

S.B. 62

PERSONAL PROPERTY TRANSACTIONS AMENDMENTS

HOUSE FLOOR AMENDMENTS

AMENDMENT 2

FEBRUARY 28, 2005 11:23 AM

Representative **Rebecca D. Lockhart** proposes the following amendments:

1. *Page 1, Line 13:*

13 a penalty for unlawful use. This bill provides that items sold to the pawnbroker need not be held for 30 days before they may be sold by the pawnbroker. This bill changes the criminal penalties for violation of the

2. *Page 1, Line 26:*

26 purposes;

= ▶ provides that items sold to the pawnbroker may be resold without being subject to the 30 day waiting period that applies to pawned items;

3. *Page 2, Lines 42 through 43:*

42 13-32a-107, as enacted by Chapter 299, Laws of Utah 2004

13-32a-109, as enacted by Chapter 299, Laws of Utah 2004

43 13-32a-110, as enacted by Chapter 299, Laws of Utah 2004

4. *Page 7, Lines 202 through 203:*

202 upgrade their computer systems so the systems are compatible with the upgraded central

203 database.

Section 7. Section 13-32A-109 is amended to read:

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

(1) (a) The pawnbroker shall hold all articles pawned ~~{or sold}~~ to him for not fewer than 30 days after the date of receipt of the article, except that the pawnbroker may within this time period return an article to the person who pawned it.

(b) This Subsection (1) does not preclude a law enforcement agency from requiring a pawnbroker to hold an article longer than 30 days if necessary in the course of an investigation.

(2) If a law enforcement agency seizes an article or requires the pawnbroker to hold an article as part of an investigation, the agency shall provide to the pawnbroker a hold ticket issued by the agency, which:

(a) states the active case number;

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

(c) facilitates the pawnbroker's ability to track the article when the prosecution takes over the

case.

(3) If an article is not seized by a law enforcement agency that has placed a hold on the property, the property may remain in the custody of the pawnbroker until further disposition by the law enforcement agency, and as consistent with this chapter.

(4) The initial hold by a law enforcement agency is for a period of 45 days. If the article is not seized by the law enforcement agency, the article shall remain in the custody of the pawnshop and is subject to the hold unless exigent circumstances require the pawned article to be seized by the law enforcement agency.

(5) (a) A law enforcement agency may extend any hold for up to an additional 45 days when exigent circumstances require the extension.

(b) When there is an extension of a hold under Subsection (5)(a), the requesting law enforcement agency shall notify the pawnshop subject to the hold prior to the expiration of the initial 45 days.

(c) A law enforcement agency may not hold an item for more than the 90 days allowed under Subsections (5)(a) and (b) without obtaining a court order authorizing the hold.

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

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

(a) notify the pawnshop in writing that the hold or seizure has been terminated;

(b) return the article subject to the seizure to the pawnbroker; or

(c) if the article is not returned to the pawnbroker, advise the pawnbroker either in writing or electronically of the specific alternative disposition of the article.

(8) If the article is subject to an investigation and a criminal prosecution results, the prosecuting agency shall, upon disposition of the case, request restitution to the pawnbroker for the crimes perpetrated against the pawnshop as a victim of theft by deception in addition to the request for restitution to the original victim.

(9) If the original victim of the theft of the property files a police report and the property is subsequently located at a pawnshop, the victim must fully cooperate with the prosecution of the crimes perpetrated against the pawnshop as a victim of theft by deception, in order to qualify for restitution regarding the property.

(10) If the victim does not wish to pursue criminal charges or does not cooperate in the prosecution of the property theft against the defendant and the theft by deception committed against the pawnshop, then the original victim must pay to the pawnshop the amount of money financed by the pawnshop to the defendant in order to obtain the property.

(11) (a) The victim's cooperation in the prosecution of the property crimes and in the prosecution of the theft by deception offense committed against the pawnshop suspends the requirements of Subsections (9) and (10).

(b) If the victim cooperates in the prosecution under Subsection (11)(a) and the defendants are convicted, the prosecuting agency shall direct the pawnshop to turn over the property to the

victim.

(c) Upon receipt of notice from the prosecuting agency that the property must be turned over to the victim, the pawnshop shall return the property to the victim as soon as reasonably possible.

(12) A pawnshop must fully cooperate in the prosecution of the property crimes committed against the original victim and the property crime of theft by deception committed against the pawnshop in order to participate in any court-ordered restitution.

(13) At all times during the course of a criminal investigation and subsequent prosecution, the article subject to a law enforcement hold shall be kept secure by the pawnshop subject to the hold unless the pawned article has been seized by the law enforcement agency.

Renumber remaining sections accordingly.