

STORAGE NAME: h4023a.leps

DATE: April 15, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
Law Enforcement and Public Safety
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4023

RELATING TO: Pawnbroking and Secondhand Dealers

SPONSOR(S): Representative Bloom and Others

COMPANION BILL(S): SB 1138 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) BUSINESS REGULATION AND CONSUMER AFFAIRS (W/D)
 - (2) LAW ENFORCEMENT AND PUBLIC SAFETY YEAS 6 NAYS 0
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

House Bill 4023 amends s. 539.001, F.S., establishing the sheriff's agency, or the chief law enforcement agency of the county where there is no sheriff's agency, as the designated repository of all pawnbroker transactions. It further provides that all law enforcement agencies must submit copies of all pawnbroker transactions on a transaction form approved by the sheriff or director of public safety. The time of submission and content of the form shall be determined in consultation with the other law enforcement agencies.

The bill also amends s. 538.04, F.S., providing that when an appropriate law enforcement agency supplies appropriate software to a secondhand dealer, the transactions of secondhand goods shall be electronically transmitted to the appropriate law enforcement agency. If the secondhand dealer does not have computer capabilities, the appropriate law enforcement agency may supply the secondhand dealer a computer and software for the purpose of electronic transfers, provided the secondhand dealer maintains the equipment. If transactions are electronically transferred, the secondhand dealer is not required to deliver the original copy of the transaction form to the appropriate law enforcement agency but must retain the original form and deliver it to the agency within 24 hours, if a criminal investigation is underway.

Finally, the bill amends s. 812.022, F.S., providing that proof of possession of recently stolen property gives rise to a presumption, rather than an inference, that a person should have known that the property was stolen. The selling of goods substantially below market value would also give rise to a presumption rather than an inference the seller should have the goods were stolen.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 539.001(9)(a), F.S., requires a pawnbroker to complete a pawnbroker transaction form and retain the form on the premises of the business for at least one year. Before the end of the business day, the pawnbroker must deliver to the appropriate law enforcement agency, the original transaction form for each transaction that occurred the previously day. In those instances where the pawnbroker has computer equipment and the law enforcement agency provided appropriate software, the transaction may be electronically transmitted. When the transaction is electronically transmitted, the pawnbroker must retain the original form but, if a criminal investigation occurs, the form must be delivered to the appropriate law enforcement agency within 24 hours. The appropriate law enforcement agency is defined as the sheriff in which the pawnshop is located or the municipality where the shop is located. However, any sheriff or chief of police may designate an appropriate law enforcement agency for the purposes of delivering the pawnbroker transaction form. The pawnbroker transaction form, which is established pursuant to s. 539.001(8), F.S., and requires over 30 items relating to the pawnbroker, the goods, and the pledgor or seller, must be approved by the Division of Consumer Services of the Department of Agriculture and Consumer Affairs.

Section 538.04, F.S., requires a secondhand dealer to maintain records of all secondhand transactions and, within 24 hours of acquiring the secondhand goods, must deliver to the chief of police or the sheriff a record of the transaction. The record must be on a form approved by the Florida Department of Law Enforcement. The form must contain the time, date, and place of the transaction; a detailed description of the goods; the description of the seller including the seller's home and work address; a statement that the seller is the rightful owner of the goods or is authorized to sell the goods; and any other information required by the department.

Section 812.022(2), F.S., establishes that proof of possession of recently stolen property, unless satisfactorily explained, gives rise to an inference that the person possessing the goods should have know that the goods were stolen. Section 812.022(3), F.S., provided that when goods are sold or bought at substantially at below market value without explanation, it gives rise to an inference that the person who bought or sold the goods should have know the goods were stolen.

B. EFFECT OF PROPOSED CHANGES:

House Bill 4023 would amend s. 539.001, F.S., establishing the sheriff's agency, or the chief law enforcement agency of the county where there is no sheriff's agency, as the designated repository of all pawnbroker transactions. It would further provide that all law enforcement agencies must submit copies of all pawnbroker transactions on a transaction form approved by the sheriff or director of public safety. The time of submission and content of the form shall be determined in consultation with the other law enforcement agencies.

