

Regular Session, 2010

HOUSE BILL NO. 448

BY REPRESENTATIVE FOIL

COMMERCE: Provides for changes to reporting requirements of secondhand dealers

1 AN ACT

2 To amend and reenact R.S. 37:1864.1(A), 1866, and 1867(A), relative to secondhand
3 dealers; to require secondhand dealers to photograph merchandise that is purchased;
4 to provide for changes to daily reports required by secondhand dealers; to provide
5 for the location of items purchased by a secondhand dealer; and to provide for related
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 37:1864.1(A), 1866, and 1867(A) are hereby amended and reenacted
9 to read as follows:

10 §1864.1. Photographic and other records; exceptions

11 A.(1) In addition to the information required in R.S. 37:1864, every
12 secondhand dealer shall be required to obtain a photograph of a person selling or
13 delivering merchandise or articles to the dealer. The quality of such photograph shall
14 be sufficient readily to identify the person depicted. In lieu of the photograph of the
15 person selling or delivering the merchandise, the dealer may obtain either a
16 thumbprint of such person, the quality of which thumbprint shall be sufficient to
17 identify the person, or ~~the number of the person's valid driver's license~~ a photocopy
18 of the person's Louisiana driver's license, driver's license from another state,
19 passport, military identification, or identification issued by a governmental agency
20 or the United States Postal Service. Each photograph, thumbprint, or ~~valid driver's~~

1 ~~license number photocopy~~, as the case may be, shall be cross-referenced with the
2 ledger entry required by R.S. 37:1864. The photograph, thumbprint, or ~~valid driver's~~
3 ~~license number photocopy~~ shall be preserved for a period of at least a year.

4 (2) Pursuant to a request from a law enforcement agency, a secondhand
5 dealer shall be required to capture photographically used merchandise or articles
6 purchased pursuant to R.S. 37:1864(A). Photographs shall be made available to the
7 law enforcement agency within twenty-four hours after the request.

8 * * *

9 §1866. Daily report of entries

10 A.(1) Every ~~person~~, ~~secondhand dealer~~ licensed under the provisions of this
11 Part shall make out and deliver to the ~~superintendent~~ chief of police of the city or
12 town or to the sheriff of the parish in which he is doing business, every day before
13 the hour of twelve o'clock noon, a legible and correct copy of the entries in the book
14 mentioned in R.S. 37:1864 during the previous day or on such less frequent basis as
15 is required by the chief of police or sheriff. ~~The name given by the person making~~
16 a sale shall be furnished the superintendent of police or sheriff when they specially
17 request it. The means for providing the transactional information required under this
18 Section shall be one of the following:

19 (a) By electronic transmission if the secondhand dealer has the means
20 available to make transmissions in electronic form.

21 (b) By placing in the United States mail.

22 (c) By sending a facsimile.

23 (2) In the event transactional information is transmitted electronically
24 pursuant to Subparagraph (1)(a) of this Paragraph, the appropriate law enforcement
25 official may, for purposes of an investigation of a crime relating to a particular
26 secondhand transaction, request the secondhand dealer to mail or fax such official
27 the personally identifiable information relating to such transaction under
28 investigation. The secondhand dealer shall deliver the personally identifiable
29 information relating to the identified transaction to the appropriate law enforcement

1 official within twenty-four hours of the request. In the event the secondhand dealer
2 transfers information in printed form pursuant to Subparagraph (1)(b) or (c) of this
3 Paragraph, the secondhand dealer shall not also be required to transmit such
4 information in electronic form pursuant to Subparagraph (1)(a) of this Paragraph.

5 B. The secondhand dealer shall have the responsibility of tendering the
6 information provided for in Subsection A of this Section regardless of its use or
7 nonuse by the chief of police in the city or town in which he is doing business or,
8 alternatively, to the sheriff of the parish in which he is doing business. The tender
9 of this information is a courtesy mandated by state law and which provides a benefit
10 to the general public. The chief of police or sheriff shall not be mandated to take any
11 particular action concerning the information tendered.

12 * * *

13 §1867. Disposal or changing identity prohibited during thirty-day period; exceptions

14 A. No secondhand dealer shall sell or dispose of or change or destroy the
15 identity of any goods, articles, or things purchased by him before an interval of thirty
16 calendar days from the date of purchase has elapsed. During the thirty calendar days
17 after purchase, a secondhand dealer shall keep the purchased goods, articles, or
18 things on the premises of the secondhand dealer's business location or shall make the
19 item immediately available upon request by a law enforcement agency. Any
20 secondhand dealer may sell, dispose of, change, or destroy any goods, article, or
21 thing purchased by him from a client without any delay, provided that the dealer can
22 prove that the client had valid title to the goods, article, or thing of which he intends
23 to dispose.

24 * * *

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Foil

HB No. 448

Abstract: Requires secondhand dealers to photograph their purchased merchandise and changes their reporting requirements to local authorities.

Present law requires every secondhand dealer to maintain a book or ledger setting forth each purchase of secondhand or used merchandise when the value of any single piece of merchandise or article received, or any single lot of used building components, shall be \$25 or more for each single transaction. Each ledger entry shall be entered at the time of each transaction and shall contain an accurate description in the English language of the merchandise or article received including serial numbers of said objects, if distinguishable, along with the amount paid therefor.

Proposed law retains present law but requires a secondhand dealer to submit a photograph of purchased merchandise or articles to a law enforcement agency within 24 hours if requested to do so by that agency.

Present law requires every secondhand dealer to obtain one of the following: (1) a photograph of a person selling or delivering merchandise or articles to the dealer; (2) a thumbprint of such person, the quality of which thumbprint shall be sufficient to identify the person; or (3) the number of the person's valid driver's license.

Proposed law retains present law but requires that a secondhand dealer get a photocopy of a government-issued identification instead of the person's driver's license number.

Present law requires every person, licensed under the provisions of present law to make out and deliver to the superintendent of police of the city or town or to the sheriff of the parish in which he is doing business, every day before the hour of 12 noon, a legible and correct copy of the entries in the book during the previous day.

Proposed law retains present law but also provides that the means for providing the transactional information shall be one of the following:

- (1) By electronic transmission if the secondhand dealer has the means available to make transmissions in electronic form.
- (2) By placing in the U.S. mail.
- (3) By sending a facsimile.

Proposed law provides that in the event transactional information is transmitted electronically, the appropriate law enforcement official may, for purposes of an investigation of a crime relating to a particular transaction, request the secondhand dealer to mail or fax such official the personally identifiable information relating to such transaction under investigation. The secondhand dealer shall deliver the personally identifiable information relating to the identified transaction to the appropriate law enforcement official within 24 hours of the request. In the event the secondhand dealer transfers information in printed form, the secondhand dealer shall not also be required to transmit such information in electronic form.

Proposed law provides that secondhand dealers shall have the responsibility of tendering the information requested by authorities regardless of its use or nonuse by the chief of police in the city or town in which he is doing business or, alternatively, to the sheriff of the parish in which he is doing business. The chief of police or sheriff shall not be mandated to take any particular action concerning the information tendered.

Present law prohibits a secondhand dealer from selling or disposing of or changing or destroying the identity of any goods, articles, or things purchased by him before an interval of 30 calendar days from the date of purchase has elapsed.

Proposed law retains present law but provides that the secondhand dealer keep the purchased item on the premises of the business or make it readily accessible upon request by a law enforcement agency.

(Amends R.S. 37:1864.1(A), 1866, and 1867(A))