

28 77-24b-103, Utah Code Annotated 1953

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

30 Section 1. Section 13-33-101 is enacted to read:

31 **CHAPTER 33. PAWNSHOP TRANSACTION INFORMATION ACT**

32 **13-33-101. Title.**

33 This chapter is known as the "Pawnshop Transaction Information Act."

34 Section 2. Section 13-33-102 is enacted to read:

35 **13-33-102. Definitions.**

36 As used in this chapter:

37 (1) "Local law enforcement agency" means a law enforcement agency within whose
38 jurisdiction the pawnshop is located or that agency's designee.

39 (2) "Pawn":

40 (a) means to place personal property with a pawnbroker as collateral for a loan or advance
41 of money or as exchange for another item of personal property; and

42 (b) includes trading or selling personal property to a pawnbroker.

43 (3) "Pawn ticket" means the pawn transaction ticket, on which is recorded information
44 regarding the pawn and the original signature and fingerprint of the person pawning an item.

45 (4) "Pawnbroker" means a person who:

46 (a) loans money on deposit of personal property, or deals in the purchase, exchange, or
47 possession of personal property on condition of selling the same property back again to the pledgor
48 or depositor;

49 (b) loans or advances money on personal property by taking chattel mortgage security on
50 the property and takes or receives the personal property into his possession, and who sells the
51 unredeemed pledges; or

52 (c) receives personal property in exchange for money or in trade for other personal
53 property.

54 (5) "Register" means the record where information required under this chapter is
55 maintained by the pawnbroker. The register is either:

56 (a) a book or similar form of written record; or

57 (b) an electronic record in a format that is compatible with the local law enforcement
58 agencies' computer systems in order to facilitate transmission of register information.

59 Section 3. Section **13-33-103** is enacted to read:

60 **13-33-103. Compliance with criminal code.**

61 Every pawnbroker shall, regarding each article pawned, comply with the requirements of
62 Subsections 76-6-408(2)(d)(i) through (iii) regarding the legal right to the property, and the
63 providing of finger print and picture identification.

64 Section 4. Section **13-33-104** is enacted to read:

65 **13-33-104. Register required to be maintained -- Contents.**

66 Every pawnbroker shall keep a register in which the pawnbroker or his employee shall
67 enter a description of every article pawned to him. The register entry for each article shall include:

68 (1) the date and time of the transaction;

69 (2) the pawn transaction ticket number;

70 (3) the date by which the article must be redeemed;

71 (4) the following information regarding the person who pawns the article:

72 (a) the person's name and date of birth;

73 (b) the person's physical description, including gender, height, weight, race, age, and hair
74 color, based on identification provided by the person, and may also include the pawnbroker's visual
75 assessment of the person; and

76 (c) the drivers license number or other form of positive identification issued by a
77 governmental entity and containing a numerical identifier and a photograph of the person;

78 (5) the amount loaned on or paid for the article, or the item for which it was traded;

79 (6) the identification of the pawnbroker or his employee making the register entry; and

80 (7) an accurate description of the article, including available identifying marks such as:

81 (a) names, numbers, serial numbers, model numbers, color, marks, monograms,

82 trademarks, and manufacturers' names;

83 (b) the metallic composition, and any jewels, stones, or glass;

84 (c) any other marks of identification or indicia of ownership on the item; and

85 (d) the weight of the item, if the payment is based on weight.

86 Section 5. Section **13-33-105** is enacted to read:

87 **13-33-105. Transaction information provided to law enforcement.**

88 (1) The information required to be recorded under Sections 13-33-103 and 13-33-104
89 regarding each transaction, and that is capable of being transmitted electronically, shall be

90 transmitted to the local law enforcement agency one business day after the transaction.

91 (2) The pawnbroker shall maintain all pawn tickets generated by the pawnshop and shall
92 make them available to local law enforcement agencies as required by local ordinance and as
93 requested by a law enforcement agency as part of an investigation.

94 Section 6. Section **13-33-106** is enacted to read:

95 **13-33-106. Retention of records.**

96 (1) A pawnbroker shall retain the electronic transaction records required under this section
97 for not fewer than three years from the date of the transaction.

98 (2) The pawnbroker or law enforcement agency, whichever has custody of pawn tickets,
99 shall retain them for not fewer than three years from the date of the transaction.

