection (4).

(7) ORDERS IMPOSING PENALTIES.—

(a) The agency may enter an order imposing one or more of the penalties set forth in paragraph (b) if the agency finds that a pawnbroker:

1. Violated or is operating in violation of any of the provisions of this section or of the rules adopted or orders issued thereunder;

2. Made a material false statement in any application, document, or record required to be submitted or retained under this section;

3. Refused or failed, or any of its principal officers has refused or failed, after notice, to produce any document or records or disclose any information required to be produced or disclosed under this section or the rules of the agency;

4. Made a material false statement in response to any request or investigation by the agency, the Department of Legal Affairs, or the state attorney; or

5. Has intentionally defrauded the public through dishonest or deceptive means.

(b) Upon a finding as set forth in paragraph (a), the agency may enter an order doing one or more of the following:

1. Issuing a notice of noncompliance pursuant to s. 120.695.

2. Imposing an administrative fine in the Class II category pursuant to s. 570.971 for each act that constitutes a violation of this section, a rule, or an order.

3. Directing that the pawnbroker cease and desist specified activities.

4. Refusing to license or revoking or suspending a license.

5. Placing the licensee on probation, subject to such conditions as the agency may specify.

(c) The administrative proceedings which could result in the entry of an order imposing any of the penalties specified in paragraph (b) are governed by chapter 120.

(d)1. If a violation of this section occurs and the agency has reasonable cause to believe that a person is operating in violation of this section, the agency may bring a civil action in the appropriate court for temporary or permanent injunctive relief and may seek other appropriate civil relief, including a civil penalty in the Class II category pursuant to s. 570.971 for each violation, restitution and damages for injured customers, court costs, and reasonable attorney fees.

2. The agency may terminate an investigation or action upon agreement by the offender to pay a stipulated civil penalty, to make restitution or pay damages to customers, or to satisfy any other relief authorized under this subsection and requested by the agency.

(e) The remedies provided for in this subsection shall be in addition to any other remedy provided by law.

(8) PAWNBROKER TRANSACTION FORM.—

(a) At the time the pawnbroker enters into any pawn or purchase transaction, the pawnbroker shall complete a pawnbroker transaction form for such transaction, including an indication of whether the transaction is a pawn or a purchase, and the pledgor or seller shall sign such completed form. The agency must approve the design and format of the pawnbroker transaction form, which must be 8½ inches x 11 inches in size and elicit the information required under this section. In completing the pawnbroker transaction form, the pawnbroker shall record the following information, which must be typed or written indelibly and legibly in English.

(b) The front of the pawnbroker transaction form must include:

1. The name and address of the pawnshop.
2. A complete and accurate description of the pledged goods or purchased goods, including the following information, if applicable:
 - a. Brand name.
 - b. Model number.
 - c. Manufacturer's serial number.
 - d. Size.
 - e. Color, as apparent to the untrained eye.
 - f. Precious metal type, weight, and content, if known.
 - g. Gemstone description, including the number of stones.
 - h. In the case of firearms, the type of action, caliber or gauge, number of barrels, barrel length, and finish.
 - i. Any other unique identifying marks, numbers, names, or letters.

Notwithstanding sub-subparagraphs a.-i., in the case of multiple items of a similar nature delivered together in one transaction which do not bear serial or model numbers and which do not include precious metal or gemstones, such as musical or video recordings, books, and hand tools, the description of the items is adequate if it contains the quantity of items and a description of the type of items delivered.

3. The name, address, home telephone number, place of employment, date of birth, physical description, and right thumbprint of the pledgor or seller.

4. The date and time of the transaction.

5. The type of identification accepted from the pledgor or seller, including the issuing agency and the identification number.

6. In the case of a pawn:

a. The amount of money advanced, which must be designated as the amount financed;

b. The maturity date of the pawn, which must be 30 days after the date of the pawn;

c. The default date of the pawn and the amount due on the default date;

d. The total pawn service charge payable on the maturity date, which must be designated as the finance charge;

e. The amount financed plus the finance charge that must be paid to redeem the pledged goods on the maturity date, which must be designated as the total of payments;

f. The annual percentage rate, computed according to the regulations adopted by the Federal Reserve Board under the federal Truth in Lending Act; and

g. The front or back of the pawnbroker transaction form must include a statement that:

(l) Any personal property pledged to a pawnbroker within this state which is not redeemed within 30 days following the maturity date of the pawn, if the 30th day is not a business day, then the following

business day, is automatically forfeited to the pawnbroker, and absolute right, title, and interest in and to the property vests in and is deemed conveyed to the pawnbroker by operation of law, and no further notice is necessary;

(II) The pledgor is not obligated to redeem the pledged goods; and

(III) If the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must immediately advise the issuing pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt.

(IV) A pawn may be extended upon mutual agreement of the parties.

7. In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.

8. A statement that the pledgor or seller of the item represents and warrants that it is not stolen, that it has no liens or encumbrances against it, and that the pledgor or seller is the rightful owner of the goods and has the right to enter into the transaction. Any person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money from a pawnbroker for goods sold or pledged commits:

a. If the value of the money received is less than \$300, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

b. If the value of the money received is \$300 or more, a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A pawnbroker transaction form must provide a space for the imprint of the right thumbprint of the pledgor or seller and a blank line for the signature of the pledgor or seller.

(d) At the time of the pawn or purchase transaction, the pawnbroker shall deliver to the pledgor or seller an exact copy of the completed pawnbroker transaction form.

(9) RECORDKEEPING; REPORTING; HOLD PERIOD.—

(a) A pawnbroker must maintain a copy of each completed pawnbroker transaction form on the pawnshop premises for at least 1 year after the date of the transaction. On or before the end of each business day, the pawnbroker must deliver to the appropriate law enforcement official the original pawnbroker transaction forms for each of the transactions occurring during the previous business day, unless other arrangements have been agreed upon between the pawnbroker and the appropriate law enforcement official. If the original transaction form is lost or destroyed by the appropriate law enforcement official, a copy may be used by the pawnbroker as evidence in court. When an electronic image of a pledgor or seller identification is accepted for a transaction, the pawnbroker must maintain the electronic image in order to meet the same recordkeeping requirements as for the original transaction form. If a criminal investigation occurs, the pawnbroker shall, upon request, provide a clear and legible copy of the image to the appropriate law enforcement official.

(b) If the appropriate law enforcement agency supplies the appropriate software and the pawnbroker presently has the computer ability, pawn transactions shall be electronically transferred. If a pawnbroker does not presently have the computer ability, the appropriate law enforcement agency may provide the pawnbroker with a computer and all necessary equipment for the purpose of electronically transferring pawn transactions. The appropriate law enforcement agency shall retain ownership of the computer, unless otherwise agreed upon. The pawnbroker shall maintain the computer in good working order, ordinary wear and tear excepted. In the event the pawnbroker transfers pawn transactions electronically, the pawnbroker is not required to also deliver to the appropriate law enforcement official the original or copies of the pawnbroker transaction forms. The appropriate law enforcement official may, for the purposes of a criminal investigation, request that the pawnbroker

produce an original of a transaction form that has been electronically transferred. The pawnbroker shall deliver this form to the appropriate law enforcement official within 24 hours of the request.

(c) All goods delivered to a pawnbroker in a pawn or purchase transaction must be securely stored and maintained in an unaltered condition within the jurisdiction of the appropriate law enforcement official for a period of 30 calendar days after the transaction. Those goods delivered to a pawnbroker in a purchase transaction may not be sold or otherwise disposed of before the expiration of such period. The pawnbroker shall make all pledged and purchased goods and all records relating to such goods available for inspection by the appropriate law enforcement official during normal business hours throughout such period. The pawnbroker must store and maintain pledged goods for the period prescribed in subsection (10) unless the pledged goods are redeemed earlier; provided, however, that within the first 30 days after the original pawn, the pledged goods may be redeemed only by the pledgor or the pledgor's attorney in fact.

(10) PLEDGED GOODS NOT REDEEMED.—Pledged goods not redeemed by the pledgor on or before the maturity date of a pawn must be held by the pawnbroker for at least 30 days following such date or until the next business day, if the 30th day is not a business day. Pledged goods not redeemed within the 30-day period following the maturity date of a pawn are automatically forfeited to the pawnbroker; absolute right, title, and interest in and to the goods shall vest in and shall be deemed conveyed to the pawnbroker by operation of law; and no further notice is necessary. A pledgor has no obligation to redeem pledged goods or make any payment on a pawn.

