

Representative Ryan D. Wilcox proposes the following substitute bill:

PROPERTY THEFT AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Karen Mayne

LONG TITLE

General Description:

This bill concerns the purchase and theft of certain types of property.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ adds certain catalytic converter purchasers to the Pawnshop and Secondhand Merchandise Transaction Information Act;
- ▶ requires certain catalytic converter purchasers to document and input information into the central database for pawnshops and secondhand businesses;
- ▶ sets penalties for a catalytic converter purchaser's failure to document and input required information into the central database;
- ▶ requires certain catalytic converter purchasers to meet specific requirements in the Pawnshop and Secondhand Merchandise Transaction Information Act, including:
 - holding period requirements;
 - an annual fee;
 - annual training requirements; and
 - certain penalties;
- ▶ provides certain reporting requirements regarding catalytic converter theft for the



26 multi-agency joint strike force;

- 27 ▶ limits the type of payment for certain purchases of a catalytic converter;
- 28 ▶ modifies the membership of the Pawnshop and Secondhand Merchandise Advisory

29 Board;

- 30 ▶ modifies the presumptions for stolen property in certain situations;
- 31 ▶ provides penalties for the theft of a catalytic converter; and
- 32 ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 13-2-1, as last amended by Laws of Utah 2021, Chapter 266
- 40 13-32a-101, as last amended by Laws of Utah 2007, Chapter 352
- 41 13-32a-102, as last amended by Laws of Utah 2021, Chapter 66
- 42 13-32a-104, as last amended by Laws of Utah 2021, Chapter 66
- 43 13-32a-105, as last amended by Laws of Utah 2019, Chapter 309
- 44 13-32a-106, as last amended by Laws of Utah 2021, Chapter 66
- 45 13-32a-106.5, as last amended by Laws of Utah 2019, Chapter 309
- 46 13-32a-108, as last amended by Laws of Utah 2019, Chapter 309
- 47 13-32a-109, as last amended by Laws of Utah 2021, Chapter 66
- 48 13-32a-109.5, as last amended by Laws of Utah 2019, Chapter 309
- 49 13-32a-110, as last amended by Laws of Utah 2021, Chapter 66
- 50 13-32a-110.5, as last amended by Laws of Utah 2019, Chapter 309
- 51 13-32a-111, as last amended by Laws of Utah 2020, Chapter 354
- 52 13-32a-112, as last amended by Laws of Utah 2020, Chapter 354
- 53 13-32a-112.1, as enacted by Laws of Utah 2019, Chapter 309
- 54 13-32a-112.5, as last amended by Laws of Utah 2019, Chapter 309
- 55 13-32a-113, as last amended by Laws of Utah 2019, Chapter 309
- 56 13-32a-114, as last amended by Laws of Utah 2019, Chapter 309

- 57 [13-32a-115](#), as last amended by Laws of Utah 2019, Chapter 309
- 58 [13-32a-116](#), as last amended by Laws of Utah 2019, Chapter 309
- 59 [13-32a-116.5](#), as last amended by Laws of Utah 2019, Chapter 309
- 60 [63G-2-305](#), as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,
- 61 and 382
- 62 [67-5-37](#), as enacted by Laws of Utah 2020, Chapter 229
- 63 [76-6-408](#), as last amended by Laws of Utah 2019, Chapter 309
- 64 [76-6-412](#), as last amended by Laws of Utah 2021, Chapter 57
- 65 [76-6-1406](#), as renumbered and amended by Laws of Utah 2013, Chapter 187
- 66 [78B-3-108](#), as last amended by Laws of Utah 2012, Chapter 257

67 ENACTS:

- 68 [13-32a-104.7](#), Utah Code Annotated 1953
- 69 [13-32a-118](#), Utah Code Annotated 1953

70

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

72 Section 1. Section **13-2-1** is amended to read:

73 **13-2-1. Consumer protection division established -- Functions.**

74 (1) There is established within the Department of Commerce the Division of Consumer
75 Protection.

76 (2) The division shall administer and enforce the following:

- 77 (a) Chapter 5, Unfair Practices Act;
- 78 (b) Chapter 10a, Music Licensing Practices Act;
- 79 (c) Chapter 11, Utah Consumer Sales Practices Act;
- 80 (d) Chapter 15, Business Opportunity Disclosure Act;
- 81 (e) Chapter 20, New Motor Vehicle Warranties Act;
- 82 (f) Chapter 21, Credit Services Organizations Act;
- 83 (g) Chapter 22, Charitable Solicitations Act;
- 84 (h) Chapter 23, Health Spa Services Protection Act;
- 85 (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- 86 (j) Chapter 26, Telephone Fraud Prevention Act;
- 87 (k) Chapter 28, Prize Notices Regulation Act;

- 88 (l) Chapter 32a, Pawnshop [~~and~~], Secondhand Merchandise, and Catalytic Converter
- 89 Transaction Information Act;
- 90 (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- 91 (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- 92 (o) Chapter 41, Price Controls During Emergencies Act;
- 93 (p) Chapter 42, Uniform Debt-Management Services Act;
- 94 (q) Chapter 49, Immigration Consultants Registration Act;
- 95 (r) Chapter 51, Transportation Network Company Registration Act;
- 96 (s) Chapter 52, Residential Solar Energy Disclosure Act;
- 97 (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- 98 (u) Chapter 54, Ticket Website Sales Act;
- 99 (v) Chapter 56, Ticket Transferability Act; and
- 100 (w) Chapter 57, Maintenance Funding Practices Act.

101 Section 2. Section **13-32a-101** is amended to read:

**CHAPTER 32a. PAWNSHOP, SECONDHAND MERCHANDISE, AND
 CATALYTIC CONVERTER TRANSACTION INFORMATION ACT**

13-32a-101. Title.

105 This chapter is known as the "Pawnshop [~~and~~], Secondhand Merchandise, and Catalytic
 106 Converter Transaction Information Act."

107 Section 3. Section **13-32a-102** is amended to read:

13-32a-102. Definitions.

109 As used in this chapter:

110 (1) "Account" means the Pawnbroker [~~and~~], Secondhand Merchandise, and Catalytic
 111 Converter Operations Restricted Account created in Section [13-32a-113](#).

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

- 113 (a) that is generally older than 25 years;
- 114 (b) whose value is based on age, rarity, condition, craftsmanship, or collectability;
- 115 (c) that is furniture or other decorative objects produced in a previous time period, as
- 116 distinguished from new items of a similar nature; and
- 117 (d) obtained from auctions, estate sales, other antique shops, and individuals.

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

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

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

121 (a) is installed inside a commercial site used for the selling of goods and services to
122 consumers;

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

124 (c) only engages in secondhand merchandise transactions involving wireless
125 communication devices; and

126 (d) has the following technological functions:

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

129 (ii) generates a ticket; and

130 (iii) electronically transmits the secondhand merchandise transaction information to the
131 central database.

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

134 (6) "Board" means the Pawnshop ~~[and]~~, Secondhand Merchandise, and Catalytic
135 Converter Advisory Board created by this chapter.

136 (7) "Catalytic converter" means the same as that term is defined in Section 76-6-1402.

137 (8) (a) "Catalytic converter purchase" means a purchase from an individual of a used
138 catalytic converter that is no longer affixed to a vehicle.

139 (b) "Catalytic converter purchase" does not mean a purchase of a catalytic converter:

140 (i) from a business regularly engaged in automobile repair, crushing, dismantling,
141 recycling, or salvage;

142 (ii) from a new or used vehicle dealer licensed under Title 41, Chapter 3, Motor
143 Vehicle Business Regulation Act;

144 (iii) from another catalytic converter purchaser; or

145 (iv) that has never been affixed to a vehicle.

146 (9) "Catalytic converter purchaser" means a person who purchases a used catalytic
147 converter in a catalytic converter purchase.

148 [~~7~~] (10) "Central database" or "database" means the electronic database created and
149 operated under Section 13-32a-105.

150 ~~[(8)]~~ (11) "Children's product" means a used item that is for the exclusive use of
151 children, or for the care of children, including clothing and toys.

152 ~~[(9)]~~ (12) "Children's product resale business" means a business operating at a
153 commercial location and primarily selling children's products.

154 ~~[(10)]~~ (13) "Coin" means a piece of currency, usually metallic and usually in the shape
155 of a disc that is:

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

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

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

159 ~~[(11)]~~ (14) "Coin dealer" means a person whose sole business activity is the selling and
160 purchasing of numismatic items and precious metals.

161 ~~[(12)]~~ (15) "Collectible paper money" means paper currency that is no longer in
162 circulation and is sold and purchased for the paper currency's collectible value.

163 ~~[(13)]~~ (16) (a) "Commercial grade precious metals" or "precious metals" means ingots,
164 monetized bullion, art bars, medallions, medals, tokens, and currency that are marked by the
165 refiner or fabricator indicating their fineness and include:

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

167 or

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

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

170 ~~[(14)]~~ (17) "Consignment shop" means a business, operating at an established location:

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

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

174 ~~[(15)]~~ (18) "Division" means the Division of Consumer Protection created in Chapter
175 1, Department of Commerce.

176 ~~[(16)]~~ (19) "Exonumia" means a privately issued token for trade that is sold and
177 purchased for the token's collectible value.

178 ~~[(17)]~~ (20) "Gift card" means a record that:

179 (a) is usable at:

180 (i) a single merchant; or

- 181 (ii) a specified group of merchants;
182 (b) is prefunded before the record is used; and
183 (c) can be used for the purchase of goods or services.

184 ~~[(18)]~~ (21) "Identification" means any of the following non-expired forms of
185 identification issued by a state government, the United States government, or a federally
186 recognized Indian tribe, if the identification includes a unique number, photograph of the
187 bearer, and date of birth:

- 188 (a) a United States Passport or United States Passport Card;
189 (b) a state-issued driver license;
190 (c) a state-issued identification card;
191 (d) a state-issued concealed carry permit;
192 (e) a United States military identification;
193 (f) a United States resident alien card;
194 (g) an identification of a federally recognized Indian tribe; or
195 (h) notwithstanding Section 53-3-207, a Utah driving privilege card.

196 ~~[(19)]~~ (22) "IMEI number" means an International Mobile Equipment Identity number.

197 ~~[(20)]~~ (23) "Indicia of being new" means property that:

- 198 (a) is represented by the individual pawning or selling the property as new;
199 (b) is unopened in the original packaging; or
200 (c) possesses other distinguishing characteristics that indicate the property is new.

