

Prior law provided that every person in this state engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of used or secondhand property, including but not limited to jewelry, silverware, diamonds, precious metals, furniture, pictures, objects of art, clothing, mechanic's tools, carpenter's tools, automobile hubcaps, automotive batteries, automotive sound equipment such as radios, CB radios, stereos, speakers, cassettes, compact disc players, and similar automotive audio supplies, used building components, and items defined as cemetery artifacts is a secondhand dealer.

New law provides that every person in this state engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of junk or used or secondhand property, including but not limited to jewelry, silverware, diamonds, precious metals, ferrous materials, catalytic converters, auto hulks, copper, copper wire, copper alloy, bronze, zinc, aluminum other than in the form of cans, stainless steel, nickel alloys, or brass, whether in the form of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps or connectors, railroad track materials, water utilities materials, furniture, pictures, objects of art, clothing, mechanic's tools, carpenter's tools, automobile hubcaps, automotive batteries, automotive sound equipment such as radios, CB radios, stereos, speakers, cassettes, compact disc players, and similar automotive audio supplies, used building components, and items defined as cemetery artifacts is a secondhand dealer.

New law further provides that anyone, other than a nonprofit entity, who buys, sells, trades in, or otherwise acquires or disposes of junk or used or secondhand property more frequently than once per month from any other person, other than a nonprofit entity, shall be deemed as being engaged in the business of a secondhand dealer.

New law defines "junk" as any property or material commonly known as "junk".

New law provides that "railroad track materials" shall include steel in the form of railroad tracks or in the form of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used in constructing railroads, or any combination of such materials.

New law provides that "water utilities materials" shall include but not be limited to water meters, valves, pipes, and fittings.

Prior law did not apply to persons solely engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of motor vehicles and used parts of motor vehicles, and shall not apply to wreckers or dismantlers of motor vehicles who are licensed under the provisions of prior law.

New law retains prior law but corrects the citation to the licensing law for motor vehicle dismantlers and parts recyclers.

New law shall not apply to collectors, transporters, or disposers of waste whose waste collection, transportation, and disposal activities are regulated by the Dept. of Environmental Quality, or persons who collect, transport, or manage recyclable materials pursuant to a residential collection, recycling, or disposal contract with a municipality or political subdivision.

New law prohibits any person from willfully or knowingly purchasing junk or used or secondhand property, unpaid for by the seller, or not owned by the seller.

Prior law exempted persons operating as a pawnshop from the record acquisition, maintenance, and reporting requirements of prior law.

New law retains prior law and adds an exemption for the prohibition against payments in cash contained in new law.

Prior law required every secondhand dealer to maintain a book or ledger setting forth each purchase of secondhand or used merchandise when the value of any single piece of merchandise or article received, or any single lot of used building components, was \$25 or more for each single transaction. The price at which a piece of merchandise was offered for sale by a secondhand dealer was considered prima facie evidence of the value of the piece

of merchandise. Each ledger entry was to be entered at the time of each transaction and was required to contain an accurate description in the English language of the merchandise or article received including serial numbers of the objects, if distinguishable, along with the amount paid therefor.

New law requires every individual, firm, corporation, entity, or partnership, except municipalities, political subdivisions, and public utility companies, engaged in the business of purchasing and reselling any of the materials provided for in new law located either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk or secondhand property, and junk trucks, to either keep a register and file reports or electronically maintain data and be capable of readily providing reports in the form prescribed by Dept. of Public Safety and Corrections.

Prior law required the name, address, sex, race, height, weight, and driver's license number of the person or persons selling or delivering the merchandise or articles to the dealer to be obtained and included with each ledger entry. Records of each purchase were to be preserved for a period of at least three years.

New law requires the register to contain the following information:

- (1) The name and address of the residence or place of business of the person required to either keep the register and file reports or electronically maintain the data and generate the requested reports.
- (2) The date and place of each such purchase.
- (3) The name and address of the person or persons from whom the material was purchased, including the distinctive number of the person's or persons' La. driver's license, driver's license from another state, passport, military identification, or identification issued by a governmental agency or the U.S. Postal Service. If the person cannot produce any of the above forms of identification at the time of purchase, the purchaser shall not complete the transaction.
- (4) The motor vehicle license number of the vehicle or conveyance on which the material was delivered.
- (5) A full description of all the material purchased, including the weight of the material and whether it consists of bars, kegs, cable, ingots, rods, tubing wire, wire scraps, clamps, connectors, or other appurtenances or some combination thereof.
- (6) A full description of railroad track materials purchased, including the weight and whether it consists of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used to construct railroads or other appurtenances or some combination thereof.

New law shall not apply to purchases of materials from any manufacturing, industrial, or other commercial vendor that generates, as a byproduct or recyclable waste, or sells such materials in the ordinary course of its business.

