

CALIFORNIA DEPARTMENT OF JUSTICE



Becoming a Secondhand Dealer or Pawnbroker

Application Handbook

March 2009

Pursuant to Business & Professions Code section 21641 and Financial Code section 21300, city/county licensing agencies are delegated the responsibility to implement the State Secondhand Dealer and State Pawnbroker licensing process into their local program. As part of this implementation, a local licensing agency (sheriff or chief of police) is required to accept an application from any person desiring to be licensed as a secondhand dealer or pawnbroker within their jurisdiction.

Consequently, Persons, Entities, and Corporations wishing to do business as a Secondhand Dealer or Pawnbroker must first apply for a specific license to conduct such business in addition to any other local general business licenses or permits.

PLEASE NOTE: A Secondhand Dealer is defined in the California Business and Professions Code, Section: 21626. (Page 17) (a) and in Attorney General's Opinion: No. 04-1001, April 6, 2005 (Attached). A Pawnbroker is defined in the California Finance Code, Section: 21000

Per Statute, the California Department of Justice implemented a process for facilitating Secondhand Dealer and Pawnbroker Licensing and established the Secondhand Dealer and Pawnbroker Licensing File in order to assist local licensing agencies (sheriff or chief of police) with processing requests by individuals interested in obtaining a license within their jurisdiction.

The attached information, which includes basic requirements for obtaining a license and applicable Secondhand Dealer and Pawnbroker Laws should provide you with an understanding of the Secondhand Dealer and Pawnbroker process and your responsibilities, and help you determine whether or not you would be able to obtain a license within your jurisdiction.

Table of Contents

- A. Basic Requirements for Obtaining a License
- B. Secondhand Dealer or Pawnbroker License Notice, Application (JUS 125) & Instructions
- C. Request for Live Scan Service form (BCII 8016)
- D. Secondhand Dealer or Pawnbroker Laws
- E. Attorney Generals Opinion - Additional Definition of Secondhand Dealer
- F. Secondhand Dealer and Pawnbroker Process Flowchart

A.

Basic Requirements for Obtaining a License

Basic Requirements for Obtaining

a California Secondhand Dealer and/or Pawnbroker License

Prior to the granting of a license, the local agencies (sheriff or chief of police) are required to submit the secondhand dealer or pawnbroker "application package" to DOJ for processing. A NEW or INITIAL application package for a LICENSE consists of the following items:

- Secondhand Dealer or Pawnbroker License Application (JUS 125);
- Request for Live Scan Service form (BCII 8016);
- Money order or check payable to DOJ for \$195.00;
- \$20,000 Surety Bond (Pawnbrokers only) *No longer sent to DOJ as of 4/1/2009;*
- \$100,000 Surety bond or financial review (Pawnbrokers only) *No longer sent to DOJ as of 4/1/2009;*

The NEW or INITIAL application processing fee is \$195.00. Live Scan fees (\$32 plus additional Rolling Fee) are payable at the site where the licensee will be fingerprinted. Fingerprints are required for each recognized owner, corporate officer or partner. The enclosed Request for Live Scan form (BCII 8016) is solely used for applicants obtaining a State Secondhand Dealer or State Pawnbroker License.

The pre-printed BCII 8016 form contains the California Department of Justice (DOJ) ORI (CA0349400) and Mail Code (05467). Once received, the DOJ will conduct a criminal background check and comment on the applicant's eligibility for the license by letter within 30 days of receipt of the application. If the applicant's background check does not reveal a conviction of a stolen property related crime, the DOJ shall assign the applicant a unique secondhand dealer or pawnbroker license number, partially prepare the license for issuance, and forward it to the licensing agency (sheriff or chief of police) with the comment letter indicating the applicant's background check.

A RENEWAL application to maintain your LICENSE is required every 2 years and must be received by the DOJ by this deadline or your LICENSE will be revoked. The RENEWAL application consists of the following items:

- Secondhand Dealer or Pawnbroker License Application (JUS 125);
- \$10 renewal fee payable to DOJ;
- \$20,000 Surety Bond (Pawnbrokers only) *No longer sent to DOJ as of 4/1/2009;*
- Blue Copy of State Pawnbrokers License (JUS 126 B);
- Blue Copy of the State Secondhand Dealer License (JUS 126 A).

Questions regarding secondhand dealer and pawnbroker laws, licensing procedures and renewals should be directed to the Secondhand Dealer Licensing Unit at (916) 227-3688 or via e-mail at shd.pblicensing@doj.ca.gov.

B.

Secondhand Dealer or Pawnbroker License Notice,
Application (JUS 125) & Instructions

THIS NOTICE IS TO BRING TO THE ATTENTION OF THE LICENSING AGENCY AND PAWNBROKER APPLICANT(S) THE CONDITIONS PRECEDENT TO THE ISSUANCE OR RENEWAL OF A PAWNBROKER'S LICENSE, OUTLINED IN FINANCIAL CODE SECTIONS 21303 AND 21304 BELOW:

21303.(a) As a condition precedent to the issuance or renewal of a pawnbroker's license the applicant shall file a pawnbroker's two-year nonrevokable surety bond with the issuing authority, in the sum of twenty thousand dollars (\$20,000). The pawnbroker's bond required by this article shall be executed by an admitted surety in favor of the State of California and shall be filed by the applicant with the licensing authority.

(b) The bond shall be for the benefit of pledgors of pledged property when the property is not available for redemption, due to the criminal negligence, criminal malfeasance, or other criminal conduct of the pawnbroker, and the pledgor has complied with the conditions precedent to redemption under the terms of the loan contract. The pledgor has the burden of establishing by clear and convincing evidence that all conditions precedent to redemption under the terms of the loan contract have been performed.

21304.(a) As a condition precedent to the issuing of a pawnbroker's license, the applicant shall file with the issuing authority a financial statement confirming that the applicant has at least one hundred thousand dollars (\$100,000) in the form of liquid assets readily available for use in each licensed business for which the application is made, not including real property or in the absence of one hundred thousand dollars (\$100,000), an applicant may post a nonrevokable surety bond in the amount of one hundred thousand dollars (\$100,000) or the applicant may, in lieu of posting a surety bond, deposit money, certificates, accounts, bonds or notes, as provided in Section 995.710 of the Code of Civil Procedure. The financial statement shall be filed by the applicant under penalty of perjury and signed by a California certified public accountant verifying that he or she has *reviewed* the financial statement.

(b) This section is not applicable to any person holding a secondhand dealer's license pursuant to Section 21641 or 21642 of the Business and Professions Code and who is actively engaged as a pawnbroker on the effective date of this section.