201 ~~[(21)]~~ (24) "Local law enforcement agency" means the law enforcement agency that
202 has direct responsibility for ensuring compliance with central database reporting requirements
203 for the jurisdiction where the pawn or secondhand business or catalytic converter purchaser is
204 located.

205 ~~[(22)]~~ (25) "Numismatic item" means a coin, collectible paper money, or exnumia.

206 ~~[(23)]~~ (26) "Original victim" means a victim who is not a party to the pawn or sale
207 transaction or catalytic converter purchase and includes:

- 208 (a) an authorized representative designated in writing by the original victim; and
209 (b) an insurer who has indemnified the original victim for the loss of the described
210 property.

211 ~~[(24)]~~ (27) "Pawn or secondhand business" means a business operated by a pawnbroker

212 or secondhand merchandise dealer, or the owner or operator of the business.

213 ~~[(25)]~~ (28) "Pawn transaction" means:

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

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

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

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

223 ~~[(26)]~~ (29) "Pawnbroker" means a person whose business:

224 (a) engages in a pawn transaction; or

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

228 ~~[(27)]~~ (30) "Pawnshop" means the physical location or premises where a pawnbroker
229 conducts business.

230 ~~[(28)]~~ (31) "Pledgor" means an individual who conducts a pawn transaction with a
231 pawnshop.

232 ~~[(29)]~~ (32) "Property" means an article of tangible personal property, numismatic item,
233 precious metal, gift card, transaction card, or other physical or digital card or certificate
234 evidencing store credit, and includes a wireless communication device.

235 ~~[(30)]~~ (33) "Retail media item" means recorded music, a movie, or a video game that is
236 produced and distributed in hard copy format for retail sale.

237 ~~[(31)]~~ (34) "Scrap jewelry" means an item purchased solely:

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

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

240 ~~[(32)]~~ (35) (a) "Secondhand merchandise dealer" means a person whose business:

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

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

- 243 (b) "Secondhand merchandise dealer" includes a coin dealer and an automated
244 recycling kiosk operator.
- 245 (c) "Secondhand merchandise dealer" does not include:
- 246 (i) an antique shop when dealing in antique items;
- 247 (ii) a person who operates an auction house, flea market, or vehicle, vessel, and
248 outboard motor dealers as defined in Section [41-1a-102](#);
- 249 (iii) the sale of secondhand goods at events commonly known as "garage sales," "yard
250 sales," "estate sales," "storage unit sales," or "storage unit auctions";
- 251 (iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:
- 252 (A) card games;
- 253 (B) table-top games; or
- 254 (C) magic tricks;
- 255 (v) the sale or receipt of used merchandise donated to recognized nonprofit, religious,
256 or charitable organizations or any school-sponsored association, and for which no
257 compensation is paid;
- 258 (vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;
- 259 (vii) a person offering the person's own personal property for sale, purchase,
260 consignment, or trade via the Internet;
- 261 (viii) a person offering the personal property of others for sale, purchase, consignment,
262 or trade via the Internet, when that person does not have, and is not required to have, a local
263 business or occupational license or other authorization for this activity;
- 264 (ix) an owner or operator of a retail business that:
- 265 (A) receives used merchandise as a trade-in for similar new merchandise; or
- 266 (B) receives used retail media items as a trade-in for similar new or used retail media
267 items;
- 268 (x) an owner or operator of a business that contracts with other persons to offer those
269 persons' secondhand goods for sale, purchase, consignment, or trade via the Internet;
- 270 (xi) any dealer as defined in Section [76-6-1402](#), that concerns scrap metal and
271 secondary metals;
- 272 (xii) the purchase of items in bulk that are:
- 273 (A) sold at wholesale in bulk packaging;

- 274 (B) sold by a person licensed to conduct business in Utah; and
275 (C) regularly sold in bulk quantities as a recognized form of sale;
276 (xiii) the owner or operator of a children's product resale business; ~~[or]~~
277 (xiv) a consignment shop when dealing in consigned property[-]; or
278 (xv) a catalytic converter purchaser.

279 ~~[(33)]~~ (36) "Secondhand merchandise transaction" means the purchase or exchange of
280 used or secondhand property.

281 ~~[(34)]~~ (37) "Ticket" means a document upon which information is entered when a
282 pawn transaction or secondhand merchandise transaction is made.

283 ~~[(35)]~~ (38) "Transaction card" means a card, code, or other means of access to a value
284 with the retail business issued to a person that allows the person to obtain, purchase, or receive
285 any of the following:

- 286 (a) goods;
287 (b) services;
288 (c) money; or
289 (d) anything else of value.

290 ~~[(36)]~~ (39) "Wireless communication device" means a cellular telephone or a portable
291 electronic device designed to receive and transmit a text message, email, video, or voice
292 communication.

293 Section 4. Section **13-32a-104** is amended to read:

294 **13-32a-104. Tickets required to be maintained -- Contents -- Identification of**
295 **items -- Exceptions -- Prohibition against pawning or selling certain property.**

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

- 299 (a) the date and time of the transaction;
300 (b) whether the transaction is a pawn or purchase;
301 (c) the ticket number;
302 (d) the date by which the property must be redeemed, if the property is pawned;
303 (e) the following information regarding the individual who pawns or sells the property:
304 (i) the individual's full name and date of birth as they appear on the individual's

305 identification and the individual's residence address and telephone number;

306 (ii) the unique number and type of identification presented to the pawn or secondhand
307 business;

308 (iii) the individual's signature; and

309 (iv) (A) subject to any rule made under Subsection [~~(7)~~] (8), an electronic or tangible
310 legible fingerprint of the individual's right index finger, or if the right index finger cannot be
311 fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint
312 and the reason why the right index fingerprint was unavailable; and

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

315 (f) the amount loaned on, paid for, or value for trade-in of each article of property;

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

320 (h) an accurate description of each article of property, with available identifying marks,
321 including:

322 (i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers,
323 color, manufacturers' names, and size;

324 (B) metallic composition, and any jewels, stones, or glass;

325 (C) any other marks of identification or indicia of ownership on the property;

326 (D) the weight of the property, if the payment is based on weight;

327 (E) any other unique identifying feature; and

328 (F) gold content, if indicated; or

329 (ii) if multiple articles of property of a similar nature are delivered together in one
330 transaction and the articles of property do not bear serial or model numbers and do not include
331 precious metals or gemstones, such as musical or video recordings, books, or hand tools, the
332 description of the articles is adequate if it includes the quantity of the articles and a description
333 of the type of articles delivered.

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

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

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

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

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

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

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

351 (b) If an individual attempts to sell or pawn property to a business regulated under this
352 chapter and the employee or owner of the business knows or has reason to know that the
353 property is subject to Title 77, Chapter 24a, Lost or Mislaid Personal Property, the employee or
354 owner shall advise the individual of the requirements of Title 77, Chapter 24a, Lost or Mislaid
355 Personal Property, and may not receive the property in pawn or sale.

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

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

359 (6) A catalytic converter purchaser is subject to Section [13-32a-104.7](#) and is not subject
360 to this section.

361 [~~6~~] (7) A violation of this section is a class B misdemeanor and is also subject to civil
362 penalties under Section [13-32a-110](#).

363 [~~7~~] (8) The division shall establish standards and criteria for fingerprint legibility by
364 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

365 [~~8~~] (9) (a) As used in this Subsection [~~8~~] (9), "jewelry" means:

366 (i) any jewelry purchased by the pawn or secondhand business, including scrap jewelry

367 and watches; or

368 (ii) any jewelry pawned to a pawnbroker and the contract period between the
369 pawnbroker and the pledgor has expired, including scrap jewelry and watches.

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

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

372 (A) each item of jewelry; and

373 (B) if an item of jewelry has one or more engravings, an additional color digital
374 photograph specifically depicting any engraving; and

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

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

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

378 Subsection ~~[(8)]~~ (9)(b)(ii)(A).

379 Section 5. Section **13-32a-104.7** is enacted to read:

380 **13-32a-104.7. Database information from catalytic converter purchasers --**

381 **Penalties.**

382 (1) As soon as practicable, but no later than January 1, 2023, a catalytic converter
383 purchaser shall document information for each catalytic converter purchase as required under
384 this section and upload the information to the central database under Section [13-32a-106](#).

385 (2) A catalytic converter purchaser shall document the following information regarding
386 a catalytic converter purchase:

387 (a) the date and time of the catalytic converter purchase;

388 (b) the following information regarding the individual selling the catalytic converter:

389 (i) the individual's:

390 (A) full name and date of birth as they appear on the individual's identification;

391 (B) residence address;

392 (C) telephone number; and

393 (D) signature on a certificate stating that the individual has the legal right to sell the
394 catalytic converter;

395 (ii) the type of identification the individual presents under Subsection (2)(b)(i)(A) and
396 the unique number on the identification;

397 (iii) a color digital photograph or still video of the individual taken at the time of the

398 sale, or a clearly legible photocopy of the individual's identification; and
399 (iv) except as provided in Subsection (3), an electronic or tangible legible fingerprint of
400 the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible
401 fingerprint of the individual with a notation identifying the finger fingerprinted and the reason
402 why the right index fingerprint is unavailable;
403 (c) the amount paid for the catalytic converter;
404 (d) the full name of the individual conducting the purchase on behalf of the catalytic
405 converter purchaser or the initials or unique identifying employee number, if the catalytic
406 converter purchaser maintains a record of the initials or unique identifying employee number of
407 the individual;
408 (e) an accurate description of the catalytic converter, with available identifying marks,
409 including:
410 (i) if available, the name, brand name, number, serial number, model number,
411 manufacturer information, and size of the catalytic converter;
412 (ii) any marks of identification or indicia of ownership on the catalytic converter;
413 (iii) the weight of the catalytic converter, if the payment is based on weight; and
414 (iv) other unique identifying characteristics of the catalytic converter; and
415 (f) a color, digital photograph of the catalytic converter.
416 (3) If the individual selling a catalytic converter to the catalytic converter purchaser
417 previously has sold one or more catalytic converters to the catalytic converter purchaser, the
418 catalytic converter purchaser is not required to obtain the fingerprint under Subsection
419 (2)(b)(iv).
420 (4) A catalytic converter purchaser may not accept a catalytic converter if, upon
421 inspection, it is apparent that the serial number or identifying characteristics have been
422 intentionally defaced on the catalytic converter.
423 (5) The division shall establish standards and criteria for fingerprint legibility under
424 Subsection (2)(b)(iv) by rule made in accordance with Title 63G, Chapter 3, Utah
425 Administrative Rulemaking Act.
426 (6) A violation of this section is a class B misdemeanor and is also subject to civil
427 penalties under Section [13-32a-110](#).
428 (7) A dealer, as defined in Section [76-6-1402](#), that purchases a catalytic converter

429 under this section shall comply with Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

430 Section 6. Section **13-32a-105** is amended to read:

431 **13-32a-105. Central database -- Implementation -- Notification.**

432 (1) In accordance with this section, there is created [~~under this section~~] a central
433 database as a statewide repository for:

434 (a) information that a pawn or secondhand [~~businesses are~~] business or a catalytic
435 converter purchaser is required to submit in accordance with this chapter; and [~~for~~]

436 (b) the use of a participating law enforcement [~~agencies that meet~~] agency that meets
437 the requirements of Section [13-32a-111](#).