(11) PAWN SERVICE CHARGES.—

(a) In a pawn transaction, a pawnbroker may contract for and receive a pawn service charge. The interest component of the pawn service charge shall be deemed to be 2 percent of the amount financed for each 30-day period in a pawn transaction. The pawnbroker may charge any amount of pawn service charge, so long as the total amount, inclusive of the interest component, does not exceed 25 percent of the amount financed for each 30-day period in a pawn transaction, except that the pawnbroker is entitled to receive a minimum pawn service charge of \$5 for each such 30-day period.

(b) The default date of any pawn may be extended to a subsequent date by mutual agreement, between the pledgor and the pawnbroker except the pawnbroker may not impose a minimum duration of more than 30 days, evidenced by a written memorandum, a copy of which must be supplied to the pledgor, which must clearly specify the new default date, and the pawn service charges owed on the new default date. In this event, the daily pawn service charge for the extension shall be equal to the pawn service charge for the original 30-day period divided by 30 days (i.e., one-thirtieth of the original total pawn service charge). There is no limit on the number of extensions that the parties may agree to.

(c) The total amount of pawn service charges that a pawnbroker may collect in the case of pledged goods redeemed at any time within 30 days after the date of the pawn is the amount provided in paragraph (a). The total amount of pawn service charges that a pawnbroker may collect in the case of redemptions occurring at any time more than 30 days after the date of the pawn is twice the amount provided in paragraph (a), except that, for redemptions occurring more than 60 days after the date of the pawn, pawn service charges continue to accrue from and after the 60th day at the daily rate determined as provided in paragraph (b). Any unused pawn service charge paid in advance by the pledgor shall be refunded by the pawnbroker.

(d) Pledged goods may be redeemed by mail by agreement between the pledgor and the pawnbroker. The pledgor must pay in advance all moneys due and a reasonable charge assessed by the pawnbroker to recover its cost and expenses involved in the packaging, insuring, and shipping of the pledged goods. The pawnbroker shall insure the pledged goods in an amount acceptable to the pledgor.

The pawnbroker's liability for loss or damage in connection with the shipment of such pledged goods is limited to the amount of the insurance coverage obtained.

(e) Any interest, charge, or fees contracted for or received, directly or indirectly, in excess of the amounts authorized under this section are prohibited, may not be collected, and render the pawn transaction voidable, in which case the pawnbroker shall forfeit the right to collect twice the amount of the pawn service charge contracted for in the pawn and, upon the pledgor's written request received by the pawnbroker within 30 days after the maturity date, shall be obligated to return to the pledgor the pledged goods delivered to the pawnbroker in connection with the pawn upon payment of the balance remaining due, provided that there shall be no penalty for a violation resulting from an accidental and bona fide error that is corrected upon discovery. Any action to circumvent the limitation on pawn service charges collectible under this section is voidable. In the event a pledgor makes a partial payment on a pawn that reduces the amount financed, any additional pawn service charges shall be calculated on the remaining balance of the original amount financed.

(12) PROHIBITED ACTS.—A pawnbroker, or an employee or agent of a pawnbroker, may not:

(a) Falsify or intentionally fail to make an entry of any material matter in a pawnbroker transaction form.

(b) Refuse to allow the agency, the appropriate law enforcement official, or the state attorney, or any of their designated representatives having jurisdiction, to inspect completed pawnbroker transaction forms or pledged or purchased goods during the ordinary hours of the pawnbroker's business or other time acceptable to both parties. The appropriate law enforcement official shall disclose to a claimant the name and address of the pawnbroker, the name and address of the conveying customer, and a description of pawned, purchased, or consigned goods that the claimant claims to be misappropriated.

(c) Obliterate, discard, or destroy a completed pawnbroker transaction form sooner than 3 years after the date of the transaction.

(d) Accept a pledge or purchase property from a person under the age of 18 years.

(e) Make any agreement requiring or allowing the personal liability of a pledgor or the waiver of any of the provisions of this section.

(f) Knowingly enter into a pawn or purchase transaction with any person who is under the influence of alcohol or controlled substances when such condition is apparent, or with any person using the name of another or the registered name of another's business.

(g) Conduct any pawn or purchase transaction at a drive-through window or similar device in which the customer remains in a vehicle while conducting the transaction.

(h) Fail to return or replace pledged goods to a pledgor upon payment of the full amount due the pawnbroker, unless the pledged goods have been placed under a hold order under subsection (16), or taken into custody by a court or otherwise disposed of by court order.

(i) Sell or otherwise charge for insurance in connection with a pawn transaction, except in connection with the shipment of pledged goods redeemed by mail as provided in subsection (11).

(j) Engage in title loan transactions at, within, or adjoining a licensed pawnshop location.

(k) Lease pledged goods to the pledgor or any other party.

(l) Operate a pawnshop between the hours of 10 p.m. and 7 a.m.

(m) Knowingly hire anyone to work in a pawnshop who has been convicted of, or entered a plea of guilty or nolo contendere to, or had adjudication withheld for a felony within the last 5 years, or been convicted of, or entered a plea of guilty or nolo contendere to, or had adjudication withheld for a crime within the last 5 years which involves theft, larceny, dealing in stolen property, receiving stolen

property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any fraudulent, or dishonest dealing.

(n) Knowingly accept or receive misappropriated property from a conveying customer in a pawn or purchase transaction.

(13) RIGHT TO REDEEM; LOST PAWNBROKER TRANSACTION FORM.—

(a) Only a pledgor or a pledgor's authorized representative is entitled to redeem the pledged goods described in the pawnbroker transaction form; however, if the pawnbroker determines that the person is not the original pledgor, or the pledgor's authorized representative, the pawnbroker is not required to allow the redemption of the pledged goods by such person. The person redeeming the pledged goods must sign the pledgor's copy of the pawnbroker transaction form, which the pawnbroker may retain as evidence of the person's receipt of the pledged goods. If the person redeeming the pledged goods is the pledgor's authorized representative, that person must present notarized authorization from the original pledgor and show identification to the pawnbroker and the pawnbroker shall record that person's name and address on the pawnbroker transaction form retained by the pawnshop. It is the pawnbroker's responsibility to verify that the person redeeming the pledged goods is either the pledgor or the pledgor's authorized representative.

(b) If a pledgor's copy of the pawnbroker transaction form is lost, destroyed, or stolen, the pledgor must notify the pawnbroker in writing by certified or registered mail, return receipt requested, or in person evidenced by a signed receipt, and receipt of this notice invalidates the pawnbroker transaction form if the pledged goods have not previously been redeemed. Before delivering the pledged goods or issuing a new pawnbroker transaction form, the pawnbroker must require the pledgor to make a written statement of the loss, destruction, or theft of the pledgor's copy of the pawnbroker transaction form. The pawnbroker must record on the written statement the type of identification and the identification number accepted from the pledgor, the date the statement is given, and the number of the pawnbroker transaction form that was lost, destroyed, or stolen. The statement must be signed by the pawnbroker or the pawnshop employee who accepts the statement from the pledgor. A pawnbroker is entitled to a fee not to exceed \$2 in connection with each lost, destroyed, or stolen pawnbroker transaction form and the taking of a properly prepared written statement.

(c) Sales tax is not due or collectible in connection with the redemption of pledged goods.

(d) If pledged goods are lost or damaged while in the possession of the pawnbroker, the pawnbroker may satisfy the pledgor's claim by replacing the lost or damaged goods with like kinds of merchandise of equal value, with which the pledgor can reasonably replace the goods. Such replacement is a defense to any civil action based upon the loss or damage of the goods.

(14) PAWNBROKER'S LIEN.—A pawnbroker has a possessory lien on the pledged goods pawned as security for the funds advanced, the pawn service charge owed, and the other charges authorized under this section, but not for other debts due to the pawnbroker. A pawnbroker has no recourse against a pledgor for payment on a pawn transaction except for the pledged goods themselves. Except as otherwise provided in this section, the pawnbroker must retain possession of the pledged goods until the lien is satisfied or until the default date. The pawnbroker may be compelled to relinquish possession of the pledged goods only after receipt of the applicable funds advanced plus the accrued service charge and other authorized charges, upon court order, or as otherwise provided by law.