Application for Secondhand Dealer or Pawnbroker License
JUS 125 (rev. 10/05)

APPLICATION FOR SECONDHAND DEALER OR PAWNBROKER LICENSE

A. TYPE OF APPLICATION: (Check the appropriate box)

- APPLICATION FOR SECONDHAND DEALER LICENSE (21641 B&P)
- APPLICATION FOR PAWNBROKER LICENSE (21300 FC)
- APPLICATION FOR RENEWAL:
 - Secondhand Dealer License (21642 B&P) State License No.: _____
 - Pawnbroker License (21301 FC) State License No.: _____

DOJ USE ONLY	
RECEIVED:	_____
ORI:	_____
EST:	_____
COMPLETED:	_____

B. LICENSING AGENCY INFORMATION: (Completed by licensing agency only. By completing this section, the licensing agency confirms receipt of a \$20K non-revocable surety bond; and a reviewed financial statement for PAWNBROKERS ONLY prior to the issuance of the license)

LICENSING AGENCY: _____		DATE: _____
<small>(Substation if Applicable)</small>		
<small>Mailing Address</small>	<small>City</small>	<small>ZIP Code</small>
LICENSING OFFICIAL: _____	PHONE: (____) _____	
<small>Name</small>	<small>Title</small>	

THE FOLLOWING SECTIONS ARE TO BE COMPLETED BY THE APPLICANT(S)

C. BUSINESS OWNER(S) : (Name of individual, partners, or corporate officers)

Name	Title	(____)	Home Phone
Name	Title	(____)	Home Phone
Name	Title	(____)	Home Phone

ATTACH ADDITIONAL SHEET IF NECESSARY. CHECK CIRCLE IF ADDITIONAL SHEET IS USED. ○

D. BUSINESS INFORMATION:

BUSINESS NAME: _____ **PHONE:** (____) _____

<small>Street Address</small>	<small>City</small>	<small>ZIP Code</small>
-------------------------------	---------------------	-------------------------

BUSINESS OWNERSHIP: INDIVIDUAL PARTNERSHIP CORPORATION
(If corporate name differs from business name, complete the following)

CORPORATION NAME: _____ **PHONE:** (____) _____

<small>Street Address</small>	<small>City</small>	<small>ZIP Code</small>
-------------------------------	---------------------	-------------------------

E. OFF SITE STORAGE LOCATION:

WILL PROPERTY BELONGING TO THE BUSINESS BE STORED OFF THE BUSINESS PREMISES?
(Check) YES* NO **If "yes," please provide the address location below:*

<small>Off Site Storage Street Address</small>	<small>City</small>	<small>ZIP Code</small>
------------------------------------------------	---------------------	-------------------------

F. MULTIPLE SECONDHAND DEALER OR PAWNBROKER BUSINESSES:

DO ANY PARTIES TO THIS APPLICATION HAVE A FINANCIAL INTEREST IN ANY OTHER SECONDHAND DEALER OR PAWNBROKER BUSINESSES IN CALIFORNIA? (Check) YES* NO

**If "yes," please provide the Business Name, Address, City and State Assigned Secondhand Dealer or Pawnbroker License Number on an additional sheet of paper, and check circle if additional sheet is used. ○*

G. ADDITIONAL INFORMATION:

HAVE ANY PARTIES TO THIS APPLICATION EVER BEEN CONVICTED OF AN ATTEMPT TO RECEIVE STOLEN PROPERTY OR ANY OTHER PROPERTY RELATED CRIME? (Check) YES* NO

**If "yes," please provide the applicant's name, date and details of the arrest or conviction on an additional sheet of paper, and check the circle if additional sheet is used. ○*

H. CERTIFICATION:

As the person responsible for completing the application for the business, I certify under the penalty of perjury that the information on this application is true and complete to the best of my knowledge."

SIGNATURE	TITLE	DATE
-----------	-------	------

**INSTRUCTIONS AND INFORMATION FOR COMPLETING THE APPLICATION
FOR SECONDHAND DEALER OR PAWNBROKER LICENSE**

Section A. TYPE OF APPLICATION

For a new application, the applicant must identify the type of business license by checking the appropriate box. If the application is for a renewal of an existing state secondhand dealer's license or pawnbroker's license, the licensee must check the appropriate box and provide the state license number. If the application is for an initial pawnbroker's license, ensure that the surety bond and financial statement are filed with the issuing agency. If the application is for a renewal of a pawnbroker's license, ensure that the surety bond is filed with the issuing agency.

Section B. LICENSING AUTHORITY INFORMATION

The licensing agency shall complete Section B. Enter agency information, the name, title, and phone number of official processing the application. Enter the date the completed application was received by your agency for transmittal to the Department of Justice (DOJ).

Section C. BUSINESS OWNERS

- If business is *Individually owned*, enter owner's name and home phone number.
- If business is a *Partnership*, enter each partner's name and home phone number.
- If business is a *Corporation*, enter each corporate officer's name, title and home phone number.
- To complete the application package, all parties listed in this Section must submit fingerprints for criminal offender record information background checks.
- Live Scan submissions, please submit a completed copy of the REQUEST FOR LIVE SCAN SERVICE, Applicant Submission form BCII 8016. The Applicant Submission form (BCII 8016) for the State Secondhand Dealer and Pawnbroker Unit includes pre-printed information. To order the Applicant Submission form (BCII 8016) for Secondhand Dealer and Pawnbroker applicants, please call (916) 227-3688.

Section D. BUSINESS INFORMATION

- Enter the business name and, if applicable, corporation name.
- Enter the address information of the business and, if applicable, corporation address.
- If the corporation name differs from the business name in Section D-1, provide the requested information.
- Check the appropriate type of business ownership.

Section E. OFF-SITE STORAGE LOCATION

If the applicant intends to store property belonging to the business other than at the business address in Section D, above, enter the Off-Site Storage Information. Exemption from disclosure of the off-site storage, on the licensure form, will require the local licensing agency to file with DOJ written instruction for exemption.

Section F. MULTIPLE SECONDHAND/PAWNBROKER BUSINESSES

If the response is "YES", attach a sheet disclosing: the business name, address, city, zip code, phone number and state assigned license number. If "NO", proceed to Section G.

Section G. ADDITIONAL INFORMATION

If the response is "YES", attach a sheet disclosing: applicant's name, date and details of the arrest, conviction and if available copy of the court disposition. If the response is "NO", proceed to Section H.

Section H. CERTIFICATION STATEMENT

The person responsible for completing the application or person responsible for the business must sign and date the certification.

DEPARTMENT OF JUSTICE FEE SCHEDULE:

Secondhand Dealer/Pawnbroker Application, JUS 125 = \$195 (Payable to DOJ)
Criminal Offender Record Information Background Check = \$ 32 (Each applicant, payable to live scan agency.)

The DOJ fee schedule does not include any additional fee that the licensing authority may charge for processing this application, pursuant to the Business and Professions Code or Financial Code, or for the service of taking fingerprints for the criminal offender record information background check. Payment to the DOJ must be made by check, cashier's check or money order. (Do not send cash.)

Should the applicant(s) be printed using the fingerprint hard card (FD 258) because the printing agency has an exemption to the Live Scan requirement, the fingerprint hard card(s), along with the required fees, payable to the DOJ, must be sent in with the application.

C.

Request for Live Scan Service form (BCII 8016)

REQUEST FOR LIVE SCAN SERVICE

BCII 8016 (3/07)

Applicant Submission

ORI: CA0349400 Type of Application: LICENSE

Code assigned by DOJ

Job Title or Type of License, Certification or Permit: (Check One) Secondhand Dealer Pawnbroker

Agency Address Set Contributing Agency:

DOJ/BCIA SECONDHAND DEALER/PAWNBROKER UNIT

05467

Agency authorized to receive criminal history information

Mail Code (five-digit code assigned by DOJ)

P.O. BOX 903387

N/A

Street No. Street or PO Box

Contact Name (Mandatory for all school submissions)

SACRAMENTO

CA

94203-3870

(916) 227-3688

City

State

Zip Code

Contact Telephone No.

Name of Applicant:

(Please print)

Last

First

MI

Alias: Last First

Driver's License No: _____

Date of Birth: _____ Sex: Male Female

Misc. No. BIL - BIL - Applicant to pay at Site

Agency Billing Number

Height: _____ Weight: _____

Misc. Number: _____

Eye Color: _____ Hair Color: _____

Home Address:

Street No. Street or PO Box

Place of Birth: _____

City, State and Zip Code

Social Security Number: _____

DOJ ONLY - DO NOT CHECK FBI

Your Number: _____

OCA No. (Agency Identifying No.)

