

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Smart  
5 Phone Theft Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Appropriate law enforcement official" means the sheriff  
8 of the county where a dealer is located or, if the dealer is  
9 located within a municipality, the police chief of the  
10 municipality, provided, however, that the sheriff or police  
11 chief may designate an appropriate official of the county or  
12 municipality as applicable.

13 "Internet marketplace" or "online platform" means a  
14 digitally accessible platform that facilitates commercial  
15 transactions between buyers and community-rated sellers where  
16 the operator or the platform does not take possession of, or  
17 title to, the goods bought or sold.

18 "Law enforcement agency" means a duly authorized local,  
19 county, State, or federal law enforcement agency.

20 "Repair and refurbishment program" means a program,  
21 offered by a wireless telephone service provider,  
22 manufacturer, or retailer who is not primarily engaged in  
23 purchasing personal property of any type from a person who is

1 not a wholesaler, through which used or previously owned  
2 wireless communications devices are restored to good working  
3 order.

4 "Trade-in program" means a program offered by a wireless  
5 telephone service provider, manufacturer, or retailer who is  
6 not primarily engaged in purchasing personal property of any  
7 type from a person who is not a wholesaler, pursuant to which  
8 used wireless communications devices are accepted from  
9 customers for trade-in when purchasing a new device or in  
10 exchange for a noncash credit usable only for the purchase of  
11 goods or services from the wireless telephone service provider,  
12 manufacturer, or retailer or a rebate from a manufacturer on  
13 the purchase of one of the manufacturer's wireless  
14 communications devices.

15 "Wireless communications device" means a hand-held  
16 cellular phone or other hand-held mobile device that (1) is  
17 built on a smart phone mobile operating system; (2) possesses  
18 advanced computing capability; (3) enables network  
19 connectivity; (4) enables the user to engage in voice  
20 communications via commercial mobile radio service, as defined  
21 in 47 CFR 20.3; and (5) is capable of operating on a long-term  
22 evolution network and successor wireless data network  
23 communication standards. Capabilities a wireless  
24 communications device may possess include, but are not limited  
25 to, built-in applications, Internet access, digital voice  
26 service, text messaging, email, and web browsing. "Wireless

1 communications device" does not include a phone commonly  
2 referred to as a feature or messaging phone, a laptop computer,  
3 a tablet device, or a device that has only electronic reading  
4 capability.

5 "Wireless communications device dealer" or "dealer" means  
6 an individual, partnership, limited partnership, limited  
7 liability company, corporation, or other entity engaged in the  
8 business of buying or selling used wireless communications  
9 devices.

10 "Wireless communications device manufacturer" or  
11 "manufacturer" means an individual, partnership, limited  
12 partnership, limited liability company, corporation, or other  
13 entity engaged in the business of manufacturing wireless  
14 communications devices.

15 "Wireless telephone service provider" means a provider of  
16 wireless telephone services and its authorized dealers,  
17 distributors, and agents.

18 Section 10. Wireless communications devices; acquisition  
19 for resale; purchase or acquisition record required.

20 (a) Every wireless communications device dealer, including  
21 an agent, employee, or representative of the dealer, but not an  
22 internet marketplace, shall keep a written record at the time  
23 of each purchase or acquisition of a used wireless  
24 communications device for resale. The record must include the  
25 following:

1 (1) an accurate account or description of the wireless  
2 communications device purchased or acquired;

3 (2) the date, time, and place or the online platform  
4 the wireless communications device was purchased or  
5 acquired;

6 (3) the name and address of the person selling or  
7 delivering the wireless communications device;

8 (4) the number of the check or electronic transfer used  
9 to purchase the wireless communications device;

10 (5) the number from an identification document issued  
11 by any state, federal, or foreign government if the  
12 document includes the person's photograph, full name,  
13 birth date, and signature; and

14 (6) a statement signed by the seller, under penalty of  
15 perjury, attesting that the wireless communications device  
16 is not stolen and is free of any liens or encumbrances and  
17 the seller has the right to sell it.

18 (a-5) A wireless communications device dealer covered by  
19 this Section may maintain the records required by subsection  
20 (a) of this Section in an electronic form approved by the  
21 appropriate law enforcement official.

22 (b) Records required to be maintained under this Section  
23 shall be retained by the wireless communications device dealer  
24 for a period of 3 years.

25 (c) The record, as well as the wireless communications  
26 device purchased or received, shall at all reasonable times be

1 available for inspection by any law enforcement agency.

2 (d) No record is required for wireless communications  
3 devices purchased from merchants, manufacturers, or wholesale  
4 dealers having an established place of business, but a bill of  
5 sale or other evidence of open or legitimate purchase of the  
6 wireless communications device shall be obtained and kept by  
7 the wireless communications device dealer, which must be shown  
8 upon demand to any law enforcement agency.

9 (e) Except as otherwise provided in this Section, a  
10 wireless communications device dealer or the dealer's agent,  
11 employee, or representative may not disclose personal  
12 information received pursuant to subsection (a) concerning a  
13 customer without the customer's consent unless the disclosure  
14 is made in response to a request from a law enforcement agency.  
15 A wireless communications device dealer must implement  
16 reasonable safeguards to protect the security of the personal  
17 information and prevent unauthorized access to or disclosure of  
18 the information. For purposes of this Section, "personal  
19 information" is any individually identifiable information  
20 gathered in connection with a record under subsection (a).

