

**Florida Department of Revenue**  
**Tax Information Publication**

**TIP 06A01-08**

**Date: August 28, 2006**

**SECONDHAND DEALERS**

Effective October 1, 2006, Chapter 2006-201, L.O.F., enacted a number of changes to Chapter 538 that revise: the definitions of secondhand dealer and secondhand goods; the entities and transactions exempt from the requirements of Chapter 538, F.S.; recordkeeping requirements and penalties; the length of time a dealer must hold suspected stolen goods; and the time period considered during background investigations for new registrations on or after October 1, 2006.

**Definitions of Secondhand Dealer and Secondhand Goods**

Chapter 2006-201, L.O.F., changes the definition of "Secondhand Dealer" to be any person, corporation, or other business organization or entity which is not a secondary metals recycler and which is engaged in the business of purchasing, consigning, or trading secondhand goods. Chapter 2006-201, L.O.F., also changes the definition of "Secondhand Goods" to be personal property previously owned or used, which is not regulated metals property and which is purchased, consigned, or traded as used property, with the following items specifically excluded from the definition:

- \* Office furniture;
- \* Pianos;
- \* Books;
- \* Clothing;
- \* Organs;
- \* Coins;
- \* Motor Vehicles;
- \* Costume Jewelry;
- \* Secondhand sports equipment that is not permanently labeled with a serial number (excluding golf clubs);

Chapter 2006-201, L.O.F., also specifies that Chapter 538, F.S., does not apply to:

- \* Businesses primarily engaged in the rental, sale, or trade of motion picture videos and video games (provided they meet certain conditions);
- \* Internet shopping (provided they meet certain conditions).

Chapter 2006-201, L.O.F., did not impact certain entities or transactions specifically exempt from Chapter 538, F.S., under Section 538.03(2), F.S. Examples of such entities or transactions include (but are not limited to):

- \* Nonprofit, religious, charitable organizations or school-sponsored associations;
- \* Garage sale operators who hold less than 10 garage sales per year;
- \* Purchases, consignments or trades of secondhand goods made between secondhand dealers who are in compliance with registration requirements;
- \* Any person accepting a secondhand good as a trade-in for a similar item of greater value.

Any person, corporation, or other business organization or entity which is not a secondary metals recycler and which is engaged in the business of purchasing, consigning, or trading secondhand goods, other than the items or businesses indicated above, must register with the Department of Revenue as a secondhand dealer.

#### **Recordkeeping, Penalties & Electronic Transfer of Data to Law Enforcement**

Chapter 2006-201, L.O.F., makes certain changes to the recordkeeping requirements and penalties under Section 538.04, F.S. These changes include, but are not limited to: A completed copy of a secondhand dealer transaction form must be maintained by the secondhand dealer for a period not less than three years. The transaction form is required to contain specific information about the transaction. Other specific requirements and procedures concerning electronic records are provided. Criminal penalty provisions are increased for persons knowingly giving false verification that the seller is the rightful owner of goods or is authorized to sell, trade, or consign the goods.

#### **Holding Period for Suspected Stolen Goods**

Chapter 2006-201, L.O.F., changes the hold order period under Section 538.06, F.S., for suspected stolen goods from 60 days to 90 days. The section provides for disposition of the secondhand goods during the hold order period.

#### **Registration - Background Investigation Period**

Chapter 2006-201, L.O.F., changes from five years to ten years the time period for which new registrants who have been convicted or pleaded guilty or nolo contendere to certain crimes may have their registration denied, revoked, restricted or suspended. This change only applies to new registrants who apply for registration on or after October 1, 2006. The section also requires the Department to release, upon request of a law enforcement official, certain information about any secondhand dealer registered to do business within the official's jurisdiction.

#### **Technical Wording Revisions**

Chapter 2006-201, L.O.F., removes from Chapter 538, F.S., all references to the term "pawnbroker" or "pawn" which is administered by Chapter 539, F.S.

### **FOR MORE INFORMATION**

This document is intended to alert you to the requirements contained in Florida laws and administrative rules. It does not by its own effect create rights or require compliance.

To find a copy of the SB 694 (Chapter 2006-201, L.O.F) go to the Internet site of the Florida Senate: <http://www.flsenate.gov/Welcome/index.cfm>. On the left side of the screen, type "694" in the Bill # section of the "Jump to Bill" part of the page (make sure the session is listed as 2006) and click on "GO." At the next screen, click on the

PDF of S0694ER dated 5/03/06. The underlined and strike-through provisions indicate changes to the law.

For Form DR-1S Application for Secondhand Dealer or Secondary Metals Recycler Registration and other information, visit our Internet site at [www.myflorida.com/dor/forms](http://www.myflorida.com/dor/forms). Or call Taxpayer Services, 8:00 a.m., to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671 or 850-488-6800.

Persons with hearing or speech impairments may call our TDD at 800-367-8331 or 850-922-1115.

For a detailed written response to your questions, write the Florida Department of Revenue, Taxpayer Services, 1379 Blountstown Highway, Tallahassee, FL 32304-2716.