
By: Delegates Frank, Krysiak, V. Mitchell, and Love

Introduced and read first time: February 2, 1996

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Secondhand Precious Metal Object Dealers**

3 FOR the purpose of establishing a procedure to allow a licensed dealer to change the
4 dealer's place of business; requiring the Secretary of Labor, Licensing, and
5 Regulation to inform each primary law enforcement unit of that change; altering the
6 period of time within which a dealer is required to mail copies of certain records to
7 the primary law enforcement unit; altering the period of time that a dealer is
8 required to keep precious metal objects in the county in which the dealer is
9 licensed; altering the conditions under which a dealer must release to the primary
10 law enforcement unit certain stolen property; altering the conditions under which
11 an item used for evidence is to be returned to the owner or to the dealer; requiring
12 the primary enforcement unit to notify the owner if certain stolen items have been
13 located; establishing procedures for the release of certain stolen items to owners
14 and for the payment of certain costs incurred by the dealer; altering the penalty for
15 doing business as a dealer, other than as a pawnbroker, without a license; making a
16 stylistic change; and generally relating to secondhand precious metal object dealers
17 and pawnbrokers.

18 BY adding to

19 Article - Business Regulation
20 Section 12-207(f) and 12-401.1
21 Annotated Code of Maryland
22 (1992 Volume and 1995 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article - Business Regulation
25 Section 12-212, 12-304, 12-305(a), 12-401, and 12-502
26 Annotated Code of Maryland
27 (1992 Volume and 1995 Supplement)

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

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

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1 **Article - Business Regulation**

2 12-207.

3 (F) (1) A LICENSEE MAY CHANGE THE PLACE OF BUSINESS FOR WHICH A
4 LICENSE IS ISSUED ONLY IF THE LICENSEE:

5 (I) FILES WITH THE SECRETARY A WRITTEN NOTICE OF THE
6 PROPOSED CHANGE; AND

7 (II) RECEIVES THE WRITTEN APPROVAL OF THE SECRETARY.

8 (2) WITHIN 45 DAYS AFTER THE WRITTEN NOTICE IS FILED WITH THE
9 SECRETARY, THE SECRETARY SHALL:

10 (I) SIGN, DATE, AND ENDORSE THE WRITTEN NOTICE AS
11 "APPROVED" OR "REFUSED"; AND

12 (II) FORWARD A COPY OF THE ENDORSED NOTICE TO THE
13 LICENSEE.

14 (3) IF THE SECRETARY APPROVES A PROPOSED CHANGE OF PLACE OF
15 BUSINESS, THE LICENSEE SHALL:

16 (I) SUBMIT TO THE SECRETARY A CURRENT LIST OF NAMES OF
17 EACH EMPLOYEE TO BE EMPLOYED AT THE NEW LOCATION; AND

18 (II) ATTACH THE WRITTEN APPROVAL OF THE SECRETARY TO THE
19 LICENSE UNTIL AN AMENDED LICENSE IS RECEIVED BY THE LICENSEE.

20 12-212.

21 The Secretary shall inform each primary law enforcement unit of each license that
22 is issued, renewed, CHANGED TO A NEW BUSINESS LOCATION, denied, suspended, or
23 revoked.

24 12-304.

25 (a) A [dealer] PAWNBROKER shall submit a copy of each record OF A BUSINESS
26 TRANSACTION THAT DOES NOT INVOLVE THE ACQUISITION OF A SECONDHAND
27 PRECIOUS METAL OBJECT to the primary law enforcement unit by:

28 (1) delivering the copy by 10 a.m. on the next business day after the record
29 is made; or

30 (2) mailing the copy at the end of the business day when the record is made,
31 by [first class] FIRST-CLASS mail, from a post office or mailbox in the county where the
32 [dealer] PAWNBROKER holds a license.

33 (B) A DEALER SHALL SUBMIT A COPY OF EACH RECORD OF A BUSINESS
34 TRANSACTION THAT INVOLVES THE ACQUISITION OF A SECONDHAND PRECIOUS
35 METAL OBJECT TO THE PRIMARY LAW ENFORCEMENT UNIT BY:

36 (1) DELIVERING THE COPY BY 10 A.M. ON THE NEXT BUSINESS DAY
37 AFTER THE RECORD IS MADE; OR

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1 (2) MAILING THE COPY WITHIN 24 HOURS AFTER THE RECORD IS MADE,
2 BY FIRST-CLASS MAIL, FROM A POST OFFICE OR MAILBOX IN THE COUNTY WHERE
3 THE DEALER HOLDS A LICENSE.

