

1 **PAWNSHOP AND SECONDHAND MERCHANDISE**
2 **TRANSACTION INFORMATION ACT AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: James A. Dunnigan**

6 Senate Sponsor: Curtis S. Bramble

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses pawnshop and secondhand merchandise businesses.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines and modifies terms;
- 14 ▶ addresses tickets and information related to the central database;
- 15 ▶ imposes requirements related to an automated recycling kiosk;
- 16 ▶ grants rulemaking authority related to fingerprints;
- 17 ▶ modifies penalty provision;
- 18 ▶ repeals provision related to complying with criminal provisions and the chapter; and
- 19 ▶ makes technical changes.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 AMENDS:

26 **13-32a-102**, as last amended by Laws of Utah 2019, Chapter 309

27 **13-32a-104**, as last amended by Laws of Utah 2020, Chapter 354

28 **13-32a-104.5**, as last amended by Laws of Utah 2019, Chapter 309

29 [13-32a-106](#), as last amended by Laws of Utah 2019, Chapter 309

30 [13-32a-109](#), as last amended by Laws of Utah 2019, Chapter 309

31 [13-32a-110](#), as last amended by Laws of Utah 2020, Chapter 354

32 ENACTS:

33 [13-32a-104.6](#), Utah Code Annotated 1953

34 REPEALS:

35 [13-32a-103](#), as last amended by Laws of Utah 2019, Chapter 309



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

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

39 **13-32a-102. Definitions.**

40 As used in this chapter:

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

42 Restricted Account created in Section [13-32a-113](#).

43 (2) "Antique item" means an item:

44 (a) that is generally older than 25 years;

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

46 (c) that is furniture or other decorative objects produced in a previous time period, as

47 distinguished from new items of a similar nature; and

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

49 (3) "Antique shop" means a business operating at an established location that deals

50 primarily in the purchase, exchange, or sale of antique items.

51 (4) "Automated recycling kiosk" means an interactive machine that:

52 (a) is installed inside a commercial site used for the selling of goods and services to

53 consumers;

54 (b) is monitored remotely by a live representative during the hours of operation;

55 (c) only engages in secondhand merchandise transactions involving wireless

56 communication devices; and

57 (d) has the following technological functions:

58 (i) verifies the seller's identity by a live representative using the individual's
59 identification;

60 (ii) generates a ticket; and

61 (iii) electronically transmits the secondhand merchandise transaction information to the
62 central database.

63 (5) "Automated recycling kiosk operator" means a person whose sole business activity
64 is the operation of one or more automated recycling kiosks.

65 [~~(4)~~] (6) "Board" means the Pawnshop and Secondhand Merchandise Advisory Board
66 created by this chapter.

67 [~~(5)~~] (7) "Central database" or "database" means the electronic database created and
68 operated under Section 13-32a-105.

69 [~~(6)~~] (8) "Children's product" means a used item that is for the exclusive use of
70 children, or for the care of children, including clothing and toys.

71 [~~(7)~~] (9) "Children's product resale business" means a business operating at a
72 commercial location and primarily selling children's products.

73 [~~(8)~~] (10) "Coin" means a piece of currency, usually metallic and usually in the shape
74 of a disc that is:

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

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

77 (ii) worth more than its metal content value.

78 [~~(9)~~] (11) "Coin dealer" means a person whose sole business activity is the selling and
79 purchasing of numismatic items and precious metals.

80 [~~(10)~~] (12) "Collectible paper money" means paper currency that is no longer in
81 circulation and is sold and purchased for the paper currency's collectible value.

82 [~~(11)~~] (13) (a) "Commercial grade precious metals" or "precious metals" means ingots,

83 monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the
84 refiner or fabricator indicating their fineness and include:

85 (i) .99 fine or finer ingots of gold, silver, platinum, palladium, or other precious metals;

86 or

87 (ii) .925 fine sterling silver ingots, art bars, and medallions.

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

89 ~~[(12)]~~ (14) "Consignment shop" means a business, operating at an established location:

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

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

93 ~~[(13)]~~ (15) "Division" means the Division of Consumer Protection created in Chapter
94 1, Department of Commerce.