Level of Service: DOJ FBI

If resubmission, list Original ATI

Number: _____

Employer: (Additional response for agencies specified by statute)

N/A

Employer Name

N/A

N/A

Street No. Street or PO Box

Mail Code (five digit code assigned by DOJ)

N/A

() N/A

City State Zip Code

Agency Telephone No. (optional)

Live Scan Transaction Completed By: _____

Name of Operator

Date

Transmitting Agency

ATI No.

Amount Collected/Billed

D.

Secondhand Dealer or Pawnbroker Laws

**SECONDHAND
DEALER
&
PAWNBROKER
LAWS**

2008

**California Department of Justice
Edmund G. Brown
Attorney General**

TABLE OF CONTENTS

**BUSINESS AND PROFESSIONS CODE
DIVISION 1.5
DENIAL, SUSPENSION AND REVOCATION OF LICENSES**

	<u>Page</u>
Chapter 1 - GENERAL PROVISIONS	1
475. Denial of Licenses; grounds	1
476. Inapplicability of division to certain persons	1
477. Board; license	1
478. Application; material	2
Chapter 2 - DENIAL OF LICENSES	3
480. Acts disqualifying applicant	3
481. Criteria; crime or act substantially related to qualifications, etc.	3
482. Evaluation of rehabilitation; criteria	4
484. Attestation by other persons to good moral character; requirement for application for license	4
485. Procedure by board upon denial of application for license	4
486. Reapplication; informing applicant of requirements	4
487. Hearing	5
488. Hearing; decision	5
489. Denial of license for lack of good character	5
Chapter 3 - SUSPENSION AND REVOCATION OF LICENSES	6
490. Conviction of crime; relationship of crime to licensed activity; definition; time for board action	6
490.5. Noncompliance with support order or judgment	6
491. Information to ex-licensee	6
492. Healing arts; disciplinary action or license denial notwithstanding drug diversion program; exception	6
493. Disciplinary action or license denial; convictions; inquiry	7
494. Interim order, notice; hearing; decision; judicial review noncompliance	7
Chapter 4 - PUBLIC REPROVALS	10
495. Authority; procedure	10
496. Violation of Section 123; denial, suspension or revocation of license	10
Chapter 5 - EXAMINATION SECURITY	11
498. License secured by fraud, deceit, or knowing misrepresentation	11
499. False statement in support of another person's application	11

**DIVISION 8
SPECIAL BUSINESS REGULATION**

	<u>Page</u>
Chapter 9 - SECONDHAND GOODS	12
Article 3 - JUNK	12
21600. Junk	12
21601. Junk dealer	12
21602. Junk yard	12
21603. Exclusions; certain merchants	12
21604. Exclusions	13
21605. Junk dealer and recycler records; recycler defined	13
21606. Records; contents	13
21606.5. Inspection of records	14
21607. Records; preservation	14
21608. Violations; offense	14
21609. Property suspected of being stolen; peace officer placement of hold on property; rights, duties and liabilities of junk dealer or recycler; costs	15
Article 4 - TANGIBLE PERSONAL PROPERTY	17
21625. Legislative intent	17
21626. Secondhand dealer; coin dealer	17
21626.5. Secondhand dealer; exclusion	17
21627. Tangible personal property	18
21628. Report required; time	19
21628.1. Transaction reports; submission to law enforcement; exceptions	21
21628.5. Business machine dealer; report of used machines and repairs	21
21629. Exceptions from article	22
21629.5. Application of article to property acquired by secondhand dealer with understanding or expectation of reacquisition	23
21630. Submission of report	23
21631. Report of all tangible personal property found in shop; retention of possession of property by dealer; treatment of unclaimed property after 60 days	23
21633. Approved report forms; copies; submission and retention	23
21634. Report by chief of police or sheriff	24
21636. Retention of possession of property by dealer for 30-day period	24
21636.5. Seller repurchase; promise by dealer	24
21636.6. Unlawful act; advertising without license number	25
21637. Compliance with ordinances or other state law	25

TABLE OF CONTENTS
(continued)

	<u>Page</u>
21638. Effect of article upon enactment, amendment or enforcement of local ordinances	25
21638.5. Personal property pledged to pawnbroker; redemption by pledger	25
21640. Secondhand dealer; requirement for license	25
21641. Licenses; application; fee; grounds for denial; grant	26
21642. License; renewal; forfeiture; grounds	26
21643. Transactions with a minor	27
21645. Violations; misdemeanor; punishment	27
21646. Violations or threatened violations; injunction	28
21647. Peace officer hold on property	28
 Article 5 - RESALE OF GOODS	 31
21650. Adequate evidence of authority to sell	31
21651. Definitions	31
21652. Presentation to dealer of adequate evidence of authority to sell	31
21653. Violations	31
 Article 6 - SWAP MEETS	 32
21660. Legislative intent; application of article; uniform reports; ordinances and charters; land use and zoning regulations; secondhand dealers; operators and vendors	32
21661. Definitions	32
21662. Inapplicability of article	33
21663. Reports of property offered or displayed; contents; form	34
21663.1. Swap meet; reporting exemptions	35
21664. Distribution of forms to vendors; collection; submission to police chief or sheriff and to the Department of Justice; tax evasion; restricted use; vendors regularly offering or displaying property	35
21665. Copies of reports; retention by operators; time; inspection; vendor's copy; availability for inspection during swap meet	36
21666. Receipts for sales; prohibited personal property or merchandise; notice	37
21667. Violations; misdemeanor; punishment	37
21668. Waiver of requirements for swap meet operators and vendors	37
21669. Swap meets conducted on government premises; procedures; operation by government entities for profit	37
21669.1. Swap meets on government property; average daily attendance of 10,000 or more; requirements	38
 Article 7 - SPORTS TRADING CARDS	 39
21670. Definitions	39
21671. Alterations or refurbishments; certificates, violations; penalties	39
21672. Unlicensed or counterfeit sports trading cards; manufacture, production, distribution, or sale; violations; penalties	40

TABLE OF CONTENTS
(continued)

**FINANCIAL CODE
DIVISION 8
PAWNBROKERS**

	<u>Page</u>
Chapter 1 - GENERAL PROVISIONS	41
21000. Pawnbroker	41
21000.7. Receiving goods as security for a loan	41
21001. Compensation	41
21002. Pledge property; vested property	41
21050. Exempt persons	41
21051. Loans of \$2,500 or more	42
 CHAPTER 2 - PAWNBROKER REGULATIONS	 43
21200. Maximum compensation	43
21200.1. Loan setup fee	43
21200.5. Schedule of charges; posting	43
21200.6. Handling and storage, schedule of charges	45
21200.7. Posting of maximum compensation	46
21200.8. Processing charge for firearms	46
21200.9. Repurchase of property; no promise by pawnbroker to seller	46
21201. Written contract to be furnished borrower; contents; notice; retention and redemption of pledged articles; foreclosure; sale of pledge property	46
21201.1. Loss of pawn ticket; verification of claimant; fee	47
21201.2. Notice of expiration of redemption; fee	47
21201.3. Written contract; item storage provision; insurance of items; violation; penalty	47
21201.4. Determination of charges	48
21201.5. New loan on pledged property	48
21202. Pawnbook; entry by pawnbroker; delivery of copy to pledger	48
21203. Loan redemption; return of property	49
21204. Loan redemption; fees and charges	49
21206. Inspection of records	49
21206.7. Receipt upon seizure of property alleged to be stolen	49
21206.8. Disposal of property stolen or embezzled; notice; time; liability of pawnbroker	49
21207. Pledges of minors	50
21208. Reports	50
21209. Violations; misdemeanor	50

TABLE OF CONTENTS
(continued)

