

AMENDED IN ASSEMBLY APRIL 25, 2016

AMENDED IN ASSEMBLY APRIL 18, 2016

AMENDED IN ASSEMBLY MARCH 28, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1751**

---

---

**Introduced by Assembly Member Low**

**(Coauthors: Assembly Members Bigelow, Calderon, Cooper, Dababneh, Gatto, Jones, Jones-Sawyer, Lackey, Mathis, Mullin, Olsen, Rodriguez, Waldron, and Wilk)**

(Coauthors: Senators Anderson, Berryhill, Block, Hill, Mendoza, Morrell, Nguyen, and Vidak)

February 2, 2016

---

---

An act to amend Section 21628 of, to repeal Section 21628.1 of, and to repeal and add Section 21630 of, the Business and Professions Code, relating to secondhand goods, *making an appropriation therefor*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1751, as amended, Low. Secondhand goods.

Existing law provides for the regulation of secondhand dealers and coin dealers, as defined. Existing law makes it unlawful for a person to engage in the business of a secondhand dealer without a license issued by the chief of police, the sheriff, or, where appropriate, the police commission. Existing law requires a local law enforcement agency to issue a license to engage in the business of a secondhand dealer or pawnbroker to an applicant who meets designated criteria. Existing law authorizes the local licensing authority and the Department of Justice to charge an initial licensure fee and a renewal fee, as specified. Existing

law requires a secondhand dealer to report, as specified, to the chief of police or sheriff all secondhand “tangible personal property,” as defined, purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning. Existing law requires the report to include, among other things, the identification of the intended seller or pledger of the property, verified by the person taking the information by specified methods. Existing law requires the reporting of this information to the Department of Justice through a single, statewide, and uniform electronic reporting system. Existing law requires the Department of Justice to develop descriptive categories and secondhand dealers and coin dealers to use these categories in their reports.

This bill would eliminate the requirements that the Department of Justice develop, and secondhand dealers and coin dealers use, descriptive categories in their reports of acquired tangible personal property. Instead, the bill would require the Department of Justice to accept the plain text property descriptions commonly recognized and utilized by the pawn and secondhand dealer industries. The bill would require the Department of Justice to encode the plain text property descriptions, as specified, and would ~~prohibit the Department of Justice from using funds collected from the initial licensing fee for these purposes.~~ *require that necessary costs incurred by the department in mapping the plain text property descriptions received by pawnbrokers and secondhand dealers to any law enforcement database be funded by the Secondhand Dealer and Pawnbroker Fund, thereby making an appropriation.* This bill would prohibit the Department of Justice, chiefs of police, and sheriffs from requiring secondhand dealers to report any additional information other than that which is required by these provisions. The bill would require that the single, statewide, and uniform electronic reporting system be implemented and operated in compliance with the Administrative Procedure Act and prohibit the Department of Justice from taking any action with respect to the implementation, operation, or maintenance of the electronic reporting system by adoption of an emergency regulation. The bill would also require the Department of Justice to convene a meeting with the Department of Technology to discuss issues pertaining to any proposed changes or upgrades, and authorize the Department of Technology to provide technological assistance for ongoing improvements, updates, or changes, to the single, statewide, and uniform electronic reporting system.

Existing law provides an exception to the reporting requirement for the acquisition of the same property from the same customer within 12

months of a reported transfer, except when submission of the report is specifically requested in writing by the local authorities.

This bill would expand the reporting requirement exception to all acquisitions of the same property from the same customer within 12 months of a reported transfer.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: ~~no~~-yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. (a) It is the intent of the Legislature to clarify  
2 that pawnbrokers and other secondhand dealers are to report their  
3 acquisition of tangible personal property received in pledge, trade,  
4 consignment, or auction or by purchase using plain text, in  
5 descriptive language historically used in the pawn and secondhand  
6 industries when reporting to the single, statewide, and uniform  
7 electronic reporting system operated by the Department of Justice,  
8 or if not yet implemented in their respective jurisdictions, on paper  
9 forms sent to the local police chief or sheriff of the jurisdiction in  
10 which the secondhand dealer is physically located.

11 (b) It is further the intent of the Legislature that by specifying  
12 this manner of reporting, it will relieve all secondhand dealers and  
13 pawnbrokers of the inherent costs and burdens imposed under  
14 existing law that requires these businesses to report their daily  
15 acquisitions of secondhand tangible personal property on paper  
16 forms limited to a single transaction, or where the electronic  
17 reporting system is implemented, the cost associated with  
18 converting industry standard descriptions to specific law  
19 enforcement categories, the ongoing costs of training to that  
20 standard, and the costs of implementing software to maintain that  
21 standard.

