

HB0394S01 compared with HB0394

~~text~~ shows text that was in HB0394 but was deleted in HB0394S01.

Inserted text shows text that was not in HB0394 but was inserted into HB0394S01.

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Representative Eric K. Hutchings proposes the following substitute bill:

PAWNSHOP AND SECONDHAND MERCHANDISE

AMENDMENTS

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Eric K. Hutchings

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses pawnshop and secondhand merchandise provisions.

Highlighted Provisions:

This bill:

- ▶ modifies, deletes, and adds definitions;
- ▶ makes consistent references to property and other terminology;
- ▶ addresses coin dealers, including ticket requirements;
- ▶ requires tickets be maintained by pawn or secondhand businesses with specified content;
- ▶ modifies provisions related to a central database;

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- ▶ repeals outdated language;
- ▶ addresses retention and inspection of records;
- ▶ outlines the holding period for property;
- ▶ addresses seizure of property;
- ▶ provides for administrative penalties;
- ▶ addresses fees;
- ▶ changes make up and duties of Pawnshop and Secondhand Merchandise Advisory Board;
- ▶ addresses training;
- ▶ repeals language regarding certain exempt businesses;
- ▶ addresses the Pawnbroker and Secondhand Merchandise Operations Restricted Account;
- ▶ addresses preemption of local ordinances;
- ▶ provides for use of property for forensic testing;
- ▶ addresses disposition of property;
- ▶ repeals provisions related to property disposition if no criminal charges are filed;
- ▶ amends provisions related to receiving stolen property and duties of pawnbrokers, secondhand businesses, and coin dealers; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-32a-102, as last amended by Laws of Utah 2018, Chapter 238

13-32a-103, as last amended by Laws of Utah 2007, Chapter 352

13-32a-103.5, as last amended by Laws of Utah 2012, Chapter 399

13-32a-104, as last amended by Laws of Utah 2018, Chapter 238

13-32a-104.5, as enacted by Laws of Utah 2009, Chapter 272

13-32a-105, as last amended by Laws of Utah 2009, Chapter 272

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13-32a-106, as last amended by Laws of Utah 2012, Chapter 284

13-32a-106.5, as last amended by Laws of Utah 2012, Chapters 170, 284 and last amended by Coordination Clause, Laws of Utah 2012, Chapter 284

13-32a-108, as last amended by Laws of Utah 2012, Chapter 284

13-32a-109, as last amended by Laws of Utah 2016, Chapter 421

13-32a-109.5, as last amended by Laws of Utah 2016, Chapter 421

13-32a-110, as last amended by Laws of Utah 2012, Chapter 284

13-32a-110.5, as enacted by Laws of Utah 2012, Chapter 284

13-32a-111, as last amended by Laws of Utah 2012, Chapter 284

13-32a-112, as last amended by Laws of Utah 2016, Chapter 421

13-32a-112.5, as last amended by Laws of Utah 2012, Chapter 284

13-32a-113, as last amended by Laws of Utah 2009, Chapter 272

13-32a-114, as last amended by Laws of Utah 2007, Chapter 352

13-32a-115, as last amended by Laws of Utah 2016, Chapter 421

13-32a-116, as last amended by Laws of Utah 2016, Chapter 421

13-32a-116.5, as enacted by Laws of Utah 2016, Chapter 421

76-6-408, as last amended by Laws of Utah 2013, Chapter 187

76-6-412, as last amended by Laws of Utah 2018, Chapter 265

ENACTS:

13-32a-103.1, Utah Code Annotated 1953

13-32a-112.1, Utah Code Annotated 1953

REPEALS:

13-32a-107, as last amended by Laws of Utah 2010, Chapter 167

13-32a-117, as last amended by Laws of Utah 2014, Chapter 189

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

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

13-32a-102. Definitions.

As used in this chapter:

(1) "Account" means the Pawnbroker and Secondhand Merchandise Operations

Restricted Account created in Section 13-32a-113.

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(2) "Antique item" means an item:

(a) that is generally older than 25 years;

(b) whose value is based on age, rarity, condition, craftsmanship, or collectability;

(c) that is furniture or other decorative objects produced in a previous time period, as distinguished from new items of a similar nature; and

(d) obtained from auctions, estate sales, other antique shops, and individuals.

(3) "Antique shop" means a business operating at an established location [~~and that offers for~~] that deals primarily in the purchase, exchange, or sale of antique items.

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

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

(6) "Children's product" means a used item that is for the exclusive use of children, or for the care of children, including clothing and toys.

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

(8) "Coin" means a piece of currency, usually metallic and usually in the shape of a disc that is:

(a) stamped metal, and issued by a government as monetary currency; or

(b) (i) worth more than its current value as currency; and

(ii) worth more than its metal content value.

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

(10) "Collectible paper money" means paper currency that is no longer in circulation and is sold and purchased for the paper currency's collectible value.

~~[(10)]~~ (11) (a) "Commercial grade precious metals" or "precious metals" means ingots, monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the refiner or fabricator indicating their fineness and include:

~~[(a)]~~ (i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals; or

~~[(b)]~~ (ii) .925 fine sterling silver ingots, art bars, and medallions.

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(b) "Commercial grade precious metals" or "precious metals" does not include jewelry.

(12) "Consignment shop" means a business, operating at an established location:

(a) that deals primarily in the offering for sale property owned by a third party; and

(b) where the owner of the property only receives consideration upon the sale of the property by the business.

~~[(H)]~~ (13) "Division" means the Division of Consumer Protection created in Chapter 1, Department of Commerce.

~~[(12) "Identification" means a valid United States federal or state-issued photo personal identification, including a United States passport, a United States passport card, United States military personal identification, and a driver license.]~~

(14) "Exonumia" means a privately issued token for trade that is sold and purchased for the token's collectible value.

(15) "Gift card" means a record that:

(a) is usable at:

(i) a single merchant; or

(ii) a specified group of merchants;

(b) is prefunded before the record is used; and

(c) can be used for the purchase of goods or services.

(16) "Identification" means any of the following non-expired forms of identification issued by a state government, the United States government, or a federally recognized Indian tribe, if the identification includes a unique number, photograph of the bearer, and date of birth:

(a) a United States Passport or United States Passport Card;

(b) a state-issued driver license;

(c) a state-issued identification card;

(d) a state-issued concealed carry permit;

(e) a United States military identification;

(f) a United States resident alien card;

(g) an identification of a federally recognized Indian tribe; or

(h) notwithstanding Section 53-3-207, a Utah driving privilege card.

(17) "Indicia of being new" means property that:

(a) is represented by the individual pawning or selling the property as new;

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(b) is unopened in the original packaging; or

(c) possesses other distinguishing characteristics that indicate the property is new.

~~[(13)] (18) "Local law enforcement agency" means the law enforcement agency that has direct responsibility for ensuring compliance with central database reporting requirements for the jurisdiction where the [pawntshop] pawn or secondhand business is located.~~

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

(19) "Numismatic item" means a coin, collectible paper money, or exonomia.

~~[(15)] (20) "Original victim" means a victim who is not a party to the pawn or sale transaction and includes:~~

~~(a) an authorized representative designated in writing by the original victim; and~~

~~(b) an insurer who has indemnified the original victim for the loss of the described property.~~

~~[(16)] (21) "Pawn [and] or secondhand business" means [any] a business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.~~

~~[(17) "Pawnbroker" means a person whose business engages in the following activities:]~~

~~[(a) loans money on one or more deposits of personal property;]~~

~~[(b) deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor;]~~

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

~~[(d) deals in the purchase, exchange, or sale of used or secondhand merchandise or personal property; or]~~

~~[(e) engages in a licensed business enterprise as a pawnshop.]~~

~~[(18) "Pawnshop" means the physical location or premises where a pawnbroker conducts business.]~~

~~[(19) "Pawn ticket" means a document upon which information regarding a pawn transaction is entered when the pawn transaction is made.]~~

~~[(20)] (22) "Pawn transaction" means:~~

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(a) an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time[-];

(b) a loan of money on one or more deposits of personal property;

(c) the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor; or

(d) a loan or advance of money on personal property by the pawnbroker taking chattel mortgage security on the personal property, taking or receiving the personal property into the pawnbroker's possession, and selling the unredeemed pledges.

