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

Introduced and read first time: February 2, 1996

Assigned to: Economic Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 19, 1996

CHAPTER ____

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 or pawnbroker must release~~
10 ~~to the primary law enforcement unit certain stolen property; altering the conditions~~
11 ~~under which an item used for evidence is to be returned to the owner or to the~~
12 ~~dealer; requiring the primary enforcement unit to notify the owner if certain stolen~~
13 ~~items have been located; establishing procedures for the release of certain stolen~~
14 ~~items to owners and for the payment of certain costs incurred by the dealer; altering~~
15 ~~the penalty for doing business as a dealer, other than as a pawnbroker, without a~~
16 ~~license; clarifying that certain theft charges may be heard in a joint trial; requiring~~
17 a certain person that sells an item to a certain dealer to sign a certain statement
18 under the penalties of perjury; making a stylistic change; and generally relating to
19 secondhand precious metal object dealers and pawnbrokers.

20 BY adding to

- 21 Article - Business Regulation
- 22 Section 12-207(f) and ~~12-401~~ 12-402
- 23 Annotated Code of Maryland
- 24 (1992 Volume and 1995 Supplement)

25 BY repealing and reenacting, with amendments,

- 26 Article - Business Regulation

2

1 Section 12-212, ~~12-304, 12-305(a), 12-401, and 12-502~~ and 12-401
2 Annotated Code of Maryland
3 (1992 Volume and 1995 Supplement)

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

6 **Article - Business Regulation**

7 12-207.

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

10 (I) ~~FILES WITH THE SECRETARY A WRITTEN NOTICE OF THE~~
11 ~~PROPOSED CHANGE~~ SUBMITS TO THE SECRETARY AN APPLICATION TO TRANSFER
12 THE LICENSE TO A NEW BUSINESS LOCATION ON A FORM THAT THE SECRETARY
13 PROVIDES; AND

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

15 (2) WITHIN 45 DAYS AFTER THE WRITTEN NOTICE IS FILED WITH THE
16 SECRETARY, THE SECRETARY SHALL: APPROVE OR DISAPPROVE THE APPLICATION
17 AND NOTIFY THE LICENSEE OF THE APPROVAL OR DISAPPROVAL, IN WRITING.

18 ~~(I) SIGN, DATE, AND ENDORSE THE WRITTEN NOTICE AS~~
19 ~~"APPROVED" OR "REFUSED"; AND~~

20 ~~(II) FORWARD A COPY OF THE ENDORSED NOTICE TO THE~~
21 ~~LICENSEE.~~

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

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

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

28 12-212.

29 The Secretary shall inform each primary law enforcement unit of each license that
30 is issued, renewed, ~~CHANGED TO A NEW BUSINESS LOCATION~~, denied, suspended, or
31 revoked.

32 ~~12-304.~~

33 (a) A ~~dealer~~ PAWNBROKER shall submit a copy of each record OF A BUSINESS
34 TRANSACTION THAT DOES NOT INVOLVE THE ACQUISITION OF A SECONDHAND
35 PRECIOUS METAL OBJECT to the primary 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~~

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

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

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

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

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

14 ~~(1) the license number of the dealer;~~

15 ~~(2) the location of each item listed in the record; and~~

16 ~~(3) the information required under § 12-302 of this subtitle.~~

17 ~~[(e)] (D) A copy of a record submitted under this section:~~

18 ~~(1) shall be kept confidential;~~

19 ~~(2) is not a public record; and~~

20 ~~(3) is not subject to Title 10, Subtitle 6 of the State Government Article.~~

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

24 ~~12-305.~~

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

28 ~~12-401.~~

29 ~~(a) This section applies to all {dealers and all} pawnbrokers wherever located in~~
30 ~~the State FOR EACH BUSINESS TRANSACTION THAT DOES NOT INVOLVE THE~~
31 ~~ACQUISITION OF A SECONDHAND PRECIOUS METAL OBJECT.~~

32 ~~(b) A {dealer or} pawnbroker shall release to the primary law enforcement unit~~
33 ~~an item of personal property, other than a security or printed evidence of indebtedness,~~
34 ~~located at the place of business of the {dealer or} pawnbroker if:~~

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

36 ~~(2) the owner of the item or victim of the theft has:~~

4

1 (+) positively identified the item; ~~or~~

2 ~~(ii) provided an affidavit of ownership; [and]~~

3 (3) THE OWNER OF THE ITEM OR THE AGENT OR DESIGNEE OF THE
4 OWNER HAS PROVIDED AN AFFIDAVIT OF OWNERSHIP;

5 ~~(3)~~ (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[1] ONE of a
14 kind; or

15 (ix) a unique engraving- ; AND

16 (5) THE PRIMARY LAW ENFORCEMENT UNIT PROVIDES TO THE DEALER
17 OR PAWNBROKER A RECEIPT THAT DESCRIBES THE ITEM AND THAT NOTIFIES THE
18 DEALER OR PAWNBROKER OF THE DEALER'S OR PAWNBROKER'S RIGHT TO FILE AN
19 APPLICATION FOR A STATEMENT OF CHARGES AGAINST THE INDIVIDUAL WHO
20 SOLD THE ITEM TO THE DEALER OR PAWNBROKER, OR OTHER ALLEGED THIEF FOR
21 THEFT UNDER ARTICLE 27, § 342 OF THE CODE.