438 (2) The division shall:

439 (a) establish and operate the central database; or

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

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

444 (4) (a) An entity that operates the central database may not hold any financial or
445 operating interest in a pawn or secondhand business or catalytic converter purchaser in any
446 state.

447 (b) The division shall verify before a bid is awarded that the selected entity meets the
448 requirements of Subsection (4)(a).

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

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

457 (b) Information entered in the central database shall be retained for five years and shall
458 then be deleted.

459 (6) Upon request, the entity responsible for establishing and operating the central

460 database under Subsection (2) shall provide technical information and advice for an
461 information technology representative of a pawn or secondhand business or catalytic converter
462 purchaser that is required to provide information to the central database.

463 Section 7. Section **13-32a-106** is amended to read:

464 **13-32a-106. Transaction information provided to the central database --**
465 **Protected information.**

466 (1) (a) Except as provided in Subsection 13-32a-104.6(4), a pawn or secondhand
467 business or catalytic converter purchaser shall transmit electronically in a compatible format
468 information required to be recorded under Sections [~~13-32a-103;~~ 13-32a-104, 13-32a-104.5,
469 [and] 13-32a-104.6, and 13-32a-104.7 that is capable of being transmitted electronically to the
470 central database within 24 hours after entering into the transaction.

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

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

479 (b) (i) A catalytic converter purchaser is not required to generate or maintain a ticket
480 for a catalytic converter purchase.

481 (ii) A catalytic converter purchaser shall make the information documented under
482 Section 13-32a-104.7 available to a local law enforcement agency in accordance with this
483 chapter and upon request by a law enforcement agency as part of an investigation or reasonable
484 random inspection conducted under this chapter.

485 (3) (a) If a pawn or secondhand business or catalytic converter purchaser experiences a
486 computer or electronic malfunction that affects [~~its~~] the business's or purchaser's ability to
487 report transactions as required in Subsection (1), the pawn or secondhand business or catalytic
488 converter purchaser shall immediately notify the division and the local law enforcement agency
489 of the malfunction.

490 (b) The pawn or secondhand business or catalytic converter purchaser shall solve the

491 malfunction within three business days after the day on which the business or purchaser
492 experiences the malfunction or notify the division and the local law enforcement agency under
493 Subsection (4).

494 (4) If the computer or electronic malfunction under Subsection (3) cannot be solved
495 within three business days after the day on which the pawn or secondhand business or catalytic
496 converter purchaser experiences the malfunction, the pawn or secondhand business or catalytic
497 converter purchaser shall notify the division and the local law enforcement agency of the
498 reasons for the delay and provide documentation from a reputable computer maintenance
499 company of the reasons why the computer or electronic malfunction cannot be solved within
500 three business days.

501 (5) A computer or electronic malfunction does not suspend the [~~pawn or secondhand~~
502 ~~business~~] obligation of the pawn or secondhand business or catalytic converter purchaser to
503 comply with all other provisions of this chapter.

504 (6) During the malfunction under Subsections (3) and (4), the pawn or secondhand
505 business or catalytic converter purchaser shall:

506 (a) arrange with the local law enforcement agency a mutually acceptable alternative
507 method by which the pawn or secondhand business or catalytic converter purchaser provides
508 the required information to the local law enforcement agency; and

509 (b) a pawn or secondhand business or catalytic converter purchaser shall maintain the
510 tickets, if applicable, and other related information required under this chapter in a written
511 form.

512 (7) A pawn or secondhand business or catalytic converter purchaser that violates the
513 electronic transaction reporting requirement [~~of~~] under this section is subject to an
514 administrative fine of \$50 per day if:

515 (a) the pawn or secondhand business or catalytic converter purchaser is unable to
516 submit the information electronically due to a computer or electronic malfunction;

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

518 (c) the pawn or secondhand business or catalytic converter purchaser has not provided
519 documentation regarding [its] the pawn or secondhand business's or catalytic converter
520 purchaser's inability to solve the malfunction as required under Subsection (4).

521 (8) A pawn or secondhand business or catalytic converter purchaser is not responsible

522 for a delay in transmission of information that results from a malfunction in the central
523 database.

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

526 Section 8. Section **13-32a-106.5** is amended to read:

527 **13-32a-106.5. Confidentiality of pawn and purchase transactions.**

528 (1) A ticket, copy of a ticket, [~~or~~] information from a ticket, or information required
529 under Section [13-32a-104.7](#) delivered to a local law enforcement agency or transmitted to the
530 central database [~~pursuant to~~] under Section [13-32a-106](#) is a protected record under Section
531 [63G-2-305](#).

532 (2) In addition to use by the issuing pawn or secondhand business or catalytic converter
533 purchaser, the ticket, copy of a ticket, [~~or~~] information from a ticket, or information required
534 under Section [13-32a-104.7](#) may be used only by a law enforcement agency and the division
535 and only for the law enforcement and administrative enforcement purposes of:

536 (a) investigating possible criminal conduct involving the property delivered;

537 (i) to the pawn or secondhand business in a pawn transaction or secondhand
538 merchandise transaction; or

539 (ii) to a catalytic converter purchaser in a catalytic converter purchase;

540 (b) investigating a possible violation of the record keeping or reporting requirements of
541 this chapter when the local law enforcement agency or the division, based on a review of the
542 records and information received, has reason to believe that a violation has occurred;

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

549 (i) a description of the property;

550 (ii) the name and address of the pawn or secondhand business or catalytic converter
551 purchaser that received the property; and

552 (iii) the name, address, and date of birth of the conveying individual; and

553 (d) taking enforcement action under Section 13-2-5 against a pawn or secondhand
554 business or catalytic converter purchaser.

555 [(2)] (3) An insurance company making a request under Subsection [(1)] (2)(c) shall
556 provide the police report case number concerning the described property.

557 [(3)] (4) (a) A person may not knowingly and intentionally use, release, publish, or
558 otherwise make available to any person any information obtained from the central database for
559 any purpose other than those specified in Subsection [(1)] (2).

560 (b) Each separate violation of Subsection [(3)] (4)(a) is a class B misdemeanor.

561 (c) Each separate violation of Subsection [(3)] (4)(a) is subject to a civil penalty not to
562 exceed \$250.

563 Section 9. Section 13-32a-108 is amended to read:

564 **13-32a-108. Retention of records -- Reasonable inspection.**

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

568 (2) (a) A law enforcement agency or the division may conduct random reasonable
569 inspections of pawn or secondhand businesses or catalytic converter purchasers for the purpose
570 of monitoring compliance with the requirements of this chapter.

571 (b) ~~[Inspections]~~ A law enforcement agency or the division shall conduct an inspection
572 under Subsection (2)(a) [shall be performed] during the regular business hours of the pawn or
573 secondhand business or catalytic converter purchaser.

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

576 Section 10. Section 13-32a-109 is amended to read:

577 **13-32a-109. Holding period for property -- Return of property -- Penalty.**

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

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

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

582 (iii) the pawnbroker has complied with Sections ~~[13-32a-103;]~~ 13-32a-104, and
583 13-32a-106.

584 (b) If property, including scrap jewelry, is purchased by a pawn or secondhand business
585 or catalytic converter purchaser, the pawn or secondhand business or catalytic converter
586 purchaser may sell the property if the pawn or secondhand business or catalytic converter
587 purchaser has held the property for 15 calendar days after the day on which the pawn or
588 secondhand business or catalytic converter purchaser submits the information to the central
589 database, and complied with Sections [~~13-32a-103~~], 13-32a-104, 13-32a-104.6, 13-32a-104.7,
590 and 13-32a-106, except that the pawn or secondhand business is not required to hold precious
591 metals or numismatic items under this Subsection (1)(b).

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

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

597 (iii) If the property is sold to the pawn or secondhand business or catalytic converter
598 purchaser, the law enforcement agency may require the property be held if the pawn or
599 secondhand business or catalytic converter purchaser has not sold the article.

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

604 (2) If a law enforcement agency requires the pawn or secondhand business or catalytic
605 converter purchaser to hold property as part of an investigation, the law enforcement agency
606 shall provide to the pawn or secondhand business or catalytic converter purchaser a hold form
607 issued by the law enforcement agency, that:

608 (a) states the active case number;

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

610 (c) facilitates the ability of the pawn or secondhand business or catalytic converter
611 purchaser to track the property when the prosecution takes over the case.

612 (3) If property is not seized by a law enforcement agency that has placed a hold on the
613 property, the property shall remain in the custody of the pawn or secondhand business or
614 catalytic converter purchaser until further disposition by the law enforcement agency, and [as

615 ~~consistent]~~ in accordance with this chapter.

616 (4) (a) The initial hold by a law enforcement agency is for a period of 90 days.

617 (b) If the property is not seized by the law enforcement agency, the property shall
618 remain in the custody of the pawn or secondhand business or catalytic converter purchaser and
619 is subject to the hold unless exigent circumstances require the property to be seized by the law
620 enforcement agency.

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

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

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

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

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

634 (a) notify the pawn or secondhand business or catalytic converter purchaser in writing
635 that the hold or seizure has been terminated;

636 (b) return the property subject to the seizure to the pawn or secondhand business or
637 catalytic converter purchaser; or

638 (c) if the property is not returned to the pawn or secondhand business or catalytic
639 converter purchaser, advise the pawn or secondhand business or catalytic converter purchaser
640 either in writing or electronically of the specific alternative disposition of the property.

641 (8) (a) If the original victim who has complied with Section [13-32a-115](#) has been
642 identified and the hold or seizure of property is terminated, the law enforcement agency
643 requiring the hold or seizure shall:

644 (i) document the original victim who has positively identified the property; and

645 (ii) provide the documented information concerning the original victim to the

646 prosecuting agency to determine whether continued possession of the property is necessary for
647 purposes of prosecution, as provided in Section 24-3-103.