4 [(b)] (C) Each copy of a record submitted to the primary law enforcement unit
5 shall include:

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

9 [(c)] (D) A copy of a record submitted under this section:

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

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

16 12-305.

17 (a) A dealer who acquires a precious metal object shall keep it in the county
18 where the dealer holds a license for at least [18] 21 days after submitting a copy of a
19 record of its acquisition under § 12-304 of this subtitle.

20 12-401.

21 (a) This section applies to all [dealers and all] pawnbrokers wherever located in
22 the State FOR EACH BUSINESS TRANSACTION THAT DOES NOT INVOLVE THE
23 ACQUISITION OF A SECONDHAND PRECIOUS METAL OBJECT.

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

- 27 (1) the item is established to have been stolen;
- 28 (2) the owner of the item or victim of the theft has:
 - 29 (i) positively identified the item; or
 - 30 (ii) provided an affidavit of ownership; [and]
- 31 (3) the stolen property report describes the item by:
 - 32 (i) a date;
 - 33 (ii) initials;
 - 34 (iii) an insurance record;

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- 1 (iv) a photograph;
- 2 (v) a sales receipt;
- 3 (vi) a serial number;
- 4 (vii) specific damage;
- 5 (viii) a statement of the facts that show that the item is[1] ONE of a
- 6 kind; or
- 7 (ix) a unique engraving.

8 (c) A [dealer] PAWNBROKER shall retain in the [dealer's] PAWNBROKER'S
9 place of business, for an additional period of 12 days, any item of personal property or
10 other valuable thing, other than securities or printed evidence of indebtedness, if:

- 11 (1) the primary law enforcement unit requests that the [dealer]
12 PAWNBROKER retain the item;
- 13 (2) the primary law enforcement unit has reasonable cause to believe the
14 item has been stolen; and
- 15 (3) the item has not been identified under subsection (b)(2) of this section.

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

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

- 21 (1) the primary law enforcement unit to which the [dealer] PAWNBROKER
22 released the item;
- 23 (2) the owner of the item; or
- 24 (3) the victim of the theft.

25 12-401.1.

26 (A) THIS SECTION APPLIES TO ALL DEALERS WHEREVER LOCATED IN THE
27 STATE FOR EACH BUSINESS TRANSACTION THAT INVOLVES THE ACQUISITION OF A
28 SECONDHAND PRECIOUS METAL OBJECT.

29 (B) A DEALER SHALL RELEASE TO THE PRIMARY LAW ENFORCEMENT UNIT
30 AN ITEM OF PERSONAL PROPERTY, OTHER THAN A SECURITY OR PRINTED
31 EVIDENCE OF INDEBTEDNESS, LOCATED AT THE PLACE OF BUSINESS OF THE
32 DEALER IF:

- 33 (1) THE ITEM IS ESTABLISHED TO HAVE BEEN STOLEN;
- 34 (2) THE OWNER OF THE ITEM OR VICTIM OF THE THEFT HAS:
35 (I) POSITIVELY IDENTIFIED THE ITEM; OR

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1 (II) PROVIDED AN AFFIDAVIT OF OWNERSHIP; AND

2 (3) THE STOLEN PROPERTY REPORT DESCRIBES THE ITEM BY:

3 (I) A DATE;

4 (II) INITIALS;

5 (III) AN INSURANCE RECORD;

6 (IV) A PHOTOGRAPH;

7 (V) A SALES RECEIPT;

8 (VI) A SERIAL NUMBER;

9 (VII) SPECIFIC DAMAGE;

10 (VIII) A STATEMENT OF THE FACTS THAT SHOW THAT THE ITEM IS
11 ONE OF A KIND; OR

12 (IX) A UNIQUE ENGRAVING;

13 (4) THE OWNER OF THE ITEM INITIATES A REQUEST FOR PROSECUTION
14 AND AGREES TO BE A COMPLAINING WITNESS AGAINST THE IDENTIFIED ALLEGED
15 THIEF AND A CHARGING DOCUMENT IS OBTAINED AGAINST THE IDENTIFIED
16 ALLEGED THIEF;

17 (5) THE OWNER OF THE ITEM HAS FILED A SWORN AFFIDAVIT THAT
18 THE ITEM WAS STOLEN AND THAT AT THE TIME IT WAS STOLEN IT WAS THE
19 EXCLUSIVE PROPERTY OF THE OWNER; AND

20 (6) THE PRIMARY LAW ENFORCEMENT UNIT GIVES TO THE DEALER A
21 RECEIPT THAT DESCRIBES THE ITEM AND THAT PROVIDES NOTICE THAT THE
22 DEALER MAY INITIATE PROSECUTION OF THE INDIVIDUAL WHO SOLD THE ITEM TO
23 THE DEALER, OR OTHER IDENTIFIED ALLEGED THIEF, FOR THEFT UNDER ARTICLE
24 27, § 342 OF THE CODE.