100 Section 7. Section **13-33-107** is enacted to read:

101 **13-33-107. Holding period for pawned articles -- Items seized or held for**
102 **investigation.**

103 (1) The pawnbroker shall hold all articles pawned to him for not fewer than 30 days after
104 the date of receipt of the article, except that the pawnbroker may within this time period return an
105 article to the person who pawned the item.

106 (2) This section does not preclude a law enforcement agency from requiring that an article
107 be held longer than 30 days as necessary in the course of an investigation.

108 (3) If a law enforcement agency seizes an item or requires the pawnbroker to hold an item
109 as part of an investigation, the agency shall provide to the pawnbroker an active case number on
110 a form issued by the agency, which:

111 (a) states the date of the seizure or hold request and the item or items seized or to be held;
112 and

113 (b) facilitates the pawnbroker's ability to track the item or items when the prosecution
114 takes over the case.

115 (4) (a) A hold on an item under this section takes precedence over any request to claim or
116 purchase the item subject to the hold.

117 (b) When the purpose for the hold on the item is terminated, the law enforcement agency
118 requiring the hold shall within 15 days of the termination notify the pawnbroker in writing or
119 electronically that:

120 (i) the item is no longer subject to the hold; or

121 (ii) the item is subject to a specified alternative disposition.

122 Section 8. Section **13-33-108** is enacted to read:

123 **13-33-108. Deadline for registers to be electronic -- Notice for updating.**

124 (1) On and after January 1, 2001, each pawnbroker in the state that generates 50 or more
125 pawn transactions per month shall maintain the register in an electronic format that is compatible
126 with the computer systems of the local law enforcement agencies.

127 (2) On and after January 1, 2001, a pawnbroker shall pay to the local law enforcement
128 agency a fee of \$1 for each pawn transaction report required under Section 13-33-104 that is
129 submitted as a written pawn ticket rather than electronically.

130 (3) The local law enforcement agency shall establish written procedure to provide that
131 when its computer system that receives the register is upgraded, the affected pawnbrokers have
132 adequate notice and time to upgrade their computer systems to ensure compatibility with the law
133 enforcement agency computer system.

134 Section 9. Section **13-33-109** is enacted to read:

135 **13-33-109. Penalties.**

136 (1) A violation of any of the following sections is a class C misdemeanor:

137 (a) Section 13-33-104, register required to be maintained;

138 (b) Section 13-33-105, transaction information provided to law enforcement;

139 (c) Section 13-33-106, retention of records; or

140 (d) Section 13-33-107, holding period for pawned articles.

141 (2) This section does not prohibit civil action by a governmental entity regarding the
142 pawnbroker's business operation.

143 Section 10. Section **63-2-304** is amended to read:

144 **63-2-304. Protected records.**

145 The following records are protected if properly classified by a governmental entity:

146 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
147 provided the governmental entity with the information specified in Section 63-2-308;

148 (2) commercial information or nonindividual financial information obtained from a person
149 if:

150 (a) disclosure of the information could reasonably be expected to result in unfair
151 competitive injury to the person submitting the information or would impair the ability of the

152 governmental entity to obtain necessary information in the future;

153 (b) the person submitting the information has a greater interest in prohibiting access than
154 the public in obtaining access; and

155 (c) the person submitting the information has provided the governmental entity with the
156 information specified in Section 63-2-308;

157 (3) commercial or financial information acquired or prepared by a governmental entity to
158 the extent that disclosure would lead to financial speculations in currencies, securities, or
159 commodities that will interfere with a planned transaction by the governmental entity or cause
160 substantial financial injury to the governmental entity or state economy;

161 (4) records the disclosure of which could cause commercial injury to, or confer a
162 competitive advantage upon a potential or actual competitor of, a commercial project entity as
163 defined in Subsection 11-13-3(3);

164 (5) test questions and answers to be used in future license, certification, registration,
165 employment, or academic examinations;

166 (6) records the disclosure of which would impair governmental procurement proceedings
167 or give an unfair advantage to any person proposing to enter into a contract or agreement with a
168 governmental entity, except that this subsection does not restrict the right of a person to see bids
169 submitted to or by a governmental entity after bidding has closed;

170 (7) records that would identify real property or the appraisal or estimated value of real or
171 personal property, including intellectual property, under consideration for public acquisition before
172 any rights to the property are acquired unless:

173 (a) public interest in obtaining access to the information outweighs the governmental
174 entity's need to acquire the property on the best terms possible;

175 (b) the information has already been disclosed to persons not employed by or under a duty
176 of confidentiality to the entity;

