

Assembly Bill No. 632

CHAPTER 169

An act to amend Section 21628 of the Business and Professions Code, relating to business.

[Approved by Governor August 11, 2015. Filed with
Secretary of State August 11, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 632, Eggman. Secondhand dealers and coin dealers: reporting: handheld electronic devices.

Existing law provides for the regulation of secondhand 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 secondhand dealer or coin dealer, as defined, 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 reasonably relying on specified documents, and a complete and reasonably accurate description of serialized property, including, but not limited to, the serial number of that property. A violation of these provisions where a person knows or should have known that a violation was being committed is a misdemeanor.

This bill would permit the person verifying the identification of the seller or pledger to use technology to obtain information and verify identity remotely. The bill would authorize specified unique identifying numbers to be used as the serial number reported for handheld electronic devices, as defined, and would require the report to the chief of police or sheriff to be updated within 10 days with these unique identifying numbers if they were not available when the report was submitted.

Because a violation of this requirement under certain circumstances would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 21628 of the Business and Professions Code is amended to read:

21628. (a) Every secondhand dealer or coin dealer described in Section 21626 shall report daily, or on the first working day after receipt or purchase of secondhand tangible personal property, on forms or through an electronic reporting system approved by the Department of Justice, all secondhand tangible personal property, except for firearms, which he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, in accordance with the provisions of Sections 21630 and 21633 and subdivision (d). The report shall be legible, prepared in English, completed where applicable, and include, but not be limited to, the following information:

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

(2) The identification of the intended seller or pledger. The identification of the seller or pledger of the property shall be verified by the person taking the information, who may use technology, including, but not limited to, cameras or software, or both, to obtain information and verify identity remotely. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided that the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, and, where applicable, is signed by the person, and bears a serial or other identifying number:

(A) A passport of the United States.

(B) A driver's license issued by any state or Canada.

(C) An identification card issued by any state.

(D) An identification card issued by the United States.

(E) A passport from any other country in addition to another item of identification bearing an address.

(F) A Matricula Consular in addition to another item of identification bearing an address.

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

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

(C) For the purpose of this paragraph, “handheld electronic device” means any portable device that is capable of creating, receiving, accessing, or storing electronic data or communications and includes, but is not limited to, a cellular phone, smartphone, or tablet.

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

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

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

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

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

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

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

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

(d) (1) The Department of Justice shall, in consultation with appropriate local law enforcement agencies, develop clear and comprehensive descriptive categories denoting tangible personal property, as detailed in this section, subject to the reporting requirements of this section. These categories shall be incorporated by secondhand dealers and coin dealers described in Section 21626 for purposes of the reporting requirements set forth herein.

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

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

(B) Until the date that the Department of Justice implements the single, statewide, uniform electronic reporting system described in paragraph (2), each secondhand dealer may continue to report the information required by this section under the reporting categories described in paragraph (1) in paper format on forms approved of or provided by the Department of Justice.

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

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

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

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

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

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

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