

HB0038S01 compared with HB0038

~~{deleted text}~~ shows text that was in HB0038 but was deleted in HB0038S01.

inserted text shows text that was not in HB0038 but was inserted into HB0038S01.

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~~{CATALYTIC CONVERTER}~~ 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

~~{Committee Note:~~

~~—— The Law Enforcement and Criminal Justice Interim Committee recommended this bill.~~

~~—— Legislative Vote: 14 voting for 0 voting against 2 absent~~

~~{General Description:~~

This bill concerns the purchase and theft of ~~{a catalytic converter}~~ 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

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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 multi-agency joint strike force;
- ▶ limits the type of payment for certain purchases of a catalytic converter;
- ▶ modifies the membership of the Pawnshop and Secondhand Merchandise Advisory Board;
- ▶ ~~creates a presumption that a catalytic converter is~~ modifies the presumptions for stolen property in certain situations;
- ▶ provides penalties for the theft of a catalytic converter; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

13-2-1, as last amended by Laws of Utah 2021, Chapter 266

13-32a-101, as last amended by Laws of Utah 2007, Chapter 352

13-32a-102, as last amended by Laws of Utah 2021, Chapter 66

13-32a-104, as last amended by Laws of Utah 2021, Chapter 66

13-32a-105, as last amended by Laws of Utah 2019, Chapter 309

13-32a-106, as last amended by Laws of Utah 2021, Chapter 66

13-32a-106.5, as last amended by Laws of Utah 2019, Chapter 309

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13-32a-108, as last amended by Laws of Utah 2019, Chapter 309
13-32a-109, as last amended by Laws of Utah 2021, Chapter 66
13-32a-109.5, as last amended by Laws of Utah 2019, Chapter 309
13-32a-110, as last amended by Laws of Utah 2021, Chapter 66
13-32a-110.5, as last amended by Laws of Utah 2019, Chapter 309
13-32a-111, as last amended by Laws of Utah 2020, Chapter 354
13-32a-112, as last amended by Laws of Utah 2020, Chapter 354
13-32a-112.1, as enacted by Laws of Utah 2019, Chapter 309
13-32a-112.5, as last amended by Laws of Utah 2019, Chapter 309
13-32a-113, as last amended by Laws of Utah 2019, Chapter 309
13-32a-114, as last amended by Laws of Utah 2019, Chapter 309
13-32a-115, as last amended by Laws of Utah 2019, Chapter 309
13-32a-116, as last amended by Laws of Utah 2019, Chapter 309
13-32a-116.5, as last amended by Laws of Utah 2019, Chapter 309
63G-2-305, as last amended by Laws of Utah 2021, Chapters 148, 179, 231, 353, 373,
and 382
67-5-37, as enacted by Laws of Utah 2020, Chapter 229
76-6-408, as last amended by Laws of Utah 2019, Chapter 309
76-6-412, as last amended by Laws of Utah 2021, Chapter 57
76-6-1406, as renumbered and amended by Laws of Utah 2013, Chapter 187
78B-3-108, as last amended by Laws of Utah 2012, Chapter 257

ENACTS:

13-32a-104.7, Utah Code Annotated 1953
13-32a-118, Utah Code Annotated 1953

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

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

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

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

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

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- (a) Chapter 5, Unfair Practices Act;
- (b) Chapter 10a, Music Licensing Practices Act;
- (c) Chapter 11, Utah Consumer Sales Practices Act;
- (d) Chapter 15, Business Opportunity Disclosure Act;
- (e) Chapter 20, New Motor Vehicle Warranties Act;
- (f) Chapter 21, Credit Services Organizations Act;
- (g) Chapter 22, Charitable Solicitations Act;
- (h) Chapter 23, Health Spa Services Protection Act;
- (i) Chapter 25a, Telephone and Facsimile Solicitation Act;
- (j) Chapter 26, Telephone Fraud Prevention Act;
- (k) Chapter 28, Prize Notices Regulation Act;
- (l) Chapter 32a, Pawnshop ~~and~~, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- (m) Chapter 34, Utah Postsecondary Proprietary School Act;
- (n) Chapter 34a, Utah Postsecondary School State Authorization Act;
- (o) Chapter 41, Price Controls During Emergencies Act;
- (p) Chapter 42, Uniform Debt-Management Services Act;
- (q) Chapter 49, Immigration Consultants Registration Act;
- (r) Chapter 51, Transportation Network Company Registration Act;
- (s) Chapter 52, Residential Solar Energy Disclosure Act;
- (t) Chapter 53, Residential, Vocational and Life Skills Program Act;
- (u) Chapter 54, Ticket Website Sales Act;
- (v) Chapter 56, Ticket Transferability Act; and
- (w) Chapter 57, Maintenance Funding Practices Act.