177 (c) in the case of records that would identify property, potential sellers of the described
178 property have already learned of the governmental entity's plans to acquire the property; or

179 (d) in the case of records that would identify the appraisal or estimated value of property,
180 the potential sellers have already learned of the governmental entity's estimated value of the
181 property;

182 (8) records prepared in contemplation of sale, exchange, lease, rental, or other

183 compensated transaction of real or personal property including intellectual property, which, if
184 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value of
185 the subject property, unless:

186 (a) the public interest in access outweighs the interests in restricting access, including the
187 governmental entity's interest in maximizing the financial benefit of the transaction; or

188 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of the
189 value of the subject property have already been disclosed to persons not employed by or under a
190 duty of confidentiality to the entity;

191 (9) records created or maintained for civil, criminal, or administrative enforcement
192 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
193 release of the records:

194 (a) reasonably could be expected to interfere with investigations undertaken for
195 enforcement, discipline, licensing, certification, or registration purposes;

196 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
197 proceedings;

198 (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

199 (d) reasonably could be expected to disclose the identity of a source who is not generally
200 known outside of government and, in the case of a record compiled in the course of an
201 investigation, disclose information furnished by a source not generally known outside of
202 government if disclosure would compromise the source; or

203 (e) reasonably could be expected to disclose investigative or audit techniques, procedures,
204 policies, or orders not generally known outside of government if disclosure would interfere with
205 enforcement or audit efforts;

206 (10) records the disclosure of which would jeopardize the life or safety of an individual;

207 (11) records the disclosure of which would jeopardize the security of governmental
208 property, governmental programs, or governmental record-keeping systems from damage, theft,
209 or other appropriation or use contrary to law or public policy;

210 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
211 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
212 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

213 (13) records that, if disclosed, would reveal recommendations made to the Board of

214 Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board
215 of Pardons and Parole, or the Department of Human Services that are based on the employee's or
216 contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;

217 (14) records and audit workpapers that identify audit, collection, and operational
218 procedures and methods used by the State Tax Commission, if disclosure would interfere with
219 audits or collections;

220 (15) records of a governmental audit agency relating to an ongoing or planned audit until
221 the final audit is released;

222 (16) records prepared by or on behalf of a governmental entity solely in anticipation of
223 litigation that are not available under the rules of discovery;

224 (17) records disclosing an attorney's work product, including the mental impressions or
225 legal theories of an attorney or other representative of a governmental entity concerning litigation;

226 (18) records of communications between a governmental entity and an attorney
227 representing, retained, or employed by the governmental entity if the communications would be
228 privileged as provided in Section 78-24-8;

229 (19) personal files of a legislator, including personal correspondence to or from a member
230 of the Legislature, but not correspondence that gives notice of legislative action or policy;

231 (20) (a) records in the custody or control of the Office of Legislative Research and General
232 Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or
233 contemplated course of action before the legislator has elected to support the legislation or course
234 of action, or made the legislation or course of action public; and

235 (b) for purposes of this Subsection (20), a "Request For Legislation" submitted to the
236 Office of Legislative Research and General Counsel is a public document unless a legislator
237 submits the "Request For Legislation" with a request that it be maintained as a protected record
238 until such time as the legislator elects to make the legislation or course of action public;

239 (21) research requests from legislators to the Office of Legislative Research and General
240 Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response
241 to these requests;

242 (22) drafts, unless otherwise classified as public;

243 (23) records concerning a governmental entity's strategy about collective bargaining or
244 pending litigation;

245 (24) records of investigations of loss occurrences and analyses of loss occurrences that
246 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured
247 Employers' Fund, or similar divisions in other governmental entities;

248 (25) records, other than personnel evaluations, that contain a personal recommendation
249 concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal
250 privacy, or disclosure is not in the public interest;

251 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
252 resources that if known would jeopardize the security of those resources or of valuable historic,
253 scientific, educational, or cultural information;

254 (27) records of independent state agencies if the disclosure of the records would conflict
255 with the fiduciary obligations of the agency;

256 (28) records of a public institution of higher education regarding tenure evaluations,
257 appointments, applications for admissions, retention decisions, and promotions, which could be
258 properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public
259 Meetings, provided that records of the final decisions about tenure, appointments, retention,
260 promotions, or those students admitted, may not be classified as protected under this section;

261 (29) records of the governor's office, including budget recommendations, legislative
262 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
263 policies or contemplated courses of action before the governor has implemented or rejected those
264 policies or courses of action or made them public;

