
By: Chairman, Economic Matters Committee (Departmental - Labor, Licensing and Regulation)

Introduced and read first time: January 29, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Secondhand Precious Metal Object Dealers and Pawnbrokers**

3 FOR the purpose of establishing procedures for storing or holding precious metal objects
4 or personal property at a location other than the business address; requiring that
5 those locations be accessible to law enforcement units; requiring certain proof
6 before issuance of a license; requiring certain notice to law enforcement units prior
7 to engaging in transactions at a location other than the business address;
8 establishing a procedure through which the Secretary may obtain a restraining order
9 or an administrative subpoena; prohibiting transactions with minors; requiring
10 reporting forms to be completed and submitted for transactions involving certain
11 additional items of personal property; establishing a holding period for transactions
12 involving items of personal property; establishing a time period within which a
13 precious metal object, item of personal property, or a record of such acquisition is to
14 be delivered to the storage facility; establishing grounds and procedures by which
15 law enforcement officials may obtain a search warrant; prohibiting pawn
16 transactions involving certain items of personal or real property; and establishing a
17 certain penalty for a conviction of a violation of the holding period requirements.

18 BY repealing and reenacting, with amendments,

19 Article - Business Regulation

20 Section 12-101, 12-202, 12-205, 12-206, 12-209, 12-213, 12-301 through 12-306,
21 inclusive, and 12-502

22 Annotated Code of Maryland

23 (1992 Volume and 1995 Supplement)

24 BY adding to

25 Article - Business Regulation

26 Section 12-402 and 12-502

27 Annotated Code of Maryland

28 (1992 Volume and 1995 Supplement)

29 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF

30 MARYLAND, That the Laws of Maryland read as follows:

2

1 **Article - Business Regulation**

2 12-101.

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

4 (b) (1) "Dealer" means an individual who acquires commercially from the
5 public or trades commercially with the public in secondhand precious metal objects or,
6 unless otherwise provided, a pawnbroker.

7 (2) "Dealer" includes a retail jeweler as to transactions in which the retail
8 jeweler acquires commercially from the public or trades commercially with the public in
9 secondhand precious metal objects.

10 (c) "Employee" means an individual who is employed by a dealer or pawnbroker
11 to buy, sell, or supervise directly the buying or selling of secondhandprecious metal
12 objects.

13 (D) "FIXED BUSINESS ADDRESS" MEANS A COMMERCIAL LOCATION, ZONED
14 FOR THE ACTIVITY AUTHORIZED UNDER THE LICENSE, WHICH IS NOT A PRIVATE
15 RESIDENCE, AND AT WHICH THE LICENSEE OR AN EMPLOYEE OF THE LICENSEE IS
16 PHYSICALLY PRESENT DURING REGULAR BUSINESS HOURS.

17 [(d)] (E) "License" means a license issued by the Secretary to do business as a
18 dealer.

19 (F) "LOCAL LAW ENFORCEMENT UNIT" MEANS THE LAW ENFORCEMENT
20 AGENCY OR AUTHORITY WITH JURISDICTION OVER ANY PLACE WHERE A DEALER
21 TRANSACTS BUSINESS OTHER THAN THE DEALER'S FIXED BUSINESS ADDRESS.

22 [(e)] (G) "Pawnbroker" means a person who engages in pawn transactions.

23 [(f)] (H) "Pawn transaction" means a loan of money by a dealer on deposit or
24 pledge of personal property or other valuable thing other than securities or printed
25 evidences of indebtedness, or a purchase by a dealer of personal property or other
26 valuable things on condition of selling the same back at a stipulated price.

27 [(g)] (I) "Precious metal object" means:

28 (1) a precious metal that is:

29 (i) gold;

30 (ii) iridium;

31 (iii) palladium;

32 (iv) platinum; or

33 (v) silver;

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

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

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

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

6 [(h)] (J) "Primary law enforcement unit" means the Department of State Police,
7 a police department, or sheriff, as designated by resolution of the county governing body
8 in the county in which the license is held.