95 ~~[(14)]~~ (16) "Exonumia" means a privately issued token for trade that is sold and
96 purchased for the token's collectible value.

97 ~~[(15)]~~ (17) "Gift card" means a record that:

98 (a) is usable at:

99 (i) a single merchant; or

100 (ii) a specified group of merchants;

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

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

103 ~~[(16)]~~ (18) "Identification" means any of the following non-expired forms of
104 identification issued by a state government, the United States government, or a federally
105 recognized Indian tribe, if the identification includes a unique number, photograph of the
106 bearer, and date of birth:

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

108 (b) a state-issued driver license;

109 (c) a state-issued identification card;

- 110 (d) a state-issued concealed carry permit;
- 111 (e) a United States military identification;
- 112 (f) a United States resident alien card;
- 113 (g) an identification of a federally recognized Indian tribe; or
- 114 (h) notwithstanding Section 53-3-207, a Utah driving privilege card.
- 115 (19) "IMEI number" means an International Mobile Equipment Identity number.
- 116 ~~[(17)]~~ (20) "Indicia of being new" means property that:
 - 117 (a) is represented by the individual pawning or selling the property as new;
 - 118 (b) is unopened in the original packaging; or
 - 119 (c) possesses other distinguishing characteristics that indicate the property is new.
- 120 ~~[(18)]~~ (21) "Local law enforcement agency" means the law enforcement agency that
- 121 has direct responsibility for ensuring compliance with central database reporting requirements
- 122 for the jurisdiction where the pawn or secondhand business is located.
- 123 ~~[(19)]~~ (22) "Numismatic item" means a coin, collectible paper money, or exnumia.
- 124 ~~[(20)]~~ (23) "Original victim" means a victim who is not a party to the pawn or sale
- 125 transaction and includes:
 - 126 (a) an authorized representative designated in writing by the original victim; and
 - 127 (b) an insurer who has indemnified the original victim for the loss of the described
 - 128 property.
- 129 ~~[(21)]~~ (24) "Pawn or secondhand business" means a business operated by a pawnbroker
- 130 or secondhand merchandise dealer, or the owner or operator of the business.
- 131 ~~[(22)]~~ (25) "Pawn transaction" means:
 - 132 (a) an extension of credit in which an individual delivers property to a pawnbroker for
 - 133 an advance of money and retains the right to redeem the property for the redemption price
 - 134 within a fixed period of time;
 - 135 (b) a loan of money on one or more deposits of personal property;
 - 136 (c) the purchase, exchange, or possession of personal property on condition of selling

137 the same property back again to the pledgor or depositor; or

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

141 [~~(23)~~] (26) "Pawnbroker" means a person whose business:

142 (a) engages in a pawn transaction; or

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

146 [~~(24)~~] (27) "Pawnshop" means the physical location or premises where a pawnbroker
147 conducts business.

148 [~~(25)~~] (28) "Pledgor" means an individual who conducts a pawn transaction with a
149 pawnshop.

150 [~~(26)~~] (29) "Property" means an article of tangible personal property, numismatic item,
151 precious metal, gift card, transaction card, or other physical or digital card or certificate
152 evidencing store credit, and includes a wireless communication device.

153 [~~(27)~~] (30) "Retail media item" means recorded music, a movie, or a video game that is
154 produced and distributed in hard copy format for retail sale.

155 [~~(28)~~] (31) "Scrap jewelry" means ~~[any]~~ an item purchased solely:

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

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

158 [~~(29)~~] (32) (a) "Secondhand merchandise dealer" means a person whose business:

159 (i) engages in a secondhand merchandise transaction; and

160 (ii) does not engage in a pawn transaction.

161 (b) "Secondhand merchandise dealer" includes a coin dealer and an automated
162 recycling kiosk operator.