265 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
266 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
267 recommendations in these areas;

268 (31) records provided by the United States or by a government entity outside the state that
269 are given to the governmental entity with a requirement that they be managed as protected records
270 if the providing entity certifies that the record would not be subject to public disclosure if retained
271 by it;

272 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
273 except as provided in Section 52-4-7;

274 (33) records that would reveal the contents of settlement negotiations but not including
275 final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

276 (34) memoranda prepared by staff and used in the decision-making process by an
277 administrative law judge, a member of the Board of Pardons and Parole, or a member of any other
278 body charged by law with performing a quasi-judicial function;

279 (35) records that would reveal negotiations regarding assistance or incentives offered by
280 or requested from a governmental entity for the purpose of encouraging a person to expand or
281 locate a business in Utah, but only if disclosure would result in actual economic harm to the person
282 or place the governmental entity at a competitive disadvantage, but this section may not be used
283 to restrict access to a record evidencing a final contract;

284 (36) materials to which access must be limited for purposes of securing or maintaining the
285 governmental entity's proprietary protection of intellectual property rights including patents,
286 copyrights, and trade secrets;

287 (37) the name of a donor or a prospective donor to a governmental entity, including a
288 public institution of higher education, and other information concerning the donation that could
289 reasonably be expected to reveal the identity of the donor, provided that:

290 (a) the donor requests anonymity in writing;

291 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
292 classified protected by the governmental entity under this Subsection (37); and

293 (c) except for public institutions of higher education, the governmental unit to which the
294 donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no
295 regulatory or legislative authority over the donor, a member of his immediate family, or any entity
296 owned or controlled by the donor or his immediate family; [and]

297 (38) the following records of a public institution of education, which have been developed,
298 discovered, or received by or on behalf of faculty, staff, employees, or students of the institution:
299 unpublished lecture notes, unpublished research notes and data, unpublished manuscripts, creative
300 works in process, scholarly correspondence, and confidential information contained in research
301 proposals. Nothing in this Subsection (38) shall be construed to affect the ownership of a
302 record[-]; and

303 (39) records provided by any pawnbroker to a law enforcement agency in compliance with
304 Title 13, Chapter 33, Pawnshop Transaction Information Act.

305 Section 11. Section **76-6-408** is amended to read:

306 **76-6-408. Receiving stolen property -- Duties of pawnbrokers and secondhand**

307 **dealers.**

308 (1) As used in this section:

309 (a) "Pawnbroker" means a person who:

310 (i) loans money on deposit of personal property, or deals in the purchase, exchange, or
311 possession of personal property on condition of selling the same property back again to the pledgor
312 or depositor;

313 (ii) loans or advances money on personal property by taking chattel mortgage security on
314 the property and takes or receives the personal property into his possession, and who sells the
315 unredeemed pledges; or

316 (iii) receives personal property in exchange for money or in trade for other personal
317 property.

318 (b) "Receives" means acquiring possession, control, or title or lending on the security of
319 the property.

320 (c) (i) "Secondhand dealer" means a person who owns or operates a business dealing in:

321 (A) the purchase, sale, or exchange of used or secondhand merchandise or personal
322 property; or

323 (B) the collecting of used or secondhand merchandise or personal property.

324 (ii) The business of a secondhand dealer does not include:

325 (A) selling or purchasing items at a swap meet or flea market as defined in Section
326 13-32-102;

327 (B) events where used or secondhand property are sold and that are organized for the
328 exclusive benefit of any community chest, fund, foundation, association, or corporation organized
329 and operated exclusively for religious, educational, or charitable purposes;

330 (C) a usually informal sale that is not conducted as part of an ongoing business, where
331 miscellaneous used household or personal articles are made available for sale by the owners of the
332 articles, and which is often referred to as a garage sale or yard sale;

333 (D) the sale of a motor vehicle or trailer that is required to be registered or is subject to the
334 certificate of title laws of this state; or

335 (E) the business of a scrap metal processor as defined in Section 76-10-901.

336 ~~[(1)]~~ (2) A person commits theft if he receives, retains, or disposes of the property of
337 another knowing that it has been stolen, or believing that it probably has been stolen, or who

338 conceals, sells, withholds or aids in concealing, selling, or withholding the property from the
339 owner, knowing the property to be stolen, intending to deprive the owner of it.