	Pag
Chapter 3 - LICENSURE	51
21300. Application for license; requirements; fees	51
21300.1. Unlicensed persons acting as pawnbroker	51
21301. Renewal; grounds for forfeiture	51
21301.1. Unlawful act; advertising without license number	52
21302. Injunctions	52
21303. Surety bond	53
21304. Financial statement; liquid assets; application of section	53
21305. Transfer or assignment	53
21306. Exemption; second dealer license	54
21307. Violations; penalty	54

PENAL CODE
TITLE 10
MISCELLANEOUS PROCEEDINGS

Chapter 12 - DISPOSAL OF PROPERTY STOLEN OR EMBEZZLED	55
1407. Property in custody of peace officer; holding subject to provisions of chapter	55
1408. Property in custody of peace officer; order for delivery to owner; payment of expenses	55
1409. Property in custody of magistrate; delivery to owner; proof of title; payment of expenses	55
1410. Property not delivered to owner; proof of title; order for restoration by trial court	55
1411. Unclaimed property delivered to county officer; notice to owner or holder of security interest; failure to claim; disposition	56
1412. Money or property taken from defendant on arrest; duplicate receipts; filing or delivery of receipts	56
1413. Person in charge of property section; record of property allegedly stolen or embezzled; delivery to owner; review by magistrate; liability	57

**TITLE 13
OF CRIMES AGAINST PROPERTY**

	<u>Page</u>
Chapter 5 - LARCENY (THEFT)	58
484.1. Pawnbrokers or secondhand dealer; false verification of ownership of property to receive money or valuable consideration; restitution	58
496. Receiving stolen property	58
496a. Junk and secondhand dealers; purchasing metals used in transportation or public utility service determination of seller's right; punishment; record of transaction	59
537e. Articles from which serial numbers or identification marks have been removed; purchase, sale, possession; disposition by peace officers; exceptions	60

DIVISION 1.5
DENIAL, SUSPENSION AND REVOCATION OF LICENSES
CHAPTER 1. GENERAL PROVISIONS

475. Denial of licenses; grounds

(a) Notwithstanding any other provisions of this code, the provisions of this division shall govern the denial of licenses on the grounds of:

(1) Knowingly making a false statement of material fact, or knowingly omitting to state a material fact, in an application for a license.

(2) Conviction of a crime.

(3) Commission of any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another.

(4) Commission of any act which, if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(b) Notwithstanding any other provisions of this code, the provisions of this division shall govern the suspension and revocation of licenses on grounds specified in paragraphs (1) and (2) of subdivision (a).

(c) A license shall not be denied, suspended, or revoked on the grounds of a lack of good moral character or any similar ground relating to an applicant's character, reputation, personality, or habits.

476. Inapplicability of division to certain persons

Nothing in this division shall apply to the licensure or registration of persons pursuant to Chapter 4 (commencing with Section 6000) of Division 3, or pursuant to Division 9 (commencing with Section 23000) or pursuant to Chapter 5 (commencing with Section 19800) of Division 8.

477. Board; license

As used in this division:

(a) "Board" includes "bureau," "commission," "committee," "department," "division," "examining committee," "program," and "agency."

(b) "License" includes certificate, registration or other means to engage in a business or profession regulated by this code.

478. Application; material

As used in this division, "application" includes the original documents or writings filed and any other supporting documents or writings including supporting documents provided or filed contemporaneously, or later, in support of the application whether provided or filed by the applicant or by any other person in support of the application.

(b) As used in this division, "material" includes a statement or omission substantially related to the qualifications, functions, or duties of the business or profession.

CHAPTER 2. DENIAL OF LICENSES

480. Acts disqualifying applicant

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

(1) Been convicted of a crime. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another, or substantially injure another; or

(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made.

(b) Notwithstanding any other provision of this code, no person shall be denied a license solely on the basis that he has been convicted of a felony if he has obtained a certificate of rehabilitation under Section 4852.01 and following of the Penal Code or that he has been convicted of a misdemeanor if he has met all applicable requirements of the criteria of rehabilitation developed by the board to evaluate the rehabilitation of a person when considering the denial of a license under subdivision (a) of Section 482.

(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application for such license.

481. Criteria; crime or act substantially related to qualifications, etc.

Each board under the provisions of this code shall develop criteria to aid it, when considering the denial, suspension or revocation of a license, to determine whether a crime or act is substantially related to the qualifications, functions, or duties of the business or profession it regulates.

482. Evaluation of rehabilitation; criteria

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

- (a) Considering the denial of a license by the board under Section 480; or
- (b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

484. Attestation by other persons to good moral character; requirement for application for license

No person applying for licensure under this code shall be required to submit to any licensing board any attestation by other persons to his good moral character.

485. Procedure by board upon denial of application for license

Upon denial of an application for a license under this chapter or Section 496, the board shall do either of the following:

- (a) File and serve a statement of issues in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.
- (b) Notify the applicant that the application is denied, stating (1) the reason for the denial, and (2) that the applicant has the right to a hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code if written request for hearing is made within 60 days after service of the notice of denial. Unless written request for hearing is made within the 60-day period, the applicant's right to a hearing is deemed waived.

Service of the notice of denial may be made in the manner authorized for service of summons in civil actions, or by registered mail addressed to the applicant at the latest address filed by the applicant in writing with the board in his or her application or otherwise. Service by mail is complete on the date of mailing.

486. Reapplication; informing applicant of requirements

Where the board has denied an application for a license under this chapter or Section 496, it shall, in its decision, or in its notice under subdivision (b) of Section 485, inform the applicant of the following:

- (a) The earliest date on which the applicant may reapply for a license which shall be one year from the effective date of the decision, or service of the notice under subdivision (b) of Section 485, unless the board prescribes an earlier date or a later date is prescribed by another statute.

(b) That all competent evidence of rehabilitation presented will be considered upon a reapplication.

Along with the decision, or the notice under subdivision (b) of Section 485, the board shall serve a copy of the criteria relating to rehabilitation formulated under Section 482.

487. Hearing

If a hearing is requested by the applicant, the board shall conduct such hearing within 90 days from the date the hearing is requested unless the applicant shall request or agree in writing to a postponement or continuance of the hearing. Notwithstanding the above, the Office of Administrative Hearings may order, or on a showing of good cause, grant a request for, up to 45 additional days within which to conduct a hearing, except in cases involving alleged examination or licensing fraud, in which cases the period may be up to 180 days. In no case shall more than two such orders be made or requests be granted.

488. Hearing; decision

Except as otherwise provided by law, following a hearing requested by an applicant pursuant to subdivision (b) of Section 485, the board may take any of the following actions:

(a) Grant the license effective upon completion of all licensing requirements by the applicant.

(b) Grant the license effective upon completion of all licensing requirements by the applicant, immediately revoke the license, stay the revocation, and impose probationary conditions on the license, which may include suspension.

(c) Deny the license.

(d) Take other action in relation to denying or granting the license as the board in its discretion may deem proper.

489. Denial of license for lack of good character

Any agency in the department which is authorized by law to deny an application for a license upon the grounds specified in Section 480 or 496, may without a hearing deny an application upon any of those grounds, if within one year previously, and after proceedings conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, that agency has denied an application from the same applicant upon the same ground.

CHAPTER 3. SUSPENSION AND REVOCATION OF LICENSES

490. Conviction of crime; relationship of crime to licensed activity; definition; time for board action

A board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

490.5. Non compliance with support order or judgment

A board may suspend a license pursuant to Section 11350.6 of the Welfare and Institutions Code if a licensee is not in compliance with a child support order or judgment.

491. Information to ex-licensuree

Upon suspension or revocation of a license by a board on one or more of the grounds specified in Section 490, the board shall:

- (a) Send a copy of the provisions of Section 11522 of the Government Code to the ex-licensuree.
- (b) Send a copy of the criteria relating to rehabilitation formulated under Section 482 to the ex-licensuree.

