

Regular Session, 2012

ACT No. 292

HOUSE BILL NO. 1187 (Substitute for House Bill No. 751 by Representative Richardson)

BY REPRESENTATIVES RICHARDSON, ADAMS, ANDERS, ARMES, BARROW, BERTHELOT, BROWN, COX, HARRIS, HARRISON, HOFFMANN, HONORE, HOWARD, LEBAS, LOPINTO, JAY MORRIS, NORTON, PIERRE, PONTI, POPE, PYLANT, REYNOLDS, SCHEXNAYDER, ST. GERMAIN, AND THIBAUT AND SENATORS APPEL, CORTEZ, THOMPSON, AND WHITE

1 AN ACT

2 To amend and reenact R.S. 37:1861(B)(introductory paragraph), (2), and (5), 1862(A),
3 1864.1(A), 1864.2(C), and 1864.3, to enact R.S. 37:1861(B)(6), and to repeal R.S.
4 37:1862(B), 1864(A)(1)(d), 1864.1(C)(2), and 1867(B), relative to used or
5 secondhand property; to prohibit cash payment for the purchase of copper; to
6 establish a maximum cash payment for metals other than copper; to require an
7 occupational license to act as a secondhand dealer; to require photographic records
8 of certain goods upon request of law enforcement; to exempt the purchase of
9 educational course materials; to repeal the exemption for tires and rims; to repeal the
10 requirement that secondhand dealers record the license plate of a seller; and to
11 provide for related matters.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 37:1861(B)(introductory paragraph), (2), and (5), 1862(A),
14 1864.1(A), 1864.2(C), and 1864.3 are hereby amended and reenacted and R.S.
15 37:1861(B)(6) is hereby enacted to read as follows:

16 §1861. "Secondhand dealer" defined

17 * * *

18 B. Except as provided for in ~~R.S. 37:1864.3 and 1869.1~~, R.S. 37:1869.1, the
19 provisions of this Part shall not apply to:

20 * * *

1 (2) Persons solely engaged in the business of buying, selling, trading in, or
2 otherwise acquiring or disposing of motor vehicles and used parts of motor vehicles,
3 excluding tires and rims, and shall not apply to wreckers or dismantlers of motor
4 vehicles who are licensed under the provisions of R.S. 32:783 et seq.

5 * * *

6 (5) ~~Collectors, transporters, or disposers of waste whose waste collection,~~
7 ~~transportation, and disposal activities are regulated by the Department of~~
8 ~~Environmental Quality, or persons who collect, transport, or manage recyclable~~
9 ~~materials pursuant to a residential collection, recycling, or disposal contract with a~~
10 ~~municipality or political subdivision.~~ The operations of a company that has received
11 a permit, registration, or other authorization from the Department of Environmental
12 Quality for the collection, transportation, treatment, storage, processing of materials
13 to be recycled or reused, or disposal of solid waste as defined in R.S. 30:2153.

14 (6) The purchase of educational course materials and products including but
15 not limited to books, classroom response devices, and calculators.

16 * * *

17 §1862. License required; application; bond; exemptions

18 A. No person shall do business as a secondhand dealer in this state without
19 having first obtained the occupational license required by law. Any person desiring
20 a license as secondhand dealer shall make application in writing, specifying the street
21 number and house number of the building where the business is to be carried on.
22 This application shall be signed by at least three property taxpayers of the city or
23 parish where the business is to be established certifying that the applicant is of good
24 moral character. He shall also submit with his application a bond in favor of the city
25 or parish, as the case may be, where the business is to be established in the sum of
26 two thousand five hundred dollars with security conditioned for the due observance
27 of all provisions of this Part.

28 * * *

1 §1864.1. Photographic and other records; exceptions

2 A.(1) In addition to the information required in R.S. 37:1864, every
3 secondhand dealer shall ~~be required to~~ obtain a photograph of a person selling or
4 delivering merchandise or articles to the dealer if the fair market value of the
5 merchandise is one hundred dollars or greater. The quality of such photograph shall
6 be sufficient readily to identify the person depicted. In lieu of the photograph of the
7 person selling or delivering the merchandise, the dealer may obtain either a
8 thumbprint of such person, the quality of which thumbprint shall be sufficient to
9 identify the person, or a photocopy of the person's Louisiana driver's license, driver's
10 license from another state, passport, military identification, or identification issued
11 by a governmental agency or the United States Postal Service. Each photograph,
12 thumbprint, or photocopy, as the case may be, shall be cross-referenced with the
13 ledger entry required by R.S. 37:1864. The photograph, thumbprint, or photocopy
14 shall be preserved for a period of at least a year.

15 (2) Pursuant to a request from a law enforcement agency, a secondhand
16 dealer shall be required to capture photographically uniquely identifiable used
17 merchandise or articles purchased pursuant to R.S. 37:1864(A). Photographs shall
18 be made available to the law enforcement agency within twenty-four hours after the
19 request.

20 * * *

21 §1864.2. Purchase of precious metals and stones from minors; purchase of junk
22 from minors prohibited; penalty

23 * * *

24 C. The provisions of this Section shall not apply to the sale or purchase of
25 manufactured registered bullion bars, coins, or other numismatic items. ~~The~~
26 ~~provisions of this Section shall not apply to a retail tire outlet or an automobile dealer~~
27 ~~dealing in tires.~~

28 * * *

1 §1864.3. Payment by check ~~or money order~~ for copper or other metals required;
2 check cashing prohibited; penalties

3 A.(1) A secondhand dealer shall not enter into any cash transactions in
4 payment for the purchase of ~~junk or used or secondhand property~~ copper. Payment
5 for copper shall be made in the form of a check, ~~electronic transfers, or money order~~
6 issued to the seller of the ~~junk or used or secondhand property~~ and made payable to
7 the name and address of the seller made payable to the seller of the metal and mailed
8 to the address recorded on the photo identification of the seller no earlier than five
9 business days after the date of the transaction.

10 (2) A secondhand dealer shall not enter into any cash transactions in excess
11 of three hundred dollars in payment for the purchase of metal property other than
12 copper. Payments in excess of three hundred dollars for metals other than copper
13 shall be made in the form of a check made payable to the name and address of the
14 seller and may be tendered to the seller at the time of the transaction. The
15 secondhand dealer, at his discretion, may make payment by either cash or other
16 method for transactions of three hundred dollars or less for all metals other than
17 copper.

18 B. All payments made by check, ~~electronic transfers, or money order~~ shall
19 be reported separately in the daily reports required by R.S. 37:1866.

20 C.(1) No secondhand dealer shall allow a seller to engage in multiple
21 transactions within a twenty-four hour period totaling more than three hundred
22 dollars for the purpose of circumventing this Section.

23 (2) No secondhand dealer shall cash, offer to cash, or provide the means for
24 exchanging for cash a check issued to a seller pursuant to this Section on the
25 premises of the secondhand dealer's place of business, including but not limited to
26 the use of an automatic teller machine.

27 D. Violations of this Section shall be subject to the penalties provided for in
28 R.S. 37:1869 and 1870.

1 Section 2. R.S. 37:1862(B), 1864(A)(1)(d), 1864.1(C)(2), and 1867(B) are hereby
2 repealed in their entirety.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____