(23) "Pawnbroker" means a person whose business:

(a) engages in a pawn transaction; or

(b) holds itself out as being in the business of a pawnbroker or pawnshop, regardless of whether the person or business enters into pawn transactions or secondhand merchandise transactions.

(24) "Pawnshop" means the physical location or premises where a pawnbroker conducts business.

~~[(21)]~~ (25) "Pledgor" means ~~[a person]~~ an individual who conducts a pawn transaction with a pawnshop.

~~[(22)]~~ (26) "Property" means ~~[any]~~ an article of tangible personal property, numismatic item, precious metal, gift card, transaction card, or other physical or digital card or certificate evidencing store credit.

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

~~[(24)]~~ (27) "Retail media item" means recorded music, a movie, or a video game that is produced and distributed in hard copy format for retail sale.

~~[(25)]~~ (28) "Scrap jewelry" means any item purchased solely:

(a) for its gold, silver, or platinum content; and

(b) for the purpose of reuse of the metal content.

~~[(26)]~~ (29) (a) "Secondhand merchandise dealer" means ~~[an owner or operator of a]~~ a person whose business [that]:

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~~[(i) deals in the purchase, exchange, or sale of used or secondhand merchandise or personal property; and]~~

~~[(ii) does not function as a pawnbroker.]~~

(i) engages in a secondhand merchandise transaction; and

(ii) does not engage in a pawn transaction.

(b) "Secondhand merchandise dealer" includes a coin dealer.

~~(b)~~ (c) "Secondhand merchandise dealer" does not include:

(i) [the owner or operator of] an antique shop when dealing in antique items;

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

~~[(iii) any (ii) a person [or entity] who operates an auction [houses] house, flea [markets] market, or vehicle, vessel, and outboard motor dealers as defined in Section 41-1a-102;~~

~~[(iv)] (iii) the sale of secondhand goods at events commonly known as "garage sales," "yard sales," [or] "estate sales," "storage unit sales," or "storage unit auctions";~~

~~[(v)] (iv) the sale or receipt of secondhand books, magazines, [or] post cards[;] or nonelectronic:~~

~~(A) card games;~~

~~(B) table-top games; or~~

~~(C) magic tricks;~~

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

~~[(vii)] (vi) the sale or receipt of secondhand clothing [and], shoes, furniture, or appliances;~~

~~[(viii)] (vii) any person offering the person's own personal property for sale, purchase, consignment, or trade via the Internet;~~

~~[(ix)] (viii) any person offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person [or entity] does not have, and is not required to have, a local business or occupational license or other authorization for this activity;~~

~~[(x)] (ix) any owner or operator of a retail business that:~~

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(A) receives used merchandise as a trade-in for similar new merchandise; or

(B) receives used retail media items as a trade-in for similar new or used retail media items;

~~[(xi)]~~ (x) an owner or operator of a business that contracts with other persons ~~[or entities]~~ to offer those persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;

~~[(xii)]~~ (xi) any dealer as defined in Section 76-6-1402, which concerns scrap metal and secondary metals;

~~[(xiii)]~~ (xii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

(B) sold by a person licensed to conduct business in Utah; and

(C) regularly sold in bulk quantities as a recognized form of sale; ~~[or]~~

~~[(xiv)]~~ (xiii) the owner or operator of a children's product resale business~~[-]; or~~

(xiv) a consignment shop when dealing in consigned property.

(30) "Secondhand merchandise transaction" means the purchase or exchange of used or secondhand property.

(31) "Ticket" means a document upon which information is entered when a pawn transaction or secondhand merchandise transaction is made.

(32) "Transaction card" means a card, code, or other means of access to a value with the retail business issued to a person that allows the person to obtain, purchase, or receive any of the following:

(a) goods;

(b) services;

(c) money; or

(d) anything else of value.

Section 2. Section **13-32a-103** is amended to read:

13-32a-103. Compliance with criminal code and this chapter.

~~[Every]~~ A pawn or secondhand business shall, regarding ~~[each article of]~~ property ~~[a person]~~ an individual pawns or sells, comply with the requirements of this chapter and the requirements of ~~[Subsections]~~ Subsection 76-6-408~~[(2)]~~(3)~~(c)~~(i) ~~through (iii)]~~ regarding the ~~[person's]~~ individual's:

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- (1) legal right to the property;
- (2) fingerprint; and
- (3) ~~[picture]~~ identification.

Section 3. Section **13-32a-103.1** is enacted to read:

13-32a-103.1. Transaction or gift cards.

(1) A retail business engaging in a transaction involving a transaction card or gift card issued by that retail business and that bears the branding of that retail business is not subject to this chapter.

(2) A pawn or secondhand business may not purchase or pawn a gift card or transaction card.

(3) This chapter does not prohibit a pawn or secondhand business from issuing or accepting as payment a gift card that:

(a) is issued solely by the pawn or secondhand business; and

(b) bears the brand or name of the pawn or secondhand business.

Section 4. Section **13-32a-103.5** is amended to read:

13-32a-103.5. Specie legal tender exempt from chapter.

~~[(1) This chapter applies to coin dealers, except:]~~

~~[(a) where provisions otherwise specifically address coin dealers, or]~~

~~[(b) as provided in Subsection (2).]~~

~~[(2)]~~ Specie legal tender as defined in Section 59-1-1501.1 that is used as legal tender is exempt from this chapter.

Section 5. Section **13-32a-104** is amended to read:

13-32a-104. Tickets required to be maintained -- Contents -- Identification of items -- Prohibition against pawning or selling certain property.

(1) A ~~[pawnbroker or secondhand merchandise dealer]~~ pawn or secondhand business shall keep a ~~[register of each article of]~~ ticket for property a person pawns or sells to the ~~[pawnbroker or secondhand merchandise dealer, except as provided in Subsection 13-32a-102(26)(b)]~~ pawn or secondhand business. A pawn ~~[and]~~ or secondhand business ~~[owner or operator, or the owner's or operator's employee,]~~ shall ~~[enter]~~ document on the ticket the following information regarding ~~[every article pawned or sold to the owner or employee]~~ the property:

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(a) the date and time of the transaction;

(b) whether the transaction is a pawn or purchase;

~~[(b)]~~ (c) the ~~[pawn transaction]~~ ticket number~~[, if the article is pawned];~~

~~[(c)]~~ (d) the date by which the ~~[article]~~ property must be redeemed, if the property is pawned;

~~[(d)]~~ (e) the following information regarding the ~~[person]~~ individual who pawns or sells the ~~[article]~~ property:

(i) the ~~[person's]~~ individual's full name~~[-]~~ and date of birth as they appear on the individual's identification and the individual's residence address~~[-and date of birth]~~ and telephone number;

(ii) ~~[the number of the driver license or other form of positive identification presented by the person, and notations of discrepancies if the person's physical description, including gender, height, weight, race, age, hair color, and eye color, does not correspond with identification provided by the person]~~ the unique number and type of identification presented to the pawn or secondhand business;

(iii) the ~~[person's]~~ individual's signature; and

(iv) subject to Subsection (6), a legible fingerprint of the ~~[person's]~~ individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the ~~[person]~~ individual with a ~~[written]~~ notation identifying the fingerprint and the reason why the index finger's print was unavailable;

~~[(e)]~~ (f) the amount loaned on ~~[or]~~, paid for ~~[the article]~~, or ~~[the article for which it was traded]~~ value for trade-in of each article of property;

~~[(f)]~~ ~~{}~~ the identification of the pawn or secondhand business owner or the employee, whoever is making the register entry, and ~~{}~~

(g) the full name of the individual conducting the pawn transaction or secondhand merchandise transaction on behalf of the pawn or secondhand business or the initials or a unique identifying number of the individual, if the pawn or secondhand business maintains a record of the initials or unique identifying number of the individual; and

~~[(g)]~~ (h) an accurate description of ~~[the]~~ each article of property, ~~[including]~~ with available identifying marks ~~[such as]~~, including:

(i) names, brand names, numbers, serial numbers, model numbers, color,

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manufacturers' names, and size;

- (ii) metallic composition, and any jewels, stones, or glass;
- (iii) any other marks of identification or indicia of ownership on the ~~[article]~~ property;
- (iv) the weight of the ~~[article]~~ property, if the payment is based on weight;
- (v) any other unique identifying feature;
- (vi) gold content, if indicated; ~~[and]~~ or
- (vii) if multiple articles of property of a similar nature are delivered together in one

transaction and the articles of property do not bear serial or model numbers and do not include precious metals or gemstones, such as musical or video recordings, books, or hand tools, the description of the articles is adequate if it includes the quantity of the articles and a description of the type of articles delivered.