163 (c) "Secondhand merchandise dealer" does not include:

- 164 (i) an antique shop when dealing in antique items;
- 165 (ii) a person who operates an auction house, flea market, or vehicle, vessel, and
166 outboard motor dealers as defined in Section 41-1a-102;
- 167 (iii) the sale of secondhand goods at events commonly known as "garage sales," "yard
168 sales," "estate sales," "storage unit sales," or "storage unit auctions";
- 169 (iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:
 - 170 (A) card games;
 - 171 (B) table-top games; or
 - 172 (C) magic tricks;
- 173 (v) the sale or receipt of used merchandise donated to recognized nonprofit, religious,
174 or charitable organizations or any school-sponsored association, and for which no
175 compensation is paid;
- 176 (vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;
- 177 (vii) ~~any~~ a person offering the person's own personal property for sale, purchase,
178 consignment, or trade via the Internet;
- 179 (viii) ~~any~~ a person offering the personal property of others for sale, purchase,
180 consignment, or trade via the Internet, when that person does not have, and is not required to
181 have, a local business or occupational license or other authorization for this activity;
- 182 (ix) ~~any~~ an owner or operator of a retail business that:
 - 183 (A) receives used merchandise as a trade-in for similar new merchandise; or
 - 184 (B) receives used retail media items as a trade-in for similar new or used retail media
185 items;
- 186 (x) an owner or operator of a business that contracts with other persons to offer those
187 persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;
- 188 (xi) any dealer as defined in Section 76-6-1402, ~~which~~ that concerns scrap metal and
189 secondary metals;
- 190 (xii) the purchase of items in bulk that are:

191 (A) sold at wholesale in bulk packaging;
192 (B) sold by a person licensed to conduct business in Utah; and
193 (C) regularly sold in bulk quantities as a recognized form of sale;
194 (xiii) the owner or operator of a children's product resale business; or
195 (xiv) a consignment shop when dealing in consigned property.
196 ~~[(30)]~~ (33) "Secondhand merchandise transaction" means the purchase or exchange of
197 used or secondhand property.

198 ~~[(31)]~~ (34) "Ticket" means a document upon which information is entered when a
199 pawn transaction or secondhand merchandise transaction is made.

200 ~~[(32)]~~ (35) "Transaction card" means a card, code, or other means of access to a value
201 with the retail business issued to a person that allows the person to obtain, purchase, or receive
202 any of the following:

- 203 (a) goods;
- 204 (b) services;
- 205 (c) money; or
- 206 (d) anything else of value.

207 (36) "Wireless communication device" means a cellular telephone or a portable
208 electronic device designed to receive and transmit a text message, email, video, or voice
209 communication.

210 Section 2. Section **13-32a-104** is amended to read:

211 **13-32a-104. Tickets required to be maintained -- Contents -- Identification of**
212 **items -- Prohibition against pawning or selling certain property.**

213 (1) A pawn or secondhand business shall keep a ticket for property a person pawns or
214 sells to the pawn or secondhand business. A pawn or secondhand business shall document on
215 the ticket the following information regarding the property:

- 216 (a) the date and time of the transaction;
- 217 (b) whether the transaction is a pawn or purchase;

- 218 (c) the ticket number;
- 219 (d) the date by which the property must be redeemed, if the property is pawned;
- 220 (e) the following information regarding the individual who pawns or sells the property:
 - 221 (i) the individual's full name and date of birth as they appear on the individual's
 - 222 identification and the individual's residence address and telephone number;
 - 223 (ii) the unique number and type of identification presented to the pawn or secondhand
 - 224 business;
 - 225 (iii) the individual's signature; and
 - 226 (iv) (A) subject to any rule made under Subsection [(6), a] (7), an electronic or tangible
 - 227 legible fingerprint of the individual's right index finger, or if the right index finger cannot be
 - 228 fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint
 - 229 and the reason why the right index fingerprint was unavailable; and
 - 230 (B) notwithstanding the other provisions of this Subsection (1), an electronic legible
 - 231 fingerprint is not required to be documented on the ticket;
- 232 (f) the amount loaned on, paid for, or value for trade-in of each article of property;
- 233 (g) the full name of the individual conducting the pawn transaction or secondhand
- 234 merchandise transaction on behalf of the pawn or secondhand business or the initials or a
- 235 unique identifying number of the individual, if the pawn or secondhand business maintains a
- 236 record of the initials or unique identifying number of the individual; and
- 237 (h) an accurate description of each article of property, with available identifying marks,
- 238 including:
 - 239 (i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers,
 - 240 color, manufacturers' names, and size;
 - 241 [(ii)] (B) metallic composition, and any jewels, stones, or glass;
 - 242 [(iii)] (C) any other marks of identification or indicia of ownership on the property;
 - 243 [(iv)] (D) the weight of the property, if the payment is based on weight;
 - 244 [(v)] (E) any other unique identifying feature; and