New law requires each secondhand dealer to keep either one copy of the completed form in a separate register or book or maintain the information in electronic format which shall be kept for a period of three years at his place of business and shall be made available for inspection by any peace officer or law enforcement official at any time during the three-year period.

New law provides that failure to maintain the information or the register or to produce a report requested by any peace officer or law enforcement official shall be prima facie evidence that the person receiving the material described in new law and not registered or reported, received it knowing it to be stolen.

New law provides that whoever violates the provisions of new law regarding record keeping shall be fined not less than \$1,000 or imprisoned for not less than 30 days nor more than six months, or both.

New law prohibits an owner, employee, keeper, or proprietor of a junk shop, junk store or yard, of a junk cart or other vehicle or boat, or collector of or dealer in junk, from receiving or purchasing from any minor under 17 years of age, any goods, chattels, wares, or other merchandise, including any material defined in new law.

Prior law did not apply to the sale or purchase of manufactured registered bullion bars, coins, or other numismatic items or to a retail tire outlet or an automobile dealer dealing in tires.

New law retains prior law.

New law provides that whoever violates the provisions of new law prohibiting the purchase of items from minors shall be fined not less than \$25 nor more than \$100, or imprisoned for not less than 15 days nor more than three months, or both.

New law prohibits a secondhand dealer from entering into any cash transactions in payment for the purchase of junk or used or secondhand property.

New law requires payment to be made in the form of check, electronic transfer, or money order issued to the seller of the junk or used or secondhand property and made payable to the name and address of the seller.

New law requires the transactions to be reported separately in the daily reports required by new law.

New law requires every secondhand dealer to obtain a signed statement from the seller that the junk or used or secondhand property has been paid for or is owned by the seller, and a failure of the dealer to exact a statement from the seller shall be prima facie evidence of the fraudulent intent and guilty knowledge on the part of the dealer, sufficient to warrant a conviction.

New law requires, in transactions involving railroad track materials, a secondhand dealer to require the party seeking to sell or dispose of the materials to furnish a signed statement from the appropriate railroad company consenting to the sale of the railroad track materials identified in the statement, which shall be retained by the secondhand dealer.

New law requires the statement to include the name of the railroad company consenting to the sale and the name, employee number, and phone number of the person signing the statement authorizing the sale.

New law requires the secondhand dealer to attempt to verify the authenticity of the statement authorizing the sale of the railroad track materials.

New law provides that a secondhand dealer who obtains the required statement from the seller shall be exonerated from any fraudulent, willful, or criminal knowledge.

Prior law provided that any secondhand dealer who violates, neglects, or refuses to comply with any provision of prior law, shall be fined not less than \$250, nor more than \$500 or be imprisoned for not less than 30 days nor more than 60 days, or both.

New law retains prior law but specifies that the penalty is for violations committed by a licensed secondhand dealer.

Prior law provided that anyone acting as a secondhand dealer without complying with the provisions of prior law shall be fined not less than \$250 or be imprisoned not less than 30 days nor more than 60 days, or both.

New law retains prior law but specifies that the penalty is for violations committed by an unlicensed secondhand dealer.

New law provides that, for a second offense, the unlicensed secondhand dealer shall be fined not more than \$2,000 or be imprisoned with or without hard labor for not more than two years, or both.

New law provides that, for a third or subsequent offense, the unlicensed secondhand dealer shall be fined not more than \$10,000 or be imprisoned with or without hard labor for not more than five years, or both.

Prior law defined "junk" as any property or material commonly known as "junk" or any secondhand property.

New law deletes prior law.

Prior law prohibited any person from willfully or knowingly purchasing junk, unpaid for by the seller, or not owned by the seller.

New law deletes prior law.

Prior law required every purchaser of junk to make a monthly report of purchases to Dept. of Public Safety and Corrections before the 10th day of the next succeeding month, giving a description of the junk together with the name and address of the person from whom purchased and the date of the purchase.

New law deletes prior law.

Prior law required every purchaser of junk to exact a signed statement from the seller that the junk has been paid for or is owned by the seller, and a failure of the purchaser to exact a statement from the seller shall be prima facie evidence of the fraudulent intent and guilty knowledge on the part of the purchaser, sufficient to warrant a conviction.

New law deletes prior law.

Prior law provided that a purchaser exacting and securing a statement from the seller shall be exonerated from any fraudulent, willful, or criminal knowledge.

New law deletes prior law.

Prior law provided that nothing in prior law shall prohibit or interfere with the right of the owner of any property, the sale of which is subject to the provisions of prior law and which has been taken or stolen from the owner, from recovering the property or recovering damages in a civil proceeding brought for that purpose.

New law deletes prior law.

Prior law provided that whoever violated prior law shall be fined not less than \$25 nor more than \$500, or imprisoned for not less than 30 days nor more than six months, or both.