(2) ~~(a)~~ A pawn or secondhand business may not accept ~~[any personal]~~ property if, upon inspection, it is apparent that ~~[serial numbers, model names, or identifying characteristics have been intentionally defaced on that article of property:]~~:

(i) a serial number or another form of indicia of ownership has been removed, altered, defaced, or obliterated;

(ii) the property is not a numismatic item and has indicia of being new, but is not accompanied by a written receipt or other satisfactory proof of ownership other than the seller's own statement; or

(iii) except as provided in Subsection 13-32a-103.1(3), the property is a gift card, transaction card, or other physical or digital card or certificate evidencing store credit.

(b) A pawn or secondhand business is not subject to Subsection (2)(a)(ii) if the pawn or secondhand business is the original seller of the property and is accepting a return of the property as provided by the pawn or secondhand business' established return policy.

(c) Property is presumed to have had indicia of being new at the time of a transaction if the property is subsequently advertised by the pawn or secondhand business as being new.

(3) (a) ~~[A person]~~ An individual may not pawn or sell any property to a business regulated under this chapter if the property is subject to being turned over to a law enforcement agency in accordance with Title 77, Chapter 24a, Lost or Mislaid Personal Property.

(b) If an individual attempts to sell or pawn property to a business regulated under this chapter and the employee or owner of the business knows or has reason to know that the

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property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid Personal Property, and may not receive the property in pawn or sale.

(4) A coin dealer is subject to Section 13-32a-104.5 and not subject to this section.

~~[(4)]~~ (5) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

(6) (a) On and after ~~July~~ January 1, ~~2019~~ 2020:

(i) a pawn or secondhand business shall obtain an electronic legible fingerprint of the individual's right index finger that can be submitted to the central database at the same time the other information is submitted under this section, or if the right index finger cannot be fingerprinted, an electronic legible fingerprint of the individual with a notation on the ticket identifying the fingerprint and the reason why a right index fingerprint is unavailable; and

(ii) the electronic fingerprint is not required on the ticket.

(b) On and after January 1, 2020, a pawn or secondhand business shall submit an electronic legible fingerprint obtained under Subsection (6)(a) to the central database.

(7) On and after January 1, 2020, a pawn or secondhand business shall obtain:

(a) a color digital photograph clearly and accurately depicting:

(i) each item of jewelry, including scrap jewelry and watches; and

(ii) if an item of jewelry, including scrap jewelry and watches, has one or more engravings, an additional color digital photograph specifically depicting any engraving; and

(b) a color digital photograph of an item that bears an identifying mark, including:

(i) a serial number, engraving, owner label, or similar identifying mark; and

(ii) an additional photograph that clearly depicts the identifying mark described in Subsection (7)(b)(i).

Section 6. Section **13-32a-104.5** is amended to read:

13-32a-104.5. Database information from coin dealers -- New and prior customers.

(1) A coin dealer shall maintain ~~[in a register and provide for the database the information]~~ a ticket under this section for each secondhand merchandise transaction of a ~~[coin]~~ numismatic item or precious metal with ~~[a person]~~ an individual with whom the coin dealer has not previously conducted a secondhand merchandise transaction.

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(2) For ~~[transactions]~~ a secondhand merchandise transaction under Subsection (1), the coin dealer or the coin dealer's employee shall ~~[enter]~~ document the following information ~~[in]~~ on the [register] ticket regarding every ~~[coin]~~ numismatic item or precious metal transaction:

- (a) the date and time of the transaction;
- (b) the ~~[receipt]~~ ticket number;
- (c) the following information regarding the ~~[person]~~ individual who sells the ~~[coin]~~ numismatic item or precious metal:

(i) the ~~[person's]~~ individual's full name~~[, residence address,]~~ and date of birth as they appear on the individual's identification and the individual's residence address and telephone number;

(ii) ~~[the number of the driver license or other form of positive identification presented by the person, and notations of discrepancies if the person's physical description, including gender, height, weight, race, age, hair color, and eye color, does not correspond with identification provided by the person]~~ the unique number and type of identification presented to the coin dealer;

(iii) the ~~[person's]~~ individual's signature; and

(iv) subject to Subsection (6), a legible fingerprint of the [person's] individual's right [thumb] index finger, or if the right [thumb] index finger cannot be fingerprinted, a legible fingerprint of the [person] individual with a [written] notation identifying the fingerprint and the reason why [the thumb print was] a right index fingerprint is unavailable;

(d) the amount paid for ~~[the article, or the article for which it was traded]~~ or trade-in value of each numismatic item or precious metal;

(e) ~~[the identification of the coin dealer or the employee who is conducting the transaction]~~ the full name of the individual conducting the transaction on behalf of the pawn or secondhand business or the initials or unique identifying number, if the coin dealer maintains a record of the initials or unique identifying number of the individual; and

(f) an accurate description of ~~[the coin]~~ each numismatic item or precious metal, ~~[including]~~ with available identifying marks ~~[such as]~~, including:

- (i) type and name of ~~[coin]~~ numismatic item or type and content of precious metal;
- (ii) metallic composition, and any jewels, stones, or glass;
- (iii) any other marks of identification or indicia of ownership on the article;

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- (iv) the weight of the article, if the payment is based on weight;
- (v) any other unique identifying feature; and
- (vi) metallic content.

(3) ~~{ }~~(a) ~~If { } Subject to Subsection (7), if { }~~ multiple [coins] numismatic items or precious metals of the same type in an amount that would make reporting of each item unreasonably difficult are part of a single sale transaction, ~~{ a coin dealer shall document } [a general description of the { } items { } property] and { obtain } a photograph of the { } items { } property}~~, which { } shall be stored by { } the coin dealer ~~{ shall store }~~ with a copy of the ~~{ } invoice { } ticket}~~ of the transaction for three years ~~{ } from { } after }~~ the date of the transaction: a coin dealer shall document the property as a grouping.

(b) The description for a grouping described in Subsection (3)(a) must be an accurate description, with available identifying marks, including:

- (i) type and name of numismatic items or type and content of precious metal;
- (ii) metallic composition, and any jewels, stones, or glass;
- (iii) any other marks of identification or indicia of ownership on the article;
- (iv) the weight of the articles, if the payment is based on the weight;
- (v) any other unique identifying features; and
- (vi) metallic content.

(4) If the [person] individual selling a [coin] numismatic item or precious metal to the coin dealer has an established previous transaction history with the coin dealer, the coin dealer or the coin dealer's employee shall [enter] document the following information [in] on the [register] ticket:

- (a) the date and time of the transaction and the ticket number;
- (b) indication that the coin dealer has conducted business with the seller previously;
- (c) ~~[the identification of the coin dealer or the employee who is conducting the transaction]~~ the full name of the individual conducting the transaction on behalf of the pawn or secondhand business or the initials or unique identifying number, if the coin dealer maintains a record of the initials or unique identifying number of the individual;
- (d) the initials of the seller's legal name, including any middle name;
- (e) form of identification presented by the seller at the time of sale;
- (f) the last four digits of the unique identifying number on the form of identification;

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[and]

(g) the individual's signature;

(h) the amount paid for or trade-in value of each numismatic item or precious metal;

and

~~[(g)]~~ (i) the identifying information under Subsection (2)(f) and under Subsection (3) as applicable.