245 [~~(vi)~~] (F) gold content, if indicated; or
246 [~~(vii)~~] (ii) if multiple articles of property of a similar nature are delivered together in
247 one transaction and the articles of property do not bear serial or model numbers and do not
248 include precious metals or gemstones, such as musical or video recordings, books, or hand
249 tools, the description of the articles is adequate if it includes the quantity of the articles and a
250 description of the type of articles delivered.

251 (2) (a) A pawn or secondhand business may not accept property if, upon inspection, it
252 is apparent that:

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

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

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

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

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

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

268 (b) If an individual attempts to sell or pawn property to a business regulated under this
269 chapter and the employee or owner of the business knows or has reason to know that the
270 property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or
271 owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid

272 Personal Property, and may not receive the property in pawn or sale.

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

274 (5) An automated recycling kiosk operator is subject to Section [13-32a-104.6](#) and is not
275 subject to this section.

276 ~~[(5)]~~ (6) A violation of this section is a class B misdemeanor and is also subject to civil
277 penalties under Section [13-32a-110](#).

278 ~~[(6) (a) On and after January 1, 2020:]~~

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

284 ~~[(ii) the electronic fingerprint is not required on the ticket.]~~

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

287 (7) The division shall establish standards and criteria for fingerprint legibility by rule
288 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

289 ~~[(7)]~~ (8) (a) As used in this Subsection ~~[(7)]~~ (8), "jewelry" means:

290 (i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry
291 and watches; or

292 (ii) any jewelry ~~[that the pawn or secondhand business is allowed to sell under~~
293 Subsection [13-32a-109\(1\)](#) pawned to a pawnbroker and the contract period between the
294 pawnbroker and the pledgor has expired, including scrap jewelry and watches.

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

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

297 (A) each item of jewelry; and

298 (B) if an item of jewelry has one or more engravings, an additional color digital

299 photograph specifically depicting any engraving; and

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

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

302 (B) an additional photograph that clearly depicts the identifying mark described in

303 Subsection ~~(7)~~ (8)(b)(ii)(A).

304 Section 3. Section 13-32a-104.5 is amended to read:

305 **13-32a-104.5. Database information from coin dealers -- New and prior**
306 **customers.**

307 (1) A coin dealer shall maintain a ticket under this section for each secondhand
308 merchandise transaction of a numismatic item or precious metal with an individual with whom
309 the coin dealer has not previously conducted a secondhand merchandise transaction.

310 (2) For a secondhand merchandise transaction under Subsection (1), the coin dealer or
311 the coin dealer's employee shall document the following information on the ticket regarding
312 every numismatic item or precious metal transaction:

313 (a) the date and time of the transaction;

314 (b) the ticket number;

315 (c) the following information regarding the individual who sells the numismatic item
316 or precious metal:

317 (i) the individual's full name and date of birth as they appear on the individual's
318 identification and the individual's residence address and telephone number;

319 (ii) the unique number and type of identification presented to the coin dealer;

320 (iii) the individual's signature; and

321 (iv) (A) subject to any rule made under Subsection (6), [a] an electronic or tangible
322 legible fingerprint of the individual's right index finger, or if the right index finger cannot be
323 fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint
324 and the reason why a right index fingerprint is unavailable; and

325 (B) notwithstanding the other provisions of this Subsection (2), an electronic legible

326 fingerprint is not required to be documented on the ticket;

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

328 (e) the full name of the individual conducting the transaction on behalf of the pawn or
329 secondhand business or the initials or unique identifying number, if the coin dealer maintains a
330 record of the initials or unique identifying number of the individual; and

331 (f) an accurate description of each numismatic item or precious metal, with available
332 identifying marks, including:

333 (i) type and name of numismatic item or type and content of precious metal;

334 (ii) metallic composition, and any jewels, stones, or glass;

335 (iii) any other marks of identification or indicia of ownership on the article;

336 (iv) the weight of the article, if the payment is based on weight;

337 (v) any other unique identifying feature; and

338 (vi) metallic content.