9 12-202.

10 (a) (1) An applicant for a license shall:

11 (i) submit to the Secretary an application on the form that the
12 Secretary provides; and

13 (ii) pay to the Secretary an application fee of \$300.

14 (2) The application fee is nonrefundable.

15 (b) The applicant shall sign the application under oath.

16 (c) [(1) The application form shall be based on the application form for a
17 trader's license under Title 17 of this article.

18 (2) In addition to any other information that the Secretary requires, the
19 application shall state:

20 [(i)] (1) the name, date of birth, and residence address of the
21 applicant;

22 [(ii)] (2) the fixed BUSINESS address [of the business] of the
23 applicant;

24 [(iii)] (3) the fixed address in the State where precious metal objects
25 will be stored, if different from the FIXED business address, PROVIDED, HOWEVER,
26 THAT A BANK OR SAFE DEPOSIT BOX IS NOT AN ACCEPTABLE STORAGE LOCATION
27 UNLESS WRITTEN CONSENT BY THE APPLICANT AND A BANK OFFICIAL
28 AUTHORIZING ACCESS TO THE STORAGE FACILITY AND EXAMINATION OF ITS
29 CONTENTS BY LAW ENFORCEMENT OFFICERS OR AGENTS ACCOMPANY THE
30 APPLICATION;

31 [(iv)] (4) a telephone number at which the applicant can be reached
32 during normal business hours;

33 [(v)] (5) each address where the applicant has conducted any business
34 during the 36 months before application;

35 [(vi)] (6) the driver's license number, if any, of the applicant; and

36 [(vii)] (7) the name and permanent address of each employee who will
37 work with the applicant in the business of the applicant.

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1 (d) The application form shall contain, immediately above the signature line, the
2 following:

3 "If issued a license, I agree to allow a municipal, county, or Statepolice officer
4 acting in the course of a stolen property investigation to inspect and photograph all
5 precious metal objects and records at my business or storage locations."

6 12-205.

7 (a) [The] UPON RECEIPT OF A COMPLETE FEDERAL AND STATE CRIMINAL
8 RECORD REPORT FROM THE CENTRAL REPOSITORY PURSUANT TO § 12-204 OF THIS
9 SUBTITLE, THE Secretary shall issue a license to each applicant who meets the
10 requirements of this subtitle.

11 (b) The Secretary:

12 (1) may issue a license only for a fixed business address; but

13 (2) may not issue a license for [a business] AN address that is:

14 (i) a hotel or motel room;

15 (ii) a motor vehicle; or

16 (iii) a post office box; OR

17 (IV) A LOCATION WHICH DOES NOT MEET THE QUALIFICATIONS AS
18 DEFINED IN § 12-101(D) OF THIS TITLE.

19 (c) The Secretary may not issue more than 1 license for any single business
20 location unless the dealers at that location are in partnership.

21 (D) THE SECRETARY MAY NOT ISSUE A LICENSE TO A MINOR.

22 (E) WHENEVER A LICENSE IS SUSPENDED OR REVOKED, ANOTHER LICENSE
23 MAY NOT BE ISSUED TO A DEALER FOR THE SAME BUSINESS LOCATION UNLESS THE
24 APPLICANT PROVIDES THE DOCUMENTATION AND INFORMATION, WHICH THE
25 SECRETARY ESTABLISHES BY REGULATION, IS NECESSARY TO DEMONSTRATE THAT
26 THE APPLICANT WILL BE ENGAGING IN A BUSINESS WHICH IS SEPARATE AND
27 INDEPENDENT FROM THE BUSINESS OF THE REVOKED OR SUSPENDED LICENSE.

28 12-206.

29 (a) A license authorizes the licensee to do business as a dealer only at the address
30 for which the license is issued.