(5) A coin dealer may not accept any ~~[coin]~~ numismatic item or precious metal if, upon inspection, it is apparent that serial numbers or identifying characteristics have been intentionally defaced on that ~~[coin]~~ numismatic item or precious metal.

(6) (a) On and after January 1, 2020:

(i) for a secondhand merchandise transaction described in Subsection (1), a coin dealer shall obtain an electronic legible fingerprint of the individual's right index finger that can be submitted to the central database at the same time the other information is submitted under this section, or if the right index finger cannot be fingerprinted, an electronic legible fingerprint of the individual with a notation on the ticket identifying the fingerprint and the reason why a right index fingerprint is unavailable; and

(ii) the electronic fingerprint is not required on the ticket.

(b) On and after January 1, 2020, a pawn or secondhand business shall submit an electronic legible fingerprint obtained under Subsection (6)(a) to the central database.

~~{~~ ~~(7) On and after January 1, 2020, a coin dealer shall:~~

~~(a) obtain a color digital photograph clearly and accurately depicting numismatic items described in Subsection (3); and~~

~~(b) a color digital photograph of an item that bears an identifying mark, including:~~

~~(i) a serial number, engraving, or owner label, or similar identifying mark, and~~

~~(ii) an additional photograph that clearly depicts the identifying mark described in Subsection (7)(b)(i).~~

~~‡~~ Section 7. Section **13-32a-105** is amended to read:

13-32a-105. Central database.

(1) ~~[There]~~ In accordance with this section, there is created under this section a central database as a statewide repository for [all] information that pawn ~~[and]~~ or secondhand businesses ~~[and coin dealers]~~ are required to submit in accordance with this chapter and for the

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use of ~~[all]~~ participating law enforcement agencies ~~[whose jurisdictions include one or more pawn or secondhand businesses]~~ that meet the requirements of Section 13-32a-111.

~~[(2) The Division of Purchasing and General Services created in Title 63A, Chapter 2, Division of Purchasing and General Services, shall:]~~

~~[(a) meet with the board to determine the required elements of the database; and]~~

~~[(b) conduct a statewide request for proposal for the creation of and maintenance of the central database.]~~

(2) The division shall:

(a) establish and operate the central database; or

(b) contract with a third party to establish and operate the central database in accordance with Title 63G, Chapter 6a, Utah Procurement Code.

(3) Funding for the creation and operation of the central database shall be from the account.

(4) (a) ~~[Any]~~ An entity ~~[submitting a bid to create, maintain, and operate the]~~ that operates the central database ~~[pursuant to the request for proposal conducted by the Division of Purchasing and General Services]~~ may not hold any financial or operating interest in ~~[any pawnshop]~~ a pawn or secondhand business in any state.

(b) The ~~[Division of Purchasing and General Services, in conjunction with the Pawnshop and Secondhand Merchandise Advisory Board,]~~ division shall verify before a bid is awarded that the selected entity meets the requirements of Subsection (4)(a).

(c) If any entity is awarded a bid under this Subsection (4) and is later found to hold any interest in violation of Subsection (4)(a), the award is subject to being opened again for request for proposal.

(5) (a) Beginning January 1, 2020, upon a query by a pawnbroker, the central database shall provide notification of the volume of business an individual seeking to enter into a transaction with ~~{a}~~the pawnbroker has engaged in with ~~{businesses}~~any pawnbroker regulated by this chapter within the previous 30 days based on the records in the central database at the time of the query.

~~[(5)]~~ (b) Information entered in the central database shall be retained for five years and shall then be deleted.

Section 8. Section **13-32a-106** is amended to read:

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13-32a-106. Transaction information provided to the central database -- Protected information.

(1) (a) ~~[The]~~ A pawn or secondhand business shall transmit electronically in a compatible format information required to be recorded under Sections 13-32a-103 ~~[and]~~, 13-32a-104, and 13-32a-104.5 that is capable of being transmitted electronically ~~[shall be transmitted electronically]~~ to the central database ~~[on the next business day following]~~ within 24 hours after entering into the transaction.

(b) The division may specify by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the information capable of being transmitted electronically under Subsection (1)(a).

(2) ~~[The pawnbroker]~~ A pawn or secondhand business shall maintain ~~[all pawn]~~ tickets generated by the ~~[pawnshop]~~ pawn or secondhand business and shall maintain the tickets in a manner so that the tickets are available to local law enforcement agencies as required by this chapter and as requested by any law enforcement agency as part of an investigation or reasonable random inspection conducted pursuant to this chapter.

(3) (a) If a pawn or secondhand business experiences a computer or electronic malfunction that affects its ability to report transactions as required in Subsection (1), the pawn or secondhand business shall immediately notify the division and the local law enforcement agency of the malfunction.

(b) The pawn or secondhand business shall solve the malfunction within three business days or notify the division and the local law enforcement agency under Subsection (4).

(4) If the computer or electronic malfunction under Subsection (3) cannot be solved within three business days, the pawn or secondhand business shall notify the division and the local law enforcement agency of the reasons for the delay and provide documentation from a reputable computer maintenance company of the reasons why the computer or electronic malfunction cannot be solved within three business days.

(5) A computer or electronic malfunction does not suspend the pawn or secondhand business' obligation to comply with all other provisions of this chapter.

(6) During the malfunction under Subsections (3) and (4), the pawn or secondhand business shall:

(a) arrange with the local law enforcement agency a mutually acceptable alternative

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method by which the pawn or secondhand business provides the required information to the local law enforcement ~~[official]~~ agency; and

(b) a ~~[pawnshop]~~ pawn or secondhand business shall maintain the ~~[pawn]~~ tickets and other related information required under this chapter in a written form.

(7) A pawn or secondhand business that violates the electronic transaction reporting requirement of this section is subject to an administrative fine of \$50 per day if:

(a) the pawn or secondhand business is unable to submit the information electronically due to a computer or electronic malfunction;

(b) the three business day period under Subsection (3) has expired; and

(c) the pawn or secondhand business has not provided documentation regarding its inability to solve the malfunction as required under Subsection (4).

(8) A pawn or secondhand business is not responsible for a delay in transmission of information that results from a malfunction in the central database.

(9) A pawnbroker is not responsible for a transaction in violation of Subsection 13-32a-110.5(2) if, at the time of the transaction, the pawnbroker is unable to query the central database as a result of a malfunction of the central database.

~~[(9)]~~ (10) A violation of this section is a Class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 9. Section **13-32a-106.5** is amended to read:

13-32a-106.5. Confidentiality of pawn and purchase transactions.

(1) ~~[All pawn and purchase transaction records]~~ A ticket, copy of a ticket, or information from a ticket delivered to a local law enforcement ~~[official]~~ agency or transmitted to the central database pursuant to Section 13-32a-106 ~~[are protected records]~~ is a protected record under Section 63G-2-305. ~~[These records]~~ In addition to use by the issuing pawn or secondhand business, the ticket, copy of a ticket, or information from a ticket may be used only by a law enforcement ~~[officials]~~ agency and the division and only for the law enforcement and administrative enforcement purposes of:

(a) investigating possible criminal conduct involving the property delivered to the ~~[pawnbroker]~~ pawn or secondhand business in a pawn transaction or ~~[purchase]~~ secondhand merchandise transaction;

(b) investigating a possible violation of the record keeping or reporting requirements of

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this chapter when the local law enforcement [~~official~~] agency or the division, based on a review of the records and information received, has reason to believe that a violation has occurred;

(c) responding to an inquiry from an insurance company investigating a claim for physical loss of described property by searching the central database to determine if property matching the description has been delivered to a [~~pawnbroker~~] pawn or secondhand business by another person in a pawn transaction or secondhand merchandise purchase transaction and if so, obtaining from the central database:

(i) a description of the property;

(ii) the name and address of the [~~pawnbroker~~] pawn or secondhand business [~~who~~] that received the property; and

(iii) the name, address, and date of birth of the conveying [~~person~~] individual; and

(d) taking enforcement action under Section 13-2-5 against a [~~pawnbroker~~] pawn or secondhand business.