648 (b) If the prosecuting agency determines that continued possession of the property is
649 not necessary for purposes of prosecution, as provided in Section 24-3-103, the prosecuting
650 agency shall provide a written or electronic notification to the law enforcement agency that
651 authorizes the return of the property to an original victim who has complied with Section
652 13-32a-115.

653 (c) (i) A law enforcement agency shall promptly provide notice to the pawn or
654 secondhand business or catalytic converter purchaser of the authorized return of the property
655 under this Subsection (8).

656 (ii) The notice shall identify the original victim, advise the pawn or secondhand
657 business or catalytic converter purchaser that the original victim has identified the property,
658 and direct the pawn or secondhand business or catalytic converter purchaser to release the
659 property to the original victim at no cost to the original victim.

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

663 (d) The pawn or secondhand business or catalytic converter purchaser shall release
664 property under Subsection (8)(c) unless within 15 days [~~of receiving~~] after the day on which the
665 notice is received the pawn or secondhand business or catalytic converter purchaser complies
666 with Section 13-32a-116.5.

667 (9) (a) If the law enforcement agency does not notify the pawn or secondhand business
668 or catalytic converter purchaser that a hold on the property has expired, the pawn or
669 secondhand business or catalytic converter purchaser shall send a letter by registered or
670 certified mail to the law enforcement agency that ordered the hold and inform the agency that
671 the holding period has expired.

672 (b) The law enforcement agency shall respond within 30 days by:

673 [~~(a)~~] (i) confirming that the hold period has expired and that the pawn or secondhand
674 business or catalytic converter purchaser may manage the property as if acquired in the
675 ordinary course of business; or

676 [~~(b)~~] (ii) providing written notice to the pawn or secondhand business or catalytic

677 converter purchaser that a court order has continued the period of time for which the item shall
678 be held.

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

680 (a) personally delivered to the pawn or secondhand business or catalytic converter
681 purchaser with a signed receipt of delivery;

682 (b) delivered to the pawn or secondhand business or catalytic converter purchaser by
683 registered or certified mail; or

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

686 (11) If the law enforcement agency does not respond within 30 days under Subsection
687 (9), the pawn or secondhand business or catalytic converter purchaser may manage the property
688 as if acquired in the ordinary course of business.

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

691 Section 11. Section 13-32a-109.5 is amended to read:

692 **13-32a-109.5. Seizure of property -- Notification to pawn or secondhand business**
693 **or catalytic converter purchaser.**

694 If a law enforcement agency determines seizure of property pawned or sold to a pawn
695 or secondhand business or catalytic converter purchaser is necessary under this chapter during
696 the course of a criminal investigation, in addition to the hold provisions under Section
697 13-32a-109, the law enforcement agency shall:

698 (1) notify the pawn or secondhand business or catalytic converter purchaser of the
699 specific property to be seized; and

700 (2) issue to the pawn or secondhand business or catalytic converter purchaser a seizure
701 form approved by the division and that:

702 (a) provides the active case number related to the property to be seized;

703 (b) provides the date of the seizure request;

704 (c) provides the reason for the seizure;

705 (d) describes the property to be seized;

706 (e) states each reason the property is necessary during the course of a criminal
707 investigation; and

708 (f) includes any information that facilitates the ~~[pawn or secondhand business']~~ ability
709 of the pawn or secondhand business or catalytic converter purchaser to track the property when
710 the prosecution agency takes over the case.

711 Section 12. Section **13-32a-110** is amended to read:

712 **13-32a-110. Administrative or civil penalties -- Criminal prosecution.**

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

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

716 (b) Section 13-32a-104.5, ~~[ticket by coin dealer to be maintained]~~ database information
717 from coin dealers;

718 (c) Section 13-32a-104.6, ~~[ticket by]~~ database information from automated recycling
719 kiosk ~~[operator to be maintained]~~ operators;

720 (d) Section 13-32a-104.7, database information from catalytic converter purchasers;

721 ~~[(d)]~~ (e) Section 13-32a-106, transaction information provided to ~~[law enforcement]~~
722 the central database;

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

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

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

726 ~~[(h)]~~ (i) Section 13-32a-111, ~~[payment of fees as required]~~ fees to fund account; or

727 ~~[(i)]~~ (j) Section 13-32a-112.1, annual training ~~[requirements for pawn or secondhand~~
728 ~~business employees and officers of participating law enforcement agencies]~~.

729 (2) This section does not prohibit civil action by a governmental entity regarding ~~[the~~
730 ~~pawn or secondhand business']~~ the operation or [licenses] license of a pawn or secondhand
731 business or catalytic converter purchaser.

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

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

735 **13-32a-110.5. Transactions with certain individuals prohibited.**

736 A pawn or secondhand business or catalytic converter purchaser may not engage in a
737 pawn transaction or secondhand merchandise transaction or catalytic converter purchase with
738 an individual who:

- 739 (1) is younger than 18 years [~~of age~~] old; or
740 (2) appears to be under the influence of alcohol or a controlled substance.

741 Section 14. Section **13-32a-111** is amended to read:

742 **13-32a-111. Fees to fund account.**

743 (1) (a) A pawn or secondhand business or catalytic converter purchaser in operation
744 shall pay an annual fee[;] of no more than \$500, set in accordance with Section [63J-1-504](#).

745 (b) A law enforcement agency within Utah that participates in the use of the central
746 database shall pay an annual fee set in accordance with Section [63J-1-504](#).

747 (c) A law enforcement agency outside Utah that requests access to the central database
748 shall pay an annual fee set in accordance with Section [63J-1-504](#).

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

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

752 (4) The division may only increase fees for a pawn or secondhand business or catalytic
753 converter purchaser under Section [63J-1-504](#).

754 Section 15. Section **13-32a-112** is amended to read:

755 **13-32a-112. Pawnshop, Secondhand Merchandise, and Catalytic Converter**
756 **Advisory Board.**

757 (1) There is created within the division the "Pawnshop [~~and~~], Secondhand
758 Merchandise, and Catalytic Converter Advisory Board."

759 (2) The board consists of seven voting members appointed by the executive director of
760 the Department of Commerce:

761 (a) one law enforcement officer whose work regularly involves pawn or secondhand
762 business or catalytic converter purchases, recommended by the Utah Chiefs of Police

763 Association;

764 (b) one law enforcement officer whose work regularly involves pawn or secondhand
765 business or catalytic converter purchases, recommended by the Utah Sheriffs Association;

766 (c) one state, county, or municipal prosecutor, recommended by a prosecutors'
767 association or council;

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

769 (e) one secondhand merchandise dealer, recommended by the secondhand merchandise

770 industry;

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

772 [~~(g) one representative from the pawn or secondhand merchandise industry at large,~~
773 ~~recommended by the pawn or secondhand merchandise industry.]~~

774 (g) one representative from the catalytic converter purchaser industry, recommended by
775 the catalytic converter purchaser industry.

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

778 (a) decline the recommendation; and

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

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

783 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director of the
784 Department of Commerce shall, at the time of appointments or reappointments, adjust the
785 length of terms to ensure that the terms of board members are staggered so that approximately
786 half of the board is appointed every two years.

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

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

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

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

796 (e) Notwithstanding Subsection (4)(d), members of the board as of May 13, 2019, are
797 removed from the board and the executive director of the Department of Commerce shall
798 appoint the board members in accordance with this section.

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

- 801 (b) The chair shall preside over the board for a period of one year.
- 802 (c) The board shall meet quarterly upon the call of the chair.
- 803 (d) A quorum of five members is required for the board to take action. An action taken
804 by majority of a quorum present at a meeting constitutes an action of the board.
- 805 (6) (a) The duties and powers of the board include the following:
- 806 (i) recommending to the division appropriate rules regarding the administration and
807 enforcement of this chapter;
- 808 (ii) recommending to the division changes related to the central database; and
- 809 (iii) advising the division on matters related to the pawn and secondhand merchandise
810 and catalytic converter purchase industries.
- 811 (b) This Subsection (6) does not require the board's approval to act on a rule or amend
812 this chapter.
- 813 (7) (a) A pawn or secondhand business or catalytic converter purchaser may file with
814 the board complaints regarding law enforcement agency practices perceived to be inconsistent
815 with this chapter.
- 816 (b) The board may refer the complaints to the Peace Officers Standards and Training
817 Division.
- 818 Section 16. Section **13-32a-112.1** is amended to read:
- 819 **13-32a-112.1. Annual training.**
- 820 (1) (a) The division shall provide training sessions, whether online or in-person, at least
821 once each year regarding compliance with this chapter and other applicable state laws.
- 822 (b) A pawn or secondhand business or catalytic converter purchaser shall ensure that
823 each individual employed by the pawn or secondhand business or catalytic converter purchaser
824 with access to the central database annually completes the training described in Subsection
825 (1)(a) in order for that individual to continue to have access to the central database.
- 826 (c) A law enforcement agency participating in the use of the central database shall
827 ensure that each individual employed by the law enforcement agency with access to the central
828 database annually completes the training described in Subsection (1)(a) in order for that
829 individual to continue to have access to the central database.
- 830 (2) The division shall monitor and keep a record of training completion.
- 831 Section 17. Section **13-32a-112.5** is amended to read:

832 **13-32a-112.5. Temporary businesses subject to chapter.**

833 A pawn or secondhand business or catalytic converter purchaser that operates on a
834 temporary basis or from a location that is not a permanent retail location:

835 (1) shall comply with this chapter; and

836 (2) is subject to enforcement of this chapter.

837 Section 18. Section **13-32a-113** is amended to read:

838 **13-32a-113. Pawnbroker, Secondhand Merchandise, and Catalytic Converter**
839 **Operations Restricted Account.**

840 (1) There is created within the General Fund a restricted account known as the
841 "Pawnbroker [~~and~~], Secondhand Merchandise, and Catalytic Converter Operations Restricted
842 Account."

843 (2) (a) The account shall be funded from fees and administrative and civil fines
844 imposed and collected under Sections [13-32a-106](#), [13-32a-110](#), and [13-32a-111](#). [~~These~~]

845 (b) The fees and administrative and civil fines shall be paid to the division, which shall
846 deposit them in the account.

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

849 (i) the costs of providing training required under this chapter;

850 (ii) the costs of the central database created in Section [13-32a-105](#); and

851 (iii) the division's costs of administering [~~the~~] this chapter.