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.

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

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

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13-32a-102. Definitions.

As used in this chapter:

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

(2) "Antique item" means an item:

(a) that is generally older than 25 years;

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

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

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

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

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

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

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

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

(d) has the following technological functions:

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

(ii) generates a ticket; and

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

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

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

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

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

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

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

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

(~~iii~~) (iii) from another catalytic converter purchaser; or

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

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

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

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

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

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

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

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

(ii) worth more than its metal content value.

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

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

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

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

or

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

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

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

- (a) that deals primarily in the offering for sale property owned by a third party; and
- (b) where the owner of the property only receives consideration upon the sale of the

property by the business.

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

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

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

- (a) is usable at:
 - (i) a single merchant; or
 - (ii) a specified group of merchants;
- (b) is prefunded before the record is used; and
- (c) can be used for the purchase of goods or services.

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

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

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

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

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

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

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

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

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

~~[(24)]~~ (27) "Pawn or secondhand business" means a business operated by a pawnbroker or secondhand merchandise dealer, or the owner or operator of the business.

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

- (a) an extension of credit in which an individual delivers property to a pawnbroker for an advance of money and retains the right to redeem the property for the redemption price within a fixed period of time;
- (b) a loan of money on one or more deposits of personal property;
- (c) the purchase, exchange, or possession of personal property on condition of selling the same property back again to the pledgor or depositor; or
- (d) a loan or advance of money on personal property by the pawnbroker taking chattel mortgage security on the personal property, taking or receiving the personal property into the pawnbroker's possession, and selling the unredeemed pledges.

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

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

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

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

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

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

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

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

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

- (i) engages in a secondhand merchandise transaction; and
- (ii) does not engage in a pawn transaction.

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

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

- (i) an antique shop when dealing in antique items;
- (ii) a person who operates an auction house, flea market, or vehicle, vessel, and

outboard motor dealers as defined in Section 41-1a-102;

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

(iv) the sale or receipt of secondhand books, magazines, post cards, or nonelectronic:

- (A) card games;
- (B) table-top games; or
- (C) magic tricks;

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

(vi) the sale or receipt of secondhand clothing, shoes, furniture, or appliances;

(vii) a person offering the person's own personal property for sale, purchase, consignment, or trade via the Internet;

(viii) a person offering the personal property of others for sale, purchase, consignment, or trade via the Internet, when that person does not have, and is not required to have, a local

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business or occupational license or other authorization for this activity;

(ix) an owner or operator of a retail business that:

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

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

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

(xi) any dealer as defined in Section 76-6-1402, that concerns scrap metal and secondary metals;

(xii) the purchase of items in bulk that are:

(A) sold at wholesale in bulk packaging;

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

(C) regularly sold in bulk quantities as a recognized form of sale;

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

(xiv) a consignment shop when dealing in consigned property~~[-]; or~~

(xv) a catalytic converter purchaser.

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

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

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

(a) goods;

(b) services;

(c) money; or

(d) anything else of value.

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

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

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

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

- (a) the date and time of the transaction;
- (b) whether the transaction is a pawn or purchase;
- (c) the ticket number;
- (d) the date by which the property must be redeemed, if the property is pawned;
- (e) the following information regarding the individual who pawns or sells the property:
 - (i) the individual's full name and date of birth as they appear on the individual's identification and the individual's residence address and telephone number;
 - (ii) the unique number and type of identification presented to the pawn or secondhand business;
 - (iii) the individual's signature; and
 - (iv) (A) subject to any rule made under Subsection [~~(7)~~] (8), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the fingerprint and the reason why the right index fingerprint was unavailable; and
(B) notwithstanding the other provisions of this Subsection (1), an electronic legible fingerprint is not required to be documented on the ticket;
- (f) the amount loaned on, paid for, or value for trade-in of each article of property;
- (g) the full name of the individual conducting the pawn transaction or secondhand merchandise transaction on behalf of the pawn or secondhand business or the initials or a unique identifying number of the individual, if the pawn or secondhand business maintains a record of the initials or unique identifying number of the individual; and
- (h) an accurate description of each article of property, with available identifying marks, including:
 - (i) (A) names, brand names, numbers, serial numbers, model numbers, IMEI numbers, color, manufacturers' names, and size;
 - (B) metallic composition, and any jewels, stones, or glass;

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

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

(E) any other unique identifying feature; and

(F) gold content, if indicated; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) each item of jewelry; and

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

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

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

(B) an additional photograph that clearly depicts the identifying mark described in Subsection ~~[(8)]~~ (9)(b)(ii)(A).

