

HOUSE BILL 29

C2

0lr0337

(PRE-FILED)

By: **Delegates Parrott and Hartman**

Requested: July 16, 2019

Introduced and read first time: January 8, 2020

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Secondhand Precious Metal Object Dealers and Pawnbrokers – Exemptions for**
3 **Auctioneers**

4 FOR the purpose of exempting auctioneers who conduct a certain auction of secondhand
5 precious metal objects owned by a certain estate from the licensing and regulatory
6 requirements for secondhand precious metal object dealers and pawnbrokers;
7 defining certain terms; and generally relating to auctioneers and secondhand
8 precious metal objects.

9 BY repealing and reenacting, with amendments,
10 Article – Business Regulation
11 Section 12–101 and 12–102
12 Annotated Code of Maryland
13 (2015 Replacement Volume and 2019 Supplement)

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

16 **Article – Business Regulation**

17 12–101.

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

19 (B) “AUCTION” MEANS A SALE OF REAL OR PERSONAL PROPERTY BY
20 COMPETITIVE BID OF PROSPECTIVE BUYERS.

21 (C) “AUCTIONEER” MEANS A PERSON WHO SELLS OR OFFERS TO SELL THE
22 REAL OR PERSONAL PROPERTY OF OTHER PERSONS AT AUCTION, WITH OR WITHOUT

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **RECEIVING CONSIDERATION, AS A BID CALLER.**

2 **[(b)] (D)** (1) “Dealer” means:

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

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

8 (iii) unless otherwise provided, a pawnbroker.

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

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

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

18 (1) during normal business hours; or

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

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

24 **[(f)] (H)** “Local law enforcement unit” means the Maryland Department of State
25 Police, a Maryland police department, or Maryland sheriff, as designated by resolution of
26 the county or municipal governing body, with jurisdiction over any place where a dealer
27 transacts business other than the dealer’s fixed business address.

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

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

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

2 (1) a precious metal that is:

3 (i) gold;

4 (ii) iridium;

5 (iii) palladium;

6 (iv) platinum; or

7 (v) silver;

8 (2) a precious or semiprecious stone, or a pearl, that is or appears to have
9 been attached to or inlaid in a precious metal listed in item (1) of this subsection or any
10 alloy of a precious metal; or

11 (3) an object that is composed of a precious metal listed in item (1) of this
12 subsection or any alloy of a precious metal if:

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

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

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

19 **[(k)] (M)** “Remount sale” means a transaction between a retailer and an existing
20 customer to upgrade the customer’s precious or semiprecious stone or pearl by removing
21 from an existing mounting and placing in a new mounting from the retailer and crediting
22 the value of the existing mounting toward the cost of the new mounting.

23 12–102.

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

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

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

30 (3) coins; or

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

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

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

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

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

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

13 (i) defaulted; or

14 (ii) failed to reclaim the merchandise within the time agreed on with
15 the jeweler;

16 (5) accumulates pieces of precious metals in the course of performing
17 repairs, remountings, fabrications, or custom orders; or

18 (6) participates in a remount sale.

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

22 **(D) THIS TITLE DOES NOT APPLY TO AN AUCTIONEER WHO CONDUCTS AN**
23 **AUCTION IN THE STATE OF A PRECIOUS METAL OBJECT OWNED BY AN ESTATE FOR**
24 **WHICH:**

25 **(1) A PERSONAL REPRESENTATIVE FOR THE ESTATE HAS BEEN**
26 **ISSUED LETTERS OF APPOINTMENT BY A COURT UNDER TITLE 6, SUBTITLE 1 OF THE**
27 **ESTATES AND TRUSTS ARTICLE AND WHOSE POWERS HAVE NOT BEEN SUSPENDED,**
28 **TERMINATED, OR REMOVED UNDER TITLE 6, SUBTITLE 3 OF THE ESTATES AND**
29 **TRUSTS ARTICLE; OR**

30 **(2) A SPECIAL ADMINISTRATOR FOR THE ESTATE HAS BEEN**
31 **APPOINTED BY A COURT UNDER TITLE 6, SUBTITLE 4 OF THE ESTATES AND TRUSTS**
32 **ARTICLE AND WHOSE POWERS HAVE NOT BEEN SUSPENDED, TERMINATED, OR**

1 **REMOVED UNDER THAT SUBTITLE.**

2 ~~[(d)]~~ **(E)** (1) A county or municipal corporation may not enact a law to
3 regulate dealers or coins.

4 (2) This title supersedes any existing law of a county or municipal
5 corporation that regulates dealers or coins.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2020.