

SENATE BILL 306

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3lr0380

By: **Senators Brochin, Glassman, Jacobs, and Klausmeier**

Introduced and read first time: January 23, 2013

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Secondhand Precious Metal Object Dealers –**
3 **Exemptions for Consignment Shop Operators**

4 FOR the purpose of exempting consignment shop operators from the licensing and
5 regulatory requirements for secondhand precious metal object dealers; defining
6 certain terms; and generally relating to consignment shop operators and
7 secondhand precious metal object dealers.

8 BY repealing and reenacting, with amendments,
9 Article – Business Regulation
10 Section 12–101 and 12–102
11 Annotated Code of Maryland
12 (2010 Replacement Volume and 2012 Supplement)

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

15 **Article – Business Regulation**

16 12–101.

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

18 (B) **“CONSIGNMENT SHOP” MEANS A SHOP ENGAGED IN THE BUSINESS**
19 **OF SELLING SECONDHAND PERSONAL PROPERTY AS THE AGENT OF ANOTHER**
20 **PERSON WHO:**

21 **(1) HAS PLACED PERSONAL PROPERTY IN THE PHYSICAL**
22 **POSSESSION OF THE AGENT;**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(2) HAS NOT BEEN PAID BY THE AGENT FOR THE PERSONAL**
2 **PROPERTY;**

3 **(3) RETAINS LEGAL TITLE TO THE PERSONAL PROPERTY; AND**

4 **(4) BEARS THE RISK OF LOSS OF THE PERSONAL PROPERTY**
5 **UNTIL THE PROPERTY IS SOLD TO A THIRD PERSON.**

6 **(C) “CONSIGNMENT SHOP OPERATOR” MEANS A PERSON WHO**
7 **OPERATES A CONSIGNMENT SHOP.**

8 **[(b)] (D) (1) “Dealer” means:**

9 (i) an individual who acquires commercially from the public or
10 trades commercially with the public in secondhand precious metal objects;

11 (ii) an individual who for compensation arranges for the sale or
12 delivery of a secondhand precious metal object on behalf of a person that does not hold
13 a license under this title; or

14 (iii) unless otherwise provided, a pawnbroker.

15 (2) “Dealer” includes a retail jeweler as to transactions in which the
16 retail jeweler acquires commercially from the public or trades commercially with the
17 public in secondhand precious metal objects.

18 **[(c)] (E) “Employee” means an individual who is employed by a dealer or**
19 **pawnbroker to buy, sell, or supervise directly the buying or selling of secondhand**
20 **precious metal objects.**

21 **[(d)] (F) “Fixed business address” means a single physical location in**
22 **Maryland where a licensee regularly conducts business and at which the licensee or an**
23 **employee of the licensee is physically present:**

24 (1) during normal business hours; or

25 (2) other hours as provided in the application for the license which are
26 sufficient to provide an authorized law enforcement officer or agent access to the
27 licensee’s place of business as provided in § 12–306 of this title.

28 **[(e)] (G) “License” means a license issued by the Secretary to do business as**
29 **a dealer.**

30 **[(f)] (H) “Local law enforcement unit” means the Maryland Department of**
31 **State Police, a Maryland police department, or Maryland sheriff, as designated by**

1 resolution of the county or municipal governing body, with jurisdiction over any place
2 where a dealer transacts business other than the dealer's fixed business address.

3 **[(g)] (I)** “Pawnbroker” means a person who engages in pawn transactions.

4 **[(h)] (J)** “Pawn transaction” means a loan of money by a dealer on deposit
5 or pledge of personal property or other valuable thing other than securities or printed
6 evidences of indebtedness, or a purchase by a dealer of personal property or other
7 valuable things on condition of selling the same back at a stipulated price.

8 **[(i)] (K)** “Precious metal object” means:

9 (1) a precious metal that is:

10 (i) gold;

11 (ii) iridium;

12 (iii) palladium;

13 (iv) platinum; or

14 (v) silver;

15 (2) a precious or semiprecious stone, or a pearl, that is or appears to
16 have been attached to or inlaid in a precious metal listed in paragraph (1) of this
17 subsection or any alloy of a precious metal; or

18 (3) an object that is composed of a precious metal listed in paragraph
19 (1) of this subsection or any alloy of a precious metal if:

20 (i) the market value of the metal in the object lies principally in
21 its precious metal component; or

22 (ii) at least 25% of the weight of the object is precious metal.

23 **[(j)] (L)** “Primary law enforcement unit” means the Department of State
24 Police, a police department, or sheriff, as designated by resolution of the county or
25 municipal governing body in the county in which the license is held.

26 12–102.

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

28 (1) merchandise acquired from an established manufacturer or dealer
29 who holds a license under this title, other than a pawnbroker, if the dealer who

1 acquires the merchandise keeps an invoice or other customary proof of origin for the
2 merchandise;

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

5 (3) coins or numismatic items; or

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

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

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

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

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

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

18 (i) defaulted; or

19 (ii) failed to reclaim the merchandise within the time agreed on
20 with the jeweler; or

21 (5) accumulates pieces of precious metals in the course of performing
22 repairs, remountings, fabrications, or custom orders.

23 **(C) THIS TITLE DOES NOT APPLY TO A CONSIGNMENT SHOP OPERATOR**
24 **WHO OPERATES A CONSIGNMENT SHOP AT A PHYSICAL LOCATION IN MARYLAND**
25 **WHERE THE OPERATOR REGULARLY CONDUCTS BUSINESS.**

26 **[(c)] (D)** Except as otherwise provided in this title, this title does not apply
27 to a pawnbroker located in a county that regulates pawnbrokers unless the
28 pawnbroker does business as a dealer.

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

31 (2) This title supersedes any existing law of a county or municipal
32 corporation that regulates dealers, coins, or numismatic items.

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