

26           ▶ requires a pawnshop or secondhand business to retain possession of an item until  
 27 the resolution of the criminal adjudication or investigation, unless ~~it~~ [:  
 28 ~~—————▶] ~~←it~~ the course of the criminal investigation requires the seizure of the item ~~it~~ [;or]  
 29 [~~—————•—~~ ~~the item has been held for 180 days and the holding period has lapsed and no~~  
 30 ~~person has been charged~~] . ~~←it~~~~

31 **Money Appropriated in this Bill:**

32           None

33 **Other Special Clauses:**

34           None

35 **Utah Code Sections Affected:**

36 AMENDS:

37           **13-32a-109**, as last amended by Laws of Utah 2009, Chapter 272

38           **13-32a-109.5**, as last amended by Laws of Utah 2009, Chapter 272

39           **13-32a-109.8**, as last amended by Laws of Utah 2010, Chapter 378



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

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

43           **13-32a-109. Holding period for articles.**

44           (1) (a) The pawnbroker may sell any article pawned to the pawnbroker:

45           (i) after the expiration of the contract period between the pawnbroker and the pledgor;

46 and

47           (ii) if the pawnbroker has complied with the requirements of Section 13-32a-106  
 48 regarding reporting to the central database and Section 13-32a-103.

49           (b) If an article, including scrap jewelry, is purchased by a pawn or secondhand  
 50 business or a coin dealer, the pawn or secondhand business or coin dealer may sell the article  
 51 after the pawn or secondhand business or coin dealer has held the article for 15 days and  
 52 complied with the requirements of Section 13-32a-106 regarding reporting to the central  
 53 database and Section 13-32a-103, except that pawn, secondhand, and coin dealer businesses are  
 54 not required to hold precious metals or coins under this Subsection (1)(b).

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

150 against the pawn or secondhand business as a victim of theft by deception; and

151 (b) request restitution for the original victim.

152 (2) If the original victim of the theft of the property files a police report and the  
153 property is subsequently located at a pawn or secondhand business, the victim shall fully  
154 cooperate with the prosecution of the crimes perpetrated against the pawn or secondhand  
155 business as a victim of theft by deception, in order to qualify for restitution regarding the  
156 property.

157 (3) If the original victim does not pursue criminal charges or does not cooperate in the  
158 prosecution of the property theft crimes charged against the defendant and the theft by  
159 deception charges committed against the pawn or secondhand business, then the original victim  
160 shall pay to the pawn or secondhand business the amount of money financed or paid by the  
161 pawn or secondhand business to the defendant in order to obtain the property.

162 (4) (a) The victim's cooperation in the prosecution of the property crimes and in the  
163 prosecution of the theft by deception offense committed against the pawn or secondhand  
164 business suspends the requirements of Subsections (2) and (3).

165 (b) If the victim cooperates in the prosecution under Subsection (4)(a) and the  
166 defendants are convicted, the prosecuting agency shall direct the pawn or secondhand business  
167 to turn over the property to the victim.

168 (c) Upon receipt of notice from the prosecuting agency that the property ~~[must]~~ shall be  
169 turned over to the victim, the pawn or secondhand business shall return the property to the  
170 victim as soon as reasonably possible.

171 (5) The pawnshop or secondhand business shall retain possession of the item until the  
172 resolution of the criminal adjudication or investigation, unless ~~H→~~ [‡

173 ~~— (a) necessary] ←H~~ during the course of a criminal investigation ~~H→~~ [and] the ←H  
173a actual physical  
174 possession ~~H→~~ by law enforcement ←H of an article purchased or pawned is essential ~~H→~~ [to a  
174a law enforcement] for the ←H purpose of:

175 ~~H→~~ [(i)] (a) ~~←H~~ fingerprinting of an article;

176 ~~H→~~ [(ii)] (b) ~~←H~~ chemical testing of an article;

177 ~~H→~~ [(iii)] (c) ~~←H~~ use of an article as an exhibit at trial, as authorized by the prosecutor; or

178 ~~H→~~ [(iv)] (d) ~~←H~~ if the article contains unique or sensitive personal identifying  
178a information; or

179 ~~H→~~ [(b) the item has been held for a period of 180 days, the holding period has lapsed, and  
180 no one has been formally charged or indicted.] ←H