852 Section 19. Section **13-32a-114** is amended to read:

853 **13-32a-114. Preemption of local ordinances -- Exceptions.**

854 (1) This chapter preempts town, city, county, and other local ordinances governing
855 pawn or secondhand businesses or catalytic converter purchasers, if the ordinances are more
856 restrictive than the provisions of this chapter or are not consistent with this chapter.

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

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

862 (b) requiring a pawn or secondhand business or catalytic converter purchaser to obtain

863 and maintain a business license and providing for revocation of the business license based on
864 multiple violations of Section 76-6-408; [~~and~~] or

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

867 Section 20. Section 13-32a-115 is amended to read:

868 **13-32a-115. Criminal investigation -- Prosecution -- Property disposition.**

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

873 (a) positively identify to law enforcement the property stolen or lost;

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

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

878 (i) claims ownership of the property;

879 (ii) references the original theft or loss; and

880 (iii) identifies the perpetrator if known.

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

884 (a) during the course of a criminal investigation the actual physical possession by law
885 enforcement of the property purchased or pawned is essential for the purpose of forensic testing
886 of the property, or if the property contains unique or sensitive personal identifying information;
887 or

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

890 (3) (a) Upon the commencement of a criminal prosecution, any property subject to a
891 hold for investigation under this chapter may be seized by the law enforcement agency that
892 requested the hold.

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

894 (4) At all times during the course of a criminal investigation and subsequent
895 prosecution, the property subject to a law enforcement hold shall be kept secure by the pawn or
896 secondhand business or catalytic converter purchaser subject to the hold unless the pawned or
897 purchased property has been seized by the law enforcement agency pursuant to Section
898 [13-32a-109.5](#).

899 Section 21. Section **13-32a-116** is amended to read:

900 **13-32a-116. Property disposition -- Property subject to prosecution -- Property**
901 **not used as evidence.**

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

908 Section 22. Section **13-32a-116.5** is amended to read:

909 **13-32a-116.5. Contested disposition of property - Procedure.**

910 (1) If a pawn or secondhand business or catalytic converter purchaser receives notice
911 from a law enforcement agency under Section [13-32a-109](#) that property that is the subject of a
912 hold or seizure shall be returned to an identified original victim, the pawn or secondhand
913 business or catalytic converter purchaser may contest the determination and seek a specific
914 alternative disposition if within 15 business days after the day on which the pawn or
915 secondhand business or catalytic converter purchaser receives the notice:

916 (a) the pawn or secondhand business or catalytic converter purchaser gives notice to
917 the identified original victim, by certified mail, that the pawn or secondhand business or
918 catalytic converter purchaser contests the determination to return the property to the original
919 victim; and

920 (b) the pawn or secondhand business or catalytic converter purchaser files a petition in
921 a court having jurisdiction over the matter to determine rightful ownership of the property as
922 provided in Section [24-3-104](#).

923 (2) A pawn or secondhand business or catalytic converter purchaser is guilty of a class
924 B misdemeanor if the pawn or secondhand business or catalytic converter purchaser:

925 (a) holds or sells property in violation of a notification from a law enforcement agency
926 that the property is to be returned to an original victim; and

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

929 Section 23. Section **13-32a-118** is enacted to read:

930 **13-32a-118. Payment limitation for catalytic converter purchases.**

931 (1) A catalytic converter purchaser, when making a catalytic converter purchase, may
932 not pay the seller for the catalytic converter with cash or a gift card.

933 (2) Subsection (1) does not apply to a catalytic converter purchase in which the amount
934 paid to the seller is under \$100.

935 Section 24. Section **63G-2-305** is amended to read:

936 **63G-2-305. Protected records.**

937 The following records are protected if properly classified by a governmental entity:

938 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret
939 has provided the governmental entity with the information specified in Section [63G-2-309](#);

940 (2) commercial information or nonindividual financial information obtained from a
941 person if:

942 (a) disclosure of the information could reasonably be expected to result in unfair
943 competitive injury to the person submitting the information or would impair the ability of the
944 governmental entity to obtain necessary information in the future;

945 (b) the person submitting the information has a greater interest in prohibiting access
946 than the public in obtaining access; and

947 (c) the person submitting the information has provided the governmental entity with
948 the information specified in Section [63G-2-309](#);

949 (3) commercial or financial information acquired or prepared by a governmental entity
950 to the extent that disclosure would lead to financial speculations in currencies, securities, or
951 commodities that will interfere with a planned transaction by the governmental entity or cause
952 substantial financial injury to the governmental entity or state economy;

953 (4) records, the disclosure of which could cause commercial injury to, or confer a
954 competitive advantage upon a potential or actual competitor of, a commercial project entity as
955 defined in Subsection [11-13-103\(4\)](#);

956 (5) test questions and answers to be used in future license, certification, registration,
957 employment, or academic examinations;

958 (6) records, the disclosure of which would impair governmental procurement
959 proceedings or give an unfair advantage to any person proposing to enter into a contract or
960 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
961 Subsection (6) does not restrict the right of a person to have access to, after the contract or
962 grant has been awarded and signed by all parties:

963 (a) a bid, proposal, application, or other information submitted to or by a governmental
964 entity in response to:

965 (i) an invitation for bids;

966 (ii) a request for proposals;

967 (iii) a request for quotes;

968 (iv) a grant; or

969 (v) other similar document; or

970 (b) an unsolicited proposal, as defined in Section [63G-6a-712](#);

971 (7) information submitted to or by a governmental entity in response to a request for
972 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
973 the right of a person to have access to the information, after:

974 (a) a contract directly relating to the subject of the request for information has been
975 awarded and signed by all parties; or

976 (b) (i) a final determination is made not to enter into a contract that relates to the
977 subject of the request for information; and

978 (ii) at least two years have passed after the day on which the request for information is
979 issued;

980 (8) records that would identify real property or the appraisal or estimated value of real
981 or personal property, including intellectual property, under consideration for public acquisition
982 before any rights to the property are acquired unless:

983 (a) public interest in obtaining access to the information is greater than or equal to the
984 governmental entity's need to acquire the property on the best terms possible;

985 (b) the information has already been disclosed to persons not employed by or under a
986 duty of confidentiality to the entity;

987 (c) in the case of records that would identify property, potential sellers of the described
988 property have already learned of the governmental entity's plans to acquire the property;

989 (d) in the case of records that would identify the appraisal or estimated value of
990 property, the potential sellers have already learned of the governmental entity's estimated value
991 of the property; or

992 (e) the property under consideration for public acquisition is a single family residence
993 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
994 the property as required under Section [78B-6-505](#);

995 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
996 compensated transaction of real or personal property including intellectual property, which, if
997 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
998 of the subject property, unless:

999 (a) the public interest in access is greater than or equal to the interests in restricting
1000 access, including the governmental entity's interest in maximizing the financial benefit of the
1001 transaction; or

1002 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
1003 the value of the subject property have already been disclosed to persons not employed by or
1004 under a duty of confidentiality to the entity;

1005 (10) records created or maintained for civil, criminal, or administrative enforcement
1006 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
1007 release of the records:

1008 (a) reasonably could be expected to interfere with investigations undertaken for
1009 enforcement, discipline, licensing, certification, or registration purposes;

1010 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
1011 proceedings;

1012 (c) would create a danger of depriving a person of a right to a fair trial or impartial
1013 hearing;

1014 (d) reasonably could be expected to disclose the identity of a source who is not
1015 generally known outside of government and, in the case of a record compiled in the course of
1016 an investigation, disclose information furnished by a source not generally known outside of
1017 government if disclosure would compromise the source; or

1018 (e) reasonably could be expected to disclose investigative or audit techniques,
1019 procedures, policies, or orders not generally known outside of government if disclosure would
1020 interfere with enforcement or audit efforts;

1021 (11) records the disclosure of which would jeopardize the life or safety of an
1022 individual;

1023 (12) records the disclosure of which would jeopardize the security of governmental
1024 property, governmental programs, or governmental recordkeeping systems from damage, theft,
1025 or other appropriation or use contrary to law or public policy;

1026 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
1027 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
1028 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1029 (14) records that, if disclosed, would reveal recommendations made to the Board of
1030 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
1031 Board of Pardons and Parole, or the Department of Human Services that are based on the
1032 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
1033 jurisdiction;

1034 (15) records and audit workpapers that identify audit, collection, and operational
1035 procedures and methods used by the State Tax Commission, if disclosure would interfere with
1036 audits or collections;

1037 (16) records of a governmental audit agency relating to an ongoing or planned audit
1038 until the final audit is released;

1039 (17) records that are subject to the attorney client privilege;

1040 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
1041 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
1042 quasi-judicial, or administrative proceeding;

1043 (19) (a) (i) personal files of a state legislator, including personal correspondence to or
1044 from a member of the Legislature; and

1045 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
1046 legislative action or policy may not be classified as protected under this section; and

1047 (b) (i) an internal communication that is part of the deliberative process in connection
1048 with the preparation of legislation between:

- 1049 (A) members of a legislative body;
- 1050 (B) a member of a legislative body and a member of the legislative body's staff; or
- 1051 (C) members of a legislative body's staff; and
- 1052 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
- 1053 legislative action or policy may not be classified as protected under this section;
- 1054 (20) (a) records in the custody or control of the Office of Legislative Research and
- 1055 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
- 1056 legislation or contemplated course of action before the legislator has elected to support the
- 1057 legislation or course of action, or made the legislation or course of action public; and
- 1058 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
- 1059 Office of Legislative Research and General Counsel is a public document unless a legislator
- 1060 asks that the records requesting the legislation be maintained as protected records until such
- 1061 time as the legislator elects to make the legislation or course of action public;
- 1062 (21) research requests from legislators to the Office of Legislative Research and
- 1063 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
- 1064 in response to these requests;
- 1065 (22) drafts, unless otherwise classified as public;
- 1066 (23) records concerning a governmental entity's strategy about:
- 1067 (a) collective bargaining; or
- 1068 (b) imminent or pending litigation;
- 1069 (24) records of investigations of loss occurrences and analyses of loss occurrences that
- 1070 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
- 1071 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 1072 (25) records, other than personnel evaluations, that contain a personal recommendation
- 1073 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
- 1074 personal privacy, or disclosure is not in the public interest;
- 1075 (26) records that reveal the location of historic, prehistoric, paleontological, or
- 1076 biological resources that if known would jeopardize the security of those resources or of
- 1077 valuable historic, scientific, educational, or cultural information;
- 1078 (27) records of independent state agencies if the disclosure of the records would
- 1079 conflict with the fiduciary obligations of the agency;

