

CHAPTER 11 – LICENSES, TAXATION AND MISCELLANEOUS
BUSINESS REGULATIONS

11-228. Secondhand Sales; police officer hold on property.

(a) Whenever any peace officer has probable cause to believe that property in the possession of a pawnbroker, secondhand dealer, scrap metal dealer or auction house is stolen, the peace officer may place a hold on the property for a period not to exceed ninety (90) days. The hold shall be effective immediately upon oral or written notice. If the hold is placed orally, it shall be followed by a written notice mailed to the pawnbroker, secondhand dealer, scrap metal dealer or auction house within two (2) days, excluding weekends and City and Federal holidays on which the United States Mail is closed. The written notice of hold shall accurately describe the property, providing the item's brand name and serial number, if applicable. If no written notice is issued after the second day the hold is terminated. During the hold period, the pawnbroker, secondhand dealer, scrap metal dealer or auction house shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by the Chief of Police or his designee of the law enforcement agency of which the peace officer placing the hold on the property is a member. At the time of receipt of the written hold, the pawnbroker, secondhand dealer, scrap metal dealer or auction house shall tag and mark the item placed on hold, name of law enforcement agency placing the hold and law enforcement report number. A pawnbroker, secondhand dealer, scrap metal dealer or auction house shall not be subject to civil liability for compliance with this section. If a pawnbroker, secondhand dealer, scrap metal dealer or auction house believes that a hold has been wrongfully imposed, an appeal of such hold may be filed in the manner provided for disposition of claims of allegedly stolen property provided in this chapter.

(b) Whenever property that is in the possession of a pawnbroker, secondhand dealer, scrap metal dealer, or auction house is subject to a hold and the property is required by a peace officer in a criminal investigation, the pawnbroker, secondhand dealer, scrap metal dealer, or auction house upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon 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 pawnbroker, secondhand dealer, scrap metal dealer or auction house 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 no longer has probable cause to believe that the property on hold is stolen, the hold shall be released and returned to the pawnbroker, secondhand dealer, scrap metal dealer or auction house as soon as practicable, but in no event more than twenty (20) days thereafter.

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- (2) If the law enforcement agency has knowledge that property has been reported stolen, the law enforcement agency shall give written notification to the person who reported the stolen property the name and address of the pawnbroker, secondhand dealer, scrap metal dealer or auction house holding the property and issue a written order releasing the law enforcement hold on the property in favor of the person reporting the property stolen. The written order releasing the hold shall advise the person that the law neither requires nor prohibits payment of a fee or any other condition in return for surrender of the property. A copy of the written order with the address of the claimant deleted shall be mailed to the pawnbroker, secondhand dealer, scrap metal dealer or auction house who is in possession of the property. The person who reported the stolen property shall present a police order releasing the hold to the pawnbroker, secondhand dealer, scrap metal dealer or auction house prior to the person receiving the item.
 - (3) Notwithstanding the foregoing, if the alleged owner does not choose to assist in the prosecution of an identified alleged thief, the alleged owner shall pay the pawnbroker, secondhand dealer, scrap metal dealer or auction house the “out of pocket” expenses paid in the acquisition of the allegedly stolen property in return for surrender of the property. The order releasing the hold shall indicate whether the alleged owner is assisting in the prosecution of the identified alleged thief.
 - (4) If no action is taken to recover the property by the person who reported the property stolen with sixty (60) days after the date that the order releasing the hold was mailed, or if the property was not placed on hold, sixty days after a law enforcement officer advised the pawnbroker, secondhand dealer, scrap metal dealer or auction house that the property may be stolen property, the pawnbroker, secondhand dealer, scrap metal dealer, or auction house in possession of the property may treat the property as regularly acquired in the due course of business.
 - (5) If a pledger seeks to redeem property that is subject to a hold, the pawnbroker, secondhand dealer, scrap metal dealer or auction house shall advise the pledgee of the law enforcement agency that placed the hold on the property and provide the pledger with a copy of the written notice placing the hold on the property. If the property is not required to be held pursuant to a criminal prosecution, the hold shall be released.
- (d) Whenever any property is taken from a pawnbroker, secondhand dealer, scrap metal dealer, or auction house by a peace officer that is alleged to be stolen property, the peace officer shall give the pawnbroker, secondhand dealer, scrap metal dealer or auction house a receipt for the property which shall contain an accurate description of the property, including

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brand name and serial number, if any the reason for seizure, and the names of the pawnbroker, secondhand dealer, scrap metal dealer or auction house, and the officer.
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