(15) CLAIMS AGAINST PURCHASED GOODS OR PLEDGED GOODS HELD BY PAWNBROKERS.—

(a) To obtain possession of purchased or pledged goods held by a pawnbroker which a claimant claims to be misappropriated, the claimant must notify the pawnbroker by certified mail, return receipt requested, or in person evidenced by signed receipt, of the claimant's claim to the purchased or

pledged goods. The notice must contain a complete and accurate description of the purchased or pledged goods and must be accompanied by a legible copy of the applicable law enforcement agency's report on the misappropriation of such property. If the claimant and the pawnbroker do not resolve the matter within 10 days after the pawnbroker's receipt of the notice, the claimant may petition the court to order the return of the property, naming the pawnbroker as a defendant, and must serve the pawnbroker with a copy of the petition. The pawnbroker shall hold the property described in the petition until the right to possession is resolved by the parties or by a court of competent jurisdiction. The court shall waive any filing fee for the petition to recover the property, and the sheriff shall waive the service fees.

(b) If, after notice and a hearing, the court finds that the property was misappropriated and orders the return of the property to the claimant:

1. The claimant may recover from the pawnbroker the cost of the action, including the claimant's reasonable attorney's fees; and

2. If the conveying customer is convicted of theft, a violation of this section, or dealing in stolen property, the court shall order the conveying customer to repay the pawnbroker the full amount the conveying customer received from the pawnbroker for the property, plus all applicable pawn service charges. As used in this paragraph, the term "convicted of" includes a plea of nolo contendere to the charges or any agreement in which adjudication is withheld; and

3. The conveying customer shall be responsible to pay all attorney's fees and taxable costs incurred by the pawnbroker in defending a replevin action or any other civil matter wherein it is found that the conveying customer was in violation of this paragraph.

(c) If the court finds that the claimant failed to comply with the requirements in paragraph (a) or otherwise finds against the claimant, the claimant is liable for the defendants' costs, including reasonable attorney's fees.

(d) The sale, pledge, or delivery of tangible personal property to a pawnbroker by any person in this state is considered to be:

1. An agreement by the person who sells, pledges, or delivers the tangible personal property that the person is subject to the jurisdiction of the court in all civil actions and proceedings arising out of the pledge or sale transaction filed by either a resident or nonresident plaintiff;

2. An appointment of the Secretary of State by any nonresident of this state as that person's lawful attorney and agent upon whom may be served all process in suits pertaining to the actions and proceedings arising out of the sale, pledge, or delivery; and

3. An agreement by any nonresident that any process in any suit so served has the same legal force and validity as if personally served in this state.

(16) HOLD ORDERS; ISSUANCE; REQUIRED INFORMATION; PROCEDURES.—

(a) When an appropriate law enforcement official has probable cause to believe that property in the possession of a pawnbroker is misappropriated, the official may place a written hold order on the property. The written hold order shall impose a holding period not to exceed 90 days unless extended by court order. The appropriate law enforcement official may rescind, in writing, any hold order. An appropriate law enforcement official may place only one hold order on property.

(b) Upon the expiration of the holding period, the pawnbroker shall notify, in writing, the appropriate law enforcement official by certified mail, return receipt requested, that the holding period has expired. If, on the 10th day after the written notice has been received by the appropriate law enforcement official, the pawnbroker has not received from a court an extension of the hold order on the property and the property is not the subject of a proceeding under subsection (15), title to the

property shall vest in and be deemed conveyed by operation of law to the pawnbroker, free of any liability for claims but subject to any restrictions contained in the pawn transaction contract and subject to the provisions of this section.

(c) A hold order must specify:

1. The name and address of the pawnbroker.
2. The name, title, and identification number of the representative of the appropriate law enforcement official or the court placing the hold order.
3. If applicable, the name and address of the appropriate law enforcement official or court to which such representative is attached and the number, if any, assigned to the claim regarding the property.
4. A complete description of the property to be held, including model number and serial number if applicable.
5. The name of the person reporting the property to be misappropriated unless otherwise prohibited by law.
6. The mailing address of the pawnbroker where the property is held.
7. The expiration date of the holding period.

(d) The pawnbroker or the pawnbroker's representative must sign and date a copy of the hold order as evidence of receipt of the hold order and the beginning of the 90-day holding period.

(e)1. Except as provided in subparagraph 2., a pawnbroker may not release or dispose of property subject to a hold order except pursuant to a court order, a written release from the appropriate law enforcement official, or the expiration of the holding period of the hold order.

2. While a hold order is in effect, the pawnbroker must upon request release the property subject to the hold order to the custody of the appropriate law enforcement official for use in a criminal investigation. The release of the property to the custody of the appropriate law enforcement official is not considered a waiver or release of the pawnbroker's property rights or interest in the property. Upon completion of the criminal proceeding, the property must be returned to the pawnbroker unless the court orders other disposition. When such other disposition is ordered, the court shall additionally order the conveying customer to pay restitution to the pawnbroker in the amount received by the conveying customer for the property together with reasonable attorney's fees and costs.

(17) CRIMINAL PENALTIES.—

(a) Any person who engages in business as a pawnbroker without first securing a license commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) In addition to any other penalty, any person, who willfully violates this section or who willfully makes a false entry in any record specifically required by this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. Clerical or recordkeeping errors, such as typographical errors or scrivener's errors, regarding any document or record required by this section do not constitute a willful violation of this section, and are not subject to criminal penalties. Clerical or recordkeeping errors are subject to the administrative remedies, as provided in this act.

(18) INJUNCTIONS.—When the agency has reasonable cause to believe that a person is violating this section, the agency may enter an order requiring the person to stop the violation. The agency may petition the court to enjoin the person from engaging in the violation, continuing the violation, or doing any act in furtherance of the violation. The court may order a preliminary or permanent injunction.

(19) RECORDS OF THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT.—The Department of Law Enforcement, on request, must supply to the agency any arrest and conviction records in its possession of an individual applying for or holding a license under this section.

(20) **CONFLICTING ORDINANCES.**—Any county or municipality may enact ordinances that are in compliance with, but not more restrictive than this section, except that local ordinances shall not require the payment of any fee or tax related to a pawn transaction or purchase unless authorized under this chapter or restrict hours of operations other than between midnight and 6 a.m. Any ordinance that conflicts with this subsection is void. This section does not affect the authority of a county or municipality to establish land use controls or require a pawnbroker to obtain a local occupational license.

(21) **RULEMAKING AUTHORITY.**—The agency has authority to adopt rules pursuant to chapter 120 to implement the provisions of this section.

History.—s. 1, ch. 96-242; s. 19, ch. 97-250; s. 1, ch. 97-304; s. 9, ch. 99-307; s. 52, ch. 2000-154; s. 72, ch. 2000-158; s. 10, ch. 2001-214; s. 1, ch. 2006-143; s. 26, ch. 2011-205; s. 33, ch. 2012-67; s. 38, ch. 2013-251; s. 17, ch. 2014-147; s. 55, ch. 2014-150; s. 69, ch. 2015-2; s. 25, ch. 2016-166.

539.002 Applicability.—Chapter 538 does not apply to pawnbrokers licensed under the Florida Pawnbroking Act. This act does not abrogate any provision of chapters 671-680.

History.—s. 2, ch. 96-242.

539.003 Confidentiality.—All records relating to pawnbroker transactions delivered to appropriate law enforcement officials pursuant to s. 539.001 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be used only for official law enforcement purposes. This section does not prohibit the disclosure by the appropriate law enforcement officials of the name and address of the pawnbroker, the name and address of the conveying customer, or a description of pawned property to the alleged owner of pawned property.

History.—s. 1, ch. 96-241; s. 2, ch. 97-304; s. 1, ch. 2001-151.

ARTICLE VI. - PAWNBROKERS AND SECONDHAND DEALERS [61] :

DIVISION 1. - GENERALLY :

Sec. 9-151. - Definition. :

Any person engaged in the business of purchasing and selling goods of any kind or description having once been used or transferred from the manufacturer to the dealer and then received into the possession of third parties, whether the same consist of books, rags, iron, aluminum or other metals, furniture, fixtures, building materials, appliances, household utensils or articles of personal use, or male or female wearing apparel, jewelry of any kind or description, old gold and silver, outboard motors, bicycles, motor scooters, motor bikes, motorcycles or automotive equipment, is hereby declared to be a secondhand dealer.

(Code 1960, § 20-1)

Sec. 9-152. - Articles kept in enclosed building or structure. :

All articles defined in section 9-151 shall be kept in an enclosed building or structure.

(Code 1960, § 20-11)

Sec. 9-153. - Arrangement of articles. :

All articles purchased or received by a dealer under this division shall be so arranged in stock as to enable the same to be inspected by the police department or any other person in authority.