339 (3) (a) If multiple numismatic items or precious metals of the same type in an amount
340 that would make reporting of each item unreasonably difficult are part of a single sale
341 transaction, a coin dealer shall document the property as a grouping.

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

344 (i) type and name of numismatic items or type and content of precious metal;

345 (ii) metallic composition, and any jewels, stones, or glass;

346 (iii) any other marks of identification or indicia of ownership on the article;

347 (iv) the weight of the articles, if the payment is based on the weight;

348 (v) any other unique identifying features; and

349 (vi) metallic content.

350 (4) If the individual selling a numismatic item or precious metal to the coin dealer has
351 an established previous transaction history with the coin dealer, the coin dealer or the coin
352 dealer's employee shall document the following information on the ticket:

- 353 (a) the date and time of the transaction and the ticket number;
- 354 (b) indication that the coin dealer has conducted business with the seller previously;
- 355 (c) the full name of the individual conducting the transaction on behalf of the pawn or
- 356 secondhand business or the initials or unique identifying number, if the coin dealer maintains a
- 357 record of the initials or unique identifying number of the individual;
- 358 (d) the initials of the seller's legal name, including any middle name;
- 359 (e) form of identification presented by the seller at the time of sale;
- 360 (f) the last four digits of the unique identifying number on the form of identification;
- 361 (g) the individual's signature;
- 362 (h) the amount paid for or trade-in value of each numismatic item or precious metal;

363 and

- 364 (i) the identifying information under Subsection (2)(f) and under Subsection (3) as
- 365 applicable.

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

369 ~~[(6)(a) On and after January 1, 2020:]~~

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

376 ~~[(ii) the electronic fingerprint is not required on the ticket.]~~

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

379 (6) The division shall establish standards and criteria for fingerprint legibility by rule

380 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

381 Section 4. Section **13-32a-104.6** is enacted to read:

382 **13-32a-104.6. Database information from automated recycling kiosk operators.**

383 (1) An automated recycling kiosk operator shall generate a ticket under this section for
384 each secondhand merchandise transaction in which the automated recycling kiosk operator
385 engages. An automated recycling kiosk operator shall document on the ticket the following
386 information:

387 (a) the date and time of the transaction;

388 (b) the ticket number;

389 (c) a color digital photograph of the front and back of each wireless communication
390 device;

391 (d) the following information regarding the individual who sells the wireless
392 communication device:

393 (i) the individual's full name and date of birth as they appear on the individual's
394 identification and the individual's residence address and telephone number;

395 (ii) the unique number and type of identification presented to the automated recycling
396 kiosk;

397 (iii) the individual's signature;

398 (iv) a color digital photograph of the individual; and

399 (v) (A) subject to rules made under Subsection (3), an electronic or tangible legible
400 fingerprint of the individual's right index finger, or if the right index finger cannot be
401 fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint
402 and the reason why the right index fingerprint was unavailable; and

403 (B) notwithstanding the other provisions of this Subsection (1), an electronic legible
404 fingerprint is not required to be documented on the ticket;

405 (e) the full name of the individual conducting the secondhand merchandise transaction
406 on behalf of the automated recycling kiosk operator or the initials or a unique identifying

407 number of the individual, if the automated recycling kiosk maintains a record of the initials or
408 unique identifying number of the individual;

409 (f) the amount paid for each wireless communication device; and

410 (g) subject to Subsection (4), an accurate description of each wireless communication
411 device, including any:

412 (i) names, brand names, numbers, serial numbers, IMEI numbers, model numbers,
413 color, manufacturers' names, and size;

414 (ii) other marks of identification or indicia of ownership on the wireless
415 communication device; and

416 (iii) other unique identifying characteristics.

