# Flea markets ad record-keeping requirements

**Number:** AGO 74-105

**Date:** November 04, 1998

**Subject:**
Flea markets ad record-keeping requirements

RE: FLEA MARKETS--RECORD-KEEPING REQUIREMENTS

To: John E. Polk, Seminole County Sheriff, Sanford

Prepared by: Raymond L. Marky, Assistant Attorney General

QUESTION:

Must persons who are trading, bartering, serving, or selling tangible personal property, as owner, agent, broker, or otherwise, at what is commonly known as a flea market comply with the record-keeping requirements of s. 811.165, Florida Statutes?

SUMMARY:

Flea market operators engaging in the purchase and sale of secondhand goods other than furniture and household goods or automobile parts must keep records of all such articles sold or purchased as set forth in s. 811.165(1), F. S.

Section 811.165, F. S., provides:

"811.165 Record of purchases and sales required of junk dealers and persons dealing in secondhand goods. --
(1) Every person engaged in the regular course of business of buying and selling junk, as set forth in s. 205.371, and every person or firm regularly buying and selling secondhand goods, wares, merchandise, or articles of any description other than furniture and household goods or automobile parts, whether as a pawnbroker or otherwise, shall keep a record of all such articles sold or purchased, which shall contain the following:
(a) The name and address of each person from whom each article of their stock is purchased, including the signature of the person selling the same, together with said person's social security number or taxpayer's identification number, as the case might be;
(b) A description of the article purchased;
(c) The date of purchase;
(d) The price paid; and
(e) The name, address, and signature of each person to whom each article is sold and the price and date of sale, with the social security number or taxpayer's identification number of the said person. The records shall at all times be subject to the inspection of all police and peace officers and shall be preserved for a period of three years after sale.
(2) A failure to keep the records required under this section and for the period of time required

shall be a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. (3) This section shall not apply to those charitable sales conducted by reputable community service organizations or to individual private sales."

It seems clear that whether operators of flea markets are classified as "junk dealers," as that term is defined in s. 205.371(1)(a), F. S., is immaterial, for the plain language of s. 811.165(1), F. S., requires "*every person* . . . regularly buying and selling *secondhand* goods, wares, merchandise, or articles of any description . . . " (other than furniture and household goods or automobile parts) must comply with the record-keeping requirements of s. 811.165(1). (Emphasis supplied.) Therefore, to the extent that the flea market operator engages in the sale or exchange of *secondhand* goods, other than the type of property exempt, he must keep appropriate records of such articles sold or purchased.