31 (b) Notwithstanding subsection (a) of this section, a dealer who holds a license
32 under this subtitle may:

33 (1) [operate] TRANACT BUSINESS AS A DEALER for up to 7 consecutive
34 days at an [auction, convention, sale, or show] EVENT THAT TAKES PLACE AT A
35 LOCATION OTHER THAN THE FIXED BUSINESS ADDRESS AT WHICH A TRANSACTION
36 MAY OCCUR after giving written notice AT LEAST 7 DAYS IN ADVANCE OF THEEVENT
37 TO THE PRIMARY LAW ENFORCEMENT UNIT AND to the local law enforcement unit

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1 with jurisdiction over the place where the [auction, convention, sale, or show] EVENT
2 will be held;

3 (2) make purchases at an estate and judicial sale; and

4 (3) transact business at the residence of the owner of a precious metal
5 object or a place where the owner keeps a precious metal object:

6 (i) on request of the owner; and

7 (ii) after giving written notice of the proposed transaction and its
8 location to the local law enforcement unit with jurisdiction over that location.

9 12-209.

10 (a) (1) In this subsection, a dealer's or applicant's agents, employees,
11 management personnel, or partners include only those individuals who are directly
12 involved in pawn transactions or the acquisition or sale of secondhand precious metals on
13 behalf of the dealer or applicant, EXCEPT WHERE OTHERWISE INDICATED.

14 (2) Subject to the hearing provisions of § 12-210 of this subtitle, the
15 Secretary may deny a license to an applicant, reprimand a licensee, or suspend or revoke
16 a license if the applicant or licensee or an agent, employee, manager, or partner of the
17 applicant or licensee:

18 (i) fraudulently or deceptively obtains or attempts to obtain a license
19 for the applicant or licensee or for another person;

20 (ii) fraudulently or deceptively uses a license;

21 (iii) has a similar license denied, suspended, or revoked in another
22 jurisdiction;

23 (iv) pleads guilty or nolo contendere to or is convicted of a felony, theft
24 offense, or crime of moral turpitude;

25 (v) knowingly employs or knowingly continues to employ, after being
26 notified by the Secretary, an individual who has pled guilty or nolo contendere to or has
27 been convicted of a felony, theft offense, or crime of moral turpitude;

28 (VI) KNOWINGLY EMPLOYS OR KNOWINGLY CONTINUES TO
29 EMPLOY IN ANY CAPACITY, AFTER BEING NOTIFIED BY THE SECRETARY, AN
30 INDIVIDUAL WHOSE PRECIOUS METALS DEALER'S LICENSE HAS BEEN REVOKED;

31 [(vi)] (VII) willfully fails to provide or willfully misrepresents any
32 information required to be provided under this title;

33 [(vii)] (VIII) violates this title; or

34 [(viii)] (IX) violates a regulation adopted under this title.

35 (b) (1) If a licensee is charged with a violation of this title that could result in
36 suspension or revocation of the license, OR IF THE SECRETARY HAS REASONABLE
37 GROUNDS TO BELIEVE THAT THIS TITLE HAS BEEN, OR WILL BE, VIOLATED
38 THROUGH TRANSACTIONS LIKELY TO OCCUR PURSUANT TO § 12-206 OF THIS

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1 SUBTITLE, the Secretary may seek from a circuit court an immediate restraining order to
2 prohibit the licensee from:

- 3 (i) buying or selling a secondhand precious metal object;
- 4 (ii) disposing of a secondhand precious metal object; or
- 5 (iii) disposing of a record about a secondhand precious metal object.

6 (2) The restraining order is in effect until:

- 7 (i) the court lifts the order; [or]
- 8 (ii) the charges are adjudicated or dismissed; OR

9 (III) IN THE CASE OF AN EVENT HELD IN ACCORDANCE WITH §
10 12-206 OF THIS SUBTITLE, ARRANGEMENTS ARE MADE BY THE LICENSEE WHICH
11 WILL ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS TITLE.

12 12-213.

