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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1182

Introduced by Assembly Member Santiago
(Coauthors: Assembly Members Bonta and Cooley)
(Coauthors: Senators Pan and Stone)

February 27, 2015

An act to amend ~~Sections~~ *Section 21627 of, and 21628 of to add Section 21628.3 to*, the Business and Professions Code, relating to secondhand goods.

LEGISLATIVE COUNSEL'S DIGEST

AB 1182, as amended, Santiago. Secondhand goods: tangible personal property.

Existing law requires secondhand dealers and coin dealers to, among other things, report certain secondhand tangible personal property taken in trade or pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, as specified. Existing law defines “tangible personal property” for those purposes as including secondhand tangible personal property that bears or bears evidence of having had a serial number or personalized initials and new or used tangible personal property that is received as security for a loan by a

pawnbroker or is commonly sold by secondhand dealers and part of a significant class of stolen goods. Existing law requires the Attorney General to supply to local law enforcement agencies and periodically review a list of that personal property commonly sold by secondhand dealers which statistically is found through crime reports to the Attorney General to constitute a significant class of stolen goods.

This bill would require the Attorney General to update that list annually and post the list on his or her Internet Web site. The bill would instead specify that “tangible personal property” means secondhand tangible personal property that bears or bears evidence of having had a serial number or personalized initials, new or used tangible personal property that is received as security for a loan by a pawnbroker, or all tangible personal property that the Attorney General statistically determines through the most recent Department of Justice “Crime in California” report to constitute a significant class of stolen goods, as defined.

This bill would require the secondhand dealer to verify the identification of the seller or pledger for each transaction.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 21627 of the Business and Professions
- 2 Code is amended to read:
- 3 21627. (a) As used in this article, “tangible personal property”
- 4 means all secondhand tangible personal property which bears a
- 5 serial number or personalized initials or inscription or which, at
- 6 the time it is acquired by the secondhand dealer, bears evidence
- 7 of having had a serial number or personalized initials or inscription.
- 8 (b) “Tangible personal property” also means the following:
- 9 (1) All tangible personal property, new or used, including motor
- 10 vehicles, received in pledge as security for a loan by a pawnbroker.
- 11 (2) All tangible personal property that bears a serial number or
- 12 personalized initials or inscription which is purchased by a
- 13 secondhand dealer or a pawnbroker or which, at the time of such
- 14 purchase, bears evidence of having had a serial number or
- 15 personalized initials or inscription.
- 16 (3) All tangible personal property that the Attorney General
- 17 statistically determines through the most recent Department of

1 Justice “Crime in California” report to constitute a significant class
2 of stolen goods. A list of such personal property shall be supplied
3 by the Attorney General to all local law enforcement agencies and
4 posted on the Attorney General’s Internet Web site. Such list shall
5 be updated annually by the Attorney General, beginning January
6 1, 2016, to ensure that it addresses current problems with stolen
7 goods.

8 (c) As used in this article, “tangible personal property” does not
9 include any new goods or merchandise purchased from a bona fide
10 manufacturer or distributor or wholesaler of such new goods or
11 merchandise by a secondhand dealer. For the purposes of this
12 article, however, a secondhand dealer shall retain for one year
13 from the date of purchase, and shall make available for inspection
14 by any law enforcement officer, any receipt, invoice, bill of sale
15 or other evidence of purchase of such new goods or merchandise.

16 (d) As used in this article, “tangible personal property” does
17 not include coins, monetized bullion, or commercial grade ingots
18 of gold, silver, or other precious metals. “Commercial grade ingots”
19 means 0.99 fine or finer ingots of gold, silver, palladium, or
20 platinum, or 0.925 fine sterling silver art bars and medallions,
21 provided that the ingots, art bars, and medallions are marked by
22 the refiner or fabricator as to their assay fineness.

23 (e) For purposes of this article, a “significant class of stolen
24 goods” means those items determined through the Department of
25 Justice’s annual “Crime in California” report to constitute more
26 than 10 percent of property reported stolen in the calendar year
27 preceding the annual posting of the list of significant classes of
28 stolen goods.

