

SENATE BILL REPORT

HB 1623

As Passed Senate, April 10, 2017

Title: An act relating to secondhand dealers utilizing automated kiosks to purchase secondhand electronic devices.

Brief Description: Concerning secondhand dealers utilizing automated kiosks to purchase secondhand electronic devices.

Sponsors: Representatives Senn, Springer, Tarleton and Slatter.

Brief History: Passed House: 2/27/17, 95-1.

Committee Activity: Commerce, Labor & Sports: 3/15/17, 3/22/17 [DP].

Floor Activity:

Passed Senate: 4/10/17, 47-0.

Brief Summary of Bill

- Creates minimum requirements for automated kiosks in use for the purchase of secondhand electronic property.
- Allows secondhand property purchased through an automated kiosk to be held in the kiosk or off-site during the required 30-day holding period.
- Allows a secondhand dealer utilizing an automated kiosk to maintain the required records at the dealer's principal place of business.

SENATE COMMITTEE ON COMMERCE, LABOR & SPORTS

Majority Report: Do pass.

Signed by Senators Baumgartner, Chair; Keiser, Ranking Minority Member; Conway, Hasegawa, King, Rossi, Saldaña and Wilson.

Staff: Susan Jones (786-7404)

Background: Washington regulates the business of secondhand dealers—defined as every person engaged in whole or in part in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value secondhand property including metal junk, melted metals, and precious metals—whether or not the person maintains a fixed place

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of business within the state. Secondhand dealer also includes persons or entities conducting business, more than three times per year, at flea markets or swap meets.

Every secondhand dealer must maintain a record of each transaction (transaction record) conducted for three years following the date of the transaction. The record must be legibly written in English and include the following:

- signature of the person with whom the transaction is made (customer);
- transaction date;
- name of the person or employee or the identification number of the person or employee conducting the transaction, as required by the applicable local law enforcement officer;
- customer's name, birth date, sex, height, weight, race, address, and telephone;
- a complete description of the property, including the brand name, serial number, and model number;
- price paid;
- type and identifying number of identification used by the customer; and
- nature of the transaction and number identifying the transaction.

The transaction record must be open to the inspection of any law enforcement officer. Upon request, every secondhand dealer must furnish a full, true, and correct transcript of the record of all transactions conducted on the preceding day. If a secondhand dealer has good cause to believe that any property in the dealer's possession has been previously lost or stolen, the dealer must promptly report that fact to the applicable law enforcement officer.

Property bought or received on consignment by any secondhand dealer with a permanent place of business in the state must not be removed from that place of business, except consigned property returned to the owner, within 30 days after the receipt of the property. Property bought or received on consignment by any secondhand dealer without a permanent place of business in the state must be held within the city or county in which the property was received within thirty days after receipt of the property. The property must be available for inspection by law enforcement.

It is a gross misdemeanor for:

- any person: to remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of personal property that was purchased, consigned, or received; or to accept an item for purchase where such identifying mark has been removed, altered, or obliterated;
- any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept;
- any secondhand dealer to receive any property from any person:
 - under age 18;
 - under the influence of intoxicating liquor or drugs; or
 - known to the secondhand dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past ten years whether the person is acting in the person's own behalf or as the agent of another; or

- any person to violate knowingly any other provision of the Pawnbrokers and Secondhand Dealers' chapter of the RCWs.

Summary of Bill: The term secondhand dealer is expanded to include persons or entities operating an automated kiosk. An automated kiosk means a self-serve interactive machine that purchases secondhand electronic devices.

A secondhand dealer may maintain the required transaction record at the secondhand dealer's principal place of business if the transaction took place through the use of an automated kiosk.

Property bought by any secondhand dealer through the use of an automated kiosk must be held for at least 30 days after the secondhand property was accepted by the automated kiosk and may be held:

- inside the automated kiosk; or
- at a secure location maintained by the secondhand dealer.

The secondhand property purchased through an automated kiosk must be made available to any law enforcement officer for inspection within a reasonable time. The cost of transporting the property to the law enforcement officer must be paid by the secondhand dealer.

For a secondhand dealer to utilize an automated kiosk to purchase secondhand property in this state, the automated kiosk must have the capability to:

- collect all the information required for the transaction record;
- connect with a live customer service representative that can remotely verify the identity of the person engaged in the transaction;
- compare the secondhand property purchased against a state or federal database of stolen items using the serial number, International Mobile Equipment Identity, the mobile equipment identifier, or other unique identifying number assigned to the device by the manufacturer; and
- securely store all secondhand property purchased.

Appropriation: None.

Fiscal Note: Not requested.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is a good business bill where we are ensuring that a strong company located here can continue to function with a small definitional change. The constituent has 67 locations that purchase used phones. This helps with recycling and the consumer gets a payout. EcoATM does a good job working with law enforcement. Phones are not destroyed. They are able to provide information to law enforcement as needed. Jobs and money go back into the community. They want to be able to hold the property at another location than the kiosk. Holding them at the kiosk may risk theft.

This would bring the statute up to date with international identifying standards used by manufacturers of electronic devices. EcoATM is an e-waste recycling company that gives a second life to used cellphones and tablets. Without a change in the law, EcoATM would be forced to close the 67 locations. The parent company was sold. Effective at the end of the year, the companies will no longer share services. EcoATM will lose the ability to store these items in-state as required by statute. They operate in 44 states but Washington is the only state that requires in-state storage.

About 70 percent of the products, or electronics, are sold back to carriers who restore them. Ten million devices, 2.5 million pounds, are recycled and diverted from landfills. The consumers get money in the store to use immediately for purchases. The bill would allow the devices to be shipped to the same location. The devices are held in tact for 30 days. These are available to law enforcement very quickly because they are held in one location. The company has invested in resources that help law enforcement. \$100 million has been paid out to consumers. There is a process to protect customer data.

Persons Testifying: PRO: Representative Tana Senn, Prime Sponsor; Bonnie Garcia, Director of Legislative Affairs, EcoATM; Joanie Deutsch, TechNet.

Persons Signed In To Testify But Not Testifying: No one.