13 A dealer may not [acquire a precious metal object, or take any merchandise in a
14 pawn transaction, from] ENGAGE IN ANY PRECIOUS METALS OR PAWN
15 TRANSACTIONS, OR TRANSACTIONS INVOLVING ITEMS OF PERSONAL PROPERTY
16 WITH an individual who is a minor.

17 12-301.

18 (a) Each dealer shall make a written record, on a form provided by the Secretary,
19 of each business transaction that involves the acquisition of a secondhand precious metal
20 object when the transaction is made.

21 (b) Each pawnbroker shall make a written record, on a form provided by the
22 Secretary, of each business transaction that involves:

23 (1) lending money on pledge of personal property, other than a security or
24 printed evidence of indebtedness; or

25 (2) buying personal property on condition of selling it back at a stipulated
26 price; or

27 (3) [buying] ACQUIRING the following items for the purpose of resale:

- 28 (i) binoculars;
- 29 (ii) cameras AND CAMERA EQUIPMENT AND ACCESSORIES;
- 30 (iii) firearms AND ACCESSORIES;
- 31 (iv) furs AND LEATHER COATS AND JACKETS;
- 32 (v) household appliances;
- 33 (vi) musical instruments, AMPLIFIERS, EQUIPMENT AND
34 ACCESSORIES;
- 35 (vii) office machines or equipment;

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1 (viii) ELECTRONIC EQUIPMENT, INCLUDING BUT NOT LIMITED TO,
2 radios, televisions, videodisc machines, [videocassette] VIDEO recorders AND PLAYERS,
3 and stereo equipment;

4 (ix) [personal] computers, [tapes, and disc recorders;] COMPUTER
5 ACCESSORIES, PARTS AND COMPONENTS, INCLUDING HARDWARE AND SOFTWARE;

6 (x) watches;

7 (xi) bicycles[; and] AND SPORTS EQUIPMENT;

8 (XII) TOOLS;

9 (XIII) LAWN MOWERS AND LAWN AND GARDENING EQUIPMENT;

10 AND

11 [(xii)] (XIV) tangible personal property pledged as collateral.

12 [(c) Each pawnbroker shall make a written record, on a form provided by the
13 Secretary, of each transaction that involves the acquisition of an item described in
14 subsection (b)(3) of this section for the purpose of resale.]

15 [(d)] (C) A separate record entry shall be made for each item involved in a
16 transaction. However, items in a matching set may be recorded as a set if acquired in a
17 single transaction.

18 [(e)] (D) The dealer shall tag each item individually with a number that
19 corresponds to the transaction under which it was acquired. However, items acquired in a
20 matching set may be tagged as a set.

21 12-302.

22 (a) In addition to any other information required by the Secretary, the records of
23 a dealer shall include:

24 (1) the date, place, and time of each transaction that involves the acquisition
25 of a precious metal object;

26 (2) the name and address of the principal, if the transaction is by an agent;

27 (3) a description of the precious metal object, including:

28 (i) its approximate metallic composition;

29 (ii) any jewels, stones, or glass parts;

30 (iii) any mark, number, word, or other identification on the precious
31 metal object;

32 (iv) its weight, if payment is based on weight;

33 (v) a statement whether it appears to have been altered by any means,
34 including:

35 1. obscuring a serial number or identifying feature;

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1 2. melting; or

2 3. recutting a gem; and

3 (vi) the amount paid or other consideration;

4 (4) for each individual from whom the dealer acquires a precious metal
5 object OR ITEM OF PERSONAL PROPERTY:

6 (i) the name, date of birth, and driver's license number of the
7 individual; or

8 (ii) identification information about the individual that:

9 1. positively identifies the individual from at least 2 forms of
10 identification, which may include an age of majority card, military identification, or
11 passport; and

12 2. provides a physical description of the individual, including
13 the sex, race, any distinguishing features, and approximate age, height, and weight of the
14 individual;

15 (5) a statement indicating whether or not the person making the transaction
16 is personally known to the dealer; and

17 (6) the signature of the person from whom the precious metal object or
18 personal property is acquired and the dealer or employee who accepted the precious
19 metal object.