21 Section 15. Records; prohibitions. A wireless  
22 communications device dealer, including an agent, employee, or  
23 representative of the dealer, shall not:

24 (1) make any false entry in the records of transactions  
25 involving a used wireless communications device;

1           (2) falsify, obliterate, destroy, or remove from the  
2 place of business the records, books, or accounts relating  
3 to used wireless communications device transactions;

4           (3) refuse to allow the appropriate law enforcement  
5 agency to inspect records or any used wireless  
6 communications device in the dealer's possession during  
7 the ordinary hours of business or other times acceptable to  
8 both parties;

9           (4) fail to maintain a record of each used wireless  
10 communications device transaction for 3 years; or

11           (5) purchase a used wireless communications device  
12 from a person under the age of 18 years.

13           Section 20. Payment for used wireless communications  
14 devices. A wireless communications device dealer shall pay for  
15 purchases of all used wireless communications devices by check  
16 mailed to a specific address or by electronic transfer.

17           Section 25. Investigative holds; confiscation of property.

18           (a) Whenever a law enforcement official from any agency has  
19 probable cause to believe that a wireless communications device  
20 in the possession of a wireless communications device dealer is  
21 stolen or is evidence of a crime and notifies the dealer not to  
22 sell the item, the dealer shall not process or sell the item or  
23 remove or allow its removal from the premises. This  
24 investigative hold must be confirmed in writing by the

1 originating agency within 72 hours and remain in effect for 120  
2 days from the date of initial notification, until the  
3 investigative hold is canceled or renewed, or until a law  
4 enforcement notification to confiscate or directive to release  
5 is issued, whichever comes first.

6 (b) If a wireless communications device is identified as  
7 stolen or as evidence in a criminal case, a law enforcement  
8 official may:

9 (1) physically confiscate and remove the wireless  
10 communications device from the wireless communications  
11 device dealer pursuant to a written notification;

12 (2) place the wireless communications device on hold or  
13 extend the hold under subsection (a) and leave the device  
14 at the premises; or

15 (3) direct its release to a registered owner or owner's  
16 agent.

17 (c) When an item is confiscated, the law enforcement agency  
18 doing so shall provide identification upon request of the  
19 wireless communications device dealer, and shall provide the  
20 name and telephone number of the confiscating agency and  
21 investigator and the case number related to the confiscation.

22 (d) When an investigative hold or notification to  
23 confiscate is no longer necessary, the law enforcement official  
24 or designee shall notify the wireless communications device  
25 dealer.

26 (e) A wireless communications device dealer may sell or

1 otherwise dispose of the wireless communications device if: (1)  
2 a notification to confiscate is not issued during the  
3 investigative hold; or (2) a law enforcement official does not  
4 physically remove the wireless communications device from the  
5 premises within 15 calendar days from issuance of a  
6 notification to confiscate.

7 (f) If a wireless communications device dealer is required  
8 to hold the wireless communications device at the direction of  
9 law enforcement for purposes of investigation or prosecution,  
10 or if the device is seized by law enforcement, the wireless  
11 communications device dealer and any other victim is entitled  
12 to seek restitution, including any out-of-pocket expenses for  
13 storage and lost profit, in any criminal case that may arise  
14 from the investigation against the individual who sold the  
15 wireless communications device to the wireless communications  
16 device dealer.

17 Section 30. Video security cameras required.

18 (a) Each wireless communications device dealer shall  
19 install and maintain at each physical location video  
20 surveillance cameras, still digital cameras, or similar  
21 devices positioned to record or photograph a frontal view  
22 showing a readily identifiable image of the face of each seller  
23 of a wireless communications device who enters the physical  
24 location.

25 (b) The video camera or still digital camera must be kept

1 in operating condition and must be shown upon request to a  
2 properly identified law enforcement officer for inspection.  
3 The camera must record and display the accurate date and time.  
4 The video camera or still digital camera must be turned on at  
5 all times when the physical location is open for business and  
6 at any other time when wireless communications devices are  
7 purchased or sold.

8 (c) Recordings and images required by subsection (a) shall  
9 be retained by the wireless communications device dealer for a  
10 minimum period of 120 days and shall at all reasonable times be  
11 open to the inspection of any properly identified law  
12 enforcement officer.

13 Section 35. Penalty. A wireless communications device  
14 dealer, or the agent, employee, or representative of the  
15 wireless communications device dealer, who intentionally  
16 violates a provision of this Act is guilty of a business  
17 offense and shall be fined more than \$500 but not more than  
18 \$1,000.

19 Section 40. Application of Act.

20 (a) This Act does not apply with respect to a wireless  
21 communications device returned pursuant to the return policies  
22 of the wireless communications device dealer, wireless  
23 telephone service provider, manufacturer, or retailer from  
24 whom it was originally purchased.

1 (b) This Act does not apply to:

2 (1) a wireless telephone service provider or retailer  
3 who has 25 or more locations in this State who acquires  
4 wireless communications devices as part of a trade-in or a  
5 repair and refurbishment program;

6 (2) a manufacturer who acquires wireless  
7 communications devices as part of a trade-in program; or

8 (3) an entity that complies with the requirements of  
9 the Resale Dealers Act and purchases used wireless  
10 communications devices for the purpose of recycling and  
11 refurbishment.

12 (c) This Act does not apply to wireless communications  
13 device dealers regulated under the Pawnbroker Regulation Act.

14 (d) This Act does not alter or affect a dealer's separate  
15 obligations under the Resale Dealers Act, if applicable, except  
16 that any violation under this Act, by a person covered by the  
17 Resale Dealers Act, which has the same or similar elements as a  
18 violation under the Resale Dealers Act shall be punished as  
19 provided under the Resale Dealers Act.