

SECONDHAND SALES AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel W. Thatcher

House Sponsor: Lee B. Perry

LONG TITLE

General Description:

This bill modifies the Pawnshop and Secondhand Merchandise Transaction Information Act.

Highlighted Provisions:

This bill:

► provides an exemption to the 15-day holding period for secondhand merchandise that is ~~Ō→ [valued less than \$50]~~ **a retail media item, including recorded music, a movie, or a video game , [and]** ~~←Ō~~ that ~~Ō→~~ **is paid for as specified, and that** ~~←Ō~~ does not contain:

- a serial number or other identifiable marks; or
- any identifiable marks that appear to have been intentionally defaced.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-32a-109, as last amended by Laws of Utah 2013, Chapter 124

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **13-32a-109** is amended to read:

13-32a-109. Holding period for articles -- Penalty.

S.B. 162



28 (1) (a) A pawnbroker may sell an article pawned to the pawnbroker if:

29 (i) 15 days have passed since the day on which the contract between the pawnbroker
30 and the pledgor was executed;

31 (ii) the contract period between the pawnbroker and the pledgor has expired; and

32 (iii) the pawnbroker has complied with the requirements of Section 13-32a-106
33 regarding reporting to the central database and Section 13-32a-103.

34 (b) If an article, including scrap jewelry, is purchased by a pawn or secondhand
35 business or a coin dealer, the pawn or secondhand business or coin dealer may sell the article
36 after the pawn or secondhand business or coin dealer has held the article for 15 days and
37 complied with the requirements of Section 13-32a-106 regarding reporting to the central
38 database and Section 13-32a-103, except that pawn, secondhand, and coin dealer businesses are
39 not required to hold:

40 (i) precious metals or coins under this Subsection (1)(b)[~~:-~~]; or

41 (ii) any ~~item valued at less than \$50 and~~ **retail media item, including recorded**
41a **music, a movie, or a video game, that is produced and distributed in hard copy format for**
41b **retail sale and that is the subject of a transaction with the retail establishment that involves**
41c **only a credit for future purchases and that does not involve cash, credit or debit cards, or a**
41d **retail establishment gift card, and** ~~that does not~~ **contain** ~~:~~ :

42 (A) ~~a serial number or other~~ ~~identifying numbers~~ ~~or~~ ~~marks~~ ~~,~~ ~~or~~
42a **any indication of ownership** ~~;~~ ; or

43 (B) a serial number or other identifying numbers or marks that appear to be
44 intentionally defaced.

45 (c) This Subsection (1) does not preclude a law enforcement agency from requiring a
46 pawn or secondhand business to hold an article if necessary in the course of an investigation.

47 (i) If the article was pawned, the law enforcement agency may require the article be
48 held beyond the terms of the contract between the pledgor and the pawn broker.

49 (ii) If the article was sold to the pawn or secondhand business, the law enforcement
50 agency may require the article be held if the pawn or secondhand business has not sold the
51 article.

52 (d) If the law enforcement agency requesting a hold on property under this Subsection
53 (1) is not the local law enforcement agency, the requesting law enforcement agency shall notify
54 the local law enforcement agency of the request and also the pawn or secondhand business.

55 (2) If a law enforcement agency requires the pawn or secondhand business to hold an
56 article as part of an investigation, the agency shall provide to the pawn or secondhand business
57 a hold ticket issued by the agency, which:

58 (a) states the active case number;

59 (b) confirms the date of the hold request and the article to be held; and

60 (c) facilitates the ability of the pawn or secondhand business to track the article when
61 the prosecution takes over the case.

62 (3) If an article is not seized by a law enforcement agency that has placed a hold on the
63 property, the property shall remain in the custody of the pawn or secondhand business until
64 further disposition by the law enforcement agency, and as consistent with this chapter.

65 (4) The initial hold by a law enforcement agency is for a period of 90 days. If the
66 article is not seized by the law enforcement agency, the article shall remain in the custody of
67 the pawn or secondhand business and is subject to the hold unless exigent circumstances
68 require the purchased or pawned article to be seized by the law enforcement agency.

69 (5) (a) A law enforcement agency may extend any hold for up to an additional 90 days
70 when exigent circumstances require the extension.

71 (b) When there is an extension of a hold under Subsection (5)(a), the requesting law
72 enforcement agency shall notify the pawn or secondhand business that is subject to the hold
73 prior to the expiration of the initial 90 days.

74 (c) A law enforcement agency may not hold an item for more than the 180 days
75 allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

76 (6) A hold on an article under Subsection (2) takes precedence over any request to
77 claim or purchase the article subject to the hold.

78 (7) When the purpose for the hold on or seizure of an article is terminated, the law
79 enforcement agency requiring the hold or seizure shall within 15 days after the termination:

80 (a) notify the pawn or secondhand business in writing that the hold or seizure has been
81 terminated;

82 (b) return the article subject to the seizure to the pawn or secondhand business; or

83 (c) if the article is not returned to the pawn or secondhand business, advise the pawn or
84 secondhand business either in writing or electronically of the specific alternative disposition of
85 the article.

86 (8) If the law enforcement agency does not notify the pawn or secondhand business
87 that a hold on an item has expired, the pawn or secondhand business shall send a letter by
88 registered or certified mail to the law enforcement agency that ordered the hold and inform the
89 agency that the holding period has expired. The law enforcement agency shall respond within

90 30 days by:

91 (a) confirming that the holding period has expired and that the pawn or secondhand
92 business may manage the item as if acquired in the ordinary course of business; or

93 (b) providing written notice to the pawn or secondhand business that a court order has
94 continued the period of time for which the item shall be held.

95 (9) The written notice under Subsection (8)(b) is considered provided when:

96 (a) personally delivered to the pawn or secondhand business with a signed receipt of
97 delivery;

98 (b) delivered to the pawn or secondhand business by registered or certified mail; or

99 (c) delivered by any other means with the mutual assent of the law enforcement agency
100 and the pawn or secondhand business.

101 (10) If the law enforcement agency does not respond within 30 days under Subsection
102 (8), the pawn or secondhand business may manage the item as if acquired in the ordinary
103 course of business.

104 (11) A violation of this section is a class B misdemeanor and is also subject to civil
105 penalties under Section [13-32a-110](#).

Legislative Review Note
as of 1-20-14 12:15 PM

Office of Legislative Research and General Counsel