492. Disciplinary action or license denial notwithstanding drug diversion program; exception

Notwithstanding any other provision of law, successful completion of any diversion program under the Penal Code, or successful completion of an alcohol and drug problem assessment program under Article 5 (commencing with Section 23249.50) of Chapter 12 of Division 11 of the Vehicle Code, shall not prohibit any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division, from taking disciplinary action against a licensee or from denying a license for professional misconduct, notwithstanding that evidence of that misconduct may be recorded in a record pertaining to an arrest.

This section shall not be construed to apply to any drug diversion program operated by any agency established under Division 2 (commencing with Section 500) of this code, or any initiative act referred to in that division.

493. Disciplinary action or license denial, convictions; inquiry

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if the conviction is substantially related to the qualifications, functions, and duties of the licensee in question.

As used in this section, "license" includes "certificate," "permit," "authority," and "registration."

494. Interim order, notice; hearing; decision; judicial review noncompliance

(a) A board or an administrative law judge sitting alone, as provided in subdivision (h), may, upon petition, issue an interim order suspending any licentiate or imposing license restrictions, including, but not limited to, mandatory biological fluid testing, supervision, or remedial training. The petition shall include affidavits that demonstrate, to the satisfaction of the board, both of the following:

(1) The licentiate has engaged in acts or omissions constituting a violation of this code or has been convicted of a crime substantially related to the licensed activity.

(2) Permitting the licentiate to continue to engage in the licensed activity, or permitting the licentiate to continue in the licensed activity without restrictions, would endanger the public health, safety, or welfare.

(b) No interim order provided for in this section shall be issued without notice to the licentiate unless it appears from the petition and supporting documents that serious injury would result to the public before the matter could be heard on notice.

(c) Except as provided in subdivision (b), the licentiate shall be given at least 15 days' notice of the hearing on the petition for an interim order. The notice shall include documents submitted to the board in support of the petition. If the order was initially issued without notice as provided in subdivision (b), the licentiate shall be entitled to a hearing on the petition within 20 days of the issuance of the interim order without notice. The licentiate shall be given notice of the hearing within two days after issuance of the initial interim order, and shall receive all documents in support of the petition. The failure of the board to provide a hearing within 20 days following the issuance of the interim order without notice, unless the licentiate waives his or her right to the hearing, shall result in the dissolution of the interim order by operation of law.

(d) At the hearing on the petition for an interim order, the licentiate may:

(1) Be represented by counsel.

(2) Have a record made of the proceedings, copies of which shall be available to the licentiate upon payment of costs computed in accordance with the provisions for transcript costs for judicial review contained in Section 11523 of the Government Code.

(3) Present affidavits and other documentary evidence.

(4) Present oral argument.

(e) The board, or an administrative law judge sitting alone as provided in subdivision (h), shall issue a decision on the petition for interim order within five business days following submission of the matter. The standard of proof required to obtain an interim order pursuant to this section shall be a preponderance of the evidence standard. If the interim order was previously issued without notice, the board shall determine whether the order shall remain in effect, be dissolved, or modified.

(f) The board shall file an accusation within 15 days of the issuance of an interim order. In the case of an interim order issued without notice, the time shall run from the date of the order issued after the noticed hearing. If the licentiate files a Notice of Defense, the hearing shall be held within 30 days of the agency's receipt of the Notice of Defense. A decision shall be rendered on the accusation no later than 30 days after submission of the matter. Failure to comply with any of the requirements in this subdivision shall dissolve the interim order by operation of law.

(g) Interim orders shall be subject to judicial review pursuant to Section 1094.5 of the Code of Civil Procedure and shall be heard only in the superior court in and for the Counties of Sacramento, San Francisco, Los Angeles, or San Diego. The review of an interim order shall be limited to a determination of whether the board abused its discretion in the issuance of the interim order. Abuse of discretion is established if the respondent board has not proceeded in the manner required by law, or if the court determines that the interim order is not supported by substantial evidence in light of the whole record.

(h) The board may, in its sole discretion, delegate the hearing on any petition for an interim order to an administrative law judge in the office of Administrative Hearings. If the board hears the noticed petition itself, an administrative law judge shall preside at the hearing, rule on the admission and exclusion of evidence, and advise the board on matters of law. The board shall exercise all other powers relating to the conduct of the hearing but may delegate any or all of them to the administrative law judge. When the petition has been delegated to an administrative law judge, he or she shall sit alone and exercise all of the powers of the board relating to the conduct of the hearing. A decision issued by an administrative law judge sitting alone shall be final when it is filed with the board. If the administrative law judge issues an interim order without notice, he or she shall preside at the noticed hearing, unless unavailable, in which case another administrative law judge may hear the matter. The decision of the administrative law judge sitting alone on the petition for an interim order is final, subject

only to judicial review in accordance with subdivision (g).

(i) Failure to comply with an interim order issued pursuant to subdivision (a) or (b) shall constitute a separate cause for disciplinary action against any licentiate, and may be heard at, and as a part of the noticed hearing provided for in subdivision (f). Allegations of noncompliance with the interim order may be filed at any time prior to the rendering of a decision on the accusation. Violation of the interim order is established upon proof that the licentiate was on notice of the interim order and its terms, and that the order was in effect at the time of the violation. The finding of a violation of an interim order made at the hearing on the accusation shall be reviewed as a part of any review of a final decision of the agency.

If the interim order issued by the same agency provides for anything less a complete suspension of the licentiate from his or her business or profession, and the licentiate violates the interim order prior to the hearing on the accusation provided for in subdivision (f), the agency may, upon notice to the licentiate and proof of violation, modify or expand the interim order.

(j) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section. A certified record of the conviction shall be conclusive evidence of the fact that the conviction occurred. A board may take action under this section notwithstanding the fact that an appeal of the conviction may be taken.

(k) The interim orders provided for by this section shall be in addition to, and not a limitation on, the authority to seek injunctive relief provided in any other provision of law.

(l) In the case of a board, a petition for an interim order may be filed by the executive officer. In the case of a bureau or program, a petition may be filed by the chief or program administrator, as the case may be.

(m) "Board," as used in this section, shall include any agency described in Section 22, and any allied health agency within the jurisdiction of the Medical Board of California. Board shall also include the Osteopathic Medical Board of California and the State Board of Chiropractic Examiners. The provisions of this section shall not be applicable to the Medical Board of California, the Board of Podiatric Medicine, or the State Athletic Commission.

CHAPTER 4. PUBLIC REPROVALS

495. Authority; procedure

Notwithstanding any other provision of law, any entity authorized to issue a license or certificate pursuant to this code may publicly reprove a licentiate or certificate holder thereof, for any act that would constitute grounds to suspend or revoke a license or certificate. Any proceedings for public reproof, public reproof and suspension, or public reproof and revocation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, or, in the case of a licensee or certificate holder under the jurisdiction of the State Department of Health Services, in accordance with Section 100171 of the Health and Safety Code.

496. Violation of Section 123; denial, suspension or revocation of license

A board may deny, suspend, revoke, or otherwise restrict a license on the ground that an applicant or licensee has violated Section 123 pertaining to subversion of licensing examinations.

CHAPTER 5. EXAMINATION SECURITY

498. License secured by fraud, deceit, or knowing misrepresentation

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee secured the license by fraud, deceit, or knowing misrepresentation of a material fact or by knowingly omitting to state a material fact.

499. False statement in support of another persons application

A board may revoke, suspend, or otherwise restrict a license on the ground that the licensee, in support of another person's application for license, knowingly made a false statement of a material fact or knowingly omitted to state a material fact to the board regarding the application.