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

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

Penalties.

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

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

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- (a) the date and time of the catalytic converter purchase;
- (b) the following information regarding the individual selling the catalytic converter:
 - (i) the individual's:
 - (A) full name and date of birth as they appear on the individual's identification;
 - (B) residence address;
 - (C) telephone number; and
 - (D) signature on a certificate stating that the individual has the legal right to sell the catalytic converter;
 - (ii) the type of identification the individual presents under Subsection (2)(b)(i)(A) and the unique number on the identification;
 - (iii) a color digital photograph or still video of the individual taken at the time of the sale, or a clearly legible photocopy of the individual's identification; and
 - (iv) except as provided in Subsection (3), an electronic or tangible legible fingerprint of the individual's right index finger, or if the right index finger cannot be fingerprinted, a legible fingerprint of the individual with a notation identifying the finger fingerprinted and the reason why the right index fingerprint is unavailable;
- (c) the amount paid for the catalytic converter;
- (d) the full name of the individual conducting the purchase on behalf of the catalytic converter purchaser or the initials or unique identifying employee number, if the catalytic converter purchaser maintains a record of the initials or unique identifying employee number of the individual;
- (e) an accurate description of the catalytic converter, with available identifying marks, including:
 - (i) if available, the name, brand name, number, serial number, model number, manufacturer information, and size of the catalytic converter;
 - (ii) any marks of identification or indicia of ownership on the catalytic converter;
 - (iii) the weight of the catalytic converter, if the payment is based on weight; and
 - (iv) other unique identifying characteristics of the catalytic converter; and
 - (f) a color, digital photograph of the catalytic converter.
- (3) If the individual selling a catalytic converter to the catalytic converter purchaser previously has sold one or more catalytic converters to the catalytic converter purchaser, the

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catalytic converter purchaser is not required to obtain the fingerprint under Subsection (2)(b)(iv).

(4) A catalytic converter purchaser may not accept a catalytic converter if, upon inspection, it is apparent that the serial number or identifying characteristics have been intentionally defaced on the catalytic converter.

(5) The division shall establish standards and criteria for fingerprint legibility under Subsection (2)(b)(iv) by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

(7) A dealer, as defined in Section 76-6-1402, that purchases a catalytic converter under this section shall comply with Title 76, Chapter 6, Part 14, Regulation of Metal Dealers.

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

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

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

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

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

(2) The division shall:

(a) establish and operate the central database; or

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

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

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

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

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

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

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

(6) Upon request, the entity responsible for establishing and operating the central database under Subsection (2) shall provide technical information and advice for an information technology representative of a pawn or secondhand business or catalytic converter purchaser that is required to provide information to the central database.

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

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

Protected information.

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

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

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

(b) (i) A catalytic converter purchaser is not required to generate or maintain a ticket

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for a catalytic converter purchase.

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

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

(b) The pawn or secondhand business or catalytic converter purchaser shall solve the malfunction within three business days after the day on which the business or purchaser experiences the malfunction or notify the division and the local law enforcement agency under Subsection (4).

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

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

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

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

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

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form.

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) investigating a possible violation of the record keeping or reporting requirements of this chapter when the local law enforcement agency or the division, based on a review of the

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records and information received, has reason to believe that a violation has occurred;

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

(i) a description of the property;

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

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

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

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

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

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

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

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

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

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

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

(b) ~~[Inspections]~~ A law enforcement agency or the division shall conduct an inspection under Subsection (2)(a) ~~[shall be performed]~~ during the regular business hours of the pawn or

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secondhand business or catalytic converter purchaser.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(3) If property is not seized by a law enforcement agency that has placed a hold on the property, the property shall remain in the custody of the pawn or secondhand business or catalytic converter purchaser until further disposition by the law enforcement agency, and [as ~~consistent~~] in accordance with this chapter.

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

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

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

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

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

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

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

- (a) notify the pawn or secondhand business or catalytic converter purchaser in writing

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that the hold or seizure has been terminated;

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

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

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

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

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

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

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

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

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

(d) The pawn or secondhand business or catalytic converter purchaser shall release property under Subsection (8)(c) unless within 15 days [~~of receiving~~] after the day on which the notice is received the pawn or secondhand business or catalytic converter purchaser complies

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with Section 13-32a-116.5.