20 (b) In addition to any other information required by the Secretary, the records of
21 a pawnbroker shall include, for each item pawned:

22 (1) the type of item;

23 (2) its manufacturer, model number, year of manufacture if known, and
24 serial number if known; and

25 (3) its color and size.

26 12-303.

27 Unless otherwise authorized by the Secretary, a dealer shall keep the records
28 required by this subtitle, at a location within the State, for 3 years after the date of the
29 transaction, PROVIDED THAT THE RECORDS ARE KEPT AT THE DEALER'S FIXED
30 BUSINESS ADDRESS WHERE THE TRANSACTIONS OCCURRED FOR AT LEAST 180 DAYS
31 AFTER THE DATE OF THE TRANSACTION.

32 12-304.

33 (a) A dealer shall submit a copy of each record to the primary law enforcement
34 unit AND, IF OPERATING PURSUANT TO § 12-206(B) OF THIS TITLE, ALSO TO THE
35 LOCAL LAW ENFORCEMENT UNIT by:

36 (1) delivering the copy by 10 A.M. on the next business day after the record
37 is made; or

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1 (2) mailing the copy at the end of the business day when the record is made,
2 by first class mail, from a post office or mailbox in the county where the dealer holds a
3 license OR, IF OPERATING PURSUANT TO § 12-206(B), IN THE COUNTY WHERE THE
4 BUSINESS WAS TRANSACTED.

5 (b) Each copy of a record submitted to the primary law enforcement unit shall
6 include:

- 7 (1) the license number of the dealer;
- 8 (2) the location of each item listed in the record; and
- 9 (3) the information required under § 12-302 of this subtitle.

10 (c) A copy of a record submitted under this section:

- 11 (1) shall be kept confidential;
- 12 (2) is not a public record; and
- 13 (3) is not subject to Title 10, Subtitle 6 of the State Government Article.

14 (d) A [primary] law enforcement unit may destroy the copy of a record submitted
15 under this section after 1 year from the date the [primary] law enforcement unit receives
16 the copy.

17 12-305.

18 (a) A dealer who acquires a precious metal object OR ITEM OF PERSONAL
19 PROPERTY shall keep it in the county where the dealer holds a license for at least 18 days
20 after submitting a copy of a record of its acquisition under § 12-304 of this subtitle.

21 (b) (1) A dealer may submit to the primary law enforcement unit a written
22 request for a shorter holding period for a specific precious metal object OR ITEM OF
23 PERSONAL PROPERTY.

24 (2) Within 48 hours after the primary law enforcement unit receives a
25 request, the primary law enforcement unit shall approve or deny the request.

26 (3) After inspecting the precious metal object OR ITEM OF PERSONAL
27 PROPERTY, the primary law enforcement unit may authorize in writing a shorter holding
28 period.

29 (4) If the primary law enforcement unit denies the request, the primary law
30 enforcement unit shall state the reasons in writing.

31 (c) (1) Except as provided in paragraph (2) of this subsection, a dealer may not
32 alter a precious metal object OR ITEM OF PERSONAL PROPERTY before or during the
33 holding period.

34 (2) During the holding period, a dealer may chemically test a precious metal
35 object to determine its metal content or value if the dealer does not alter the precious
36 metal object so as to affect its identification or value.

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1 (d) During the holding period for AN ITEM OF PERSONAL PROPERTY OR a
2 precious metal object, a dealer shall keep the ITEM OF PERSONAL PROPERTY OR
3 precious metal object and the record of its acquisition in:

4 (1) the place of business of the dealer; or

5 (2) a storage facility specified in the license application of the dealer.