22 (c) Further, it is the intent of the Legislature that the Department  
23 of Justice shall continue to accept the plain text descriptive  
24 language historically used in the pawn and secondhand industries  
25 and shall have the continuing obligation to convert those  
26 descriptions as may be required by law enforcement databases in  
27 order to protect the integrity of law enforcement databases. It is  
28 the intent of the Legislature that only properly trained law

1 enforcement personnel of the Department of Justice or local law  
2 enforcement classify and encode for law enforcement databases  
3 property reported by pawnbrokers and secondhand dealers and  
4 that ~~the cost of the classification or the training of law enforcement~~  
5 ~~personnel not be funded by pawnbrokers or secondhand dealers.~~  
6 *all necessary costs required for the Department of Justice to map*  
7 *the industry plain text property descriptions to any law enforcement*  
8 *database be paid from the Secondhand Dealer and Pawnbroker*  
9 *Fund established by subdivision (d) of Section 21642.5 of the*  
10 *Business and Professions Code.*

11 SEC. 2. Section 21628 of the Business and Professions Code,  
12 as amended by Section 1 of Chapter 169 of the Statutes of 2015,  
13 is amended to read:

14 21628. (a) Every secondhand dealer or coin dealer described  
15 in Section 21626 shall report daily, or on the first working day  
16 after receipt or purchase of secondhand tangible personal property,  
17 on forms or through an electronic reporting system approved by  
18 the Department of Justice, all secondhand tangible personal  
19 property, except for firearms, which he or she has purchased, taken  
20 in trade, taken in pawn, accepted for sale on consignment, or  
21 accepted for auctioning, to the electronic reporting system operated  
22 by the Department of Justice, or until such time as this system is  
23 operational in the jurisdiction where the secondhand dealer is  
24 located, on paper forms sent to the chief of police or to the sheriff,  
25 in accordance with the provisions of Sections 21630 and 21633  
26 and subdivision (d). The report shall be legible, prepared in  
27 English, completed where applicable, and include only the  
28 following information:

29 (1) The name and current address of the intended seller or  
30 pledger of the property.

31 (2) The identification of the intended seller or pledger. The  
32 identification of the seller or pledger of the property shall be  
33 verified by the person taking the information, who may use  
34 technology, including, but not limited to, cameras or software, or  
35 both, to obtain information and verify identity remotely. The  
36 verification shall be valid if the person taking the information  
37 reasonably relies on any one of the following documents, provided  
38 that the document is currently valid or has been issued within five  
39 years and contains a photograph or description, or both, of the

1 person named on it, and, where applicable, is signed by the person,  
2 and bears a serial or other identifying number:

- 3 (A) A passport of the United States.
- 4 (B) A driver's license issued by any state or Canada.
- 5 (C) An identification card issued by any state.
- 6 (D) An identification card issued by the United States.
- 7 (E) A passport from any other country in addition to another  
8 item of identification bearing an address.
- 9 (F) A Matricula Consular in addition to another item of  
10 identification bearing an address.

11 (3) (A) A complete and reasonably accurate description of  
12 serialized property, including, but not limited to, the following:  
13 serial number and other identifying marks or symbols,  
14 owner-applied numbers, manufacturer's name brand, and model  
15 name or number. Watches need not be disassembled when special  
16 skill or special tools are required to obtain the required information,  
17 unless specifically requested to do so by a peace officer. A special  
18 tool does not include a penknife, caseknife, or similar instrument  
19 and disassembling a watch with a penknife, caseknife, or similar  
20 instrument does not constitute a special skill. In all instances where  
21 the required information may be obtained by removal of a  
22 watchband, then the watchband shall be removed. The cost  
23 associated with opening the watch shall be borne by the  
24 pawnbroker, secondhand dealer, or customer.

25 (B) In the case of the receipt or purchase of a handheld electronic  
26 device by a secondhand dealer, the serial number reported pursuant  
27 to subparagraph (A) may be the International Mobile Station  
28 Equipment Identity (IMEI), the mobile equipment identifier  
29 (MEID), or other unique identifying number assigned to that device  
30 by the device manufacturer. If none of these identifying numbers  
31 are available by the time period required for reporting pursuant to  
32 this subdivision, the report shall be updated with the IMEI, MEID,  
33 or other unique identifying number assigned to that device by the  
34 device manufacturer as soon as reasonably possible but no later  
35 than 10 working days after receipt or purchase of the handheld  
36 electronic device.

37 (C) For the purpose of this paragraph, "handheld electronic  
38 device" means any portable device that is capable of creating,  
39 receiving, accessing, or storing electronic data or communications

1 and includes, but is not limited to, a cellular phone, smartphone,  
2 or tablet.