1080 (28) records of an institution within the state system of higher education defined in
1081 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
1082 retention decisions, and promotions, which could be properly discussed in a meeting closed in
1083 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
1084 the final decisions about tenure, appointments, retention, promotions, or those students
1085 admitted, may not be classified as protected under this section;

1086 (29) records of the governor's office, including budget recommendations, legislative
1087 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
1088 policies or contemplated courses of action before the governor has implemented or rejected
1089 those policies or courses of action or made them public;

1090 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
1091 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
1092 recommendations in these areas;

1093 (31) records provided by the United States or by a government entity outside the state
1094 that are given to the governmental entity with a requirement that they be managed as protected
1095 records if the providing entity certifies that the record would not be subject to public disclosure
1096 if retained by it;

1097 (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a
1098 public body except as provided in Section [52-4-206](#);

1099 (33) records that would reveal the contents of settlement negotiations but not including
1100 final settlements or empirical data to the extent that they are not otherwise exempt from
1101 disclosure;

1102 (34) memoranda prepared by staff and used in the decision-making process by an
1103 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
1104 other body charged by law with performing a quasi-judicial function;

1105 (35) records that would reveal negotiations regarding assistance or incentives offered
1106 by or requested from a governmental entity for the purpose of encouraging a person to expand
1107 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
1108 person or place the governmental entity at a competitive disadvantage, but this section may not
1109 be used to restrict access to a record evidencing a final contract;

1110 (36) materials to which access must be limited for purposes of securing or maintaining

1111 the governmental entity's proprietary protection of intellectual property rights including patents,
1112 copyrights, and trade secrets;

1113 (37) the name of a donor or a prospective donor to a governmental entity, including an
1114 institution within the state system of higher education defined in Section 53B-1-102, and other
1115 information concerning the donation that could reasonably be expected to reveal the identity of
1116 the donor, provided that:

1117 (a) the donor requests anonymity in writing;

1118 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
1119 classified protected by the governmental entity under this Subsection (37); and

1120 (c) except for an institution within the state system of higher education defined in
1121 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
1122 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
1123 over the donor, a member of the donor's immediate family, or any entity owned or controlled
1124 by the donor or the donor's immediate family;

1125 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
1126 73-18-13;

1127 (39) a notification of workers' compensation insurance coverage described in Section
1128 34A-2-205;

1129 (40) (a) the following records of an institution within the state system of higher
1130 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
1131 or received by or on behalf of faculty, staff, employees, or students of the institution:

1132 (i) unpublished lecture notes;

1133 (ii) unpublished notes, data, and information:

1134 (A) relating to research; and

1135 (B) of:

1136 (I) the institution within the state system of higher education defined in Section
1137 53B-1-102; or

1138 (II) a sponsor of sponsored research;

1139 (iii) unpublished manuscripts;

1140 (iv) creative works in process;

1141 (v) scholarly correspondence; and

- 1142 (vi) confidential information contained in research proposals;
- 1143 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
1144 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- 1145 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 1146 (41) (a) records in the custody or control of the Office of the Legislative Auditor
1147 General that would reveal the name of a particular legislator who requests a legislative audit
1148 prior to the date that audit is completed and made public; and
- 1149 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
1150 Office of the Legislative Auditor General is a public document unless the legislator asks that
1151 the records in the custody or control of the Office of the Legislative Auditor General that would
1152 reveal the name of a particular legislator who requests a legislative audit be maintained as
1153 protected records until the audit is completed and made public;
- 1154 (42) records that provide detail as to the location of an explosive, including a map or
1155 other document that indicates the location of:
- 1156 (a) a production facility; or
- 1157 (b) a magazine;
- 1158 (43) information:
- 1159 (a) contained in the statewide database of the Division of Aging and Adult Services
1160 created by Section 62A-3-311.1; or
- 1161 (b) received or maintained in relation to the Identity Theft Reporting Information
1162 System (IRIS) established under Section 67-5-22;
- 1163 (44) information contained in the Licensing Information System described in Title
1164 62A, Chapter 4a, Child and Family Services;
- 1165 (45) information regarding National Guard operations or activities in support of the
1166 National Guard's federal mission;
- 1167 (46) records provided by any pawn or secondhand business to a law enforcement
1168 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop [and],
1169 Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- 1170 (47) information regarding food security, risk, and vulnerability assessments performed
1171 by the Department of Agriculture and Food;
- 1172 (48) except to the extent that the record is exempt from this chapter pursuant to Section

1173 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or
1174 prepared or maintained by the Division of Emergency Management, and the disclosure of
1175 which would jeopardize:

1176 (a) the safety of the general public; or

1177 (b) the security of:

1178 (i) governmental property;

1179 (ii) governmental programs; or

1180 (iii) the property of a private person who provides the Division of Emergency

1181 Management information;

1182 (49) records of the Department of Agriculture and Food that provides for the
1183 identification, tracing, or control of livestock diseases, including any program established under
1184 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control
1185 of Animal Disease;

1186 (50) as provided in Section 26-39-501:

1187 (a) information or records held by the Department of Health related to a complaint
1188 regarding a child care program or residential child care which the department is unable to
1189 substantiate; and

1190 (b) information or records related to a complaint received by the Department of Health
1191 from an anonymous complainant regarding a child care program or residential child care;

1192 (51) unless otherwise classified as public under Section 63G-2-301 and except as
1193 provided under Section 41-1a-116, an individual's home address, home telephone number, or
1194 personal mobile phone number, if:

1195 (a) the individual is required to provide the information in order to comply with a law,
1196 ordinance, rule, or order of a government entity; and

1197 (b) the subject of the record has a reasonable expectation that this information will be
1198 kept confidential due to:

1199 (i) the nature of the law, ordinance, rule, or order; and

1200 (ii) the individual complying with the law, ordinance, rule, or order;

1201 (52) the portion of the following documents that contains a candidate's residential or
1202 mailing address, if the candidate provides to the filing officer another address or phone number
1203 where the candidate may be contacted:

1204 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
1205 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408,
1206 20A-9-408.5, 20A-9-502, or 20A-9-601;

1207 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or

1208 (c) a notice of intent to gather signatures for candidacy, described in Section
1209 20A-9-408;

1210 (53) the name, home address, work addresses, and telephone numbers of an individual
1211 that is engaged in, or that provides goods or services for, medical or scientific research that is:

1212 (a) conducted within the state system of higher education, as defined in Section
1213 53B-1-102; and

1214 (b) conducted using animals;

1215 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
1216 Evaluation Commission concerning an individual commissioner's vote on whether or not to
1217 recommend that the voters retain a judge including information disclosed under Subsection
1218 78A-12-203(5)(e);

1219 (55) information collected and a report prepared by the Judicial Performance
1220 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
1221 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
1222 the information or report;

1223 (56) records provided or received by the Public Lands Policy Coordinating Office in
1224 furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

1225 (57) information requested by and provided to the 911 Division under Section
1226 63H-7a-302;

1227 (58) in accordance with Section 73-10-33:

1228 (a) a management plan for a water conveyance facility in the possession of the Division
1229 of Water Resources or the Board of Water Resources; or

1230 (b) an outline of an emergency response plan in possession of the state or a county or
1231 municipality;

1232 (59) the following records in the custody or control of the Office of Inspector General
1233 of Medicaid Services, created in Section 63A-13-201:

1234 (a) records that would disclose information relating to allegations of personal

1235 misconduct, gross mismanagement, or illegal activity of a person if the information or
1236 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
1237 through other documents or evidence, and the records relating to the allegation are not relied
1238 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
1239 report or final audit report;

1240 (b) records and audit workpapers to the extent they would disclose the identity of a
1241 person who, during the course of an investigation or audit, communicated the existence of any
1242 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
1243 regulation adopted under the laws of this state, a political subdivision of the state, or any
1244 recognized entity of the United States, if the information was disclosed on the condition that
1245 the identity of the person be protected;

1246 (c) before the time that an investigation or audit is completed and the final
1247 investigation or final audit report is released, records or drafts circulated to a person who is not
1248 an employee or head of a governmental entity for the person's response or information;

1249 (d) records that would disclose an outline or part of any investigation, audit survey
1250 plan, or audit program; or

1251 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1252 investigation or audit;

1253 (60) records that reveal methods used by the Office of Inspector General of Medicaid
1254 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
1255 abuse;

1256 (61) information provided to the Department of Health or the Division of Occupational
1257 and Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
1258 58-68-304(3) and (4);

1259 (62) a record described in Section 63G-12-210;

1260 (63) captured plate data that is obtained through an automatic license plate reader
1261 system used by a governmental entity as authorized in Section 41-6a-2003;

1262 (64) any record in the custody of the Utah Office for Victims of Crime relating to a
1263 victim, including:

1264 (a) a victim's application or request for benefits;

1265 (b) a victim's receipt or denial of benefits; and

1266 (c) any administrative notes or records made or created for the purpose of, or used to,
1267 evaluate or communicate a victim's eligibility for or denial of benefits from the Crime Victim
1268 Reparations Fund;

1269 (65) an audio or video recording created by a body-worn camera, as that term is
1270 defined in Section 77-7a-103, that records sound or images inside a hospital or health care
1271 facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care
1272 provider, as that term is defined in Section 78B-3-403, or inside a human service program as
1273 that term is defined in Section 62A-2-101, except for recordings that:

1274 (a) depict the commission of an alleged crime;

1275 (b) record any encounter between a law enforcement officer and a person that results in
1276 death or bodily injury, or includes an instance when an officer fires a weapon;

1277 (c) record any encounter that is the subject of a complaint or a legal proceeding against
1278 a law enforcement officer or law enforcement agency;

1279 (d) contain an officer involved critical incident as defined in Subsection
1280 76-2-408(1)(f); or

1281 (e) have been requested for reclassification as a public record by a subject or
1282 authorized agent of a subject featured in the recording;

1283 (66) a record pertaining to the search process for a president of an institution of higher
1284 education described in Section 53B-2-102, except for application materials for a publicly
1285 announced finalist;

1286 (67) an audio recording that is:

1287 (a) produced by an audio recording device that is used in conjunction with a device or
1288 piece of equipment designed or intended for resuscitating an individual or for treating an
1289 individual with a life-threatening condition;

1290 (b) produced during an emergency event when an individual employed to provide law
1291 enforcement, fire protection, paramedic, emergency medical, or other first responder service:

1292 (i) is responding to an individual needing resuscitation or with a life-threatening
1293 condition; and

1294 (ii) uses a device or piece of equipment designed or intended for resuscitating an
1295 individual or for treating an individual with a life-threatening condition; and

1296 (c) intended and used for purposes of training emergency responders how to improve

1297 their response to an emergency situation;

1298 (68) records submitted by or prepared in relation to an applicant seeking a
1299 recommendation by the Research and General Counsel Subcommittee, the Budget
1300 Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an
1301 employment position with the Legislature;

1302 (69) work papers as defined in Section 31A-2-204;

1303 (70) a record made available to Adult Protective Services or a law enforcement agency
1304 under Section 61-1-206;

1305 (71) a record submitted to the Insurance Department in accordance with Section
1306 31A-37-201;

1307 (72) a record described in Section 31A-37-503;

1308 (73) any record created by the Division of Occupational and Professional Licensing as
1309 a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);

1310 (74) a record described in Section 72-16-306 that relates to the reporting of an injury
1311 involving an amusement ride;

1312 (75) except as provided in Subsection 63G-2-305.5(1), the signature of an individual
1313 on a political petition, or on a request to withdraw a signature from a political petition,
1314 including a petition or request described in the following titles:

1315 (a) Title 10, Utah Municipal Code;

1316 (b) Title 17, Counties;

1317 (c) Title 17B, Limited Purpose Local Government Entities - Local Districts;

1318 (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and

1319 (e) Title 20A, Election Code;

1320 (76) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in
1321 a voter registration record;

1322 (77) except as provided in Subsection 63G-2-305.5(3), any signature, other than a
1323 signature described in Subsection (75) or (76), in the custody of the lieutenant governor or a
1324 local political subdivision collected or held under, or in relation to, Title 20A, Election Code;

1325 (78) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part
1326 5, Victims Guidelines for Prosecutors Act;

1327 (79) a record submitted to the Insurance Department under Subsection

1328 31A-48-103(1)(b);

1329 (80) personal information, as defined in Section 63G-26-102, to the extent disclosure is
1330 prohibited under Section 63G-26-103;

1331 (81) (a) an image taken of an individual during the process of booking the individual
1332 into jail, unless:

1333 (i) the individual is convicted of a criminal offense based upon the conduct for which
1334 the individual was incarcerated at the time the image was taken;

1335 (ii) a law enforcement agency releases or disseminates the image after determining
1336 that:

1337 (A) the individual is a fugitive or an imminent threat to an individual or to public
1338 safety; and

1339 (B) releasing or disseminating the image will assist in apprehending the individual or
1340 reducing or eliminating the threat; or

1341 (iii) a judge orders the release or dissemination of the image based on a finding that the
1342 release or dissemination is in furtherance of a legitimate law enforcement interest.

1343 (82) a record:

1344 (a) concerning an interstate claim to the use of waters in the Colorado River system;

1345 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
1346 representative from another state or the federal government as provided in Section
1347 63M-14-205; and

1348 (c) the disclosure of which would:

1349 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
1350 Colorado River system;

1351 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
1352 negotiate the best terms and conditions regarding the use of water in the Colorado River
1353 system; or

1354 (iii) give an advantage to another state or to the federal government in negotiations
1355 regarding the use of water in the Colorado River system; and

1356 (83) any part of an application described in Section 63N-16-201 that the Governor's
1357 Office of Economic Opportunity determines is nonpublic, confidential information that if
1358 disclosed would result in actual economic harm to the applicant, but this Subsection (83) may

1359 not be used to restrict access to a record evidencing a final contract or approval decision.

1360 Section 25. Section **67-5-37** is amended to read:

1361 **67-5-37. Multi-agency joint strike force -- Joint Organized Retail Crime Unit.**

1362 (1) The Office of the Attorney General and the Department of Public Safety shall
1363 create and coordinate the operation of a multi-agency joint strike force to combat criminal
1364 activity that may have a negative impact on the state's economy.

1365 (2) The attorney general and the Department of Public Safety shall invite federal, state,
1366 and local law enforcement personnel to participate in the joint strike force to more effectively
1367 utilize their combined skills, expertise, and resources.

1368 (3) The joint strike force shall focus the joint strike force's efforts on detecting,
1369 investigating, deterring, and eradicating criminal activity, described in Subsection (1), within
1370 the state, including organized retail crime, antitrust violations, intellectual property rights
1371 violations, gambling, and the purchase of stolen goods for the purpose of reselling the stolen
1372 goods for profit.

1373 (4) In conjunction with the joint strike force, the Office of the Attorney General and the
1374 Department of Public Safety shall establish the Joint Organized Retail Crime Unit for the
1375 purpose of:

1376 (a) investigating, apprehending, and prosecuting individuals or entities that participate
1377 in the purchase, sale, or distribution of stolen property; and

1378 (b) targeting individuals or entities that commit theft and other property crimes for
1379 financial gain.

1380 (5) (a) The joint strike force shall provide an annual report to the Law Enforcement and
1381 Criminal Justice Interim Committee before December 1 that describes the joint strike force's
1382 activities and any recommendations for modifications to this section.

1383 (b) The report described in Subsection (5)(a) shall include the number of catalytic
1384 converter thefts and arrests in Utah for the preceding calendar year, if reasonably available.

1385 Section 26. Section **76-6-408** is amended to read:

1386 **76-6-408. Receiving stolen property -- Duties of pawnbrokers, secondhand**
1387 **businesses, coin dealers, and catalytic converter purchasers.**

1388 (1) As used in this section:

1389 (a) "Catalytic converter purchaser" means the same as that term is defined in

1390 [13-32a-102.](#)

1391 (b) "Coin dealer" means the same as that term is defined in Section [13-32a-102.](#)

1392 ~~[(a)]~~ (c) "Pawnbroker" means the same as that term is defined in Section [13-32a-102.](#)

1393 ~~[(b)]~~ (d) "Receives" means acquiring possession, control, title, or lending on the
1394 security of the property.

1395 (e) "Scrap metal processor" means the same as that term is defined in Section
1396 [76-6-1402.](#)

1397 (f) "Secondhand actor" means:

1398 (i) a pawnbroker;

1399 (ii) a person who has or operates a business dealing in or collecting used or secondhand
1400 merchandise or personal property; or

1401 (iii) an agent, employee, or representative of a pawnbroker or person who buys,
1402 receives, or obtains property.

1403 (2) A person commits theft if the person receives, retains, or disposes of the property of
1404 another knowing that the property is stolen, or believing that the property is probably stolen, or
1405 who conceals, sells, withholds, or aids in concealing, selling, or withholding the property from
1406 the owner, knowing or believing the property to be stolen, intending to deprive the owner of the
1407 property.

1408 (3) ~~[(The)]~~ Except as provided in Subsection (4), the knowledge or belief required [for]
1409 under Subsection (2) is presumed in the case of an actor who:

1410 (a) is found in possession or control of other property stolen on a separate occasion; or

1411 (b) has received other stolen property within the year preceding the receiving offense
1412 charged[;].

1413 ~~[(c) is a pawnbroker or person who:]~~

1414 ~~[(i) has or operates a business dealing in or collecting used or secondhand merchandise~~
1415 ~~or personal property, or an agent, employee, or representative of a pawnbroker or person who~~
1416 ~~buys, receives, or obtains property; and]~~

1417 ~~[(ii) (A) has not completely and accurately documented the information required under~~
1418 ~~Section [13-32a-104](#); or]~~

1419 ~~[(B) is found in possession of merchandise or personal property that violates~~
1420 ~~Subsection [13-32a-104](#)(2); or]~~

1421 ~~[(d) is a coin dealer or an employee of the coin dealer as defined in Section 13-32a-102~~
1422 ~~who does not comply with the requirements of Section 13-32a-104.5.]~~

1423 ~~[(4) A pawnbroker or person who has or operates a business dealing in or collecting~~
1424 ~~used or secondhand merchandise or personal property, and every agent, employee, or~~
1425 ~~representative of a pawnbroker or person who fails to comply with Subsection (3) is presumed~~
1426 ~~to have bought, received, or obtained the property knowing the property to have been stolen or~~
1427 ~~unlawfully obtained. This presumption may be rebutted by proof.]~~

1428 ~~[(5) When, in a prosecution under this section, it appears from the evidence that the~~
1429 ~~defendant was a pawnbroker or a person who has or operates a business dealing in or collecting~~
1430 ~~used or secondhand merchandise or personal property, or was an agent, employee, or~~
1431 ~~representative of a pawnbroker or person, that the defendant bought, received, concealed, or~~
1432 ~~withheld the property without obtaining the information required in Subsection (3)(c) or (d);~~
1433 ~~then the burden shall be upon the defendant to show that the property bought, received, or~~
1434 ~~obtained was not stolen.]~~

1435 ~~[(6) Subsections (3)(c), (4), and (5) do not apply to scrap metal processors as defined in~~
1436 ~~Section 76-6-1402.]~~

1437 (4) (a) The knowledge or belief required under Subsection (2) may only be presumed
1438 of a secondhand actor if the secondhand actor does not substantially comply with the material
1439 requirements of Section 13-32a-104.

1440 (b) The knowledge or belief required under Subsection (2) may only be presumed of a
1441 coin dealer or an employee of a coin dealer if the coin dealer or the employee of the coin dealer
1442 does not substantially comply with the requirements of Section 13-32a-104.5.

1443 (c) The knowledge or belief required under Subsection (2) may only be presumed of a
1444 catalytic converter purchaser if the catalytic converter purchaser does not substantially comply
1445 with the material requirements of Section 13-32a-104.7.

1446 (5) Unless acting as a catalytic converter purchaser, Subsection (4)(c) does not apply to
1447 a scrap metal processor.

1448 (6) This section does not preclude the admission of evidence in accordance with the
1449 Utah Rules of Evidence.