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

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

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

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

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

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

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

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

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

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

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

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

If a law enforcement agency determines seizure of property pawned or sold to a pawn or secondhand business or catalytic converter purchaser is necessary under this chapter during the course of a criminal investigation, in addition to the hold provisions under Section

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13-32a-109, the law enforcement agency shall:

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

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

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

(b) provides the date of the seizure request;

(c) provides the reason for the seizure;

(d) describes the property to be seized;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(i)~~] (j) Section 13-32a-112.1, annual training [~~requirements for pawn or secondhand~~]

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~~business employees and officers of participating law enforcement agencies].~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) decline the recommendation; and

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

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

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

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

(d) The executive director of the Department of Commerce may remove a member and

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replace the member in accordance with this section for the following reasons:

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

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

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

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

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

(c) The board shall meet quarterly upon the call of the chair.

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

(6) (a) The duties and powers of the board include the following:

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

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

(iii) advising the division on matters related to the pawn and secondhand merchandise and catalytic converter purchase industries.

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

(7) (a) A pawn or secondhand business or catalytic converter purchaser may file with the board complaints regarding law enforcement agency practices perceived to be inconsistent with this chapter.

(b) The board may refer the complaints to the Peace Officers Standards and Training Division.

Section 16. Section **13-32a-112.1** is amended to read:

13-32a-112.1. Annual training.

(1) (a) The division shall provide training sessions, whether online or in-person, at least

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once each year regarding compliance with this chapter and other applicable state laws.

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

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

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

Section 17. Section **13-32a-112.5** is amended to read:

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

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

- (1) shall comply with this chapter; and
- (2) is subject to enforcement of this chapter.

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

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

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

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

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

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

- (i) the costs of providing training required under this chapter;
- (ii) the costs of the central database created in Section 13-32a-105; and
- (iii) the division's costs of administering ~~[the]~~ this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) claims ownership of the property;

(ii) references the original theft or loss; and

(iii) identifies the perpetrator if known.

(2) The pawn or secondhand business or catalytic converter purchaser shall retain possession of any property subject to a hold until a criminal prosecution is commenced relating

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to the property for which the hold was placed unless:

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

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

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

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

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

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

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

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

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

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

(1) If a pawn or secondhand business or catalytic converter purchaser receives notice from a law enforcement agency under Section 13-32a-109 that property that is the subject of a hold or seizure shall be returned to an identified original victim, the pawn or secondhand business or catalytic converter purchaser may contest the determination and seek a specific

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alternative disposition if within 15 business days after the day on which the pawn or secondhand business or catalytic converter purchaser receives the notice:

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

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

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

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

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

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

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

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

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

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

63G-2-305. Protected records.

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

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

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

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

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

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

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

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

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

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

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

- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if

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release of the records:

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

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

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

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

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

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

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

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

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

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

(16) records of a governmental audit agency relating to an ongoing or planned audit

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until the final audit is released;

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

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

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

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

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

(A) members of a legislative body;

(B) a member of a legislative body and a member of the legislative body's staff; or

(C) members of a legislative body's staff; and

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

(20) (a) records in the custody or control of the Office of Legislative Research and General Counsel, that, if disclosed, would reveal a particular legislator's contemplated legislation or contemplated course of action before the legislator has elected to support the legislation or course of action, or made the legislation or course of action public; and

(b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the Office of Legislative Research and General Counsel is a public document unless a legislator asks that the records requesting the legislation be maintained as protected records until such time as the legislator elects to make the legislation or course of action public;

(21) research requests from legislators to the Office of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared in response to these requests;

(22) drafts, unless otherwise classified as public;

(23) records concerning a governmental entity's strategy about:

(a) collective bargaining; or

(b) imminent or pending litigation;

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(24) records of investigations of loss occurrences and analyses of loss occurrences that may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

(25) records, other than personnel evaluations, that contain a personal recommendation concerning an individual if disclosure would constitute a clearly unwarranted invasion of personal privacy, or disclosure is not in the public interest;

(26) records that reveal the location of historic, prehistoric, paleontological, or biological resources that if known would jeopardize the security of those resources or of valuable historic, scientific, educational, or cultural information;

(27) records of independent state agencies if the disclosure of the records would conflict with the fiduciary obligations of the agency;

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

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

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

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

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

(33) records that would reveal the contents of settlement negotiations but not including

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final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;

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

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

(36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;