417 (2) A violation of this section is a class B misdemeanor and is also subject to civil
418 penalties under Section [13-32a-110](#).

419 (3) The division shall establish standards and criteria for fingerprint legibility by rule
420 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

421 (4) If an automated recycling kiosk cannot electronically extract a wireless
422 communication device's serial number or IMEI number from the wireless communication
423 device at the time of the transaction:

424 (a) the automated recycling kiosk operator may not pay the seller more than \$25 for the
425 wireless communication device;

426 (b) the automated recycling kiosk operator shall engage in and document reasonable
427 efforts to obtain and upload to the central database the wireless communication device's serial
428 number and IMEI number within 15 calendar days of the date of the transaction; and

429 (c) the central database information for the wireless communication device may not be
430 considered submitted for purposes of Subsection [13-32a-109](#)(1)(b) until the earlier of when:

431 (i) the wireless communication device's serial number and IMEI number have both
432 been uploaded to the central database; or

433 (ii) more than 45 calendar days have passed since the date of the transaction.

434 (5) An automated recycling kiosk operator may not purchase more than 10 wireless
435 communication devices with serial numbers or IMEI numbers that cannot be electronically
436 extracted by an automated recycling kiosk at the time of the transaction from the same
437 individual during the same calendar year.

438 (6) An automated recycling kiosk operator may only purchase a wireless
439 communication device with serial numbers or IMEI numbers that cannot be electronically
440 extracted by an automated recycling kiosk at the time of the transaction in a single-item
441 transaction.

442 Section 5. Section **13-32a-106** is amended to read:

443 **13-32a-106. Transaction information provided to the central database --**
444 **Protected information.**

445 (1) (a) [~~A~~] Except as provided in Subsection 13-32a-104.6(4), a pawn or secondhand
446 business shall transmit electronically in a compatible format information required to be
447 recorded under Sections 13-32a-103, 13-32a-104, [~~and~~] 13-32a-104.5, and 13-32a-104.6 that is
448 capable of being transmitted electronically to the central database within 24 hours after
449 entering into the transaction.

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

453 (2) A pawn or secondhand business shall maintain tickets generated by the pawn or
454 secondhand business and shall maintain the tickets in a manner so that the tickets are available
455 to local law enforcement agencies as required by this chapter and as requested by any law
456 enforcement agency as part of an investigation or reasonable random inspection conducted
457 pursuant to this chapter.

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

461 agency of the malfunction.

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

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

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

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

473 (a) arrange with the local law enforcement agency a mutually acceptable alternative
474 method by which the pawn or secondhand business provides the required information to the
475 local law enforcement agency; and

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

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

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

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

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

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

487 (9) A violation of this section is a Class B misdemeanor and is also subject to civil

488 penalties under Section 13-32a-110.

489 Section 6. Section 13-32a-109 is amended to read:

490 **13-32a-109. Holding period for property -- Return of property -- Penalty.**

491 (1) (a) A pawnbroker may sell property pawned to the pawnbroker if:

492 (i) 15 calendar days have passed after the day on which the pawnbroker submits the
493 information and any required photograph to the central database;

494 (ii) the contract period between the pawnbroker and the pledgor expires; and

495 (iii) the pawnbroker has complied with Sections 13-32a-103, 13-32a-104, and
496 13-32a-106.

497 (b) If property, including scrap jewelry, is purchased by a pawn or secondhand
498 business, the pawn or secondhand business may sell the property if the pawn or secondhand
499 business has held the property for 15 calendar days after the day on which the pawn or
500 secondhand business submits the information to the central database, and complied with
501 Sections 13-32a-103, 13-32a-104, 13-32a-104.6, and 13-32a-106, except that the pawn or
502 secondhand business is not required to hold precious metals or numismatic items under this
503 Subsection (1)(b).

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

506 (ii) If the property is pawned, the law enforcement agency may require the property be
507 held beyond the terms of the contract between the pledgor and the pawnbroker.

