

# HOUSE BILL 1040

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By: **Delegates Sophocleus, Beidle, Eckardt, Frush, Kipke, Love, McConkey, McMillan, and Wood**

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Secondhand Precious Metal Object Dealers and**  
3 **Pawnbrokers – Revisions**

4 FOR the purpose of repealing the exemption of a certain business transaction relating  
5 to numismatic items from the provisions of law that regulate secondhand  
6 precious metal object dealers; providing that certain provisions of law do not  
7 apply to certain retail jewelers who hold a remounting sale during which the  
8 retail jeweler accepts trade-ins of old mountings toward the purchase of a new  
9 mounting; requiring certain dealers and pawnbrokers to hold certain items for  
10 an additional number of days on request of a primary law enforcement unit  
11 under certain circumstances; authorizing a primary law enforcement unit to  
12 renew a certain request to hold items for a certain period of time; and generally  
13 relating to secondhand precious metal object dealers and pawnbrokers.

14 BY repealing and reenacting, with amendments,  
15 Article – Business Regulation  
16 Section 12–102 and 12–401  
17 Annotated Code of Maryland  
18 (2010 Replacement Volume and 2012 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article – Business Regulation**

22 12–102.

23 (a) This title does not apply to a transaction that involves:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) merchandise acquired from an established manufacturer or dealer  
2 who holds a license under this title, other than a pawnbroker, if the dealer who  
3 acquires the merchandise keeps an invoice or other customary proof of origin for the  
4 merchandise;

5 (2) a metal acquired for use in dentistry by a dentist licensed to  
6 practice dentistry under Title 4 of the Health Occupations Article;

7 (3) coins [or numismatic items]; or

8 (4) the purchase of junk or scrap metal that is subject to the record  
9 keeping and reporting requirements under § 17–1011 of this article.

10 (b) If a retail jeweler has a fixed business address in the State, this title does  
11 not apply to a transaction in which the retail jeweler:

12 (1) accepts, in accordance with a posted return policy, the return of an  
13 item that the jeweler originally sold;

14 (2) accepts, in accordance with a published trade-in policy,  
15 merchandise in trade that the jeweler originally sold;

16 (3) repossesses merchandise that the jeweler originally sold, if the  
17 original buyer has defaulted;

18 (4) retains merchandise that the jeweler originally accepted for repair  
19 as a bailee for hire, if the customer who deposited the merchandise:

20 (i) defaulted; or

21 (ii) failed to reclaim the merchandise within the time agreed on  
22 with the jeweler; [or]

23 (5) accumulates pieces of precious metals in the course of performing  
24 repairs, remountings, fabrications, or custom orders; **OR**

25 **(6) HOLDS A REMOUNT SALE DURING WHICH THE RETAIL**  
26 **JEWELER ACCEPTS TRADE-INS OF OLD MOUNTINGS, THE VALUE OF WHICH IS**  
27 **APPLIED TO THE COST OF NEW MOUNTING PURCHASES.**

28 (c) Except as otherwise provided in this title, this title does not apply to a  
29 pawnbroker located in a county that regulates pawnbrokers unless the pawnbroker  
30 does business as a dealer.

31 (d) (1) A county or municipal corporation may not enact a law to regulate  
32 dealers[,] **OR** coins[, or numismatic items].

1           (2) This title supersedes any existing law of a county or municipal  
2 corporation that regulates dealers[, ] OR coins[, or numismatic items].

3 12-401.

4           (a) This section applies to all dealers and all pawnbrokers wherever located  
5 in the State.