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

(a) the donor requests anonymity in writing;

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

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

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

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

(40) (a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,

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or received by or on behalf of faculty, staff, employees, or students of the institution:

(i) unpublished lecture notes;

(ii) unpublished notes, data, and information:

(A) relating to research; and

(B) of:

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

(II) a sponsor of sponsored research;

(iii) unpublished manuscripts;

(iv) creative works in process;

(v) scholarly correspondence; and

(vi) confidential information contained in research proposals;

(b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

(c) Subsection (40)(a) may not be construed to affect the ownership of a record;

(41) (a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and

(b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

(42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:

(a) a production facility; or

(b) a magazine;

(43) information:

(a) contained in the statewide database of the Division of Aging and Adult Services created by Section 62A-3-311.1; or

(b) received or maintained in relation to the Identity Theft Reporting Information

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System (IRIS) established under Section 67-5-22;

(44) information contained in the Licensing Information System described in Title 62A, Chapter 4a, Child and Family Services;

(45) information regarding National Guard operations or activities in support of the National Guard's federal mission;

(46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop [~~and~~], Secondhand Merchandise, and Catalytic Converter Transaction Information Act;

(47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;

(48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:

(a) the safety of the general public; or

(b) the security of:

(i) governmental property;

(ii) governmental programs; or

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

Management information;

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

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

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

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

(51) unless otherwise classified as public under Section 63G-2-301 and except as

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provided under Section 41-1a-116, an individual's home address, home telephone number, or personal mobile phone number, if:

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

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

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

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

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

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

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

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

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

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

(b) conducted using animals;

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

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

(56) records provided or received by the Public Lands Policy Coordinating Office in

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furtherance of any contract or other agreement made in accordance with Section 63L-11-202;

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

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

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

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

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

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

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

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

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

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

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

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abuse;

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

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

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

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

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

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

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

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

(a) depict the commission of an alleged crime;

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

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

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

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

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

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(67) an audio recording that is:

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

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

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

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

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

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

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

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

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

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

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

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

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

(a) Title 10, Utah Municipal Code;

(b) Title 17, Counties;

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

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

(e) Title 20A, Election Code;

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

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

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

(79) a record submitted to the Insurance Department under Subsection 31A-48-103(1)(b);

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

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

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

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

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

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

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

(82) a record:

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

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

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(c) the disclosure of which would:

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

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

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

(83) any part of an application described in Section 63N-16-201 that the Governor's Office of Economic Opportunity determines is nonpublic, confidential information that if disclosed would result in actual economic harm to the applicant, but this Subsection (83) may not be used to restrict access to a record evidencing a final contract or approval decision.

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

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

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

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

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

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

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

(b) targeting individuals or entities that commit theft and other property crimes for

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financial gain.

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

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

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

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

(1) As used in this section:

~~(a) "Catalytic converter purchaser" means the same as that term is defined in 13-32a-102.~~

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

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

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

~~(e) "Scrap metal processor" means the same as that term is defined in Section 76-6-1402.~~

(f) "Secondhand actor" means:

(i) a pawnbroker;

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

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

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

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

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(a) is found in possession or control of other property stolen on a separate occasion; or
(b) has received other stolen property within the year preceding the receiving offense charged[;].

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

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

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

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

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

~~———— (e) is a catalytic converter purchaser who does not substantially comply with the material requirements of Section 13-32a-104.7.~~

~~———— (4) (a);.]~~

~~[(4) A pawnbroker or person who has or operates a business dealing in or collecting used or secondhand merchandise or personal property, and {} every {} an} agent, employee, or representative of a pawnbroker or person who fails to comply with Subsection (3) is presumed to have bought, received, or obtained the property knowing the property {} to have been {} was} stolen or unlawfully obtained. {} This}~~

~~———— (b) A catalytic converter purchaser or an agent, employee, or representative of the catalytic converter purchaser who fails to comply with Subsection (3) is presumed to have bought, received, or obtained the property knowing the property was stolen or unlawfully obtained.~~

~~———— (c) The presumption in Subsection (4)(a) or (b); This presumption may be rebutted by proof.].~~

~~[(5) {} When, {} The burden is on the defendant to show that the property bought, received, or obtained was not stolen if,} in a prosecution under this section, it appears from the evidence that {}.~~

~~———— (a) (i) } the defendant was a pawnbroker or a person who has or operates a business~~

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~~dealing in or collecting used or secondhand merchandise or personal property, or was an agent, employee, or representative of a pawnbroker or person {}, that {}, and~~