22 (c) A {dealer} ~~PAWNBROKER~~ shall retain in the {dealer's} ~~PAWNBROKER'S~~
23 place of business, for an additional period of 12 days, any item of personal property or
24 other valuable thing, other than securities or printed evidence of indebtedness, if:

25 (1) the primary law enforcement unit requests that the {dealer}
26 ~~PAWNBROKER~~ retain the item;

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

29 (3) the item has not been identified under subsection (b)(2) of this section.

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

32 (e) A {dealer or} pawnbroker who is required to release an item under this
33 section is not entitled to reimbursement for any pledge or purchase price paid for the
34 item from:

35 (1) the primary law enforcement unit to which the {dealer} ~~PAWNBROKER~~
36 released the item;

5

1 (2) the owner of the item; or

2 (3) the victim of the theft.

3 (F) IF THE OWNER OF THE ITEM OR THE VICTIM OF THE THEFT CHOOSES TO
4 PARTICIPATE IN THE PROSECUTION OF THE ALLEGED IDENTIFIED THIEF, THEN THE
5 CHARGES OF THEFT FROM THE OWNER OR THE VICTIM OF THE THEFT AND THE
6 CHARGES OF THEFT FROM THE DEALER OR PAWNBROKER MAY BE HEARD IN A
7 JOINT TRIAL.

8 ~~12-401.1.~~

9 ~~(A) THIS SECTION APPLIES TO ALL DEALERS WHEREVER LOCATED IN THE~~
10 ~~STATE FOR EACH BUSINESS TRANSACTION THAT INVOLVES THE ACQUISITION OF A~~
11 ~~SECONDHAND PRECIOUS METAL OBJECT.~~

12 ~~(B) A DEALER SHALL RELEASE TO THE PRIMARY LAW ENFORCEMENT UNIT~~
13 ~~AN ITEM OF PERSONAL PROPERTY, OTHER THAN A SECURITY OR PRINTED~~
14 ~~EVIDENCE OF INDEBTEDNESS, LOCATED AT THE PLACE OF BUSINESS OF THE~~
15 ~~DEALER IF:~~

16 ~~(1) THE ITEM IS ESTABLISHED TO HAVE BEEN STOLEN;~~

17 ~~(2) THE OWNER OF THE ITEM OR VICTIM OF THE THEFT HAS:~~

18 ~~(I) POSITIVELY IDENTIFIED THE ITEM; OR~~

19 ~~(II) PROVIDED AN AFFIDAVIT OF OWNERSHIP; AND~~

20 ~~(3) THE STOLEN PROPERTY REPORT DESCRIBES THE ITEM BY:~~

21 ~~(I) A DATE;~~

22 ~~(II) INITIALS;~~

23 ~~(III) AN INSURANCE RECORD;~~

24 ~~(IV) A PHOTOGRAPH;~~

25 ~~(V) A SALES RECEIPT;~~

26 ~~(VI) A SERIAL NUMBER;~~

27 ~~(VII) SPECIFIC DAMAGE;~~

28 ~~(VIII) A STATEMENT OF THE FACTS THAT SHOW THAT THE ITEM IS~~
29 ~~ONE OF A KIND; OR~~

30 ~~(IX) A UNIQUE ENGRAVING;~~

31 ~~(4) THE OWNER OF THE ITEM INITIATES A REQUEST FOR PROSECUTION~~
32 ~~AND AGREES TO BE A COMPLAINING WITNESS AGAINST THE IDENTIFIED ALLEGED~~
33 ~~THIEF AND A CHARGING DOCUMENT IS OBTAINED AGAINST THE IDENTIFIED~~
34 ~~ALLEGED THIEF;~~

1 ~~(5) THE OWNER OF THE ITEM HAS FILED A SWORN AFFIDAVIT THAT~~
2 ~~THE ITEM WAS STOLEN AND THAT AT THE TIME IT WAS STOLEN IT WAS THE~~
3 ~~EXCLUSIVE PROPERTY OF THE OWNER; AND~~