3 (4) A complete and reasonably accurate description of  
4 nonserialized property, including, but not limited to, the following:  
5 size, color, material, manufacturer’s pattern name (when known),  
6 owner-applied numbers and personalized inscriptions, and other  
7 identifying marks or symbols. Watches need not be disassembled  
8 when special skill or special tools are required to obtain the  
9 required information, unless specifically requested to do so by a  
10 peace officer. A special tool does not include a penknife, caseknife,  
11 or similar instrument and disassembling a watch with a penknife,  
12 caseknife, or similar instrument does not constitute a special skill.  
13 In all instances where the required information may be obtained  
14 by removal of a watchband, then the watchband shall be removed.  
15 The cost associated with opening the watch shall be borne by the  
16 pawnbroker, secondhand dealer, or customer.

17 (5) A certification by the intended seller or pledger that he or  
18 she is the owner of the property or has the authority of the owner  
19 to sell or pledge the property.

20 (6) A certification by the intended seller or pledger that to his  
21 or her knowledge and belief the information is true and complete.

22 (7) A legible fingerprint taken from the intended seller or  
23 pledger, as prescribed by the Department of Justice. This  
24 requirement does not apply to a coin dealer, unless required  
25 pursuant to local regulation.

26 (b) (1) When a secondhand dealer complies with all of the  
27 provisions of this section, he or she shall be deemed to have  
28 received from the seller or pledger adequate evidence of authority  
29 to sell or pledge the property for all purposes included in this  
30 article, and Division 8 (commencing with Section 21000) of the  
31 Financial Code.

32 (2) In enacting this subdivision, it is the intent of the Legislature  
33 that its provisions shall not adversely affect the implementation  
34 of, or prosecution under, any provision of the Penal Code.

35 (c) Any person who conducts business as a secondhand dealer  
36 at any gun show or event, as defined in Section 478.100 of Title  
37 27 of the Code of Federal Regulations, or its successor, outside  
38 the jurisdiction that issued the secondhand dealer license in  
39 accordance with subdivision (d) of Section 21641, may be required  
40 to submit a duplicate of the transaction report prepared pursuant

1 to this section to the local law enforcement agency where the gun  
2 show or event is conducted.

3 (d) (1) The Department of Justice shall recognize and accept  
4 the plain text property descriptions generally accepted in the pawn  
5 and secondhand industries provided by secondhand dealers, as has  
6 been the longstanding practice of chiefs of police and sheriffs when  
7 they receive paper reports from secondhand dealers. The  
8 Department of Justice shall have the continuing duty to encode  
9 the plain text property descriptions received by pawnbrokers and  
10 secondhand dealers for law enforcement databases in order for  
11 those descriptions to be useful for law enforcement purposes. ~~Funds~~  
12 ~~collected pursuant to Section 21642.5 shall not be used by the~~  
13 ~~Department of Justice for the encoding or to train personnel to~~  
14 ~~encode these descriptions. All necessary costs incurred by the~~  
15 ~~Department of Justice in mapping the plain text property~~  
16 ~~descriptions received by pawnbrokers and secondhand dealers to~~  
17 ~~any law enforcement database shall be funded by the Secondhand~~  
18 ~~Dealer and Pawnbroker Fund established in subdivision (d) of~~  
19 ~~Section 21642.5.~~

20 (2) With the consultation by the Department of Justice with  
21 local law enforcement agencies and representatives from the  
22 secondhand dealer businesses, pursuant to Resolution Chapter 16  
23 of the Statutes of 2010, and upon the availability of sufficient funds  
24 in the Secondhand Dealer and Pawnbroker Fund created pursuant  
25 to Section 21642.5, the department shall promptly develop a single,  
26 statewide, uniform electronic reporting system to be used to  
27 transmit these secondhand dealer reports.

28 (3) (A) Except as otherwise provided in this section, any report  
29 required of a secondhand dealer shall be transmitted by electronic  
30 means.

31 (B) Until the date that the Department of Justice implements  
32 the single, statewide, uniform electronic reporting system described  
33 in paragraph (2), each secondhand dealer may continue to report  
34 the information required by this section under the reporting  
35 categories described in paragraph (1) in paper format on forms  
36 approved or provided by the Department of Justice. Chiefs of  
37 police and sheriffs continuing to receive paper forms shall also  
38 continue to recognize and accept the plain text property  
39 descriptions generally recognized in the pawn and secondhand  
40 industries.

1 (C) On and after the date that the Department of Justice  
2 implements the single, statewide, uniform electronic reporting  
3 system described in paragraph (2), each secondhand dealer shall  
4 electronically report using that system the information required  
5 by this section under the reporting standard described in paragraph  
6 (1), except that for the first 30 days following the implementation  
7 date, each secondhand dealer shall also report the information in  
8 paper format as described in subparagraph (B).

