

HOUSE BILL 1040

C2

3lr2869

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

Introduced and read first time: February 8, 2013

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 16, 2013

CHAPTER _____

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~~ participate in a remount
8 sale ~~during which the retail jeweler accepts trade-ins of old mountings toward~~
9 ~~the purchase of a new mounting~~; requiring certain dealers and pawnbrokers to
10 hold certain items for an additional number of days on request of a primary law
11 enforcement unit under certain circumstances; authorizing a primary law
12 enforcement unit to renew a certain request to hold items for a certain period of
13 time; defining a certain term; and generally relating to secondhand precious
14 metal object dealers and pawnbrokers.

15 BY repealing and reenacting, without amendments,
16 Article – Business Regulation
17 Section 12–101(a)
18 Annotated Code of Maryland
19 (2010 Replacement Volume and 2012 Supplement)

20 BY adding to
21 Article – Business Regulation
22 Section 12–101(k)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Annotated Code of Maryland
2 (2010 Replacement Volume and 2012 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article – Business Regulation
5 Section 12–102 and 12–401
6 Annotated Code of Maryland
7 (2010 Replacement Volume and 2012 Supplement)

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

10 **Article – Business Regulation**

11 12–101.

12 (a) In this title the following words have the meanings indicated.

13 **(K) “REMOUNT SALE” MEANS A TRANSACTION BETWEEN A RETAILER**
14 **AND AN EXISTING CUSTOMER TO UPGRADE THE CUSTOMER’S PRECIOUS OR**
15 **SEMIPRECIOUS STONE OR PEARL BY REMOVING FROM AN EXISTING MOUNTING**
16 **AND PLACING IN A NEW MOUNTING FROM THE RETAILER AND CREDITING THE**
17 **VALUE OF THE EXISTING MOUNTING TOWARD THE COST OF THE NEW**
18 **MOUNTING.**

19 12–102.

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

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

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

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

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

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

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

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

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

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

9 (i) defaulted; or

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

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

14 **(6) ~~HOLDS PARTICIPATES IN A REMOUNT SALE DURING WHICH~~**
15 **~~THE RETAIL JEWELER ACCEPTS TRADE-INS OF OLD MOUNTINGS, THE VALUE OF~~**
16 **~~WHICH IS APPLIED TO THE COST OF NEW MOUNTING PURCHASES.~~**

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

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

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

24 12-401.

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

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

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

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

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

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

6 (i) a date;

7 (ii) initials;

8 (iii) an insurance record;

9 (iv) a photograph;

10 (v) a sales receipt;

11 (vi) a serial number;

12 (vii) specific damage;

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

15 (ix) a unique engraving; and

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

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

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

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

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

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

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

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

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

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

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

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

22 (1) the primary law enforcement unit to which the dealer released the
23 item;

24 (2) the owner of the item; or

25 (3) the victim of the theft.

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

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

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