

Hall of the House of Representatives
90th General Assembly - Regular Session, 2015
Amendment Form

Subtitle of House Bill No. 1544

TO REGULATE THE PRACTICES AND PROCEDURES OF PAWNBROKERS; AND TO HELP THE
RIGHTFUL OWNER RECOVER STOLEN PROPERTY.

Amendment No. 1 to House Bill No. 1544

Amend House Bill No. 1544 as originally introduced:

Page 1, line 10, delete "PAWNBROKERS;" and substitute "DEALERS IN SECONDHAND
GOODS;"

AND

Delete the subtitle in its entirety and substitute:

"TO REGULATE THE PRACTICES AND PROCEDURES
OF DEALERS IN SECONDHAND GOODS; AND TO
HELP THE RIGHTFUL OWNER RECOVER STOLEN
PROPERTY."

AND

Page 1, delete lines 32 through 36

AND

Page 2, delete lines 1 through 4 and substitute:

"(2) The law should encourage dealers in secondhand goods,
including pawnbrokers, to return stolen property to the rightful owner
without penalty while protecting respective property rights;"

AND

Page 2, line 5, delete "(4)" and substitute "(3)"

AND

Page 2, delete lines 12 through 13 and substitute the following:

"(B) A right to recover and deliver stolen property
without the threat of additional loss; and"



AND

Page 2, line 14, delete "(5)" and substitute "(4)"

AND

Page 2, delete line 16 and substitute the following:
"possession of a dealer are not disclosed by the dealer;"

AND

Page 2, line 36, delete "Pawnbroker" and substitute "Dealer in Secondhand Goods"

AND

Page 3, line 3, delete "Pawnbroker" and substitute "Dealer in Secondhand Goods"

AND

Page 3, line 10, delete "otherwise" and substitute "otherwise purposefully and willfully"

AND

Page 3, delete line 15 and substitute the following:
"agency;"

AND

Page 3, delete line 19 and substitute the following:
"that authenticate the specific personal property in the possession of the dealer; and

(C) Connected by documentation, such as a receipt, presented to the dealer by the owner demonstrating the likelihood of current ownership;"

AND

Page 3, line 20, delete "or employee" and substitute "or friend"

AND

Page 3, delete line 21 and substitute the following:
"stolen property; and"

AND

Page 3, line 22, delete "Pawnbroker" and substitute "Dealer"

AND

Page 3, delete lines 29 through 32 and substitute the following:
"article of personal property for resale in any form."

AND

Page 3, line 36, delete "pawnbroker" and substitute "dealer"

AND

Page 4, delete lines 1 through 31 and substitute the following:
"return the stolen property without charge to the owner by signing and following the terms of the affidavit in favor of the dealer as described in § 18-27-304(b).

(b) Unless reasonable cause exists, within seven (7) days after the later of the receipt of an affidavit described in § 18-27-304(b) and the written release, either conditional or outright, of any property hold issued by any law enforcement agency with respect to the identifiable stolen property, a dealer shall:

(1) Deliver the identifiable stolen property to the owner; or

(2) File a legal action in a court of competent jurisdiction to determine ownership.

(c) If the dealer refuses to make an election under subsection (b) of this section, the owner may file a replevin action to recover the property and the court may award and apportion costs and attorney's fees as appropriate under the facts of the case."

AND

Page 4, delete lines 35 and 36 and substitute the following:

"(a) Once an owner requests the return of stolen property, a dealer shall deliver a written notice as to the owner's rights."

AND

Page 5, delete lines 1 through 3

AND

Page 5, line 4, delete "notice" and substitute "written notice"

AND

Page 5, line 5, delete "three inches (3") tall" and substitute "12-point type"

AND

Page 5, delete lines 8 through 34 and substitute the following:

"PLEASE TAKE NOTICE THAT THE RIGHTFUL OWNER MAY ASK A DEALER IN SECONDHAND GOODS ("DEALER") TO RETURN STOLEN PROPERTY BY SHOWING PROOF OF

OWNERSHIP OF THE PROPERTY AND SIGNING AN AFFIDAVIT AS TO OWNERSHIP, INDEMNIFYING AND HOLDING THE DEALER HARMLESS FROM LOSS ("AFFIDAVIT"). THE AFFIDAVIT MUST RELATE TO IDENTIFIABLE STOLEN PERSONAL PROPERTY AND BE IN THE FORM BELOW OR ATTACHED TO THIS NOTICE. AFTER DELIVERY OF THE AFFIDAVIT TO DEALER AND THE RELEASE OF ANY PROPERTY HOLD PLACED ON THE PROPERTY BY A LAW ENFORCEMENT AGENCY, THE DEALER HAS SEVEN DAYS TO EITHER RELINQUISH THE IDENTIFIABLE STOLEN PERSONAL PROPERTY OR FILE A LEGAL ACTION IN COURT TO DETERMINE OWNERSHIP.

IF THE DEALER REFUSES TO DELIVER THE PROPERTY OR FILE AN ACTION IN COURT TO DETERMINE OWNERSHIP WITHIN SEVEN (7) DAYS THEREAFTER, THE OWNER MAY ATTEMPT TO RECOVER THE ITEMS OF STOLEN PERSONAL PROPERTY WITHOUT PAYMENT TO THE DEALER BY FILING A LEGAL ACTION IN COURT. IF THE COURT DETERMINES THAT THE DEALER REFUSED TO EITHER DELIVER THE PERSONAL PROPERTY OR FILE AN ACTION IN COURT TO DETERMINE OWNERSHIP WITHIN SEVEN (7) DAYS, WITHOUT REASONABLE CAUSE, THE DEALER COULD BE ORDERED TO RETURN THE IDENTIFIABLE STOLEN PERSONAL PROPERTY TO THE OWNER WITHOUT CHARGE TO THE OWNER.