New law deletes prior law.

Prior law prohibited an owner, employee, keeper, or proprietor of a junk shop, junk store or yard, of a junk cart or other vehicle or boat, or collector of or dealer in junk, from receiving or purchasing from any minor under 17 years of age, any goods, chattels, wares, or other merchandise.

New law repeals prior law.

Prior law provided that whoever violated prior law shall be fined not less than \$25 nor more than \$100, or imprisoned for not less than 15 days nor more than three months, or both.

New law deletes prior law.

Prior law required every individual, firm, corporation, entity, or partnership, except municipalities, political subdivisions, and public utility companies, engaged in the business of purchasing and reselling any of the materials provided for in prior law, located either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk or secondhand property, and junk trucks, to either keep a register and file reports or electronically maintain data and be capable

of readily providing reports in the form prescribed by the Dept. of Public Safety which shall contain the following information:

- (1) The name and address of the residence or place of business of such person required to either keep the register and file reports or electronically maintain the data and generate the requested reports.
- (2) The date and place of each such purchase.
- (3) The name and address of the person or persons from whom the material was purchased, including the distinctive number of the person's or persons' La. driver's license, driver's license from another state, passport, military identification, or identification issued by a governmental agency or the U.S. Postal Service. If the person cannot produce any of the above forms of identification at the time of purchase, the purchaser shall not complete the transaction.
- (4) A photocopy of a valid driver's license or a valid identification card issued by the seller's current state of residence. If the seller of the material does not have a valid driver's license or a valid state-issued identification card, the purchaser shall not complete the transaction.
- (5) The motor vehicle license number of the vehicle or conveyance on which the material was delivered.
- (6) A full description of all the material purchased, including the weight of the material and whether it consists of bars, kegs, cable, ingots, rods, tubing wire, wire scraps, clamps, connectors, or other appurtenances or some combination thereof.
- (7) A full description of railroad track materials in excess of 500 pounds purchased, including the weight and whether it consists of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used to construct railroads or other appurtenances or some combination thereof.

New law deletes prior law.

Prior law provided that prior law shall apply to the following materials or any other appurtenance utilized or that can be utilized by common carriers or by persons, firms, corporations, cooperatives, entities, or municipal corporations engaged in either the generation, transmission, or distribution of electric energy or in telephone, telegraph, or other communications:

- (1) Copper, copper wire, copper alloy, bronze, zinc, aluminum other than in the form of cans, or brass, whether in the form of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps, or connectors.
- (2) Steel in the form of railroad tracks or in the form of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used in constructing railroads, or any combination of such materials valued in excess of \$500.

New law deletes prior law.

Prior law did not apply to purchases of materials from any manufacturing, industrial, or other commercial vendor that generates, as a byproduct or recyclable waste, or sells such materials in the ordinary course of its business.

New law deletes prior law.

Prior law required each such person to keep either one copy of the completed form in a separate register or book or maintain the information in electronic format as which shall be kept for a period of two years at his place of business and shall be made available for inspection by any peace officer or law enforcement official at any time during the two-year period.

New law deletes prior law.

Prior law required, upon request by the sheriff of the parish in which the business is located, or if in the parish of Orleans by the police department of the city of New Orleans, during the two-year period and within three days from such request, one copy of the completed form or report to be filed with the sheriff of the parish in which any purchase was made and with the sheriff of the parish in which such business was located, except in the parish of Orleans where the form or report was to be filed with the police department of the city of New Orleans, and one copy was required to be filed with or mailed to the Dept. of Public Safety and Corrections or such department as may succeed to its functions under prior law.

New law deletes prior law.

Prior law required, for a period of not less than 10 days from the date of purchase, the material purchased or acquired to be held or captured photographically, including digital format, in the same form, without change, in which it was acquired, and to be kept separated so that it is readily identifiable from all other purchases. If the material was captured photographically, the time and date was required to be digitally recorded on the photograph, and the identity of the person taking the photograph was to be recorded. Any photographs were required to be included with the completed form or report submitted.

New law deletes prior law.

Prior law provided that failure to maintain the information, the register, or produce a report requested by the sheriffs or the Dept. of Public Safety and Corrections shall be prima facie evidence that the person receiving such material not registered or reported, received it knowing it to be stolen.

New law deletes prior law.

Prior law provided that whoever violated prior law shall be fined not less than \$1,000 or imprisoned for not less than 30 days nor more than one year, or both.

New law deletes prior law.

Effective August 15, 2011.

(Amends R.S. 37:1861(A)(1) and (B)(intro. para.) and (2), 1862.1, 1864, 1864.2(B), 1869(A), and 1870; Adds R.S. 37:1861(A)(5), (6), and (7) and (B)(5), 1861.1, 1864.2(C) and (D), 1864.3, and 1864.4; Repeals R.S. 51:571-579)