6           (b) A dealer or pawnbroker shall release to the primary law enforcement unit  
7 an item of personal property, other than a security or printed evidence of  
8 indebtedness, located at the place of business of the dealer or pawnbroker if:

9                   (1) the item is established to have been stolen;

10                   (2) the owner of the item or victim of the theft has positively identified  
11 the item;

12                   (3) the owner of the item or the agent or designee of the owner has  
13 provided an affidavit of ownership;

14                   (4) the stolen property report describes the item by:

15                           (i) a date;

16                           (ii) initials;

17                           (iii) an insurance record;

18                           (iv) a photograph;

19                           (v) a sales receipt;

20                           (vi) a serial number;

21                           (vii) specific damage;

22                           (viii) a statement of the facts that show that the item is one of a  
23 kind; or

24                           (ix) a unique engraving; and

25                   (5) the primary law enforcement unit provides to the dealer or  
26 pawnbroker a receipt that describes the item and that notifies the dealer or  
27 pawnbroker of the dealer's or pawnbroker's right to file an application for a statement  
28 of charges against the individual who sold the item to the dealer or pawnbroker, or  
29 other alleged thief for theft under § 7-104 of the Criminal Law Article.

1           (c)   **(1) [A] SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A**  
2 dealer shall retain in the dealer's place of business, for an additional period of 12 days,  
3 any item of personal property or other valuable thing, other than securities or printed  
4 evidence of indebtedness, if:

5                   **[(1)] (I)**   the primary law enforcement unit requests that the dealer  
6 retain the item;

7                   **[(2)] (II)**   the primary law enforcement unit has reasonable cause to  
8 believe the item has been stolen; and

9                   **[(3)] (III)**   the item has not been identified under subsection (b)(2) of  
10 this section.

11                   **(2) A DEALER SHALL RETAIN IN THE DEALER'S PLACE OF**  
12 **BUSINESS, FOR AN ADDITIONAL 45 DAYS FOLLOWING THE HOLDING PERIOD**  
13 **REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION, AN ITEM OF**  
14 **PERSONAL PROPERTY OR OTHER VALUABLE THING, OTHER THAN SECURITIES**  
15 **OR PRINTED EVIDENCE OF INDEBTEDNESS, IF THE PRIMARY LAW**  
16 **ENFORCEMENT UNIT:**

17                           **(I) REQUESTS THAT THE DEALER RETAIN THE ITEM IN THE**  
18 **DEALER'S PLACE OF BUSINESS;**

19                           **(II) HAS A CONTINUOUS ACTIVE INVESTIGATION OF AN ITEM**  
20 **INITIALLY HELD UNDER PARAGRAPH (1) OF THIS SUBSECTION BASED ON A**  
21 **REASONABLE CAUSE TO BELIEVE THE ITEM WAS STOLEN; AND**

22                           **(III) HAS DOCUMENTATION OF PROGRESS IN THE**  
23 **INVESTIGATION AS LONG AS THE INVESTIGATION HAS NOT BEEN CLOSED.**

24                   **(3) A PRIMARY LAW ENFORCEMENT UNIT MAY RENEW A REQUEST**  
25 **TO HOLD AN ITEM UNDER PARAGRAPH (2) OF THIS SUBSECTION AS MANY TIMES**  
26 **AS NECESSARY.**

27           (d)   When a primary law enforcement unit no longer needs an item for  
28 evidence, the primary law enforcement unit shall give the item to its owner.

29           (e)   A dealer or pawnbroker who is required to release an item under this  
30 section is not entitled to reimbursement for any pledge or purchase price paid for the  
31 item from:

32                   (1)   the primary law enforcement unit to which the dealer released the  
33 item;

1                   (2)    the owner of the item; or

2                   (3)    the victim of the theft.

3           (f)    If the owner of the item or the victim of the theft chooses to participate in  
4 the prosecution of the alleged identified thief, then the charges of theft from the owner  
5 or the victim of the theft and the charges of theft from the dealer or pawnbroker may  
6 be heard in a joint trial.

7           (g)    The Secretary shall distribute to licensed dealers or post on the  
8 Department's website the name of the primary law enforcement unit responsible for  
9 enforcing this title in each jurisdiction, including municipalities.

10           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
11 October 1, 2013.