(Code 1960, § 20-10)

Sec. 9-154. - Written consent required in specified instances. :

It shall be unlawful for any secondhand dealer to buy or receive for sale any goods or chattels or other articles or personal property from the driver of any wagon, cart or other vehicle of the city, or of any licensed contractor or transfer company, without having first

received the written consent of such contractor or the owner or manager of such transfer company or chief or head of the city department in which such wagon, cart or vehicle is used. Such written consent shall be filed for inspection with the records of such secondhand dealer.

(Code 1960, § 20-12)

Sec. 9-155. - Register—Required.

Any person engaged in the business of a secondhand dealer shall keep a register in connection with such business, and at the close of each day or not later than 8:00 a.m. of the succeeding day, shall enter or cause to be entered therein an accurate description of the person from whom any article of personal property is purchased or received. In such register shall also be entered an accurate description of any article of personal property so purchased or received, and such description shall contain any mark, brand, monogram, words or letters blown, stamped, etched or otherwise permanently marked upon such article. The register shall at all times be kept for the inspection and examination of the chief of police or any other person authorized by the chief of police to inspect the same. (Code 1960, § 20-2)

Sec. 9-156. - Same—Transcript furnished chief of police.

All secondhand dealers shall, not later than twelve noon of each day, furnish to the chief of police a full and complete copy or transcript of the register in which is entered the transactions of the preceding day as required by section 9-155. This requirement shall not apply to the tenants of stalls, units, sections, spaces, booths or other designated areas in flea markets as defined by section 9-176 or to operators of flea markets.

(Code 1960, § 20-3; Ord. No. I-120, § 8, 7-15-85)

Sec. 9-157. - Disposal of property within ten days of receipt.

No goods, chattels or articles of personal property of any kind or character purchased by a secondhand dealer shall be sold or otherwise disposed of by any secondhand dealer until ten (10) days have elapsed from the time the chief of police has been furnished with a copy or transcript of the register in which such goods, chattels or articles of personal property are entered; except, however, such secondhand dealer may sell or otherwise dispose of any of such goods or chattels or articles of personal property within the said ten (10) days provided he shall enter or cause to be entered in a register an accurate description of the person to whom such articles of personal property or chattels were sold together with his name, his

residence address or business address, or both, which information shall be furnished to the police department not later than 12:00 o'clock noon on the day following such sale; provided, however, no articles of personal property made of gold, silver, platinum or other precious metals or jewels shall be sold, melted, altered or otherwise disposed of by any secondhand dealer, peddler or itinerant peddler until ten (10) days have elapsed from the time the police department has had made available to it a copy of the register as required in section 9-162 and said articles of gold, silver, platinum or other precious metals or jewels shall not be transferred from within the city limits during said ten-day period of time.

(Code 1960, § 20-13)

State Law reference— Disposition of pledged property by pawnbrokers, F.S. § 715.04.

Sec. 9-158. - Applicability of certain sections. ⋮

Sections 9-151—9-157 shall not apply to repossessions, trade-ins, new goods, new wares, new merchandise or motor vehicles except motor scooters, motorbikes and motorcycles.

(Code 1960, § 20-14)

Sec. 9-159. - Daily report; contents. ⋮

All dealers, in secondhand jewelry, furniture, clothing, radios, musical instruments, pistols, revolvers, one-hand firearms, blackjacks, metallic knuckles, handcuffs or other similar equipment used primarily by police officers, and other secondhand goods, wares, merchandise and material, operating within the city shall file with the chief of police each day a daily report of all such equipment, goods, wares, merchandise and materials, purchased, traded for, pawned to or acquired by them. Such reports shall give a full and accurate description of such equipment, goods, wares, merchandise and materials, so purchased, traded for, pawned to or acquired by them, together with the name and address of the person from whom the same were purchased, traded for, pawned or acquired. Such reports shall be duly verified by the oath of such dealer if an individual, and if a corporation, by the manager or officer in charge of the business thereof in the city.

(Code 1960, § 20-4)

Cross reference— Permit for police equipment, § 11-3.

Sec. 9-160. - Failure to make report; falsely describing articles. ⋮

Any dealer in secondhand equipment, goods, wares, merchandise and materials who shall fail to make the report required by sections 9-159 and 9-162 or who shall falsely describe any such equipment, goods, wares, merchandise and materials, so purchased, traded for, pawned to or acquired, or who shall falsely report the name and address of the person from whom the same were purchased, traded for, pawned or acquired, shall be guilty of a violation of this article and upon conviction thereof the license of such dealer shall thereupon be revoked and cancelled.

(Code 1960, § 20-5)

Sec. 9-161. - Purchase from minors—Authorization; contents. ⋮

No dealer in secondhand jewelry, furniture, clothing, radios, musical instruments, pistols, revolvers, one-hand firearms, blackjacks, metallic knuckles, handcuffs or other similar equipment used primarily by police officers, and other secondhand goods, wares, merchandise and materials, operating within the corporate limits of the city, shall purchase, trade for, take in, pawn or acquire any of such equipment, goods, wares, merchandise and materials, from any person under the age of eighteen (18) years, without obtaining the written authorization of the father, mother or legal guardian of such minor, authorizing such dealer to make such purchase, trade, pawn or acquisition, and fully and accurately describing such equipment, goods, wares, merchandise and materials then being so purchased, traded for, pawned or acquired by such dealer from such minor, and giving the name, address and age of such minor, and the name and address of such father, mother or legal guardian of such minor, and further, unless such written authorization is executed personally by such father, mother or legal guardian in the presence of and witnessed by such dealer at his place of business at the time of such purchase, trade, pawn or acquisition from such minor by such dealer.

(Code 1960, § 20-6)

State Law reference— Purchase from minors, F.S. § 812.051; rights, privileges and obligations of persons eighteen (18) years of age and older, F.S. § 743.07.

Sec. 9-162. - Same—Report to chief of police. ⋮

Every dealer contemplated by this division shall, within twenty-four (24) hours of any purchase, trade, pawning of or acquisition by him from any minor of any secondhand jewelry, furniture, clothing, radios, musical instruments, pistols, revolvers, one-hand firearms,

blackjacks, metallic knuckles, handcuffs or other similar equipment used primarily by police officers, and other secondhand goods, wares, merchandise and materials, file with the chief of police a report of such purchase, trade, pawn or acquisition. Such report shall be in writing under the oath of the dealer and subscribed to by him, and shall fully and accurately describe the equipment, goods, wares, merchandise and materials then being so purchased, traded for, pawned or acquired from such minor. It shall further state fully therein the time of the purchase, trade, pawn or acquisition, and the name, address and age of the minor, together with the name and address of his father, mother or legal guardian executing the authorization, provided that such reports herein required may be filed by such dealers with the chief of police as required by section 9-159.

(Code 1960, § 20-7)

Sec. 9-163. - Same—Corporate agent to make purchases. ⋮

If the dealer contemplated by this division is a corporation, it shall file with the chief of police a written designation which shall be under the seal of such corporation and executed by its president and secretary, which designation shall state the name of the officer, agent, servant or employee designated by such corporation to make and transact its purchases, trades, pawns and acquisitions from minors in the city, and no more than one person shall be so designated therein. No officer, agent, servant or employee of any such corporate dealer shall purchase, trade for, pawn or acquire from any minor any secondhand jewelry, furniture, clothing, radios, musical instruments, pistols, revolvers, one-hand firearms, blackjacks, metallic knuckles, handcuffs or other similar equipment used primarily by police officers, and other secondhand goods, wares, merchandise and materials, unless such officer, agent, servant or employee shall have been designated by such corporate dealer in the manner aforesaid and shall have consented in writing in the presence of and to the chief of police to such designation. All requirements, provisions and prohibitions of this division shall apply with full and equal force to the person so designated and so consenting to such designation.

(Code 1960, § 20-8)

State Law reference— Disposition of pledged property by pawnbrokers, F.S. § 715.04.

Sec. 9-164. - Same—Purchase on Sunday or at night. ⋮

No dealer in secondhand goods shall make any trade, purchase, pawn or acquisition as provided in section 9-161 from a minor on Sunday or at night.

(Code 1960, § 20-9)

Secs. 9-165—9-175. - Reserved.

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TIME _____

JUL 27 2017

CITY OF FT. PIERCE
CITY MANAGER'S OFFICE

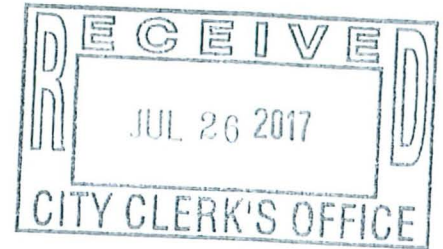
Skip Horne

Herbert Boyd "Skip" Horne, Jr.