BUSINESS AND PROFESSIONS CODE
DIVISION 8
SPECIAL BUSINESS REGULATION
CHAPTER 9. SECONDHAND GOODS
Article 3 - JUNK

21600. Junk

As used in this article, "junk" means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof.

As used in this section, "scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

21601. Junk dealer

As used in this article, "junk dealer" includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

21602. Junk yard

As used in this article, "junk yard" includes any yard, plot, space, inclosure, building or any other place where junk is collected, stored, gathered together and kept.

21603. Exclusions; certain merchants

This article shall not apply to any of the following:

- (a) Secondhand furniture merchants.
- (b) Pawnbrokers.
- (c) Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not carried on and conducted in conjunction with a junk yard.

(d) Persons engaged in the business of selling new automobile tires or batteries or other equipment taking in part payment used articles of the same kind and thereafter selling or disposing of the same.

(e) Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard.

(f) Secondhand clothing merchants and ragpickers.

21604. Exclusions

Except as otherwise provided in this article, this article does not apply to:

(a) Any person who buys or sells junk acquired in the conduct of any business other than that of a junk dealer.

(b) Those purchases of scrap metal by a junk dealer when the payment for the scrap metal is by check issued to the company represented as being the owner of the scrap.

(c) Scrap metal purchased or received from another junk dealer or recycler who has recorded, reported, and held the material as required. The purchase or receipt shall also be exempt from further holding or reporting provided that the selling party gives the buyer written assurance of this fact. The seller shall be held responsible for any failure to report or hold.

21605. Junk dealer and recycler records; recycler defined

(a) Every junk dealer and every recycler in this state is hereby required to keep a written record of all sales and purchases made in the course of his or her business.

(b) For purposes of this article, "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code, who buys or sells scrap metal that constitutes junk, as defined in Section 21600.

21606. Records; contents

(a) Every junk dealer and every recycler shall set out in the written record required by this article all of the following:

(1) The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.

(2) The name, valid driver's license number and state of issue or California-issued identification card number, and the vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.

(3) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.

(4) A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible.

(5) A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document.

(b) Any person who makes, or causes to be made, any false or fictitious statement regarding any information required by this section, is guilty of a misdemeanor.

21606.5. Inspection of records

Every junk dealer or recycler shall, during normal business hours, allow periodic inspection of any premises maintained and any junk thereon for the purpose of determining compliance with the recordkeeping requirements of this article, and shall during those hours produce his or her records of sales and purchases and all property purchased incident to those transactions which is in the possession of the junk dealer or recycler for inspection by any of the following persons:

(a) Any officer holding a warrant authorizing him or her to search for personal property.

(b) Any person appointed by the sheriff of any county or appointed by the head of the police department of any city.

(c) Any officer holding a court order directing him or her to examine the records or property.

21607. Records; preservation

Every junk dealer and recycler shall preserve the written record required by this article for at least two years after making the final entry of any purchase or sale of junk or scrap metals and alloys as defined in Section 21600.

21608. Violations; offense

(a) Any junk dealer or recycler who fails in any respect to keep the written record required by this article, or to set out in that written record any matter required by this article to be set out therein, is guilty of a misdemeanor.

Every junk dealer or recycler who refuses, upon demand pursuant to Section 21606.5, to exhibit the written record required by this article, or who destroys that record within two years after making the final entry of any purchase or sale of junk therein, is guilty of a misdemeanor.

(b) Any knowing and willful violation of subdivision (a) shall be punishable as follows:

(1) For a first offense, by a fine of not less than five hundred dollars (\$500), or by imprisonment in the county jail for not less than 30 days, or by both the fine and imprisonment.

(2) For a second offense, by a fine of not less than one thousand dollars (\$1,000), or by imprisonment in the county jail for not less than 30 days, or by both the fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court may order the defendant to stop engaging in business as a junk dealer or recycler for a period not to exceed 30 days.

(3) For a third or any subsequent offense, by a fine of not less than two thousand dollars (\$2,000), or by imprisonment in the county jail for not less than six months, or by both the fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall order the defendant to stop engaging in business as a junk dealer or recycler for a period of 30 days.

21609. Property suspected of being stolen; peace officer placement of hold on property; rights, duties and liabilities of junk dealer or recycler; costs

(a) Whenever any peace officer has probable cause to believe that property in the possession of a junk dealer or recycler is stolen, in lieu of seizing the property, the peace officer as defined in subdivision (b) of Section 21606.5, at his or her option, may place a hold on the property for a period not to exceed 90 days. When a peace officer places a hold on the property, the peace officer shall give the junk dealer or recycler a written notice at the time the hold is placed, describing the item or items to be held plus the case number. During that period the junk dealer or recycler shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. Except as specifically set forth in this section, a junk dealer or recycler shall not be subject to civil liability for compliance with this section.

(b) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is required by a peace officer in a criminal investigation, the junk dealer or recycler, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.

(c) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

(1) With respect to the property being held, if the law enforcement agency has

no knowledge of the property on hold being reported as stolen, the property shall be released upon written notice to the scrap metal dealer or recycler. The notice shall be provided in a timely fashion.

(2) If the law enforcement agency has knowledge that the property has been reported stolen, the law enforcement agency shall notify the person who reported the stolen property of the name and address of junk dealer or recycler holding the property and authorize the release of the property to that person.

The law enforcement agency that placed the property on hold shall release the hold after 60 days has elapsed following the delivery of the notice to the person who reported the property stolen.

(3) If a victim seeks to recover property that is subject to a hold, the junk dealer or recycler shall advise the victim of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution the hold shall be released.

(d) Upon conviction of any person for the theft of property placed on hold pursuant to this section, the court shall order the defendant to pay the junk dealer or recycler reasonable costs for storage of the property.

Article 4 - TANGIBLE PERSONAL PROPERTY

21625. Legislative intent

It is the intent of the Legislature in enacting this article to curtail the dissemination of stolen property and to facilitate the recovery of stolen property by means of a uniform statewide, state-administered program of regulation of persons whose principal business is the buying, selling, trading, auctioning, or taking in pawn of tangible personal property and to aid the State Board of Equalization to detect possible sales tax evasion.

Further, it is the intent of the Legislature in enacting this article to require the uniform statewide reporting of tangible personal property acquired by persons whose principal business is the buying, selling, trading, auctioning, or taking in pawn of tangible personal property, unless the property or the transaction is specifically exempt herein, for the purpose of correlating these reports with other reports of city, county, and city and county law enforcement agencies and further utilizing the services of the Department of Justice to aid in tracing and recovering stolen property.

Further, it is the intent of the Legislature that this article shall not be superseded or supplanted by the provisions of any ordinance or charter of any city, county, or city and county.

21626. Secondhand dealer; coin dealer

(a) A "secondhand dealer," as used in this article, means and includes any person, copartnership, firm, or corporation whose business includes buying, selling, trading, taking in pawn, accepting for sale on consignment, accepting for auctioning, or auctioning secondhand tangible personal property. A "secondhand dealer" does not include a "coin dealer" or participants at gun shows or events, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, who are not required to be licensed pursuant to Section 12071 of the Penal Code, who are acting in compliance with the requirements of Section 12070 and subdivision (d) of Section 12072 of the Penal Code, and who are not a "Gun Show Trader," as described in paragraph (5) of subdivision (b) of Section 12070 of the Penal Code.

(b) As used in this section, a "coin dealer" means any person, firm, partnership, or corporation whose principal business is the buying, selling, and trading of coins, monetized bullion, or commercial grade ingots of gold, or silver, or other precious metals.

21626.5 Secondhand dealer; exclusion

"Secondhand dealer," as used in this article, does not include either of the following:

(a) Any person who performs the services of an auctioneer for a fee or salary.