4 ~~(6) THE PRIMARY LAW ENFORCEMENT UNIT GIVES TO THE DEALER A~~
5 ~~RECEIPT THAT DESCRIBES THE ITEM AND THAT PROVIDES NOTICE THAT THE~~
6 ~~DEALER MAY INITIATE PROSECUTION OF THE INDIVIDUAL WHO SOLD THE ITEM TO~~
7 ~~THE DEALER, OR OTHER IDENTIFIED ALLEGED THIEF, FOR THEFT UNDER ARTICLE~~
8 ~~27, § 342 OF THE CODE.~~

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

13 ~~(1) THE PRIMARY LAW ENFORCEMENT UNIT REQUESTS THAT THE~~
14 ~~DEALER RETAIN THE ITEM;~~

15 ~~(2) THE PRIMARY LAW ENFORCEMENT UNIT HAS REASONABLE CAUSE~~
16 ~~TO BELIEVE THE ITEM HAS BEEN STOLEN; AND~~

17 ~~(3) THE ITEM HAS NOT BEEN IDENTIFIED UNDER SUBSECTION (B)(2) OF~~
18 ~~THIS SECTION.~~

19 ~~(D) EXCEPT AS PROVIDED IN THIS SECTION, WHEN A PRIMARY LAW~~
20 ~~ENFORCEMENT UNIT NO LONGER NEEDS AN ITEM FOR EVIDENCE, THE PRIMARY~~
21 ~~LAW ENFORCEMENT UNIT SHALL:~~

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

23 ~~(I) THE OWNER OF THE ITEM HAS INITIATED A REQUEST FOR~~
24 ~~PROSECUTION AND AGREES TO BE A COMPLAINING WITNESS AGAINST THE~~
25 ~~IDENTIFIED ALLEGED THIEF;~~

26 ~~(II) A CHARGING DOCUMENT IS OBTAINED AGAINST THE~~
27 ~~IDENTIFIED ALLEGED THIEF; AND~~

28 ~~(III) THE OWNER OF THE ITEM IS CONTINUING TO PARTICIPATE~~
29 ~~FULLY IN THE PROSECUTION OF THE IDENTIFIED ALLEGED THIEF; OR~~

30 ~~(2) RETURN THE ITEM TO THE DEALER IF:~~

31 ~~(I) THE ALLEGED OWNER HAS NOT INITIATED A REQUEST FOR~~
32 ~~PROSECUTION OR HAS NOT AGREED TO BE A COMPLAINING WITNESS AGAINST THE~~
33 ~~IDENTIFIED ALLEGED THIEF;~~

34 ~~(II) A CHARGING DOCUMENT HAS NOT BEEN OBTAINED AGAINST~~
35 ~~THE IDENTIFIED ALLEGED THIEF; OR~~

36 ~~(III) THE ALLEGED OWNER IS NOT CONTINUING TO PARTICIPATE~~
37 ~~FULLY IN THE PROSECUTION OF THE IDENTIFIED ALLEGED THIEF.~~

38 ~~(E) A DEALER WHO IS REQUIRED TO RELEASE AN ITEM UNDER THIS SECTION~~
39 ~~IS NOT ENTITLED TO REIMBURSEMENT FOR ANY PLEDGE OR PURCHASE PRICE PAID~~

1 FOR THE ITEM FROM THE PRIMARY LAW ENFORCEMENT UNIT TO WHICH THE
2 PAWNBROKER RELEASED THE ITEM.

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

6 ~~(2) TO OBTAIN THE ITEM ALLEGEDLY STOLEN, THE ALLEGED OWNER
7 SHALL PAY THE DEALER THE OUT-OF-POCKET EXPENSES INCURRED BY THE
8 DEALER IN THE ACQUISITION OF THE ALLEGEDLY STOLEN ITEM IN RETURN FOR
9 THE RELEASE OF THE ITEM IF:~~

10 ~~(I) THE ALLEGED OWNER DOES NOT INITIATE A REQUEST FOR
11 PROSECUTION OR DOES NOT AGREE TO BE A COMPLAINING WITNESS AGAINST THE
12 IDENTIFIED ALLEGED THIEF;~~

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

15 ~~(III) THE ALLEGED OWNER DOES NOT CONTINUE TO PARTICIPATE
16 FULLY IN THE PROSECUTION OF THE IDENTIFIED ALLEGED THIEF.~~