6 (E) A DEALER WHO ACQUIRES A PRECIOUS METAL OBJECT OR ITEM OF
7 PERSONAL PROPERTY AT AN EVENT WHICH TAKES PLACE AT A LOCATION OTHER
8 THAN THE DEALER'S FIXED BUSINESS ADDRESS SHALL PLACE THE OBJECT AND THE
9 RECORD OF ITS ACQUISITION AT A LOCATION IN ACCORDANCE WITH SUBSECTION
10 (D)(1) OR (D)(2) OF THIS SECTION BY 10:00 A.M. THE NEXT BUSINESS DAY AFTER
11 ACQUIRING THE OBJECT.

12 12-306.

13 (a) A dealer shall allow an authorized law enforcement officer OR AGENT, on
14 request, to enter the place of business or storage premises of the dealer during business
15 hours to inspect a record REQUIRED TO BE MAINTAINED UNDER THIS TITLE or
16 precious metal object [as part of a stolen property investigation.] OR ITEM OF
17 PERSONAL PROPERTY.

18 (b) (1) On request of the dealer, the officer OR AGENT shall make the
19 inspection in the presence of the dealer or an agent of the dealer.

20 (2) If the dealer refuses to allow access or produce the record or precious
21 metal object OR ITEM OF PERSONAL PROPERTY for inspection, the officer OR AGENT
22 shall seek a search warrant.

23 (3) A WARRANT AUTHORIZING AN ADMINISTRATIVE INSPECTION FOR
24 POSSIBLE REGULATORY VIOLATIONS SHALL BE ISSUED IF THE OFFICER OR AGENT
25 ESTABLISHES A REASONABLE BASIS FOR THE SELECTION OF THE PLACE OF
26 BUSINESS IN QUESTION FOR INSPECTION AND THAT THE INSPECTION WILL BE
27 REASONABLY LIMITED IN TIME, PLACE, AND SCOPE.

28 (C) A DEALER WHO REFUSES TO ALLOW ACCESS OR TO PRODUCE RECORDS,
29 PRECIOUS METAL OBJECTS OR ITEMS OF PERSONAL PROPERTY FOR INSPECTION ON
30 REQUEST, SHALL BE SUBJECT TO THE PROVISIONS OF § 12-209 OF THIS TITLE AND, IN
31 ADDITION, MAY BE FINED UP TO \$500.

32 12-402.

33 (A) THE SECRETARY SHALL HAVE THE AUTHORITY TO ISSUE SUBPOENAS
34 FOR RECORDS, REPORTS, OR ARTICLES IN CONNECTION WITH ANY INVESTIGATION
35 OR ADMINISTRATIVE PROCEEDING UNDER THIS TITLE.

36 (B) IF A LICENSEE OR A LICENSEE'S EMPLOYEE FAILS TO COMPLY WITH A
37 SUBPOENA ISSUED UNDER THIS SECTION, ON PETITION OF THE SECRETARY, A
38 CIRCUIT COURT MAY COMPEL COMPLIANCE WITH THE SUBPOENA.

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1 12-502.

2 A DEALER MAY NOT ACCEPT A MOTORCYCLE, MOTOR VEHICLE, BOAT, OR
3 REAL PROPERTY IN PAWN.

4 [12-502.] 12-503.

5 (a) [A] EXCEPT FOR A VIOLATION OF § 12-305 OF THIS TITLE, A person who
6 willfully or knowingly violates this title is guilty of a misdemeanor and, on conviction, is
7 subject to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

8 (B) A PERSON WHO FAILS TO COMPLY WITH THE REQUIREMENTS OF § 12-305
9 OF THIS TITLE SHALL BE GUILTY OF A FELONY AND, ON CONVICTION, IS SUBJECT TO
10 A FINE NOT EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 15 YEARS OR
11 BOTH.

12 [(b)] (C) Each associate, employee, manager, or partner who participates in or
13 consents to a violation of this title is guilty of a misdemeanor and, on conviction, is subject
14 to a fine not exceeding \$5,000 or imprisonment not exceeding 1 year or both.

15 [(c)] (D) Each violation of this title is a separate offense.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 October 1, 1996.