(2) An insurance company making a request under Subsection (1)(c) shall provide the police report case number concerning the described property.

(3) (a) A person may not knowingly and intentionally use, release, publish, or otherwise make available to any person [~~or entity~~] any information obtained from the central database for any purpose other than those specified in Subsection (1).

(b) Each separate violation of Subsection (3)(a) is a class B misdemeanor.

(c) Each separate violation of Subsection (3)(a) is subject to a civil penalty not to exceed \$250.

Section 10. Section **13-32a-108** is amended to read:

13-32a-108. Retention of records -- Reasonable inspection.

(1) [~~The pawnbroker~~] A pawn or secondhand business or local law enforcement agency, whichever has custody of [~~pawn tickets~~] a ticket or copy of a ticket, shall retain [~~them~~] the ticket or copy for no less than three years from the date of the transaction.

(2) (a) A law enforcement agency or the division may conduct random reasonable inspections of pawn or secondhand businesses for the purpose of monitoring compliance with the [~~reporting~~] requirements of this chapter. [~~The inspections may be conducted to:~~]

[~~(i) confirm that pawned or sold items match the description reported to the database by the pawnshop; and~~]

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~~[(ii) make spot checks of property at the pawn or secondhand business to determine if the property is appropriately reported.]~~

(b) Inspections under Subsection (2)(a) shall be performed during the regular business hours of the pawn or secondhand business.

(3) A violation of this section is a Class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 11. Section **13-32a-109** is amended to read:

13-32a-109. Holding period for property -- Return of property -- Penalty.

(1) (a) A pawnbroker may sell ~~[an article]~~ property pawned to the pawnbroker if:

(i) 15 calendar days have passed ~~[since]~~ after the day on which the ~~[contract between the pawnbroker and the pledgor was executed]~~ pawnbroker submits the information to the central database;

(ii) the contract period between the pawnbroker and the pledgor ~~[has expired]~~ expires;
and

(iii) the pawnbroker has complied with ~~[the requirements of Section]~~ Sections 13-32a-103, 13-32a-104, and 13-32a-106 ~~[regarding reporting to the central database and Section 13-32a-103].~~

(b) If ~~[an article]~~ property, including scrap jewelry, is purchased by a pawn or secondhand business ~~[or a coin dealer]~~, the pawn or secondhand business ~~[or coin dealer]~~ may sell the ~~[article after]~~ property if the pawn or secondhand business ~~[or coin dealer]~~ has held the ~~[article]~~ property for 15 calendar days after the day on which the pawn or secondhand business submits the information to the central database, and complied with ~~[the requirements of Section]~~ Sections 13-32a-103, 13-32a-104, and 13-32a-106 ~~[regarding reporting to the central database and Section 13-32a-103]~~, except that the pawn[;] or secondhand[; and coin dealer businesses are] business is not required to hold precious metals or ~~[coins]~~ numismatic items under this Subsection (1)(b).

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

~~[(i)]~~ (ii) If the ~~[article was]~~ property is pawned, the law enforcement agency may require the ~~[article]~~ property be held beyond the terms of the contract between the pledgor and

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the [~~pawn broker~~] pawnbroker.

[(ii)] (iii) If the [~~article was~~] property is sold to the pawn or secondhand business, the law enforcement agency may require the [~~article~~] property be held if the pawn or secondhand business has not sold the article.

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

(2) If a law enforcement agency requires the pawn or secondhand business to hold [~~an article~~] property as part of an investigation, the law enforcement agency shall provide to the pawn or secondhand business a hold [~~ticket~~] form issued by the law enforcement agency, [~~which~~] that:

(a) states the active case number;

(b) confirms the date of the hold request and the [~~article~~] property to be held; and

(c) facilitates the ability of the pawn or secondhand business to track the [~~article~~] property when the prosecution takes over the case.

(3) If [~~an article~~] property is not seized by a law enforcement agency that has placed a hold on the property, the property shall remain in the custody of the pawn or secondhand business 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 90 days. If the [~~article~~] property is not seized by the law enforcement agency, the [~~article~~] property shall remain in the custody of the pawn or secondhand business and is subject to the hold unless exigent circumstances require the [~~purchased or pawned article~~] property to be seized by the law enforcement agency.

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

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

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

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

(7) ~~[When the purpose for the hold on or seizure of an article for which]~~ If an original victim who has complied with Section 13-32a-115 has not been identified and the hold or seizure of the property is terminated, the law enforcement agency requiring the hold or seizure shall within 15 business days after the termination:

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

(b) return the ~~[article]~~ property subject to the seizure to the pawn or secondhand business; or

(c) if the ~~[article]~~ property is not returned to the pawn or secondhand business, advise the pawn or secondhand business either in writing or electronically of the specific alternative disposition of the ~~[article]~~ property.

(8) (a) ~~[When the purpose for the hold on or seizure of an article, for which an]~~ If the original victim who has complied with Section 13-32a-115 has been identified and the hold or seizure of property is terminated, the law enforcement agency requiring the hold or seizure shall:

(i) document the original victim who has positively identified the ~~[item of]~~ property; and

(ii) provide the documented information concerning the original victim to the prosecuting agency to determine whether continued possession of the ~~[article]~~ property is necessary for purposes of prosecution, as provided in Section 24-3-103.

(b) If the prosecuting agency determines that continued possession of the ~~[article]~~ property is not necessary for purposes of prosecution, as provided in Section 24-3-103, the prosecuting agency shall provide a written or electronic notification to the law enforcement agency ~~[which]~~ that authorizes the return of the ~~[article]~~ property to an original victim who has complied with Section 13-32a-115.

(c) (i) A law enforcement agency shall promptly provide notice to the pawn or secondhand business of the authorized return of the ~~[article]~~ property under this Subsection (8).

(ii) The notice shall identify the original victim, advise the pawn or secondhand business that the original victim has identified the ~~[article]~~ property, and direct the pawn or

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secondhand business to release the [~~article~~] property to the original victim at no cost to the original victim[~~, or if~~].

(iii) If the [~~article~~] property was seized, the notice shall advise that the [~~article~~] property will be returned to the original victim within 15 days after the day on which the pawn or secondhand business receives the notice, except as provided under Subsection (8)(d).

(d) The pawn or secondhand business shall release [~~an article~~] property under Subsection (8)(c) unless within 15 days of receiving the notice the pawn or secondhand business complies with Section 13-32a-116.5.

(9) If the law enforcement agency does not notify the pawn or secondhand business that a hold on [~~an item~~] the property has expired, the pawn or secondhand business shall send a letter by registered or certified mail to the law enforcement agency that ordered the hold and inform the agency that the holding period has expired. The law enforcement agency shall respond within 30 days by:

(a) confirming that the [~~holding~~] hold period has expired and that the pawn or secondhand business may manage the [~~item~~] property as if acquired in the ordinary course of business; or

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

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

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

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

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

(11) If the law enforcement agency does not respond within 30 days under Subsection (9), the pawn or secondhand business may manage the [~~item~~] property as if acquired in the ordinary course of business.

(12) A violation of this section is a class B misdemeanor and is also subject to civil penalties under Section 13-32a-110.

Section 12. Section **13-32a-109.5** is amended to read:

13-32a-109.5. Seizure of property -- Notification to pawn or secondhand business.