2996 Conifer Drive

Fort Pierce, FL 34951

Ph. (772) 464-5080 Cell (772) 284-7000



July 20, 2017

Mayor Linda Hudson

Office of the Mayor & City Commissioners

100 N. U.S. Hwy. 1

Fort Pierce, FL 34950

Re: Pawnbroker Record Keeping Requirements

Dear Mayor Hudson,

I would like to address an issue or ordinance regarding pawnbroker purchasing requirements. According to Detective Morash with the St. Lucie County Sheriff's Department, the City of Fort Pierce does not require a photograph or digital image of items sold to/purchased by pawnbrokers, while the City of Port St. Lucie does require photos/digital images of items purchased.

Please indulge me. I had numerous gold coins stolen, twenty-two (22), and reported the theft to the St. Lucie County Sheriff's Department. They were able to only recover three (3) coins. I was perplexed when I learned of the record keeping requirements for pawnbrokers being so lax. I opened and own **Atlantic Coast Recycling, Inc.**, a **Secondary Metal Recycler**, on Avenue D in Fort Pierce in 1977, forty (40) years ago. My business is required to keep much more data on purchase transactions than a pawnbroker. Along with what is required from a pawnbroker, we must also include their vehicle description, tag number, etc., amongst which **we must also take a photograph, videotape, or digital image of each type metal purchased**, i.e., aluminum cans, copper, lead, etc., **whereas, a pawnbroker in the city of Fort Pierce is not**. Is this asking too much? I think you will agree more stolen items tend to go to a "pawnshop" rather than a "recycling center". I would be partial to consider no one would be predisposed to buy stolen material, but **it does happen!**

I would take interest in seeing the **City of Fort Pierce** adopt an ordinance to require pawnbrokers to take a digital image or photograph of the item being purchased at the time of the transaction, similar to **Port St. Lucie** and **Atlantic Coast Recycling**. There is a gap which needs to be filled.

- Seventeen (17) more coins stolen from me by the alleged thief (the culprit is a relative) cannot be used to prosecute the defendant, according to the State Attorneys's office, because no photo or image was taken by the pawnbroker (Value Pawn) for me to identify the coins. Only a very **generic** description was gathered by this pawnbroker. Although it is too late for my case, this minor change in the ordinance might benefit someone in the future recover what was wrongly taken from them and/or assist in the prosecution of such individuals. Even though the sheriff's department located the buyers of these 17 coins, they weren't recovered, out \$21,000+, present value.
- Photographs would make a much stronger case for the State Attorney.
- And, photographs or digital images would also prove to be a valuable tool for law enforcement. Just ask anyone in the police or sheriff's department.

I believe this refinement to the current ordinance would be a good thing for our community and hope it draws interest and meets with your approval. If this topic is brought up at a commission meeting I would appreciate the opportunity to listen in on this important issue and briefly speak if given a chance. My contacts are listed above....

Thank you, Ms Hudson, for your service to our city. Please thank the Commissioners also for their service as well . And a thank you for your assistance and guidance, Ms Scott.

Sincerely,

A handwritten signature in black ink, appearing to read "Skip Horne", with a long horizontal flourish extending to the right.

Skip Horne

**Encl: (3) Port St. Lucie Ordinance
Page 7 of PSL Ordinance
Secondary Metals Recycler's Record Requirement Statute**

**Cc: Linda Cox, City Clerk
Nicholas Mimms, City Manager**

ENCLOSURE 1 ADDITIONAL INFORMATION



Port St. Lucie Police Department

COUNCIL ITEM 12A
DATE 9-24-12

memorandum

TO : Gregory J. Oravec
City Manager

FROM : John A. Bolduc *JAB*
Chief of Police

DATE : September 20, 2012

SUBJECT : Pawnbroker & Secondhand Dealer Ordinance

It was brought to my attention the recently approved City Ordinance, Chapter 116, Pawnbrokers and Secondhand Dealers was unnecessarily impeding sales for secondhand dealers and consignment shops of household furniture and goods.

The original need for the ordinance was to prevent evidence from residential and auto burglaries from being disposed of without records through pawn shops and secondhand dealers. The ordinance was also constructed to restrict the trade and disposition of possibly stolen items long enough for a proper investigation to reveal their whereabouts. Additionally, the ordinance was constructed to require the documentation of secondhand dealings through a statewide database program which would give investigators the opportunity to locate stolen items before they were sold or disposed of by another means.

After the ordinance was approved and we entered the compliance mode, we began to notice there were some unnecessary and foreseen ramifications of the ordinance. Specifically, the trade and consignment of household furniture and other household items not normally the target of theft during burglaries were being unnecessarily restricted and documented. It is evident the ordinance needed to be amended to more narrowly focus the scope and avoid items that are not normally the target of larceny.

Additionally, during the last legislative session, the Florida Legislation amended F.S.S. 538, which deals with secondhand dealers and secondhand metals recyclers to better define some of the items covered by the law, and clarify which types of businesses should be regulated such as flea markets and estate sales.

I met with the Criminal Investigations Division Commander and the Pawn Compliance Officer and we have drafted language to address these concerns. I met with City Attorney Roger Orr and he has reviewed the recommended amendments and advised us to proceed with placing this matter on the agenda for City Council approval.

Attached, please find the attached Agenda Item Request, as well as a draft of the amended Chapter 116, Port St. Lucie Code of Ordinances. Should you need further information, please contact me at your convenience.

JAB/jk

RECEIVED

SEP 21 2012

City Manager's Office

**PORT ST. LUCIE CITY COUNCIL
AGENDA ITEM REQUEST**

TYPE OF MEETING: REGULAR X SPECIAL

DATE OF MEETING: September 24, 2012

ORDINANCE X RESOLUTION MOTION

OTHER:

ITEM: Chapter 116 Pawnbrokers and Secondhand Dealers

RECOMMENDED ACTION: Approval and Signature

EXHIBITS: Amendment to ordinance

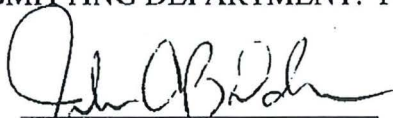
SUMMARY EXPLANATION/BACKGROUND INFORMATION:

IF PRESENTATION IS TO BE MADE, HOW MUCH TIME WILL BE REQUIRED?

5 min.

SUBMITTING DEPARTMENT: Police

BY:


Chief John Bolduc

DATE:

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SEP 21 2012

City Manager's Office

CHAPTER 116 . - PAWNBROKERS AND SECONDHAND DEALERS

Sec. 116 .01. - Title.

This chapter shall be known as the Pawnbroker and Secondhand Dealer Ordinance of the City of Port St. Lucie, Florida.

Sec. 116 .02. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Consignment shop means a shop engaging in the business of accepting for sale, on consignment, secondhand goods which, having once been used or transferred from the manufacturer to the dealer, are then received into the possession of a third party.

Electronic item means any computer and accessories, mobile or desktop; tablets; notebooks, E- readers; I- devices; video game systems; audio and video equipment, including television sets, compact disc players, Blu-ray players, DVD players, radios, amplifiers, receivers, turntables, tape recorders, speakers, and CB radios; radar detectors; telephones, including cellular and portable; calculators; musical instruments; home theater systems; MP3 players; electrical appliances, stove/range, refrigerator; microwave, oven, freezer, washer; dryer; headphones; cameras; electrical marine equipment; GPS navigation systems; air purifiers; dehumidifiers; and AC units.

Pawn means 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 the terms and conditions contained in section 539.001, et seq., Florida Statutes.

Pawnbroker means any person duly licensed under Chapter 539, Florida Statutes, 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. A pawnbroker may also engage in the business of purchasing goods which includes consignment and trade.

Pledge means either of the following transactions:

(a) *Buy-sell agreement* means an agreement whereby a purchaser agrees to hold property for a specified period of time to allow the seller the exclusive right to repurchase the property. A buy-sell agreement is not a loan of money.

(b) *Loan of money* means a written or oral bailment of personal property as security for an engagement or debt, redeemable on certain terms and with the implied power of sale on default.

Precious metals means any item containing any gold, silver, or platinum or any combination thereof, excluding the following:

- (1) Any chemical or any automotive, photographic, electrical, medical, or dental materials or electronic parts.
- (2) Any coin with an intrinsic value less than its numismatic value.
- (3) Any gold bullion coin.
- (4) Any gold, silver, or platinum bullion that has been assayed and that is properly marked as to its weight and fineness.
- (5) Any coin which is mounted in a jewelry setting.