The bill would also amend s. 538.04, F.S., providing that when an appropriate law enforcement agency supplies appropriate software to a secondhand dealer, the transactions of secondhand goods shall be electronically transmitted. If the secondhand

dealer does not have computer capabilities, the appropriate law enforcement agency may supply the secondhand dealer a computer and software for the purpose of electronic transfers, provided the secondhand dealer maintain the equipment. If transactions are electronically transmitted, the secondhand dealer is not required to deliver the original copy of the transaction form to the appropriate law enforcement agency but must retain the original form and deliver it to the agency within 24 hours if a criminal investigation is underway.

Finally, the bill would amend s. 812.022(2), F.S., providing proof that possession of recently stolen property gives rise to a **presumption** rather than an **inference** that a person should have known that the property was stolen. Also, s. 812.022(3), F.S., would be amended to provide that the selling of goods substantially below market value would also give rise to a **presumption** rather than an **inference** the seller should have the goods were stolen.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b. Does the bill require or authorize an increase in any fees?

N/A

c. Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

STORAGE NAME: h4023a.leps

DATE: April 15, 1998

PAGE 5

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

N/A

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Sections 538.04, 539.001 and 812.022 F.S.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

A cost could be incurred when the sheriff provides a computer to the pawnbroker or secondhand dealer.

STORAGE NAME: h4023a.leps

DATE: April 15, 1998

PAGE 7

2. Recurring Effects:

A transmission cost could be incurred when the pawnbroker or secondhand dealer electronically transmit the forms to the sheriff.

3. Long Run Effects Other Than Normal Growth:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

If an appropriate law enforcement agency provides the secondhand dealer with a computer, then the secondhand dealer must maintain it which could result in a maintenance cost.

2. Direct Private Sector Benefits:

N/A

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

The Florida Sheriffs' Association Statewide Task Force has developed a database known as the Florida Sheriffs' Property Recovery Database. Members of this Task Force, in cooperation with representatives of the Florida Chiefs of Police Association and the Florida Pawnbrokers Association (which includes Secondhand Dealers) have developed a database that collects and stores all information that is statutorily required by the "Pawnbroker Transaction Form." The database is maintained by the Statewide Task Force and will be available to all law enforcement agencies, pawnbrokers and secondhand dealer. The system will also be interfaced with the Florida Department of Law Enforcement's Florida Crime Information System (FCIC) so that pawned and secondhand goods can be matched with the FCIC stolen property files.

Section 539.003, F.S., exempts all pawnbroker transaction from the provisions of s. 119.07(secondhand dealer) and s. 24(a), Art. I of the State Constitution. However, law enforcement officials are not prohibited from disclosing the name and address of the pawnbroker, the conveying customer, or a description of the pawned property the an alleged owner. This exemption does not apply to secondhand dealer.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Amendment number 1 amends s. 539.001(8)(a), F.S., providing that the Division of Consumer Services of the Department of Agriculture and Consumer Services must consult with the Florida Department of Law Enforcement when approving the design and format of the pawnbrokers transaction form.

Amendment number 2 removed from the bill the provision that would have amended s. 812.022, F.S., providing that proof of possession of recently stolen property gives rise to a presumption, rather than an inference, that a person should have known that the property was stolen. The selling of goods substantially below market value would also give rise to a presumption rather than an inference the seller should have the goods were stolen.

Amendment number 3 amends s. 539.001(9), F.S., mandating a statewide collecting and accessing system of pawnshop tickets and secondhand dealer information. The system shall be administered by the Florida Sheriffs' Association, shall include the Florida Sheriffs' Property Recovery Database, and shall be the officially recognized statewide data base for all pawnshop ticket and secondhand dealer information. Any law enforcement official who meets the requirements of the Florida Sheriffs' Association shall have access to the system. The Sheriffs shall be designated as the central repository of all pawnshop tickets and secondhand dealer information and the information shall be collected and delivered to the Sheriffs in a manner prescribed by the Florida Sheriffs' Association. The Statewide Task Force of the Florida Sheriffs' Association shall establish standards and requirements for transmitting and transferring the information into the system as well as access approval and fees.

STORAGE NAME: h4023a.leps

DATE: April 15, 1998

PAGE 9

VII. SIGNATURES:

COMMITTEE ON LAW ENFORCEMENT AND PUBLIC SAFETY:

Prepared by:

Legislative Research Director:

James S. Trunzo

Kurt E. Ahrendt

AS REVISED BY THE COMMITTEE ON Law Enforcement and Public Safety:

Prepared by:

Legislative Research Director:

James s. Trunzo

Kurt E. Ahrendt