17 ~~(3) THE DEALER IS NOT REQUIRED TO RELEASE AN ITEM UNDER THIS
18 SUBSECTION TO THE ALLEGED OWNER UNLESS THE DEALER HAS RECEIVED THE
19 OUT-OF-POCKET EXPENSES INCURRED BY THE DEALER FROM THE ALLEGED
20 OWNER WITHIN 60 DAYS AFTER THE DATE THAT THE DEALER SUBMITTED THE
21 COPY OF THE RECORD OF THE ACQUISITION OF THE ITEM TO THE PRIMARY LAW
22 ENFORCEMENT UNIT.~~

23 ~~(G) IF THE PRIMARY LAW ENFORCEMENT UNIT HAS GIVEN THE ALLEGED
24 OWNER NOTICE THAT AN ITEM HAS BEEN LOCATED THAT MATCHES A STOLEN
25 PROPERTY REPORT FILED BY THE ALLEGED OWNER AND, WITHIN 60 DAYS AFTER
26 THE DATE THAT THE COPY OF THE RECORD OF THE ACQUISITION OF THE ITEM WAS
27 SUBMITTED BY THE DEALER TO THE PRIMARY LAW ENFORCEMENT UNIT, NO
28 ACTION IS TAKEN TO RECOVER THE ITEM BY THE ALLEGED OWNER, THEN THE
29 DEALER IN POSSESSION OF THE ITEM MAY TREAT THE ITEM AS REGULARLY
30 ACQUIRED IN THE DUE COURSE OF BUSINESS.~~

31 ~~(H) IF THE ALLEGED OWNER CHOOSES TO PARTICIPATE FULLY IN THE
32 PROSECUTION OF THE IDENTIFIED ALLEGED THIEF, THEN THE CHARGES OF THEFT
33 FROM THE ALLEGED OWNER AND THEFT FROM THE DEALER SHALL BE HEARD IN A
34 JOINT TRIAL.~~

35 ~~(I) IF THE ALLEGED OWNER INITIATES A REQUEST FOR PROSECUTION AND
36 AGREES TO BE A COMPLAINING WITNESS AGAINST THE IDENTIFIED ALLEGED
37 THIEF, A CHARGING DOCUMENT IS OBTAINED AGAINST THE IDENTIFIED ALLEGED
38 THIEF, AND THE ALLEGED OWNER PARTICIPATES FULLY IN THE PROSECUTION OF
39 THE IDENTIFIED ALLEGED THIEF:~~

40 ~~(1) THE ITEM SHALL BE RETURNED TO THE ALLEGED OWNER,
41 WHETHER OR NOT THE IDENTIFIED ALLEGED THIEF IS FOUND GUILTY OF THE
42 CHARGE OF THEFT OF THE ITEM; AND~~

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

5 ~~(J) IF THE ALLEGED OWNER INITIATES A REQUEST FOR PROSECUTION AND~~
6 ~~AGREES TO BE A COMPLAINING WITNESS AGAINST THE IDENTIFIED ALLEGED~~
7 ~~THIEF, A CHARGING DOCUMENT IS OBTAINED AGAINST THE IDENTIFIED ALLEGED~~
8 ~~THIEF, AND THE ALLEGED OWNER CHOOSES TO PARTICIPATE FULLY IN THE~~
9 ~~PROSECUTION OF THE IDENTIFIED ALLEGED THIEF BUT THE STATE CHOOSES NOT~~
10 ~~TO PROSECUTE THE IDENTIFIED ALLEGED THIEF FOR THE THEFT OF THE ITEM,~~
11 ~~THEN THE ITEM SHALL BE RETURNED TO THE ALLEGED OWNER.~~

12 ~~12-502.~~

13 ~~(a) [A] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS~~
14 ~~SECTION, A PERSON WHO WILLFULLY OR KNOWINGLY VIOLATES THIS TITLE IS GUILTY OF A MISDEMEANOR~~
15 ~~AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$5,000 OR IMPRISONMENT NOT~~
16 ~~EXCEEDING 1 YEAR OR BOTH.~~

17 ~~(B) A PERSON WHO WILLFULLY OR KNOWINGLY DOES BUSINESS AS A~~
18 ~~DEALER, OTHER THAN AS A PAWNBROKER WHO ENGAGES IN A BUSINESS~~
19 ~~TRANSACTION THAT DOES NOT INVOLVE THE ACQUISITION OF A SECONDHAND~~
20 ~~PRECIOUS METAL OBJECT, IN THE STATE WITHOUT A LICENSE IS GUILTY OF A~~
21 ~~MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$10,000~~
22 ~~OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH.~~

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

26 ~~[(e)] (D) Each violation of this title is a separate offense.~~

27 ~~12-402.~~

28 A PERSON THAT SELLS AN ITEM TO A DEALER SHALL SIGN A STATEMENT,
29 UNDER THE PENALTIES OF PERJURY, THAT THE PERSON IS THE OWNER OF THE
30 ITEM.

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