Precious metals dealer means a secondhand dealer who normally or regularly engages in the business of buying used precious metals for resale. The term does not include those persons involved in the bulk sale of precious metals from one secondhand or precious metals dealer to another.

Secondhand dealer means any person who is not a secondary metals recycler and who is engaged in the business of purchasing, consigning, or trading secondhand goods or entering into title loan transactions. However, secondhand dealers are not limited to dealing only in items defined as secondhand goods this section. Except as provided in subsection ~~416.03(A)(1)~~ 116.03(a)(1), the term "secondhand dealer" means jewelers, precious metals dealers, garage sale operators, secondhand stores, and consignment shops.

Secondhand goods means personal property previously owned or used, which is not regulated metals property, regulated under Section 538.18 et seq., Florida Statutes and which is purchased, consigned, or traded as used property. Such secondhand goods do not include household furniture, lamps, glassware, everyday eating utensils, baby/children toys, baby essentials, office furniture, pianos, books, clothing, organs,

coins, motor vehicles, costume jewelry, cardio and strength training or conditioning equipment designed primarily for indoor use and secondhand sports equipment that is ~~not permanently labeled with a~~ does not have a manufacturer's applied serial number. For purposes of this paragraph, "secondhand sports equipment" does not include golf clubs.

Secondhand store means the place or premises at which a secondhand dealer is registered to conduct business as a secondhand dealer or conducts business, including pawnshops.

Title loan means a loan of money secured by bailment of a certificate of title to a motor vehicle. A title loan is not a pawn if the secondhand dealer does not maintain physical possession of the vehicle throughout the term of the transaction.

Transaction means any title loan, purchase, consignment, or pawn of secondhand goods by a secondhand dealer.

Sec. 116.03. - Exemptions.

(a) This chapter does not apply to the following:

(1)

Any secondhand goods transaction involving an organization or entity registered with the state as a nonprofit, religious, or charitable organization or any school-sponsored association or organization other than a secondary metals recycler subject to Section 538.18, et seq., Florida Statutes.

(2) A law enforcement officer acting in an official capacity.

(3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondhand dealer.

(4) Any public official acting under judicial process or authority who has presented proof of such status to the secondhand dealer.

(5) A sale on the execution or by virtue of any process issued by a court, if proof thereof has been presented to the secondhand dealer.

(6) Any garage sale operator who holds garage sales less than four (4) weekends per calendar year. This exemption comports with the provisions of ~~section 155.03(i)~~ section 155.03 (1) prohibiting more than three (3) garage sales per calendar year within the city.

- (7) Any person at antique, coin, or collectible shows or sales.
- (8) Any person who sells household personal property as an agent for the property owner or the owner's representative pursuant to a written agreement at that person's residence.
- (9) The purchase, consignment, or pawn of secondhand goods from one secondhand dealer to another secondhand dealer when the selling secondhand dealer has complied with the requirements of this article.
- (10) Any person accepting a secondhand good, with the exception of any electronic item as defined in 116.02 or any item with a manufacturer's applied serial number, as a trade-in for a similar item of greater value.
- ~~(11) Any person purchasing, consigning, or trading secondhand goods at a flea market regardless of whether at a temporary or permanent business location at the flea market, unless said vendor conducts business transactions otherwise governed by the State of Florida.~~
- ~~(12)~~ (11) Any auction business as defined in Section 468.382(1), Florida Statutes, operating as an auction business in the buying and selling of estates, business inventory, surplus merchandise, or business liquidations.
- (12) Any business that is registered with the State Department of Revenue for sales tax purposes as an antique dealer pursuant to Chapter 212, Florida Statutes, and that purchases secondhand goods from the property owner or such owner's representative at the property owner's residence pursuant to a written agreement that states the name, address, and telephone number of the property owner and the type of property purchased.
- (13) Any person purchasing, consigning, or pawning secondhand goods ordered by mail; computer-assisted shopping; media-assisted, media-facilitated, or media-solicited shopping; or shopping by other means of media communication, including but not limited to direct mail advertising; unsolicited distribution of catalogs; television, radio, or other electronic media; telephone, magazine, or newspaper advertising, so long as such person is in this state at the time of the order.
- (14) A motor vehicle dealer as defined in Section 320.27, Florida Statutes.

(b) This chapter does not apply to secondary metals recyclers regulated under Section 538.18, et seq., Florida Statutes.

Sec. 116.04. - Business tax receipt.

Secondhand dealers, precious metals dealers, pawnbrokers, and junk dealers, shall obtain a City of Port St. Lucie business tax receipt from the city before engaging in business, as required by Section 111.45, Port St. Lucie Code of Ordinances.

Sec. 116.05. - Recordkeeping requirements.

(a) The City of Port St. Lucie Police Department shall designate an electronic reporting system for all pawn and secondhand dealer transactions, and shall provide copies of the electronic reporting system software to all pawnbrokers and secondhand dealers, as necessary.

(b) A pawnbroker shall comply with the recordkeeping requirements set forth in Section 539.001(9), Florida Statutes, including but not limited to electronic transfer to the Port St. Lucie Police Department of all pawn transactions using the electronic reporting system designated by the chief of police.

(c) In addition to the recordkeeping requirements set forth in Section 538.04, Florida Statutes, secondhand dealers shall also comply with the recordkeeping requirements set forth in this section.

(d) A second hand dealer as defined in this chapter shall provide an electronic transaction of all articles of any kind purchased or received using the electronic reporting system designated by the police department pursuant to Sections 538.04 and 539.001(9), Florida Statutes. The electronic transaction record shall at all times during business hours be open to the inspection of the police department. The report shall be a full, true, and complete report of all goods, wares, merchandise, or things received on deposit or purchased the previous day. The report shall contain the following:

- (1) The time, date, and place of the transaction.
- (2) A complete and accurate description of the goods acquired, including digital images, any serial numbers, manufacturer's numbers, or other identifying marks or characteristics.
- (3) A description of the person from whom the goods were acquired, including:

- a. Full name, address, place of employment, and home telephone number.
 - b. Height, weight, date of birth, race, gender, hair color, eye color, and any other identifying marks.
 - c. The right thumbprint, free of smudges and smears, of the person from whom the goods were acquired.
- (4) If any article has engraved thereon a number, word, or initial, or contains settings of any kind, the description of the article in the report shall contain the number, word, or initial and shall show the kind of settings and the number of each kind.
- (5) In the case of a purchase, the amount of money paid for the goods or the monetary value assigned to the goods in connection with the transaction.
- (6) Any other information required by the Florida Department of Law Enforcement.
- (e) A secondhand dealer shall require verification of the identification of the seller by the exhibition of a government-issued photographic identification card such as a driver's license or military identification card. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon.
- (f) A second hand dealer shall require a seller to sign a statement verifying that the seller is the rightful owner of the goods or is entitled to sell the goods.
- (g) Each receipt issued by a secondhand dealer shall be numbered consecutively, and if stubs are used in connection with the record of the transaction retained by the secondhand dealer, each stub shall be numbered consecutively to conform to the receipt.
- (h) The electronic reporting system will provide for an upload of a complete electronic report as described in this section. Each second hand dealer and pawnbroker shall, at the end of each business day, provide an electronic upload to the electronic reporting system of all transactions that occurred during that business day.
- (i) Secondhand dealers are exempt from this section for all transactions involving secondhand sports equipment, except secondhand sports equipment that is permanently labeled with a serial number.

Sec. 116~~2~~.06. - Inspection of records and premises.

(a) The premises and required records of each secondhand dealer and pawnbroker are subject to inspection during regular business hours by the Port St. Lucie Police Department and by any state law enforcement officer who has jurisdiction over the dealer.

(b) The inspection authorized by subsection (a) of this section shall consist of an examination on the premises of the inventory and required records to determine whether the records and inventory are being maintained on the premises as required by Section 116.05, and whether the secondhand dealer or pawnbroker has complied with the holding period requirements of Section 116.07.

Sec. 116.07. - Holding period.

(a) A pawnbroker shall comply with the holding requirements set forth in Section 539.001(9), Florida Statutes.