508 (iii) If the property is sold to the pawn or secondhand business, the law enforcement
509 agency may require the property be held if the pawn or secondhand business has not sold the
510 article.

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

514 (2) If a law enforcement agency requires the pawn or secondhand business to hold

515 property as part of an investigation, the law enforcement agency shall provide to the pawn or
516 secondhand business a hold form issued by the law enforcement agency, that:

- 517 (a) states the active case number;
- 518 (b) confirms the date of the hold request and the property to be held; and
- 519 (c) facilitates the ability of the pawn or secondhand business to track the property when
520 the prosecution takes over the case.

521 (3) If property is not seized by a law enforcement agency that has placed a hold on the
522 property, the property shall remain in the custody of the pawn or secondhand business until
523 further disposition by the law enforcement agency, and as consistent with this chapter.

524 (4) The initial hold by a law enforcement agency is for a period of 90 days. If the
525 property is not seized by the law enforcement agency, the property shall remain in the custody
526 of the pawn or secondhand business and is subject to the hold unless exigent circumstances
527 require the property to be seized by the law enforcement agency.

528 (5) (a) A law enforcement agency may extend any hold for up to an additional 90 days
529 if circumstances require the extension.

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

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

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

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

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

542 (b) return the property subject to the seizure to the pawn or secondhand business; or
543 (c) if the property is not returned to the pawn or secondhand business, advise the pawn
544 or secondhand business either in writing or electronically of the specific alternative disposition
545 of the property.

546 (8) (a) If the original victim who has complied with Section 13-32a-115 has been
547 identified and the hold or seizure of property is terminated, the law enforcement agency
548 requiring the hold or seizure shall:

549 (i) document the original victim who has positively identified the property; and
550 (ii) provide the documented information concerning the original victim to the
551 prosecuting agency to determine whether continued possession of the property is necessary for
552 purposes of prosecution, as provided in Section 24-3-103.

553 (b) If the prosecuting agency determines that continued possession of the property is
554 not necessary for purposes of prosecution, as provided in Section 24-3-103, the prosecuting
555 agency shall provide a written or electronic notification to the law enforcement agency that
556 authorizes the return of the property to an original victim who has complied with Section
557 13-32a-115.

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

560 (ii) The notice shall identify the original victim, advise the pawn or secondhand
561 business that the original victim has identified the property, and direct the pawn or secondhand
562 business to release the property to the original victim at no cost to the original victim.

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

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

569 (9) If the law enforcement agency does not notify the pawn or secondhand business
570 that a hold on the property has expired, the pawn or secondhand business shall send a letter by
571 registered or certified mail to the law enforcement agency that ordered the hold and inform the
572 agency that the holding period has expired. The law enforcement agency shall respond within
573 30 days by:

574 (a) confirming that the hold period has expired and that the pawn or secondhand
575 business may manage the property as if acquired in the ordinary course of business; or

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

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

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

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

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

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

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

589 Section 7. Section **13-32a-110** is amended to read:

590 **13-32a-110. Administrative or civil penalties -- Criminal prosecution.**

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

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

594 (b) Section [13-32a-104.5](#), ticket by coin dealer to be maintained;

595 (c) Section [13-32a-104.6](#), ticket by automated recycling kiosk operator to be

596 maintained;

597 [~~e~~] (d) Section 13-32a-106, transaction information provided to law enforcement;

598 [~~d~~] (e) Section 13-32a-108, retention of records;

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

600 [~~f~~] (g) Section 13-32a-110.5, transactions with certain individuals prohibited;

601 [~~g~~] (h) Section 13-32a-111, payment of fees as required; or

602 [~~h~~] (i) Section 13-32a-112.1, training requirements for pawn or secondhand business

603 employees and officers of participating law enforcement agencies.

604 (2) This section does not prohibit civil action by a governmental entity regarding the
605 pawn or secondhand business' operation or licenses.

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

608 Section 8. **Repealer.**

609 This bill repeals:

610 Section 13-32a-103, **Compliance with criminal code and this chapter.**