29 *SEC. 2. Section 21628.3 is added to the Business and*
30 *Professions Code, to read:*

31 *21628.3. In complying with the requirements of Section 21628,*
32 *a secondhand dealer shall verify the identification of the seller or*
33 *pledger for each transaction, not for each item that shall be*
34 *reported.*

35 ~~SEC. 2. Section 21628 of the Business and Professions Code~~
36 ~~is amended to read:~~

37 ~~21628. Every secondhand dealer or coin dealer described in~~
38 ~~Section 21626 shall report daily, or on the first working day after~~
39 ~~receipt or purchase of secondhand tangible personal property, on~~
40 ~~forms or through an electronic reporting system approved by the~~

1 Department of Justice, all secondhand tangible personal property;
2 except for firearms, which he or she has purchased, taken in trade;
3 taken in pawn, accepted for sale on consignment, or accepted for
4 auctioning, to the chief of police or to the sheriff, in accordance
5 with the provisions of Sections 21630 and 21633 and subdivision
6 (j). The report shall be legible, prepared in English, completed
7 where applicable, and include, but not be limited to, the following
8 information:

9 (a) The name and current address of the intended seller or
10 pledger of the property.

11 (b) The identification of the intended seller or pledger. The
12 identification of the seller or pledger of the property shall be
13 verified by the person taking the information. The verification
14 shall be valid if the person taking the information reasonably relies
15 on any one of the following documents, provided that the document
16 is currently valid or has been issued within five years and contains
17 a photograph or description, or both, of the person named on it,
18 and, where applicable, is signed by the person, and bears a serial
19 or other identifying number:

20 (1) A passport of the United States:

21 (2) A driver's license issued by any state or Canada:

22 (3) An identification card issued by any state:

23 (4) An identification card issued by the United States:

24 (5) A passport from any other country in addition to another
25 item of identification bearing an address:

26 (6) A Matricula Consular in addition to another item of
27 identification bearing an address:

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

1 ~~associated with opening the watch shall be borne by the~~
2 ~~pawnbroker, secondhand dealer, or customer.~~

3 ~~(d) 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 ~~(e) 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 ~~(f) A certification by the intended seller or pledger that to his~~
21 ~~or her knowledge and belief the information is true and complete.~~

22 ~~(g) 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 ~~(h) (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 ~~(i) 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 (j) (1) The Department of Justice shall, in consultation with
4 appropriate local law enforcement agencies, develop clear and
5 comprehensive descriptive categories denoting tangible personal
6 property, as detailed in this section, subject to the reporting
7 requirements of this section. These categories shall be incorporated
8 by secondhand dealers and coin dealers described in Section 21626
9 for purposes of the reporting requirements set forth herein. Except
10 as otherwise provided in this section, any report required of a
11 secondhand dealer shall be transmitted by electronic means. With
12 the consultation by the Department of Justice with local law
13 enforcement agencies and representatives from the secondhand
14 dealer businesses, pursuant to Resolution Chapter 16 of the Statutes
15 of 2010, and upon the availability of sufficient funds in the
16 Secondhand Dealer and Pawnbroker Fund created pursuant to
17 Section 21642.5, the department shall promptly develop a single,
18 statewide, uniform electronic reporting system to be used to
19 transmit these secondhand dealer reports.

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

26 (B) On and after the date that the Department of Justice
27 implements the single, statewide, uniform electronic reporting
28 system described in paragraph (1), each secondhand dealer shall
29 electronically report using that system the information required
30 by this section under the reporting categories described in
31 paragraph (1), except that for the first 30 days following the
32 implementation date, each secondhand dealer shall also report the
33 information in paper format as described in subparagraph (A).

34 (3) A coin dealer shall report the information required by this
35 section under the reporting categories described in paragraph (1)
36 on 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 ~~(4) 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 ~~(5) Nothing in this subdivision shall be construed as excepting~~
8 ~~a secondhand dealer from the fingerprinting requirement of~~
9 ~~subdivision (g).~~

10 ~~(k) 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 ~~(l) The secondhand dealer shall verify the identification of the~~
16 ~~seller or pledger for each transaction, not for each item that must~~
17 ~~be reported.~~