

Regular Session, 2011

SENATE BILL NO. 162

BY SENATOR SMITH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

SECONDHAND DEALERS. Provides for an exception to the definition of secondhand dealer. (gov sig)

1 AN ACT

2 To enact R.S. 37:1861(C) and 1864(C), relative to secondhand dealers; to provide for an  
3 exception to the definition of secondhand dealer; to provide for record requirements;  
4 and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 37:1861(C) and 1864(C) are hereby enacted to read as follows:

7 §1861. "Secondhand dealer" defined

8 \* \* \*

9 **C. Except as provided for in R.S. 37:1864 and 1869.1, the provisions of**  
10 **this Part shall not apply to any person holding an occupational license as a retail**  
11 **dealer in merchandise who accepts used or secondhand property as part of a**  
12 **retail trade-in program that allows customers to trade-in property for a similar**  
13 **item of greater value or a gift card, gift certificate, coupon, or rebate, provided**  
14 **that the retail business of licensed retail dealer constitutes the major portion of**  
15 **the taxable annual gross sales and receipts of the business.**

16 \* \* \*

17 §1864. Record of secondhand goods or objects purchased required

\* \* \*

1  
2           C. Persons excluded from this Part pursuant to R.S. 37:1861(C) shall  
3           maintain a book or ledger setting forth each item of used or secondhand  
4           property accepted under a retail trade-in program when the trade-in value  
5           given for any single piece of merchandise or article exceeds twenty-five dollars.  
6           The discount given on the item of greater value or the amount issued on a gift  
7           card, gift certificate, coupon, or rebate shall be considered prima facie evidence  
8           of the trade-in value of the piece of merchandise. The book or ledger entry shall  
9           contain a description of the merchandise or article received, including serial  
10           numbers, if distinguishable, the name, address, and driver's license number of  
11           the person delivering said merchandise or articles, and the value given to the  
12           merchandise or article under the retail trade-in program. The records shall be  
13           preserved for a period of at least three years.

14           Section 2. This Act shall become effective upon signature by the governor or, if not  
15 signed by the governor, upon expiration of the time for bills to become law without signature  
16 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If  
17 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
18 effective on the day following such approval.

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Alan Miller.

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#### DIGEST

Present law defines "secondhand dealer" persons engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of used or secondhand property.

Proposed law provides for an exception to the definition of "secondhand dealer" to exclude persons holding an occupational license as a retail dealer in merchandise accepting used or secondhand property as part of a retail trade-in program that allows customers to trade-in property for a similar item of greater value or a gift card, gift certificate, coupon, or rebate, provided that the retail business of licensed retail dealer constitutes the major portion of the taxable annual gross sales and receipts of the business.

Present law requires 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, shall be \$25 or more for each single transaction. The price at which a piece of merchandise is offered for sale by a secondhand dealer is considered prima facie evidence of the value of the piece of merchandise.

Proposed law requires that persons excluded from definition of "secondhand dealer" to maintain a book or ledger setting forth each item of used or secondhand property accepted under a retail trade-in program when the trade-in value given for any single piece of merchandise or article exceeds \$25.

Proposed law provides that for persons excluded from definition of "secondhand dealer" that the discount given on the item of greater value or the amount issued on a gift card, gift certificate, coupon, or rebate shall be considered prima facie evidence of the trade-in value of the piece of merchandise.

Proposed law requires persons excluded from definition of "secondhand dealer" to maintain a ledger entry that contains a description of the merchandise or article received, including serial numbers, if distinguishable, the name, address, and driver's license number of the person delivering said merchandise or articles, and the value given to the merchandise or article under the retail trade-in program.

Proposed law requires persons excluded from definition of "secondhand dealer" to preserve records for a period of at least three years.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 37:1861(C) and 1864(C))