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If a law enforcement agency determines seizure of property pawned or sold to a pawn or secondhand business is necessary under this chapter during the course of a criminal investigation, in addition to the ~~[holding]~~ hold provisions under Section 13-32a-109, the law enforcement agency shall:

(1) notify the ~~[pawnshop]~~ pawn or secondhand business of the specific ~~[item]~~ property to be seized; and

(2) issue to the ~~[pawnshop]~~ pawn or secondhand business a seizure ~~[ticket in a form]~~ form approved by the division and that:

(a) provides the active case number related to the ~~[item]~~ property to be seized;

(b) provides the date of the seizure request;

(c) provides the reason for the seizure;

(d) describes the ~~[article]~~ property to be seized;

(e) states each reason the ~~[article]~~ property is necessary during the course of a criminal investigation; and

(f) includes any information that facilitates the ~~[pawnbroker's]~~ pawn or secondhand business' ability to track the ~~[article]~~ property when the prosecution agency takes over the case.

Section 13. Section **13-32a-110** is amended to read:

13-32a-110. Administrative or civil penalties -- Criminal prosecution.

(1) A violation of any of the following sections is subject to ~~[a]~~ an administrative or civil penalty of not more than \$500:

(a) Section 13-32a-104, ~~[register]~~ ticket required to be maintained;

~~(b)~~ Section 13-32a-104.5, ticket by coin dealer to be maintained;

~~(b)~~ (c) Section 13-32a-106, transaction information provided to law enforcement;

~~(c)~~ (d) Section 13-32a-108, retention of records;

~~(d)~~ (e) Section 13-32a-109, holding period for pawned ~~[articles]~~ or purchased property;

(f) Section 13-32a-110.5, transactions with certain individuals prohibited;

~~(e)~~ (g) Section 13-32a-111, payment of fees as required; or

~~(f)~~ (h) Section 13-32a-112, training requirements for pawn~~;~~ or secondhand~~;~~ and coin dealer business employees and officers of participating law enforcement agencies.

(2) This section does not prohibit civil action by a governmental entity regarding the

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~~[pawnbroker's business]~~ pawn or secondhand business' operation or licenses.

(3) The imposition of civil penalties under this section does not prohibit criminal prosecution by a governmental entity for criminal violations of this chapter.

Section 14. Section **13-32a-110.5** is amended to read:

13-32a-110.5. Transactions with certain individuals prohibited.

(1) A pawn or secondhand business may not ~~[purchase, accept as a pawn, or take for consignment any property from a person]~~ engage in a pawn transaction or secondhand merchandise transaction with an individual who:

~~[(1)]~~ (a) is younger than 18 years of age; or

~~[(2)]~~ (b) appears to be ~~[acting]~~ under the influence of alcohol or ~~[any]~~ a controlled substance.

(2) ~~{On}~~ Except as provided in Subsection (3), on and after January 1, 2020, a pawnbroker may not enter into a transaction with an individual who, including the transaction being proposed, will have engaged within the previous 30 days, with a pawnbroker regulated by this chapter, in:

(a) more than four transactions; or

(b) one or more transactions, if the total of items of property involved in the total of transactions is more than 10.

(3) A pawnbroker may engage in a transaction with an individual in excess of the limitations described in Subsection (2) if the pawnbroker determines that the transaction being proposed is a pawn transaction and the transaction involves an item of property that:

(a) has a serial number or unique identifying mark; and

(b) has been pawned and redeemed by the same individual with the pawnbroker within the previous 30 days.

Section 15. Section **13-32a-111** is amended to read:

13-32a-111. Fees to fund account.

~~[(1)(a)(i) On and after January 1, 2005, each pawnshop or secondhand merchandise dealer in operation shall annually pay \$250 to the division, to be deposited in the account.]~~

~~[(ii) On and after January 1, 2013, each pawnshop or secondhand merchandise dealer in operation shall annually pay \$300 to the division, to be deposited in the account.]~~

~~[(b) For the period of July 1, 2009 through December 31, 2009, each coin dealer in~~

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~~operation shall pay a fee of \$250 to the division to be deposited in the account.]~~

~~[(c) (i) On and after January 1, 2010, each coin dealer in operation shall annually on January 1 pay \$250 to the division to be deposited in the account.]~~

~~[(ii) On and after January 1, 2013, each coin dealer in operation shall annually on January 1 pay \$300 to the division to be deposited in the account.]~~

~~[(2) (a) On and after January 1, 2005, each law enforcement agency that participates in the use of the database shall annually pay to the division a fee of \$2 per sworn law enforcement officer who is employed by the agency as of January 1 of that year. The fee shall be deposited in the account.]~~

~~[(b) On and after January 1, 2013, each]~~

~~(1) (a) A pawn or secondhand business in operation shall pay an annual fee set in accordance with Section 63J-1-504.~~

~~(b) A law enforcement agency within Utah that participates in the use of the central database shall [annually pay to the division a fee of \$3 per sworn law enforcement officer who is employed by the agency as of January 1 of that year. The fee shall be deposited in the account.] pay an annual fee set in accordance with Section 63J-1-504.~~

~~[(3) The fees under Subsections (1) and (2) shall be paid to the account annually on or before January 30.]~~

~~[(4) (a) (i) If a] (c) A law enforcement agency outside Utah that requests access to the central database[, the requesting agency] shall pay [a yearly] an annual fee [of \$750 for the fiscal year beginning July 1, 2006, which shall be deposited in the account { \$900}] set in accordance with Section 63J-1-504.~~

~~[(ii) If a law enforcement agency outside Utah requests access to the central database, the requesting agency shall pay a yearly fee of \$900 for the fiscal year beginning July 1, 2013, which shall be deposited in the account.]~~

~~[(b) The board may establish the fee amount for fiscal years beginning on and after July 1, 2007 under Section 63J-1-504.]~~

~~(2) A fee paid under Subsection (1) shall be paid annually to the division on or before January 31.~~

~~(3) A fee received by the division under this section shall be deposited into the account.~~

~~(4) The division may not, on or after May 14, 2019, increase fees for a pawnshop or~~

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secondhand business.

Section 16. Section **13-32a-112** is amended to read:

13-32a-112. Pawnshop and Secondhand Merchandise Advisory Board.

(1) There is created within the division the "Pawnshop and Secondhand Merchandise Advisory Board."

(2) The board consists of [~~13~~] seven voting members [~~and one nonvoting member~~] appointed by the executive director of the Department of Commerce:

(a) one [~~representative of~~] law enforcement officer whose work regularly involves pawn or secondhand business, recommended by the Utah Chiefs of Police Association;

(b) one [~~representative of~~] law enforcement officer whose work regularly involves pawn or secondhand business, recommended by the Utah Sheriffs Association;

(c) one [~~representative of the Statewide Association of Prosecutors~~] state, county, or municipal prosecutor, recommended by a prosecutors' association or council;

~~[(d) one representative of the Utah Municipal Prosecutors' Association;]~~

~~[(e) three representatives from the pawnshop industry;]~~

~~[(f) three representatives from the secondhand merchandise business industry;]~~

~~[(g) one representative from the coin dealer industry;]~~

~~[(h) one law enforcement officer who is appointed by the board members under Subsections (1)(a) through (g);]~~

~~[(i) one law enforcement officer whose work regularly involves pawn and secondhand businesses and who is appointed by the board members under Subsections (1)(a) through (g); and]~~

~~[(j) one representative from the central database, who is nonvoting.]~~

~~[(2) (a) The board shall prepare recommendations for the appointment of members under Subsections (1)(a) through (g), and Subsection (1)(j), and shall forward its recommendations to the Commission on Criminal and Juvenile Justice, which shall make the appointments.]~~

~~[(b) The members under Subsections (1)(c), (f), and (g) shall represent three separate pawnshops, three separate secondhand merchandise dealers, and one coin dealer, each of which are owned by a separate person or entity.]~~

~~[(c) In appointing members from the individuals recommended under Subsection~~

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~~(2)(a), the Commission on Criminal and Juvenile Justice shall give consideration to recommendations by members of the respective occupations and professions and by their representative organizations.]~~

(d) one pawnbroker, recommended by the pawn industry;

(e) one secondhand merchandise dealer, recommended by the secondhand merchandise industry;

(f) one coin dealer, recommended by the Utah Coin Dealers Association; and

(g) one representative from the pawn or secondhand merchandise industry at large, recommended by the pawn or secondhand merchandise industry.