9 (D) Unless specifically identified in this section, the Department  
10 of Justice, chiefs of police, and sheriffs shall not require a  
11 secondhand dealer to include any additional information concerning  
12 the seller, the pledger, or the property received by the secondhand  
13 dealer in the report required by this section.

14 (E) The single, statewide, and uniform electronic reporting  
15 system required by this chapter shall be implemented and operated  
16 in compliance with the Administrative Procedure Act (Chapter  
17 3.5 (commencing with Section 11340) of Part 1 of Division 3 of  
18 Title 2 of the Government Code). In implementing and operating  
19 the single, statewide, and uniform electronic reporting system  
20 required by this chapter, the Department of Justice, chiefs of police,  
21 and sheriffs shall comply with Sections 21637 and 21638.  
22 Notwithstanding any other law, the Department of Justice shall  
23 not take any action with respect to the implementation, operation,  
24 or maintenance of the electronic reporting system required by this  
25 chapter by adoption of an emergency regulation.

26 (F) On or before July 1, 2017, the Department of Justice shall  
27 convene a meeting with the Department of Technology to discuss  
28 issues pertaining to any proposed changes or upgrades to the single,  
29 statewide, and uniform electronic reporting system required by  
30 this chapter. The Department of Technology may provide  
31 technological assistance for ongoing improvements, updates, or  
32 changes to the single, statewide, and uniform electronic reporting  
33 system required by this chapter, as requested.

34 (4) A coin dealer shall report the information required by this  
35 section under the reporting standard described in paragraph (1) on  
36 a form developed by the Attorney General that the coin dealer  
37 shall transmit each day by facsimile transmission or by mail to the  
38 chief of police or sheriff. A transaction shall consist of not more  
39 than one item.

1 (5) For purposes of this subdivision, “item” shall mean any  
2 single physical article. However, with respect to a commonly  
3 accepted grouping of articles that are purchased as a set, including,  
4 but not limited to, a pair of earrings or place settings of china,  
5 silverware, or other tableware, “item” shall mean that commonly  
6 accepted grouping.

7 (6) Nothing in this subdivision shall be construed as excepting  
8 a secondhand dealer from the fingerprinting requirement of  
9 paragraph (7) of subdivision (a).

10 (e) Nothing in this section shall be construed to exempt a person  
11 licensed as a firearms dealer pursuant to Sections 26700 to 26915,  
12 inclusive, of the Penal Code from the reporting requirements for  
13 the delivery of firearms pursuant to Sections 26700 to 26915,  
14 inclusive, of the Penal Code.

15 SEC. 3. Section 21628.1 of the Business and Professions Code  
16 is repealed.

17 SEC. 4. Section 21630 of the Business and Professions Code  
18 is repealed.

19 SEC. 5. Section 21630 is added to the Business and Professions  
20 Code, to read:

21 21630. (a) A secondhand dealer shall electronically transmit  
22 to the Department of Justice’s single, statewide, uniform electronic  
23 reporting system on the date of transaction or, if not then possible  
24 due to an electrical, telecommunications, or other malfunction, as  
25 soon as reasonable thereafter, the report of acquisition of tangible  
26 personal property as required by Section 21628.

27 (b) Notwithstanding Section 21628, submission of a tangible  
28 property acquisition report is not required if the report of an  
29 acquisition of the same property from the same customer has been  
30 submitted within the preceding 12 months.

31 (c) If the electronic reporting system operated by the Department  
32 of Justice has not been implemented in the jurisdiction where the  
33 secondhand dealer is located, the report shall be submitted to the  
34 chief of police of the city or his or her designee within the territorial  
35 limits of the incorporated city in which the secondhand dealer is  
36 located. If the transaction takes place outside the territorial limits  
37 of an incorporated city in which the secondhand dealer is located,  
38 the report shall be submitted to the sheriff of the county or his or  
39 her designee.

1 SEC. 6. This act is an urgency statute necessary for the  
2 immediate preservation of the public peace, health, or safety within  
3 the meaning of Article IV of the Constitution and shall go into  
4 immediate effect. The facts constituting the necessity are:

5 In order to make the single, statewide, uniform electronic system  
6 a cost savings for secondhand dealers and pawnbrokers, the plain  
7 text property descriptions historically utilized by these industries  
8 must be accepted by the Department of Justice, just as these plain  
9 text descriptions have historically been accepted by chiefs of police  
10 and sheriffs.

11 Further, to protect the integrity of law enforcement databases,  
12 it is necessary to specify that only trained law enforcement  
13 personnel shall input classification codes of property reported by  
14 these businesses, not the businesses themselves.