

1 **SECOND-HAND STORE AMENDMENTS**

2 2016 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Rebecca P. Edwards**

5 Senate Sponsor: Deidre M. Henderson

7 **LONG TITLE**

8 **General Description:**

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

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ exempts children's product resale businesses from the reporting and holding period
14 requirements regarding secondhand merchandise dealers; and
15 ▶ defines "children's product resale business" and "children's product."

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 13-32a-102, as last amended by Laws of Utah 2013, Chapters 124 and 187

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

25 Section 1. Section 13-32a-102 is amended to read:

26 **13-32a-102. Definitions.**

27 As used in this chapter:



28 (1) "Account" means the Pawnbroker and Secondhand Merchandise Operations
29 Restricted Account created in Section [13-32a-113](#).
30 (2) "Antique item" means an item:
31 (a) that is generally older than 25 years;
32 (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;
33 (c) that is furniture or other decorative objects produced in a previous time period, as
34 distinguished from new items of a similar nature; and
35 (d) obtained from auctions, estate sales, other antique shops, and individuals.

36 (3) "Antique shop" means a business operating at an established location and that
37 offers for sale antique items.

38 (4) "Board" means the Pawnshop and Secondhand Merchandise Advisory Board
39 created by this chapter.

40 (5) "Central database" or "database" means the electronic database created and
41 operated under Section [13-32a-105](#).

42 (6) "Children's product" means used items that are for the exclusive use of children, or
43 for the care of children, including clothing and toys.

44 (7) "Children's product resale business" means a business operating at a commercial
45 location and that primarily sells children's products.

46 [~~(6)~~] (8) "Coin" means a piece of currency, usually metallic and usually in the shape of
47 a disc that is:

- 48 (a) stamped metal, and issued by a government as monetary currency; or
- 49 (b) (i) worth more than its current value as currency; and
- 50 (ii) worth more than its metal content value.

51 [~~(7)~~] (9) "Coin dealer" means a person or business whose sole business activity is the
52 selling and purchasing of coins and precious metals.

53 [~~(8)~~] (10) "Commercial grade precious metals" or "precious metals" means ingots,
54 monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the
55 refiner or fabricator indicating their fineness and include:

- 56 (a) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious
57 metals; or
- 58 (b) .925 fine sterling silver ingots, art bars, and medallions.

59 [¶] (11) "Division" means the Division of Consumer Protection in Title 13, Chapter
60 1, Department of Commerce.

61 [¶] (12) "Identification" means a valid U.S. federal or state-issued photo ID,
62 including a U.S. passport, a U.S. passport card, a U.S. military ID, and a driver license.

63 [¶] (13) "Local law enforcement agency" means the law enforcement agency that
64 has direct responsibility for ensuring compliance with central database reporting requirements
65 for the jurisdiction where the pawnshop or secondhand business is located.

66 [¶] (14) "Misappropriated" means stolen, embezzled, converted, obtained by theft,
67 or otherwise appropriated without authority of the lawful owner.

68 [¶] (15) "Original victim" means a victim who is not a party to the pawn or sale
69 transaction and includes:

70 (a) an authorized representative designated in writing by the original victim; and
71 (b) an insurer who has indemnified the original victim for the loss of the described
72 property.

73 [¶] (16) "Pawnbroker" means a person whose business engages in the following
74 activities:

75 (a) loans money on one or more deposits of personal property;
76 (b) deals in the purchase, exchange, or possession of personal property on condition of
77 selling the same property back again to the pledgor or depositor;

78 (c) loans or advances money on personal property by taking chattel mortgage security
79 on the property and takes or receives the personal property into his possession, and who sells
80 the unredeemed pledges;

81 (d) deals in the purchase, exchange, or sale of used or secondhand merchandise or
82 personal property; or

83 (e) engages in a licensed business enterprise as a pawnshop.

84 [¶] (17) "Pawn and secondhand business" means any business operated by a
85 pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.

86 [¶] (18) "Pawn ticket" means a document upon which information regarding a pawn
87 transaction is entered when the pawn transaction is made.

88 [¶] (19) "Pawn transaction" means an extension of credit in which an individual
89 delivers property to a pawnbroker for an advance of money and retains the right to redeem the

90 property for the redemption price within a fixed period of time.

91 [§18] (20) "Pawnshop" means the physical location or premises where a pawnbroker
92 conducts business.

93 [§19] (21) "Pledgor" means a person who conducts a pawn transaction with a
94 pawnshop.

95 [§20] (22) "Property" means any tangible personal property.

96 [§21] (23) "Register" means the record of information required under this chapter to be
97 maintained by pawn and secondhand businesses. The register is an electronic record that is in a
98 format that is compatible with the central database.

99 [§22] (24) "Scrap jewelry" means any item purchased solely:

- 100 (a) for its gold, silver, or platinum content; and
- 101 (b) for the purpose of reuse of the metal content.

102 [§23] (25) (a) "Secondhand merchandise dealer" means an owner or operator of a
103 business that:

104 (i) deals in the purchase, exchange, or sale of used or secondhand merchandise or
105 personal property; and

106 (ii) does not function as a pawnbroker.

107 (b) "Secondhand merchandise dealer" does not include:

108 (i) the owner or operator of an antique shop;

109 (ii) any class of businesses exempt by administrative rule under Section 13-32a-112.5;

110 (iii) any person or entity who operates auction houses, flea markets, or vehicle, vessel,
111 and outboard motor dealers as defined in Section 41-1a-102;

112 (iv) the sale of secondhand goods at events commonly known as "garage sales," "yard
113 sales," or "estate sales";

114 (v) the sale or receipt of secondhand books, magazines, or post cards;

115 (vi) the sale or receipt of used merchandise donated to recognized nonprofit, religious,
116 or charitable organizations or any school-sponsored association, and for which no
117 compensation is paid;

118 (vii) the sale or receipt of secondhand clothing and shoes;

119 (viii) any person offering his own personal property for sale, purchase, consignment, or
120 trade via the Internet;

- 121 (ix) any person or entity offering the personal property of others for sale, purchase,
122 consignment, or trade via the Internet, when that person or entity does not have, and is not
123 required to have, a local business or occupational license or other authorization for this activity;
- 124 (x) any owner or operator of a retail business that receives used merchandise as a
125 trade-in for similar new merchandise;
- 126 (xi) an owner or operator of a business that contracts with other persons or entities to
127 offer those persons' secondhand goods for sale, purchase, consignment, or trade via the
128 Internet;
- 129 (xii) any dealer as defined in Section [76-6-1402](#), which concerns scrap metal and
130 secondary metals; or
- 131 (xiii) the purchase of items in bulk that are:
132 (A) sold at wholesale in bulk packaging;
133 (B) sold by a person licensed to conduct business in Utah; ~~[and]~~
134 (C) regularly sold in bulk quantities as a recognized form of sale~~[.]; and~~
135 (xiv) the owner or operator of a children's product retail business.
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Legislative Review Note
Office of Legislative Research and General Counsel