25 (C) A DEALER SHALL RETAIN IN THE DEALER'S PLACE OF BUSINESS, FOR AN
26 ADDITIONAL PERIOD OF 12 DAYS, ANY ITEM OF PERSONAL PROPERTY OR OTHER
27 VALUABLE THING, OTHER THAN SECURITIES OR PRINTED EVIDENCE OF
28 INDEBTEDNESS, IF:

29 (1) THE PRIMARY LAW ENFORCEMENT UNIT REQUESTS THAT THE
30 DEALER RETAIN THE ITEM;

31 (2) THE PRIMARY LAW ENFORCEMENT UNIT HAS REASONABLE CAUSE
32 TO BELIEVE THE ITEM HAS BEEN STOLEN; AND

33 (3) THE ITEM HAS NOT BEEN IDENTIFIED UNDER SUBSECTION (B)(2) OF
34 THIS SECTION.

35 (D) EXCEPT AS PROVIDED IN THIS SECTION, WHEN A PRIMARY LAW
36 ENFORCEMENT UNIT NO LONGER NEEDS AN ITEM FOR EVIDENCE, THE PRIMARY
37 LAW ENFORCEMENT UNIT SHALL:

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1 (1) GIVE THE ITEM TO ITS OWNER IF:

2 (I) THE OWNER OF THE ITEM HAS INITIATED A REQUEST FOR
3 PROSECUTION AND AGREES TO BE A COMPLAINING WITNESS AGAINST THE
4 IDENTIFIED ALLEGED THIEF;

5 (II) A CHARGING DOCUMENT IS OBTAINED AGAINST THE
6 IDENTIFIED ALLEGED THIEF; AND

7 (III) THE OWNER OF THE ITEM IS CONTINUING TO PARTICIPATE
8 FULLY IN THE PROSECUTION OF THE IDENTIFIED ALLEGED THIEF; OR

9 (2) RETURN THE ITEM TO THE DEALER IF:

10 (I) THE ALLEGED OWNER HAS NOT INITIATED A REQUEST FOR
11 PROSECUTION OR HAS NOT AGREED TO BE A COMPLAINING WITNESS AGAINST THE
12 IDENTIFIED ALLEGED THIEF;

13 (II) A CHARGING DOCUMENT HAS NOT BEEN OBTAINED AGAINST
14 THE IDENTIFIED ALLEGED THIEF; OR

15 (III) THE ALLEGED OWNER IS NOT CONTINUING TO PARTICIPATE
16 FULLY IN THE PROSECUTION OF THE IDENTIFIED ALLEGED THIEF.

17 (E) A DEALER WHO IS REQUIRED TO RELEASE AN ITEM UNDER THIS SECTION
18 IS NOT ENTITLED TO REIMBURSEMENT FOR ANY PLEDGE OR PURCHASE PRICE PAID
19 FOR THE ITEM FROM THE PRIMARY LAW ENFORCEMENT UNIT TO WHICH THE
20 PAWNBROKER RELEASED THE ITEM.

21 (F) (1) THE PRIMARY LAW ENFORCEMENT UNIT MUST NOTIFY THE
22 ALLEGED OWNER IF AN ITEM HAS BEEN LOCATED THAT MATCHES A STOLEN
23 PROPERTY REPORT FILED BY THE ALLEGED OWNER.

24 (2) TO OBTAIN THE ITEM ALLEGEDLY STOLEN, THE ALLEGED OWNER
25 SHALL PAY THE DEALER THE OUT-OF-POCKET EXPENSES INCURRED BY THE
26 DEALER IN THE ACQUISITION OF THE ALLEGEDLY STOLEN ITEM IN RETURN FOR
27 THE RELEASE OF THE ITEM IF:

28 (I) THE ALLEGED OWNER DOES NOT INITIATE A REQUEST FOR
29 PROSECUTION OR DOES NOT AGREE TO BE A COMPLAINING WITNESS AGAINST THE
30 IDENTIFIED ALLEGED THIEF;

31 (II) A CHARGING DOCUMENT IS NOT OBTAINED AGAINST THE
32 IDENTIFIED ALLEGED THIEF; OR

33 (III) THE ALLEGED OWNER DOES NOT CONTINUE TO PARTICIPATE
34 FULLY IN THE PROSECUTION OF THE IDENTIFIED ALLEGED THIEF.