(b) Any person whose business is limited to the reconditioning and selling of major household appliances, provided all the following conditions are met:

- (1) The person does not trade, take in pawn, accept for drop-off, accept as a trade-in, accept for sale on consignment, accept for auction, auction, or buy, except in bulk, the appliances.
- (2) The person does not perform repair services for owners of appliances unless the appliance was purchased from the person.
- (3) The person has never been convicted of the crime of attempting to receive or receiving stolen property or any other theft-related crime.

21627. Tangible personal property

(a) As used in this article, "tangible personal property" includes, but is not limited to, all secondhand tangible personal property which bears a serial number or personalized initials or inscription or which, at the time it is acquired by the secondhand dealer, bears evidence of having had a serial number or personalized initials or inscription.

(b) "Tangible personal property" also includes, but is not limited to, the following:

(1) All tangible personal property, new or used, including motor vehicles, received in pledge as security for a loan by a pawnbroker.

(2) All tangible personal property that bears a serial number or personalized initials or inscription which is purchased by a secondhand dealer or a pawnbroker or which, at the time of such purchase, bears evidence of having had a serial number or personalized initials or inscription.

(3) All personal property commonly sold by secondhand dealers which statistically is found through crime reports to the Attorney General to constitute a significant class of stolen goods. A list of such personal property shall be supplied by the Attorney General to all local law enforcement agencies. Such list shall be reviewed periodically by the Attorney General to insure that it addresses current problems with stolen goods.

(c) As used in this article, "tangible personal property" does not include any new goods or merchandise purchased from a bona fide manufacturer or distributor or wholesaler of such new goods or merchandise by a secondhand dealer. For the purposes of this article, however, a secondhand dealer shall retain for one year from the date of purchase, and shall make available for inspection by any law enforcement officer, any receipt, invoice, bill of sale or other evidence of purchase of such new goods or merchandise.

(d) As used in this article, "tangible personal property" does not include coins, monetized bullion, or commercial grade ingots of gold, silver, or other precious metals. "Commercial grade ingots" means 0.99 fine ingots of gold, silver, or platinum, or 0.925 fine sterling silver art bars and medallions, provided that the ingots, art bars and medallions are marked by the refiner or fabricator as to their assay fineness.

21628. Report required; time

Every secondhand dealer or coin dealer described in Section 21626 shall report daily, or on the first working day after receipt or purchase of the property, on forms either approved or provided at actual cost by the Department of Justice, all tangible personal property which he or she has purchased, taken in trade, taken in pawn, accepted for sale on consignment, or accepted for auctioning, to the chief of police or to the sheriff, in accordance with the provisions of Sections 21630 and 21633 and subdivision (j) of this section. The report shall be legible, prepared in English, completed where applicable, and include, but not be limited to, the following information:

- (a) The name and current address of the intended seller or pledgor of the property.
- (b) The identification of the intended seller or pledgor. The identification of the seller or pledgor of the property shall be verified by the person taking the information. The verification shall be valid if the person taking the information reasonably relies on any one of the following documents, provided that the document is currently valid or has been issued within five years and contains a photograph or description, or both, of the person named on it, is signed by the person, and bears a serial or other identifying number:
 - (1) A passport of the United States.
 - (2) A driver's license issued by any state, or Canada.
 - (3) An identification card issued by any state.
 - (4) An identification card issued by the United States.
 - (5) A passport from any other country in addition to another item of identification bearing an address.
- (c) A complete and reasonably accurate description of serialized property, including, but not limited to, the following: serial number and other identifying marks or symbols, owner-applied numbers, manufacturer's named brand, and model name or number. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically requested to do so by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument and disassembling a watch with a penknife, caseknife, or similar instrument does not constitute a special skill. In all instances where the required information may be obtained by removal of a watchband, then the watchband shall be removed. The cost associated with opening the watch shall be borne by the pawnbroker, secondhand dealer, or customer.
- (d) A complete and reasonably accurate description of nonserialized property, including, but not limited to, the following: size, color, material, manufacturer's pattern name (when known), owner-applied numbers and personalized inscriptions and other identifying marks or symbols. Watches need not be disassembled when special skill or special tools are required to obtain the required information, unless specifically

requested to do so by a peace officer. A special tool does not include a penknife, caseknife, or similar instrument and disassembling a watch with a penknife, caseknife, or similar instrument does not constitute a special skill.

In all instances where the required information may be obtained by removal of a watchband, then the watchband shall be removed. The cost associated with opening the watch shall be borne by the pawnbroker, secondhand dealer, or customer.

(e) A certification by the intended seller or pledgor that he or she is the owner of the property or has the authority of the owner to sell or pledge the property.

(f) A certification by the intended seller or pledgor that to his or her knowledge and belief the information is true and complete.

(g) A legible fingerprint taken from the intended seller or pledgor, as prescribed by the Department of Justice. This requirement does not apply to a coin dealer, unless required pursuant to local regulation.

(h) When a secondhand dealer complies with all of the provisions of this section, he or she shall be deemed to have received from the seller or pledgor adequate evidence of authority to sell or pledge the property for all purposes included in this article, and Division 8 (commencing with Section 21000) of the Financial Code.

In enacting this subdivision, it is the intent of the Legislature that its provisions shall not adversely affect the implementation of, or prosecution under, any provision of the Penal Code.

(i) Any person who conducts business as a secondhand dealer at any gun show or event, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, outside the jurisdiction that issued the secondhand dealer license in accordance with subdivision (d) of Section 21641, may be required to submit a duplicate of the transaction report prepared pursuant to this section to the local law enforcement agency where the gun show or event is conducted.

(j) (1) The Department of Justice shall, in consultation with appropriate local law enforcement agencies, develop clear and comprehensive descriptive categories denoting tangible personal property subject to the reporting requirements of this section. These categories shall be incorporated by secondhand dealers and coin dealers described in Section 21626 for purposes of the reporting requirements set forth herein. Any required report shall be transmitted by electronic means. The Department of Justice and local law enforcement agencies, in consultation with representatives from the secondhand dealer and coin dealer businesses, shall develop a standard format to be used statewide to transmit this report electronically.

(2) Twelve months after the format and the categories described in paragraph (1) have been developed, each secondhand dealer and coin dealer shall electronically report using this format the information required by this section under these reporting categories. Until that time, each secondhand dealer and coin dealer may either continue to report this information using existing forms and procedures or may begin electronically reporting this information under the reporting categories and using the

format described in paragraph (1) as soon as each has been developed.

(3) A coin dealer who engages in less than 10 transactions each week in which he or she has purchased, taken in trade, taken in pawn, accepted for sale or consignment, or accepted for auctioning tangible personal property, shall report the information required by this section under the reporting categories described in paragraph (1) on a form developed by the Attorney General that the coin dealer shall transmit each day by facsimile transmission or by mail to the chief of police or sheriff. A transaction shall consist of not more than one item. Nothing in this section shall prohibit up to 10 transactions with the same customer per week, provided that the cumulative total per week for all customers does not exceed 10 transactions. Until that form is developed, these coin dealers shall continue to report information required by this section using existing forms and procedures. If these transactions increase to 10 per week, the coin dealer shall electronically report using the format described in paragraph (1) the information required by this section beginning six months after his or her transactions exceed 10 per week or 12 months after the format described in paragraph (1) has been developed, whichever occurs later.

(4) For purposes of this subdivision, "item" shall mean any single physical article. However, with respect to a commonly accepted grouping of articles that are purchased as a set, including, but not limited to, a pair of earrings or place settings of china, silverware, or other tableware, "item" shall mean that commonly accepted grouping.

(5) Nothing in this subdivision shall be construed as excepting a secondhand dealer from the fingerprinting requirement of subdivision (g).