HOWEVER, IF THE COURT DETERMINES THAT THE PROPERTY WAS ACQUIRED BY THE DEALER FROM A FAMILY MEMBER OR FRIEND, THE OWNER IS ENTITLED TO RECOVER THE PROPERTY ONLY UPON REIMBURSING THE COST TO THE DEALER OF ACQUIRING THE PROPERTY.

IF LEGAL ACTION IS FILED TO RECOVER PROPERTY IN THE POSSESSION OF THE DEALER, THE COURT MAY AWARD AND APPORTION COSTS AND ATTORNEY'S FEES AS APPROPRIATE.

"IDENTIFIABLE STOLEN PERSONAL PROPERTY" MEANS PERSONAL PROPERTY THAT IS:

(A) REPORTED STOLEN TO AN APPROPRIATE LAW ENFORCEMENT AGENCY;

(B) DESCRIBED IN THE OFFICIAL STOLEN PROPERTY REPORT OF THE LAW ENFORCEMENT AGENCY BY SERIAL NUMBER, VEHICLE IDENTIFICATION NUMBER, LICENSE REGISTRATION NUMBER, OR OTHER NUMBERS, LETTERS, SYMBOLS, OR MARKINGS THAT AUTHENTICATE THE SPECIFIC PERSONAL PROPERTY IN THE POSSESSION OF DEALER; AND

(C) CONNECTED BY DOCUMENTATION (SUCH AS A RECEIPT) PRESENTED TO THE DEALER BY THE OWNER DEMONSTRATING THE LIKELIHOOD OF CURRENT OWNERSHIP.

TO PROCEED, PLEASE COMPLETE THE FOLLOWING AFFIDAVIT AND DELIVER TO THE DEALER.

AFFIDAVIT AS TO OWNERSHIP, INDEMNITY AND HOLD HARMLESS AGREEMENT

STATE OF ARKANSAS

COUNTY OF _____

BEFORE THE UNDERSIGNED, _____, DULY QUALIFIED AND ACTING IN AND FOR THIS COUNTY AND STATE, APPEARED _____ [TO ME WELL KNOWN] [SATISFACTORILY PROVEN] TO BE THE AFFIANT HEREIN, WHO STATED THE FOLLOWING UNDER OATH:

1. I _____, AM THE SOLE, TRUE AND ABSOLUTE OWNER OF PERSONAL

PROPERTY ("PROPERTY"), FREE OF ANY LIENS AND ENCUMBRANCES DESCRIBED AS:

AND CURRENTLY IN THE POSSESSION OF:

(“DEALER”)

2. I HAVE REPORTED THE PROPERTY STOLEN TO THE APPROPRIATE LAW ENFORCEMENT AGENCY AND HAVE PRESENTED THE DEALER WITH THE FOLLOWING DOCUMENTATION WITH REGARD TO MY OWNERSHIP OF THE PROPERTY AND SUCH DOCUMENTATION IS ATTACHED HERETO:
- a. OFFICIAL STOLEN PROPERTY REPORT OF A LAW ENFORCEMENT AGENCY SHOWING SERIAL NUMBER, VEHICLE IDENTIFICATION NUMBER, LICENSE REGISTRATION NUMBER, OR OTHER NUMBERS, LETTERS, SYMBOLS, OR MARKINGS THAT AUTHENTICATE THE SPECIFIC PERSONAL PROPERTY IN THE POSSESSION OF DEALER. SAID REPORT IS ISSUED BY:
AND HAS A REPORT NUMBER OF
 - b. DOCUMENTATION DEMONSTRATING THE LIKELIHOOD OF MY CURRENT OWNERSHIP OF THE PROPERTY, SPECIFICALLY DESCRIBED AS:
3. I WILL COOPERATE WITH LAW ENFORCEMENT AND THE PROSECUTOR IN ALL RESPECTS REGARDING THE THEFT OF PROPERTY.
4. I UNDERSTAND THE DEALER CANNOT RELEASE PROPERTY THAT IS SUBJECT TO A LAW ENFORCEMENT PROPERTY HOLD AND ANY SUCH HOLD MUST BE REMOVED BEFORE THE PROPERTY CAN BE DELIVERED TO ME.
5. I UNDERSTAND THE DEALER HAS SEVEN DAYS TO EITHER RELEASE THE PROPERTY TO ME OR FILE A LEGAL ACTION TO DETERMINE OWNERSHIP.
6. THE PERSON THAT CAUSED THE ITEM TO BE IN THE POSSESSION OF THE DEALER IS NOT A FAMILY MEMBER OR FRIEND OF MINE.
7. I UNDERSTAND THAT I MAY BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES IF THE REPRESENTATIONS I AM MAKING HEREIN ARE UNTRUE.
8. I WILL INDEMNIFY AND HOLD THE DEALER HARMLESS FOR ANY AND ALL LOSS OCCASIONED BY THE REPRESENTATIONS MADE IN THIS AFFIDAVIT WITH REGARD TO THE PROPERTY.

FURTHER THE AFFIANT SAYETH NOT.

IN WITNESS WHEREOF, I HEREUNTO SET MY HAND THIS _____ DAY OF _____.

OWNER

SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____.

[OFFICIAL TITLE]

MY COMMISSION EXPIRES:

[SEAL]”

AND

Page 6, line 2, delete "pawnbroker" and substitute "dealer"

AND

Page 6, delete lines 5 through 24 and substitute the following:

"9-26-104; or

(2) Deface identifiable stolen personal property."

AND

Page 6, delete line 27 and substitute the following:

"A violation of this subchapter by a dealer is a Class C misdemeanor."

The Amendment was read _____

By: Representative Sullivan

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Chief Clerk