1450 Section 27. Section 76-6-412 is amended to read:

1451 **76-6-412. Theft -- Classification of offenses -- Action for treble damages.**

- 1452 (1) Theft of property and services as provided in this chapter is punishable:
- 1453 (a) as a second degree felony if the:
- 1454 (i) value of the property or services is or exceeds \$5,000;
- 1455 (ii) property stolen is a firearm or an operable motor vehicle; or
- 1456 (iii) property is stolen from the person of another;
- 1457 (b) as a third degree felony if:
- 1458 (i) the value of the property or services is or exceeds \$1,500 but is less than \$5,000;
- 1459 (ii) the property is a catalytic converter as defined under Section 76-6-1402;
- 1460 ~~(ii)~~ (iii) the value of the property or services is or exceeds \$500 and the actor has
- 1461 been twice before convicted of any of the following offenses, if each prior offense was
- 1462 committed within 10 years before the date of the current conviction or the date of the offense
- 1463 upon which the current conviction is based and at least one of those convictions is for a class A
- 1464 misdemeanor:
- 1465 (A) any theft, any robbery, or any burglary with intent to commit theft;
- 1466 (B) any offense under Title 76, Chapter 6, Part 5, Fraud; or
- 1467 (C) any attempt to commit any offense under Subsection (1)(b)~~(ii)~~(iii)(A) or (B);
- 1468 ~~(iii)~~ (iv) (A) the value of property or services is or exceeds \$500 but is less than
- 1469 \$1,500;
- 1470 (B) the theft occurs on a property where the offender has committed any theft within
- 1471 the past five years; and
- 1472 (C) the offender has received written notice from the merchant prohibiting the offender
- 1473 from entering the property pursuant to Subsection 78B-3-108(4); or
- 1474 ~~(iv)~~ (v) the actor has been previously convicted of a felony violation of any of the
- 1475 offenses listed in Subsections (1)(b)~~(ii)~~(iii)(A) through (1)(b)~~(ii)~~(iii)(C), if the prior offense
- 1476 was committed within 10 years before the date of the current conviction or the date of the
- 1477 offense upon which the current conviction is based;
- 1478 (c) as a class A misdemeanor if:
- 1479 (i) the value of the property stolen is or exceeds \$500 but is less than \$1,500;
- 1480 (ii) (A) the value of property or services is less than \$500;
- 1481 (B) the theft occurs on a property where the offender has committed any theft within
- 1482 the past five years; and

1483 (C) the offender has received written notice from the merchant prohibiting the offender
1484 from entering the property pursuant to Subsection 78B-3-108(4); or

1485 (iii) the actor has been twice before convicted of any of the offenses listed in
1486 Subsections (1)(b)[~~(ii)~~](iii)(A) through (1)(b)[~~(ii)~~](iii)(C), if each prior offense was committed
1487 within 10 years before the date of the current conviction or the date of the offense upon which
1488 the current conviction is based; or

1489 (d) as a class B misdemeanor if the value of the property stolen is less than \$500 and
1490 the theft is not an offense under Subsection (1)(c).

1491 (2) Any individual who violates Subsection 76-6-408(2) or 76-6-413(1), or commits
1492 theft of a stallion, mare, colt, gelding, cow, heifer, steer, ox, bull, calf, sheep, goat, mule, jack,
1493 jenny, swine, poultry, or a fur-bearing animal raised for commercial purposes, or a livestock
1494 guardian dog, is civilly liable for three times the amount of actual damages, if any sustained by
1495 the plaintiff, and for costs of suit and reasonable attorney fees.

1496 Section 28. Section 76-6-1406 is amended to read:

1497 **76-6-1406. Restrictions on the purchase of regulated metal -- Exemption.**

1498 (1) A dealer may conduct purchase transactions involving regulated metal only
1499 between the hours of 6 a.m. and 7 p.m.

1500 (2) Except when the dealer pays a government entity by check for regulated metal, the
1501 dealer may not purchase any of the following regulated metal without obtaining and keeping on
1502 file reasonable documentation that the seller is an employee, agent, or contractor of a
1503 governmental entity who is authorized to sell the item of regulated metal property on behalf of
1504 the governmental entity:

1505 (a) a manhole cover or sewer grate;

1506 (b) an electric light pole; or

1507 (c) a guard rail.

1508 (3) (a) A dealer may not purchase suspect metal without obtaining the information
1509 under Subsection (3)(b) identifying the owner of the suspect metal.

1510 (b) The owner of the suspect metal shall provide in writing:

1511 (i) the owner's telephone number;

1512 (ii) the owner's business or residential address, which may not be a post box;

1513 (iii) a copy of the owner's driver license; and

1514 (iv) a signed statement that the person is the lawful owner of the suspect metal and
1515 authorizes the seller, identified by name, to sell the suspect metal.

1516 (c) The dealer shall keep the identifying information provided in Subsection (3)(b) on
1517 file for not less than one year.

1518 (4) Transactions with businesses that have an established account with the dealer are
1519 exempt from the requirements of Subsections (2) and (3) if the business holds a valid business
1520 license, and:

1521 (a) (i) the dealer has on file a statement from the business identifying those employees
1522 authorized to sell all metals to the dealer; and

1523 (ii) the dealer conducts regulated metal transactions only with those identified
1524 employees of the business and records the name of the employee when recording the
1525 transaction;

1526 (b) the dealer has on file reasonable documentation from the business that any person
1527 verified as representing the business as an employee, and whom the dealer has verified is an
1528 employee, may sell regulated metal; or

1529 (c) the dealer makes payment for regulated metal purchased from a person by issuing a
1530 check to the business employing the seller.

1531 (5) If a dealer is a catalytic converter purchaser as defined in Section 13-32a-102, the
1532 dealer shall comply with the requirements in Title 13, Chapter 32a, Pawnshop, Secondhand
1533 Merchandise, and Catalytic Converter Transaction Information Act.

1534 Section 29. Section **78B-3-108** is amended to read:

1535 **78B-3-108. Shoplifting -- Merchant's rights -- Civil liability for shoplifting by**
1536 **adult or minor -- Criminal conviction not a prerequisite for civil liability -- Written notice**
1537 **required for penalty demand.**

1538 (1) As used in this section:

1539 (a) "Merchandise" has the same meaning as provided in Section 76-6-601.

1540 (b) "Merchant" has the same meaning as provided in Section 76-6-601.

1541 (c) "Minor" has the same meaning as provided in Section 76-6-601.

1542 (d) "Premises" has the same meaning as "retail mercantile establishment" found in
1543 Section 76-6-601.

1544 (2) (a) A merchant may request an individual on the merchant's premises to place or

1545 keep in full view any merchandise the individual may have removed, or which the merchant
1546 has reason to believe the individual may have removed, from its place of display or elsewhere,
1547 whether for examination, purchase, or for any other reasonable purpose.

1548 (b) The merchant may not be criminally or civilly liable for having made the request.

1549 (3) (a) A merchant who has reason to believe that an individual has committed any of
1550 the offenses listed in Subsection 76-6-412(1)(b)(~~(ii)~~)(iii)(A), (B), or (C) and that the merchant
1551 can recover the merchandise by taking the individual into custody and detaining the individual
1552 may, for the purpose of attempting to recover the merchandise or for the purpose of informing
1553 a peace officer of the circumstances of the detention, take the individual into custody and
1554 detain the individual in a reasonable manner and for a reasonable length of time.

1555 (b) Neither the merchant nor the merchant's employee may be criminally or civilly
1556 liable for false arrest, false imprisonment, slander, or unlawful detention or for any other type
1557 of claim or action unless the custody and detention are unreasonable under all the
1558 circumstances.

1559 (4) (a) A merchant may prohibit an individual who has committed any of the offenses
1560 listed in Subsection 76-6-412(1)(b)(~~(ii)~~)(iii) from reentering the premises on which the
1561 individual has committed the offense.

1562 (b) The merchant shall give written notice of this prohibition to the individual under
1563 Subsection (4)(a). The notice may be served by:

1564 (i) delivering a copy to the individual personally;

1565 (ii) sending a copy through registered or certified mail addressed to the individual at
1566 the individual's residence or usual place of business;

1567 (iii) leaving a copy with an individual of suitable age and discretion at either location
1568 under Subsection (4)(b)(ii) and mailing a copy to the individual at the individual's residence or
1569 place of business if the individual is absent from the residence or usual place of business; or

1570 (iv) affixing a copy in a conspicuous place at the individual's residence or place of
1571 business.

1572 (c) The individual serving the notice may authenticate service with the individual's
1573 signature, the method of service, and legibly documenting the date and time of service.

1574 (5) An adult who commits any of the offenses listed in Subsection
1575 76-6-412(1)(b)(~~(ii)~~)(iii)(A), (B), or (C) is also liable in a civil action for:

- 1576 (a) actual damages;
- 1577 (b) a penalty to the merchant in the amount of the retail price of the merchandise not to
1578 exceed \$1,000; and
- 1579 (c) an additional penalty as determined by the court of not less than \$100 nor more than
1580 \$500, plus court costs and reasonable attorney fees.
- 1581 (6) A minor who commits any of the offenses listed in Subsection
1582 [76-6-412\(1\)\(b\)\[\(ii\)\]\(iii\)\(A\), \(B\), or \(C\)](#) and the minor's parents or legal guardian are jointly and
1583 severally liable in a civil action to the merchant for:
- 1584 (a) actual damages;
- 1585 (b) a penalty to be remitted to the merchant in the amount of the retail price of the
1586 merchandise not to exceed \$500 plus an additional penalty as determined by the court of not
1587 less than \$50 nor more than \$500; and
- 1588 (c) court costs and reasonable attorney fees.
- 1589 (7) A parent or guardian is not liable for damages under this section if the parent or
1590 guardian made a reasonable effort to restrain the wrongful taking and reported it to the
1591 merchant involved or to the law enforcement agency having primary jurisdiction once the
1592 parent or guardian knew of the minor's unlawful act. A report is not required under this section
1593 if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of
1594 the merchant involved.
- 1595 (8) A conviction in a criminal action for any of the offenses listed in Subsection
1596 [76-6-412\(1\)\(b\)\[\(ii\)\]\(iii\)\(A\), \(B\), or \(C\)](#) is not a condition precedent to a civil action authorized
1597 under Subsection (5) or (6).
- 1598 (9) (a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall
1599 give written notice to the individual or individuals from whom the penalty is sought. The
1600 notice shall state:
- 1601 "IMPORTANT NOTICE: The payment of any penalty demanded of you does not
1602 prevent criminal prosecution under a related criminal provision."
- 1603 (b) This notice shall be boldly and conspicuously displayed, in at least the same size
1604 type as is used in the demand, and shall be sent with the demand for payment of the penalty
1605 described in Subsection (5) or (6).
- 1606 (10) The provision of Section [78B-8-201](#) requiring that compensatory or general

1607 damages be awarded in order to award punitive damages does not prohibit an award of a
1608 penalty under Subsection (5) or (6) whether or not restitution has been paid to the merchant
1609 either prior to or as part of a civil action.