21628.1. Reporting exemption; same item

Notwithstanding Section 21628, except for firearms, submission of transaction reports are not required to be submitted to the local law enforcement agency if the report of an acquisition of the same property from the same customer has been submitted within the preceding 12 months, except when submission of the reports is specifically requested in writing by the local licensing authority.

21628.5. Reporting; business machines

(a) Every business machine dealer shall report all used business machines which he has purchased, taken in trade, or accepted for sale or consignment, from an individual, to the chief of police or to the sheriff in accordance with the provisions of Section 21628 and Section 21630.

Every business machine dealer shall report all used business machines which he has repaired, if required to do so by the chief of police or the sheriff in accordance with the provisions of Section 21628 and Section 21630.

No report of repair shall be required from a dealer servicing or repairing a machine in the possession of the owner to whom that dealer sold that machine when it was new.

(b) As used in this section, the term "business machines" includes, but is not limited to, typewriters, adding machines, check-writing devices, cash registers, calculators, addressing machines, copying and accounting equipment, letter-sorting and folding devices, and recording equipment, but does not include office furniture or fixtures.

21629. Exceptions from article

The provisions of this article shall not apply to any tangible personal property which has been:

(a) Acquired from another secondhand dealer; provided the secondhand dealer selling or trading the tangible personal property states in writing under penalty of perjury, along with a description of the property, on an interdealer transfer form or an itemized bill of sale, that the report or reports required by this article have been properly made and submitted by that dealer. A copy of the form or the itemized bill of sale shall be delivered to the acquiring dealer at the time the transaction occurs. Interdealer transfer forms shall be provided at actual cost by the Department of Justice.

The dealers involved in the transaction shall retain their copy of the interdealer transfer form or itemized bill of sale for a period of three years as a matter of record, and shall make them available for inspection by any law enforcement officer.

(b) Acquired in a nonjudicial sale, transfer, assignment, assignment for the benefit of creditors, or consignment of the assets or stock in trade, in bulk, or a substantial part thereof, of an industrial or commercial enterprise for purposes of voluntary dissolution or liquidation of the seller's business, or for the purpose of disposing of an excessive quantity of personal property; or which has been acquired in a nonjudicial sale or transfer from an owner of his or her entire household of personal property, or a substantial part thereof; provided, the secondhand dealer retains in his or her place of business for a period of three years a copy of the bill of sale, receipt, inventory list, or other transfer document as a matter of record which shall be made available for inspection by any law enforcement officer; and provided further, that the secondhand dealer notifies the chief of police or the sheriff that exemption from reporting is being claimed under this subdivision. "Industrial or commercial enterprise" and "owner" as used in this subdivision do not include a secondhand dealer;

(c) Acquired in a sale made by any public officer in his or her official capacity, trustee in bankruptcy, executor, administrator, receiver, or public official acting under judicial process or authority, or which has been acquired in a sale made upon the execution of, or by virtue of, any process issued by a court, or under the provisions of Division 7 (commencing with Section 7101) of the Commercial Code;

(d) Acquired as the surplus property of the United States government or of a state, city, county, city and county, municipal corporation, or public district and which after requisition or acquisition by the United States government or by a state, city, county, city and county, municipal corporation, or public district has never thereafter been sold at retail; and,

(e) Reported by a secondhand dealer as an acquisition or a purchase, or

which has been reported as destroyed or otherwise disposed of, (1) to a state agency by the authority of any other law of this State; or (2) to a city, county, or city and county officer or agency by the authority of any other law of this State or a city, county, or city and county ordinance.

(f) Acquired by persons, firms, partnerships, or corporations who buy, sell or trade precious metals, whether in the form of coins or commercial grade ingots, who: (1) are designated contract markets by or registered with the Commodity Futures Trading Commission under the Federal Commodities Exchange Act and acting pursuant thereto; or (2) infrequently conduct their business directly with members of the general public. As used in this subdivision "infrequently" means occasional and without regularity.

21629.5. Application of article to property acquired by secondhand dealer with understanding or expectation of reacquisition

Notwithstanding Section 21629, the provisions of this article shall apply to any tangible personal property which has been acquired by a secondhand dealer with the understanding or expectation that such property would later be reacquired by the transferor or an agent thereof.

21630. Submission of report

If the transaction takes place within the territorial limits of an incorporated city, the report shall be submitted to the police chief executive of the city or his or her designee. If the transaction takes place outside the territorial limits of an incorporated city, the report shall be submitted to the sheriff of the county or his or her designee.

21631. Report of all tangible personal property found in shop; retention of possession of property by dealer; treatment of unclaimed property after 60 days

Notwithstanding any other provisions of law, all tangible personal property that is found in the shop of a pawnbroker, secondhand dealer, or coin dealer, doing business under a California secondhand dealer's license, shall be reported as required under subdivisions (c) and (d) of Section 21628, including any additional information required by Section 21628 that is known by the reporting person, and shall be held as required under Section 21636 on forms as required under Section 21633. If no claim is made for the property for a period of 60 days after it is reported, the pawnbroker, secondhand dealer, or coin dealer may treat the property as property regularly acquired in the due course of business.

21633. Approved report forms; copies; submission and retention

The report forms approved by the Department of Justice shall consist of not less than an original and two copies. The Department of Justice shall not require the report form to consist of more than an original and two copies when the forms are obtained from a source other than the department. A local law enforcement agency may request secondhand dealers within its jurisdiction to use a report form consisting of more than an original and two copies. However, each secondhand dealer or group of dealers shall be required only to use a form consisting of an original and two copies when the dealer

does not use a form obtained from the Department of Justice.

The Department of Justice shall allow the use of forms which are compatible with computerization. The original and the duplicate copy shall be submitted by the secondhand dealer in accordance with the provisions of Sections 21628 and 21630. One copy shall be retained by the secondhand dealer in his place of business for a period of three years and shall be made available for inspection by any law enforcement officer.

21634. Report by chief of police or sheriff

The chief of police or the sheriff who receives a report on a form filed pursuant to the provisions of this article shall daily submit the original to the Department of Justice.

21636. Retention of possession of property by dealer for 30-day period

(a) Every secondhand dealer and coin dealer shall retain in his or her possession for a period of 30 days all tangible personal property reported under Sections 21628, 21629, and 21630. The 30-day holding period with respect to this tangible personal property shall commence with the date the report of its acquisition was made to the chief of police or to the sheriff by the secondhand dealer and coin dealer. The chief of police or the sheriff may for good cause, as specified by the Department of Justice, authorize prior disposition of any such property described in a specific report, provided that a secondhand dealer who disposes of tangible personal property pursuant to that authorization shall report the sale thereof to the chief of police or the sheriff.

(b) During the 30-day holding period specified in subdivision (a) every secondhand dealer and coin dealer shall produce any tangible personal property reported under Sections 21628, 21629, and 21630 for inspection by any peace officer or employee designated by the chief of police or sheriff.

(c) Property subject to inspection as specified in subdivision (b) and property held in pawn, which is stored off the business premises of the licensee, shall, upon request for inspection, be produced at the licensee's business premises within one business day of a request.

(d) Any person who conducts business as a secondhand dealer at any gun show or event, as defined in Section 178.100 of Title 27 of the Code of Federal Regulations, or its successor, outside the jurisdiction that issued the secondhand dealer license in accordance with subdivision (d) of Section 21641, may be required to submit for inspection, as specified in subdivision (b), any firearm acquired at a gun show or event within 48 hours of the request of the local law enforcement agency in the jurisdiction where the gun show or event was conducted at a location specified by the local law enforcement agency.

21636.5. Repurchase

No secondhand dealer or coin dealer shall promise a seller of tangible property that the seller may repurchase property sold to the secondhand dealer or coin dealer.