



Mail-in Secondhand Precious Metals Dealers and Other Chapter 538, Florida Statutes, Changes in Law

Chapter 538, Florida Statutes (F.S.), requires the Department of Revenue to register secondhand dealers and secondary metals recyclers. Local law enforcement is responsible for enforcement of recordkeeping, holding periods, registration requirements, penalties, and violations.

Effective October 1, 2009, Senate Bill 2700 (Chapter 2009-158, Laws of Florida) (L.O.F.) and House Bill 339 (Chapter 2009-162, L. O. F.):

- **Create Part III of Chapter 538, F.S.**, relating to mail-in secondhand precious metals dealers.
- **“Secondhand Goods.”** Section 538.03(1)(f), F.S., defines “secondhand goods” and provides a list of items that are exempt from the definition of “secondhand goods.” Cardio and strength training or conditioning equipment designed primarily for indoor use is added to the items that are exempt from the definition of “secondhand goods.”
- **Secondary Metals Recyclers.** Section 538.21, F.S. (Chapter 2009-162, L.O.F.), outlines secondary metals recycler holding period and notice requirements. New subsection (4) is created to read, “This section provides a uniform statewide process and preempts municipal or county ordinances enacted after December 31, 2008, relating specifically to secondary metals recyclers holding such metals.”

Mail-in Secondhand Precious Metals Dealers

Definitions; applicability. Section 538.31 F.S., provides definitions that are applicable to mail-in secondhand precious metals dealers. This section also exempts from the provisions of Part III any person or entity that is available to the public for walk-in business and is registered as a secondhand dealer regulated under Part I of Chapter 538, F.S. An exemption is also provided for the purchase, consignment, or trade of secondhand precious metals or jewelry with another mail-in secondhand precious metals dealer or secondhand dealer regulated under Part I.

Registration requirements. Beginning October 1, 2009, section 538.32, F.S., requires any person or entity that conducts business in this state and that contracts with other persons or entities to buy precious metals or jewelry through an Internet website, the United States mail, or telemarketing to register as a “mail-in secondhand precious metals dealer.” The applicant for a mail-in secondhand precious metals dealer registration must comply with the secondhand dealer provisions in section 538.09, F.S., in addition to the provisions of section 538.32, F.S.

During August 2009, Department of Revenue secondhand dealers/secondary metals recycler registration forms will be revised to include the option to register as a mail-in secondhand precious metals dealer. You may order a registration package (GT-200405) at www.myflorida.com/dor.

Registration reports. Upon request, the Department of Revenue will provide local law enforcement officials with the name and address of any mail-in secondhand precious metals dealer, secondhand dealer, or secondary metals recycler registered to do business within the officials' jurisdiction. Local law enforcement officials may request a registration report by calling the Department of Revenue at: 850-488-4772.

Penalties for not properly registering. Section 538.36(1), F.S., provides that a person commits a felony of the third degree for conducting business as a mail-in secondhand precious metals dealer without first registering with the Department of Revenue as a mail-in secondhand precious metals dealer. The applicant for a mail-in secondhand precious metals dealer registration is also subject to the provisions of part I, section 538.07, F.S., which provides that any secondhand dealer who violates the provisions of Chapter 538, F.S., commits a misdemeanor of the first degree, punishable as provided in section 775.082, F.S., and subject to a fine of up to \$10,000.

Law enforcement changes. The 2009 laws also add definitions, recordkeeping, holding period, inspection, and payment requirements as well as specific penalties for certain violations. For more detailed information about law enforcement-related changes, read the chapter law or e-mail the Florida Law Enforcement Property Recovery Unit (info@flepru.org).

Go to <http://www.flsenate.gov> to find of the enrolled bills SB 2700 (Chapter 2009-158, L.O.F.) or HB 339 (Chapter 2009-162, L.O.F.).

References: Chapter 538, Parts I, II, and III, F.S., and Chapters 2009-158 and 2009-162, Laws of Florida

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.

For forms and other information, visit our Internet site at www.myflorida.com/dor or call Taxpayer Services, 8:00 a.m. to 7:00 p.m., ET, Monday through Friday, excluding holidays, at 800-352-3671.

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, 5050 West Tennessee Street, Building L, Tallahassee, FL 32399-0112.

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