

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) and to enact R.S. 37:1862.1,  
3 relative to secondhand dealers; to provide for record and reporting requirements; to  
4 require secondhand dealers to photograph merchandise that is purchased; to provide  
5 for changes to daily reports required by secondhand dealers; to provide for the  
6 location of items purchased by a secondhand dealer; and to provide for related  
7 matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. R.S. 37:1864.1(A), 1866, and 1867(A) are hereby amended and reenacted  
10 and R.S. 37:1862.1 is hereby enacted to read as follows:

11 §1862.1. Record and reporting requirements; application

12 The provisions of R.S. 37:1864, 1864.1, 1865, and 1866 shall not apply to a  
13 person operating as a secondhand dealer pursuant to R.S. 37:1785. Persons  
14 operating as secondhand dealers pursuant to R.S. 37:1785 shall be subject to the  
15 record acquisition, maintenance, and reporting requirements of R.S. 37:1796, 1797,  
16 and 1798.

17 \* \* \*

18 §1864.1. Photographic and other records; exceptions

19 A.(1) In addition to the information required in R.S. 37:1864, every  
20 secondhand dealer shall be required to obtain a photograph of a person selling or

1 delivering merchandise or articles to the dealer. The quality of such photograph shall  
 2 be sufficient readily to identify the person depicted. In lieu of the photograph of the  
 3 person selling or delivering the merchandise, the dealer may obtain either a  
 4 thumbprint of such person, the quality of which thumbprint shall be sufficient to  
 5 identify the person, or ~~the number of the person's valid driver's license~~ a photocopy  
 6 of the person's Louisiana driver's license, driver's license from another state,  
 7 passport, military identification, or identification issued by a governmental agency  
 8 or the United States Postal Service. Each photograph, thumbprint, or ~~valid driver's~~  
 9 ~~license number~~ photocopy, as the case may be, shall be cross-referenced with the  
 10 ledger entry required by R.S. 37:1864. The photograph, thumbprint, or ~~valid driver's~~  
 11 ~~license number~~ photocopy shall be preserved for a period of at least a year.

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

16 \* \* \*

17 §1866. Daily report of entries

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

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

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

29 (c) By sending a facsimile.

1           (2) In the event transactional information is transmitted electronically  
2           pursuant to Subparagraph (1)(a) of this Subsection, the appropriate law enforcement  
3           official may, for purposes of an investigation of a crime relating to a particular  
4           secondhand transaction, request the secondhand dealer to mail or fax such official  
5           the personally identifiable information relating to such transaction under  
6           investigation. The secondhand dealer shall deliver the personally identifiable  
7           information relating to the identified transaction to the appropriate law enforcement  
8           official within twenty-four hours of the request. In the event the secondhand dealer  
9           transfers information in printed form pursuant to Subparagraph (1)(b) or (1)(c) of  
10           this Subsection, the secondhand dealer shall not also be required to transmit such  
11           information in electronic form pursuant to Subparagraph (1)(a) of this Subsection.

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

19           §1867. Disposal or changing identity prohibited during thirty-day period; exceptions

20           A. No secondhand dealer shall sell or dispose of or change or destroy the  
21           identity of any goods, articles, or things purchased by him before an interval of thirty  
22           calendar days from the date of purchase has elapsed. During the thirty calendar days  
23           after purchase, a secondhand dealer shall keep the purchased goods, articles, or  
24           things on the premises of the secondhand dealer's business location or at such other  
25           location within the parish where the secondhand dealer's business is located and the  
26           item was purchased. In all instances, a secondhand dealer shall make the item  
27           immediately available upon request by a law enforcement agency. Any secondhand  
28           dealer may sell, dispose of, change, or destroy any goods, article, or thing purchased

1 by him from a client without any delay, provided that the dealer can prove that the  
2 client had valid title to the goods, article, or thing of which he intends to dispose.

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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)]

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HB No. 448

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

Proposed law provides that a pawnbroker also operating as a secondhand dealer shall be subject to the record acquisition, maintenance, and reporting requirements of pawnbrokers.

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 at such location within the parish where the secondhand dealer's business is located. A secondhand dealer shall make purchased items readily accessible upon request by a law enforcement agency.

(Amends R.S. 37:1864.1(A), 1866, and 1867(A); Adds R.S. 37:1862.1)

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Provided that a pawnbroker also operating as a secondhand dealer shall be subject to the record acquisition, maintenance, and reporting requirements of pawnbrokers.
2. Removed a provision as to when secondhand dealers report to the chief of police or sheriff.
3. Clarified that purchased goods, articles, or things be located in the parish where the secondhand business is located.