35 (3) THE DEALER IS NOT REQUIRED TO RELEASE AN ITEM UNDER THIS
36 SUBSECTION TO THE ALLEGED OWNER UNLESS THE DEALER HAS RECEIVED THE
37 OUT-OF-POCKET EXPENSES INCURRED BY THE DEALER FROM THE ALLEGED
38 OWNER WITHIN 60 DAYS AFTER THE DATE THAT THE DEALER SUBMITTED THE

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1 COPY OF THE RECORD OF THE ACQUISITION OF THE ITEM TO THE PRIMARY LAW
2 ENFORCEMENT UNIT.

3 (G) IF THE PRIMARY LAW ENFORCEMENT UNIT HAS GIVEN THE ALLEGED
4 OWNER NOTICE THAT AN ITEM HAS BEEN LOCATED THAT MATCHES A STOLEN
5 PROPERTY REPORT FILED BY THE ALLEGED OWNER AND, WITHIN 60 DAYS AFTER
6 THE DATE THAT THE COPY OF THE RECORD OF THE ACQUISITION OF THE ITEM WAS
7 SUBMITTED BY THE DEALER TO THE PRIMARY LAW ENFORCEMENT UNIT, NO
8 ACTION IS TAKEN TO RECOVER THE ITEM BY THE ALLEGED OWNER, THEN THE
9 DEALER IN POSSESSION OF THE ITEM MAY TREAT THE ITEM AS REGULARLY
10 ACQUIRED IN THE DUE COURSE OF BUSINESS.

11 (H) IF THE ALLEGED OWNER CHOOSES TO PARTICIPATE FULLY IN THE
12 PROSECUTION OF THE IDENTIFIED ALLEGED THIEF, THEN THE CHARGES OF THEFT
13 FROM THE ALLEGED OWNER AND THEFT FROM THE DEALER SHALL BE HEARD IN A
14 JOINT TRIAL.

15 (I) IF THE ALLEGED OWNER INITIATES A REQUEST FOR PROSECUTION AND
16 AGREES TO BE A COMPLAINING WITNESS AGAINST THE IDENTIFIED ALLEGED
17 THIEF, A CHARGING DOCUMENT IS OBTAINED AGAINST THE IDENTIFIED ALLEGED
18 THIEF, AND THE ALLEGED OWNER PARTICIPATES FULLY IN THE PROSECUTION OF
19 THE IDENTIFIED ALLEGED THIEF:

20 (1) THE ITEM SHALL BE RETURNED TO THE ALLEGED OWNER,
21 WHETHER OR NOT THE IDENTIFIED ALLEGED THIEF IS FOUND GUILTY OF THE
22 CHARGE OF THEFT OF THE ITEM; AND

23 (2) THE COURT SHALL ORDER THE DEFENDANT TO PAY THE DEALER
24 THE OUT-OF-POCKET EXPENSES INCURRED BY THE DEALER IN THE ACQUISITION
25 OF THE ITEM, IF THE IDENTIFIED ALLEGED THIEF IS FOUND GUILTY OF THE
26 CHARGE OF THEFT OF THE ITEM.

27 (J) IF THE ALLEGED OWNER INITIATES A REQUEST FOR PROSECUTION AND
28 AGREES TO BE A COMPLAINING WITNESS AGAINST THE IDENTIFIED ALLEGED
29 THIEF, A CHARGING DOCUMENT IS OBTAINED AGAINST THE IDENTIFIED ALLEGED
30 THIEF, AND THE ALLEGED OWNER CHOOSES TO PARTICIPATE FULLY IN THE
31 PROSECUTION OF THE IDENTIFIED ALLEGED THIEF BUT THE STATE CHOOSES NOT
32 TO PROSECUTE THE IDENTIFIED ALLEGED THIEF FOR THE THEFT OF THE ITEM,
33 THEN THE ITEM SHALL BE RETURNED TO THE ALLEGED OWNER.

34 12-502.

35 (a) [A] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS
36 SECTION, A person who willfully or knowingly violates this title is guilty of a misdemeanor
37 and, on conviction, is subject to a fine not exceeding \$5,000 or imprisonment not
38 exceeding 1 year or both.

39 (B) A PERSON WHO WILLFULLY OR KNOWINGLY DOES BUSINESS AS A
40 DEALER, OTHER THAN AS A PAWNBROKER WHO ENGAGES IN A BUSINESS
41 TRANSACTION THAT DOES NOT INVOLVE THE ACQUISITION OF A SECONDHAND
42 PRECIOUS METAL OBJECT, IN THE STATE WITHOUT A LICENSE IS GUILTY OF A

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1 MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$10,000
2 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.

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

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

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