(3) After receiving a recommendation for a member by a respective association, council, or industry for the board, the executive director may:

(a) decline the recommendation; and

(b) request another recommendation from the respective association, council, or industry.

~~[(3)]~~ (4) (a) [Each] A member of the board shall be appointed to a term of not more than four years, and may be reappointed upon expiration of the member's term.

(b) Notwithstanding the requirements of Subsection ~~[(3)]~~ (4)(a), the [~~Commission on Criminal and Juvenile Justice~~] executive director of the Department of Commerce shall, at the time of appointments or reappointments, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) When a vacancy occurs in the membership for any reason, the executive director of the Department of Commerce shall appoint a member for the unexpired term.

(d) The executive director of the Department of Commerce may remove a member and replace the member in accordance with this section for the following reasons:

(i) the member fails or refuses to fulfill the duties of a board member, including attendance at board meetings; or

(ii) the member, an entity owned by the member, an entity that the member is employed by, or an entity that the member is representing, engages in a violation of this chapter or Section 76-6-408.

(e) Notwithstanding Subsection (4)(d), members of the board as of May 13, 2019, are

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removed from the board and the executive director of the Department of Commerce shall appoint the board members in accordance with this section.

~~[(4)]~~ (5) (a) The board shall elect one voting member as the chair of the board by a majority of the members present at the board's first meeting each year.

(b) The chair shall preside over the board for a period of one year.

(c) The ~~[advisory]~~ board shall meet quarterly upon the call of the chair.

(d) A quorum of ~~[nine]~~ five members is required for the board to take action. An action taken by majority of a quorum present at a meeting constitutes an action of the board.

~~[(5)(a) The board shall conduct quarterly training sessions regarding compliance with this chapter and other applicable state laws for any person who owns or is employed by a pawn or secondhand business subject to this chapter.]~~

~~[(b) Each training session shall provide no fewer than two hours of training.]~~

~~[(6)(a) Each pawn, secondhand, and coin dealer business in operation as of January 1 shall ensure one or more persons employed by the pawn or secondhand business each participate in no fewer than two hours of compliance training within that year.]~~

~~[(b) This requirement does not limit the number of employees, directors, or officers of a pawn or secondhand business who attend the compliance training.]~~

~~[(7) The board shall monitor and keep a record of the hours of compliance training accrued by each pawn or secondhand business.]~~

~~[(8) The board shall provide each pawn or secondhand business with a certificate of compliance upon completion by an employee of the two hours of compliance training under Subsection (6).]~~

~~[(9)(a) Each law enforcement agency shall ensure that at least one of its officers completes two hours of compliance training yearly.]~~

~~[(b) Subsection (9)(a) does not limit the number of law enforcement officers who attend the compliance training.]~~

~~[(10)]~~ (6) (a) The duties and powers of the board include the following: ~~[board may propose to the division administrative rules establishing:]~~

~~[(a) pawn and secondhand business industry standards for best practices;]~~

~~[(b) standardized property descriptions for the database created under this chapter; and]~~

~~[(c) a roster of software programs for pawn and secondhand businesses setting out~~

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~~minimum basic requirements for functionality.]~~

(i) recommending to the division appropriate rules regarding the administration and enforcement of this chapter;

(ii) recommending to the division changes related to the central database; and

(iii) advising the division on matters related to the pawn and secondhand industries.

(b) This Subsection (6) does not require the board's approval to act on a rule or amend this chapter.

~~[(11)] (7) [Pawn and] A pawn or secondhand [businesses] business may file with the board complaints regarding law enforcement agency practices perceived to be inconsistent with this chapter. The board may refer the complaints to the Peace Officers Standards and Training Division.~~

Section 17. Section **13-32a-112.1** is enacted to read:

13-32a-112.1. Annual training.

(1) (a) The division shall provide training sessions, whether online or in-person, at least once each year regarding compliance with this chapter and other applicable state laws.

(b) A pawn or secondhand business shall ensure that each individual employed by the pawn or secondhand business with access to the central database annually completes the training described in Subsection (1)(a) in order for that individual to continue to have access to the central database.

(c) A law enforcement agency participating in the use of the central database shall ensure that each individual employed by the law enforcement agency with access to the central database annually completes the training described in Subsection (1)(a) in order for that individual to continue to have access to the central database.

(2) The division shall monitor and keep a record of training completion.

Section 18. Section **13-32a-112.5** is amended to read:

13-32a-112.5. Temporary businesses subject to chapter.

~~[(1)(a) The division may exempt specific classes of businesses from regulation under this chapter by rules made under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

~~[(b) The division shall consult with the board in determining which classes of businesses to exempt under this section.]~~

~~[(2) Businesses the division may exempt are classes of commercial enterprises clearly~~

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defined by administrative rule and that do not involve transactions in property that is recognized by law enforcement as regularly subject to theft and subsequent efforts to pawn or sell.]

~~[(3) Municipal and county criminal and civil enforcement regarding the provisions of this chapter may not be imposed on businesses exempted under this section.]~~

~~[(4) Any]~~ A pawn or secondhand business ~~[not exempted by this section and]~~ that operates on a temporary basis or from a location that is not a permanent retail location:

~~[(a)]~~ (1) shall comply with ~~[the provisions of]~~ this chapter; and

~~[(b)]~~ (2) is subject to enforcement of ~~[the provisions of]~~ this chapter.

Section 19. Section **13-32a-113** is amended to read:

13-32a-113. Pawnbroker and Secondhand Merchandise Operations Restricted Account.

(1) There is created within the General Fund a restricted account known as the "Pawnbroker and Secondhand Merchandise Operations Restricted Account."

(2) (a) The account shall be funded from ~~[the]~~ fees and administrative and civil fines imposed and collected under Sections 13-32a-106, ~~[13-32a-107,]~~ 13-32a-110, and 13-32a-111. These fees and administrative and civil fines shall be paid to the division, which shall deposit them in the account.

(b) The Legislature shall appropriate ~~[the]~~ funds in this account to the division for:

(i) ~~[to the board for]~~ the costs of providing training required under this chapter~~];~~

(ii) the costs of the central database created in Section 13-32a-105~~]; and for costs of operation of the board];~~ and

~~[(ii) to the division for management of fees and penalties paid under this chapter.]~~

~~[(c) The board shall account to the division for expenditures.]~~

~~[(d) The board shall account separately for expenditures for:]~~

~~[(i) training required under this chapter;]~~

~~[(ii) operation of the database; and]~~

~~[(iii) operation of the board.]~~

(iii) the division's costs of administering the chapter.

Section 20. Section **13-32a-114** is amended to read:

13-32a-114. Preemption of local ordinances -- Exceptions.

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(1) This chapter preempts [~~all~~] town, city, county, and other local ordinances governing pawn or secondhand businesses [~~and pawnbroking transactions~~], if the ordinances are more restrictive than the provisions of this chapter or are not consistent with this chapter.

(2) Subsection (1) does not preclude a city, county, or other local governmental unit from:

(a) enacting or enforcing local ordinances concerning public health, safety, or welfare, if the ordinances are uniform and equal in application to pawn and secondhand businesses and other retail businesses or activities;

(b) requiring a pawn or secondhand business to obtain and maintain a business license and providing for revocation of the business license based on multiple violations of Section 76-6-408; and

(c) enacting zoning ordinances that restrict areas where pawn or secondhand businesses and other retail businesses or activities can be located.

Section 21. Section **13-32a-115** is amended to read:

13-32a-115. Criminal investigation -- Prosecution -- Property disposition.