(b) A secondhand dealer shall comply with the following holding requirements:

(1) A secondhand dealer shall not sell, barter, exchange, alter, adulterate, or in any way dispose of any secondhand goods within thirty (30) calendar days of the date of acquisition of the goods. Such holding period is not applicable when the person known by the secondhand dealer to be the person from whom the goods were acquired desires to redeem, repurchase, or recover the goods, provided the dealer can produce the record of the original transaction with verification that the customer is the person from whom the goods were originally acquired.

(2) A secondhand dealer shall maintain actual physical possession of all secondhand goods throughout a transaction. It is unlawful for a secondhand dealer to accept title or any other form of security in secondhand goods in lieu of actual physical possession.

(3) Upon probable cause that goods held by a secondhand dealer are stolen, a law enforcement officer with jurisdiction may extend the holding period to a maximum of ninety (90) days. The law enforcement officer must make the hold order, and the secondhand dealer must act, in compliance with the provisions of Section 538.06(3), Florida Statutes. However, the holding period may be extended beyond ninety (90) days by a court of competent jurisdiction upon a finding of probable cause that the property is stolen and further holding is necessary for the purposes of trial or to safeguard such property. The dealer shall assume all responsibility, civil or criminal, relative to the property or evidence in question, including responsibility for the actions of any employee with respect thereto.

(4) All dealers in secondhand property regulated by this article shall maintain transaction records for five (5) years.

(c) Subject to the requirements of Chapter 537, Florida Statutes, and the restrictions in Section 538.15, Florida Statutes, a secondhand dealer may engage in a title loan transaction, and the physical possession requirements of Subsection 116.07 (b) (2) of this section shall not apply if the following conditions are met:

(1) The secondhand dealer maintains physical possession of the motor vehicle title.

(2) The owner maintains possession of or control over the motor vehicle throughout the transaction.

(3) The owner is not required to pay rent or any other charge for the use of the motor vehicle.

(4) A secondhand dealer who engages in a motor vehicle title loan transaction has the right to repossess the motor vehicle upon failure of the owner to redeem the title. The secondhand dealer shall only repossess a motor vehicle through an agent who is licensed by the state to repossess motor vehicles. The secondhand dealer may dispose of the motor vehicle as provided in Section 538.16, Florida Statutes. Any sale or disposal of the motor vehicle shall be made through a motor vehicle dealer licensed under Section 320.27, Florida Statutes.

(5) No charges other than those charges permitted in Section 537.011, Florida Statutes, shall be allowed, and such charges shall be fully disclosed, conspicuously in writing, and initialed by the motor vehicle owner at the initiation of the transaction.

Sec. 116~~2~~.08. - Certain acts and practices prohibited.

It is unlawful for a secondhand dealer or any employee of the secondhand dealer to do or allow any of the following acts:

- (a) Knowingly make a transaction with any person who is:
- (1) Under the influence of drugs or alcohol when such condition is visible or apparent;
 - (2) Under the age of eighteen (18) years; or

DRAFT- Amendment to existing Chapter 116 ordinance. Revision date: 9/19/2012.

- (3) Using a name other than such person's own name or the registered name of such person's business.
- (b) Have a secondhand store open or engage in or conduct business as a secondhand dealer between the hours of 10:00 p.m. and 7:00 a.m. A secondhand dealer shall not conduct any transaction at a drive-through window or similar device.
- (c) Fail to pay any sales tax owed to the Florida Department of Revenue or fail to have a sales tax registration number.
- (d) Engage in title loan transactions from at, within or adjoining a licensed pawn shop or secondhand dealer location.
- (e) Use the word "pawn" or "pawnbroker" in any transaction, documentation, advertising or promotional materials, signs, displays, banners, or other materials of any nature relating to the secondhand dealer's business.

Sec. 116.09. - Penalties.

Any person willfully violating the provisions of this chapter, other than clerical or recordkeeping errors, shall be guilty of a misdemeanor punishable by a fine not to exceed five hundred and dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days, or both such fine and imprisonment. Each day of noncompliance with this chapter shall be deemed a separate offense.

Sec. 116.10. - Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

ENCLOSURE 2

DRAFT- Amendment to existing Chapter 116 ordinance. Revision date: 9/19/2012.

(b) This chapter does not apply to secondary metals recyclers regulated under Section 538.18, et seq., Florida Statutes.

Sec. 116 .04. - Business tax receipt.

Secondhand dealers, precious metals dealers, pawnbrokers, and junk dealers, shall obtain a City of Port St. Lucie business tax receipt from the city before engaging in business, as required by Section 111.45, Port St. Lucie Code of Ordinances.

Sec. 116 .05. - Recordkeeping requirements.

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(b) A pawnbroker shall comply with the recordkeeping requirements set forth in Section 539.001(9), Florida Statutes, including but not limited to electronic transfer to the Port St. Lucie Police Department of all pawn transactions using the electronic reporting system designated by the chief of police.

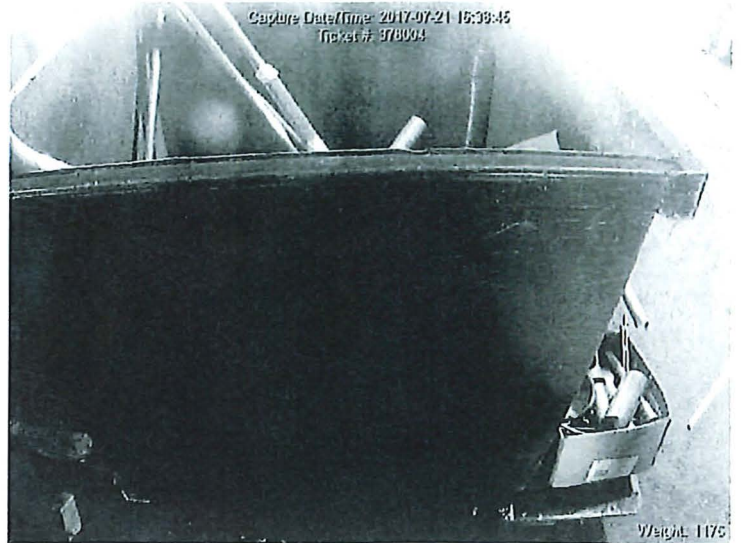
(c) In addition to the recordkeeping requirements set forth in Section 538.04, Florida Statutes, secondhand dealers shall also comply with the recordkeeping requirements set forth in this section.

(d) A second hand dealer as defined in this chapter shall provide an electronic transaction of all articles of any kind purchased or received using the electronic reporting system designated by the police department pursuant to Sections 538.04 and 539.001(9), Florida Statutes. The electronic transaction record shall at all times during business hours be open to the inspection of the police department. The report shall be a full, true, and complete report of all goods, wares, merchandise, or things received on deposit or purchased the previous day. The report shall contain the following:

- (1) The time, date, and place of the transaction.
- (2) A complete and accurate description of the goods acquired, including digital images, any serial numbers, manufacturer's numbers, or other identifying marks or characteristics.
- (3) A description of the person from whom the goods were acquired, including:



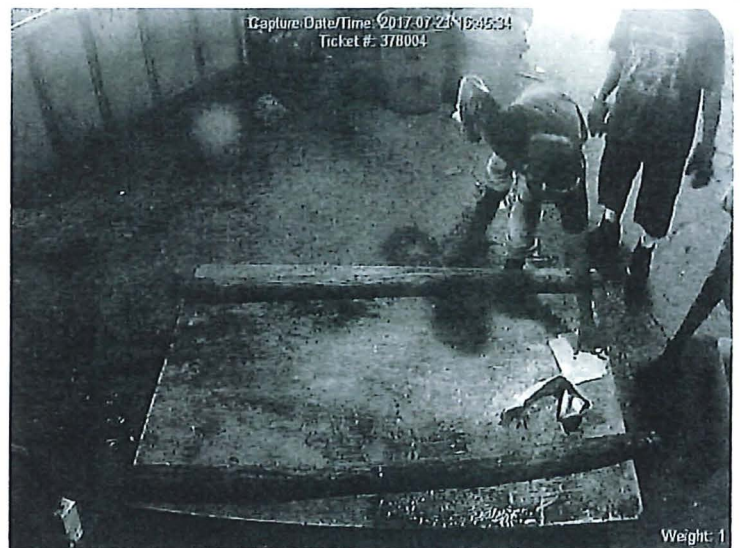
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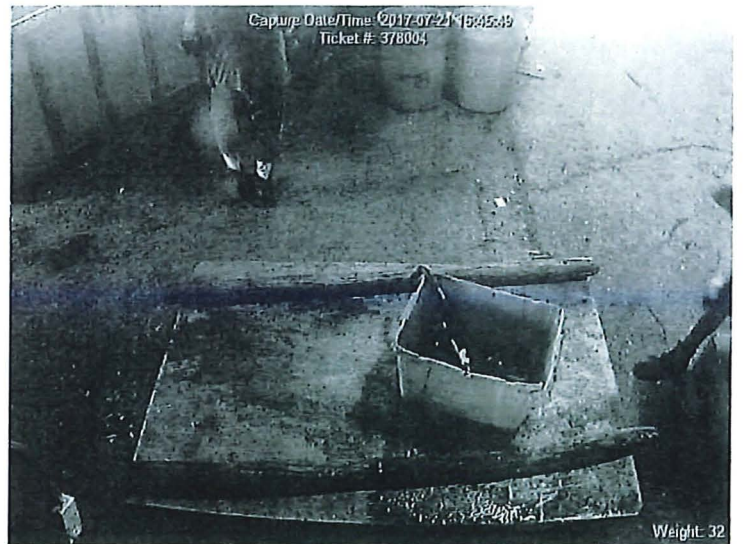
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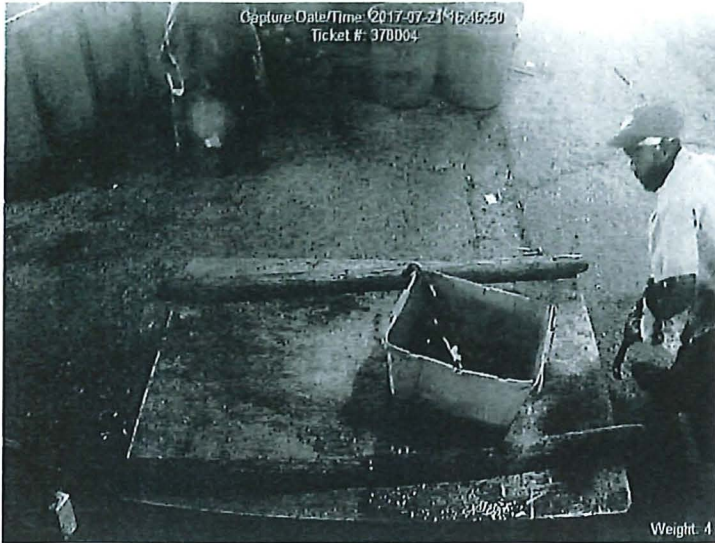
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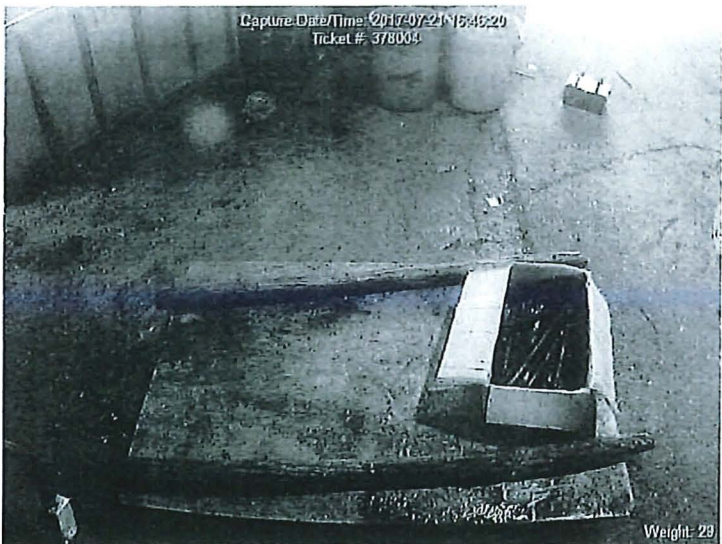
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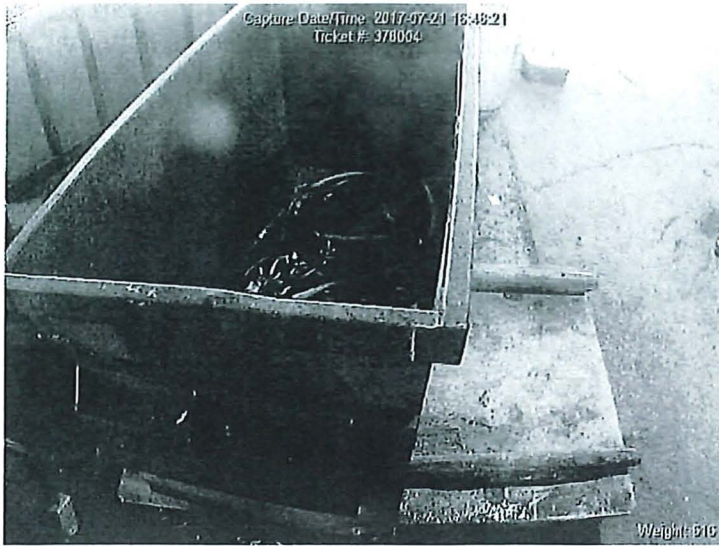
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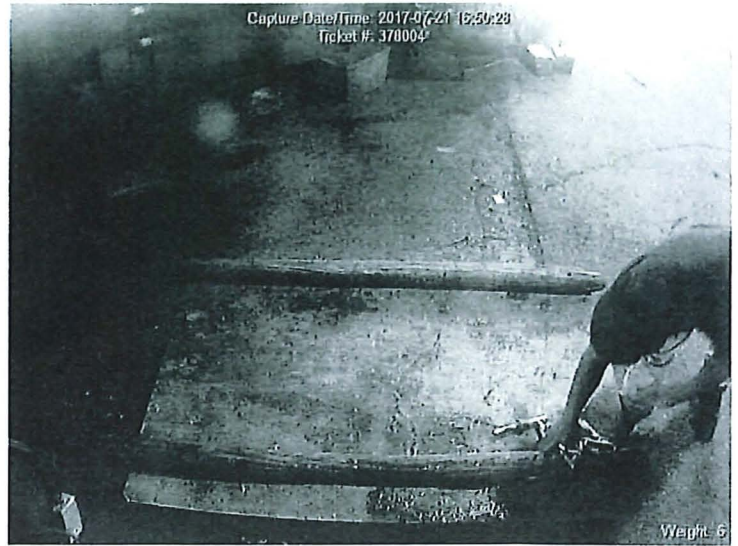
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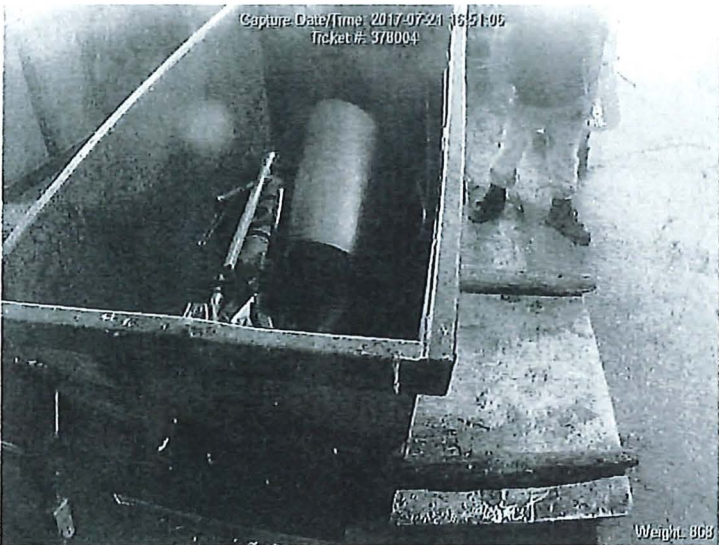
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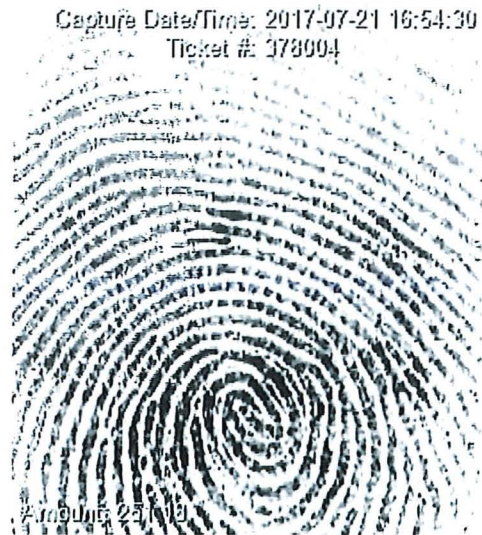
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