~~—— (ii) } the defendant bought, received, concealed, or withheld the property without obtaining the information required in Subsection (3)(c) or (d) {}, then the burden shall be upon the defendant to show that the property bought, received, or obtained was not stolen.] {, or~~

~~—— (b) (i) the defendant was a catalytic converter purchaser or was an agent, employee, or representative of a catalytic converter purchaser; and~~

~~—— (ii) the defendant bought, received, concealed, or withheld the property without obtaining substantially all the information required in Subsection (3)(c):~~

~~—— (6) Unless acting as a catalytic converter purchaser, }~~

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

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

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

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

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

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

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

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

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

(a) as a second degree felony if the:

(i) value of the property or services is or exceeds \$5,000;

(ii) property stolen is a firearm or an operable motor vehicle; or

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(iii) property is stolen from the person of another;

(b) as a third degree felony if:

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

(ii) the property is a catalytic converter as defined under Section 76-6-1402;

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

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

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

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

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

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

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

~~(iv)~~ (v) the actor has been previously convicted of a felony violation of any of the offenses listed in Subsections (1)(b)~~(iii)~~(iii)(A) through (1)(b)~~(iii)~~(iii)(C), if the prior offense was committed within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based;

(c) as a class A misdemeanor if:

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

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

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

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

(iii) the actor has been twice before convicted of any of the offenses listed in Subsections (1)(b)~~(iii)~~(iii)(A) through (1)(b)~~(iii)~~(iii)(C), if each prior offense was committed

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within 10 years before the date of the current conviction or the date of the offense upon which the current conviction is based; or

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

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

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

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

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

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

- (a) a manhole cover or sewer grate;
- (b) an electric light pole; or
- (c) a guard rail.

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

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

- (i) the owner's telephone number;
- (ii) the owner's business or residential address, which may not be a post box;
- (iii) a copy of the owner's driver license; and
- (iv) a signed statement that the person is the lawful owner of the suspect metal and

authorizes the seller, identified by name, to sell the suspect metal.

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

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

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

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

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

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

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

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

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

(1) As used in this section:

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

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

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

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

(2) (a) A merchant may request an individual on the merchant's premises to place or keep in full view any merchandise the individual may have removed, or which the merchant has reason to believe the individual may have removed, from its place of display or elsewhere, whether for examination, purchase, or for any other reasonable purpose.

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

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

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

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

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

(i) delivering a copy to the individual personally;

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

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

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

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

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

(a) actual damages;

(b) a penalty to the merchant in the amount of the retail price of the merchandise not to exceed \$1,000; and

(c) an additional penalty as determined by the court of not less than \$100 nor more than

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\$500, plus court costs and reasonable attorney fees.

(6) A minor who commits any of the offenses listed in Subsection 76-6-412(1)(b)[~~(ii)~~](iii)(A), (B), or (C) and the minor's parents or legal guardian are jointly and severally liable in a civil action to the merchant for:

(a) actual damages;

(b) a penalty to be remitted to the merchant in the amount of the retail price of the merchandise not to exceed \$500 plus an additional penalty as determined by the court of not less than \$50 nor more than \$500; and

(c) court costs and reasonable attorney fees.

(7) A parent or guardian is not liable for damages under this section if the parent or guardian made a reasonable effort to restrain the wrongful taking and reported it to the merchant involved or to the law enforcement agency having primary jurisdiction once the parent or guardian knew of the minor's unlawful act. A report is not required under this section if the minor was arrested or apprehended by a peace officer or by anyone acting on behalf of the merchant involved.

(8) A conviction in a criminal action for any of the offenses listed in Subsection 76-6-412(1)(b)[~~(ii)~~](iii)(A), (B), or (C) is not a condition precedent to a civil action authorized under Subsection (5) or (6).

(9) (a) A merchant demanding payment of a penalty under Subsection (5) or (6) shall give written notice to the individual or individuals from whom the penalty is sought. The notice shall state:

"IMPORTANT NOTICE: The payment of any penalty demanded of you does not prevent criminal prosecution under a related criminal provision."

(b) This notice shall be boldly and conspicuously displayed, in at least the same size type as is used in the demand, and shall be sent with the demand for payment of the penalty described in Subsection (5) or (6).

(10) The provision of Section 78B-8-201 requiring that compensatory or general damages be awarded in order to award punitive damages does not prohibit an award of a penalty under Subsection (5) or (6) whether or not restitution has been paid to the merchant either prior to or as part of a civil action.