(1) If the property pawned or sold to a pawn or secondhand business is the subject of a criminal investigation and a hold has been placed on the property under Section 13-32a-109, the original victim shall do the following to establish a claim:

(a) positively identify to law enforcement the [~~item~~] property stolen or lost;

(b) if a police report has not already been filed for the original theft or loss of property, file a police report, and provide for the law enforcement agency information surrounding the original theft or loss of property; and

(c) give a sworn statement under penalty of law that:

(i) claims ownership of the property;

(ii) references the original theft or loss; and

(iii) identifies the perpetrator if known.

(2) The pawn or secondhand business shall retain possession of any property subject to a hold until a criminal prosecution is commenced relating to the property for which the hold was placed unless:

(a) during the course of a criminal investigation the actual physical possession by law enforcement of [~~an article~~] the property purchased or pawned is essential for the purpose of

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[fingerprinting the property, chemical] forensic testing of the property, or if the property contains unique or sensitive personal identifying information; or

(b) an agreement between the original victim and the pawn or secondhand business to return the property is reached.

(3) (a) Upon the commencement of a criminal prosecution, any [~~article~~] property subject to a hold for investigation under this chapter may be seized by the law enforcement agency [~~which~~] that requested the hold.

(b) Subsequent disposition of the property shall be consistent with this chapter.

(4) At all times during the course of a criminal investigation and subsequent prosecution, the [~~article~~] property subject to a law enforcement hold shall be kept secure by the pawn or secondhand business subject to the hold unless [a] the pawned or [~~sold article~~] purchased property has been seized by the law enforcement agency pursuant to Section 13-32a-109.5.

Section 22. Section **13-32a-116** is amended to read:

13-32a-116. Property disposition -- Property subject to prosecution -- Property not used as evidence.

When [~~any~~] property that is pawned or sold to a pawn or secondhand business is the subject of a criminal proceeding, and has been seized by law enforcement pursuant to [~~Section 13-32a-115~~] this chapter, the prosecuting agency shall notify the seizing agency, the original victim, and the pawn or secondhand business in compliance with Subsection 13-32a-109(8), if the prosecuting agency determines the article is no longer needed as evidence pending resolution of the criminal case.

Section 23. Section **13-32a-116.5** is amended to read:

13-32a-116.5. Contested disposition of property - Procedure.

(1) If a pawn or secondhand business [~~has received~~] receives notice from a law enforcement agency under Section 13-32a-109 that [~~an article which was~~] property that is the subject of a hold or seizure shall be returned to an identified original victim, the pawn or secondhand business may contest the determination and seek a specific alternative disposition if within 15 business days after the day on which the pawn or secondhand business receives the notice:

(a) the pawn or secondhand business gives notice to the identified original victim, by

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certified mail, that the pawn or secondhand business contests the determination to return the ~~[article]~~ property to the original victim; and

(b) files a petition in a court having jurisdiction over the matter to determine rightful ownership of the ~~[article]~~ property as provided in Section 24-3-104.

(2) A pawn or secondhand business is guilty of a class B misdemeanor if the pawn or secondhand business:

(a) holds or sells ~~[an article]~~ property in violation of a notification from a law enforcement agency that the ~~[item]~~ property is to be returned to an original victim; and

(b) the pawn or secondhand business does not comply with the requirements of this section within the time periods specified.

Section 24. Section **76-6-408** is amended to read:

76-6-408. Receiving stolen property -- Duties of pawnbrokers, secondhand businesses, and coin dealers.

(1) As used in this section:

(a) "Pawnbroker" means the same as that term is defined in Section 13-32a-102.

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

~~[(1)]~~ (2) A person commits theft if ~~[he]~~ the person receives, retains, or disposes of the property of another knowing that ~~[it has been]~~ the property is stolen, or believing that ~~[it]~~ the property is probably ~~[has been]~~ stolen, or who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from the owner, knowing or believing the property to be stolen, intending to deprive the owner of ~~[it]~~ the property.

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

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

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

(c) is a pawnbroker or person who:

(i) has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or an agent, employee, or representative of a pawnbroker or person who buys, receives, or obtains property; and

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

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

~~[(iii) provide at least one positive form of identification; or]~~

(ii) (A) has not completely and accurately documented the information required under Section 13-32a-104; or

(B) is found in possession of merchandise or personal property that violates Subsection 13-32a-104(2); or

(d) is a coin dealer or an employee of the coin dealer as defined in Section 13-32a-102 who does not comply with the requirements of Section 13-32a-104.5.

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

~~[(4)]~~ (5) When, in a prosecution under this section, it appears from the evidence that the defendant was a pawnbroker or a person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee, or representative of a pawnbroker or person, that the defendant bought, received, concealed, or withheld the property without obtaining the information required in Subsection ~~[(2)(c) or (2)(d)]~~ (3)(c) or (d), then the burden shall be upon the defendant to show that the property bought, received, or obtained was not stolen.

~~[(5)]~~ (6) Subsections ~~[(2)]~~ (3)(c), ~~[(3)]~~ (4), and ~~[(4)]~~ (5) do not apply to scrap metal processors as defined in Section 76-6-1402.

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

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

~~[(b) "Pawnbroker" means a person who:]~~

~~[(i) loans money on deposit of personal property, or deals in the purchase, exchange, or possession of personal property on condition of selling the same property back again to the~~

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~~pledge or depositor;]~~

~~[(ii) loans or advances money on personal property by taking chattel mortgage security on the property and takes or receives the personal property into his possession and who sells the unredeemed pledges; or]~~

~~[(iii) receives personal property in exchange for money or in trade for other personal property.]~~

~~[(c) "Receives" means acquiring possession, control, or title or lending on the security of the property.]~~

Section 25. Section **76-6-412** is amended to read:

76-6-412. Theft -- Classification of offenses -- Action for treble damages.

(1) Theft of property and services as provided in this chapter is punishable:

(a) as a second degree felony if the:

- (i) value of the property or services is or exceeds \$5,000;
- (ii) property stolen is a firearm or an operable motor vehicle; or
- (iii) property is stolen from the person of another;

(b) as a third degree felony if:

(i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;

(ii) the value of the property or services is or exceeds \$500 and the actor has been twice before convicted of any of the following offenses, if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based and at least one of those convictions is for a class A misdemeanor:

(A) any theft, any robbery, or any burglary with intent to commit theft;

(B) any offense under Title 76, Chapter 6, Part 5, Fraud; or

(C) any attempt to commit any offense under Subsection (1)(b)(ii)(A) or (B);

(iii) in a case not amounting to a second degree felony, the property taken is a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack, jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes; or

(iv) (A) the value of property or services is or exceeds \$500 but is less than \$1,500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender

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from entering the property pursuant to Subsection 78B-3-108(4);

(v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C);

(c) as a class A misdemeanor if:

(i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;

(ii) (A) the value of property or services is less than \$500;

(B) the theft occurs on a property where the offender has committed any theft within the past five years; and

(C) the offender has received written notice from the merchant prohibiting the offender from entering the property pursuant to Subsection 78B-3-108(4); or

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)(ii)(A) through (1)(b)(ii)(C), if each prior offense was committed within 10 years of the date of the current conviction or the date of the offense upon which the current conviction is based; or

(d) as a class B misdemeanor if the value of the property stolen is less than \$500 and the theft is not an offense under Subsection (1)(c).

(2) Any individual who violates Subsection 76-6-408~~(1)~~(2) or [Subsection] 76-6-413(1), or commits theft of property described in Subsection 76-6-412(1)(b)(iii), is civilly liable for three times the amount of actual damages, if any sustained by the plaintiff, and for costs of suit and reasonable attorney fees.

Section 26. Repealer.

This bill repeals:

Section 13-32a-107, Deadline for registers to be electronic -- Notice for updating.

Section 13-32a-117, Property disposition if no criminal charges filed --

Administrative hearing.