340 ~~[(2)]~~ (3) The knowledge or belief required for Subsection ~~[(1)]~~ (2) is presumed in the case
341 of an actor who:

342 (a) is found in possession or control of other property stolen on a separate occasion;

343 (b) has received other stolen property within the year preceding the receiving offense
344 charged;

345 (c) being a dealer in property of the sort received, retained, or disposed, acquires it for a
346 consideration which he knows is far below its reasonable value; or

347 (d) ~~[if the value given for the property exceeds \$20,]~~ is a pawnbroker or ~~[person who has~~
348 ~~or operates a business dealing in or collecting used or secondhand merchandise or personal~~
349 ~~property]~~ secondhand dealer, or an agent, employee, or representative of a pawnbroker or ~~[person~~
350 ~~who buys, receives, or obtains property]~~ secondhand dealer and fails to require the seller or person
351 delivering the property to:

352 (i) certify, in writing, that he has the legal rights to sell the property;

353 (ii) provide a legible print, preferably the right thumb, at the bottom of the certificate next
354 to his signature; and

355 (iii) provide at least one ~~[other]~~ positive form of ~~[picture]~~ identification issued by a
356 governmental entity and containing a numerical identifier and a photograph of the person.

357 ~~[(3)]~~ (4) Every pawnbroker or ~~[person who has or operates a business dealing in or~~
358 ~~collecting used or secondhand merchandise or personal property]~~ secondhand dealer, and every
359 agent, employee, or representative of a pawnbroker or ~~[person]~~ secondhand dealer who fails to
360 comply with the requirements of Subsection ~~[(2)]~~ (3)(d) ~~[shall be]~~ is presumed to have bought,
361 received, or obtained the property knowing it to have been stolen or unlawfully obtained. This
362 presumption may be rebutted by proof.

363 ~~[(4)]~~ (5) When, in a prosecution under this section, it appears from the evidence that the
364 defendant was a pawnbroker or a ~~[person who has or operates a business dealing in or collecting~~
365 ~~used or secondhand merchandise or personal property]~~ secondhand dealer, or was an agent,
366 employee, or representative of a pawnbroker or ~~[person]~~ secondhand dealer, and that the defendant
367 bought, received, concealed, or withheld the property without obtaining the information required
368 in Subsection ~~[(2)]~~ (3)(d), then the burden ~~[shall be]~~ is upon the defendant to show that the

369 property bought, received, or obtained was not stolen.

370 ~~[(5)]~~ (6) Subsections ~~[(2)]~~ (3)(d), ~~[(3)]~~ (4), and ~~[(4)]~~ (5) do not apply to scrap metal
371 processors as defined in Section 76-10-901.

372 ~~[(6) As used in this section:]~~

373 ~~[(a) "Receives" means acquiring possession, control, or title or lending on the security of~~
374 ~~the property;]~~

375 ~~[(b) "Dealer" means a person in the business of buying or selling goods.]~~

376 Section 12. Section **77-24b-101** is enacted to read:

377 **CHAPTER 24b. LAW ENFORCEMENT REPORTS REGARDING PROPERTY**
378 **SEIZED FROM SECONDHAND DEALERS**

379 **77-24b-101. Title.**

380 This chapter is known as "Law Enforcement Reports Regarding Property Seized from
381 Secondhand Dealers."

382 Section 13. Section **77-24b-102** is enacted to read:

383 **77-24b-102. Definitions.**

384 As used in this chapter, "secondhand dealer" means both pawnbrokers and secondhand
385 dealers as each is defined in Section 76-6-408.

386 Section 14. Section **77-24b-103** is enacted to read:

387 **77-24b-103. Reporting secondhand dealer's property seized by law enforcement.**

388 (1) Each law enforcement agency shall annually create a written report for the preceding
389 year beginning on July 1, regarding any property the agency seized from a secondhand dealer as
390 part of a case investigation. The report shall include:

391 (a) the number of items seized; and

392 (b) the type of business from which the item was seized, such as from a pawnshop,
393 secondhand goods store, or antique store.

394 (2) (a) The report for the preceding year under Subsection (1) shall be made available to
395 the public electronically or in print not later than October 1.

396 (b) Copies of the report for the preceding year shall be provided not later than October 1
397 to the:

398 (i) Commission on Criminal and Juvenile Justice; and

399 (ii) Law Enforcement and Criminal Justice Interim Committee of the Legislature.

Legislative Review Note
as of 11-16-99 3:18 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel