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HB 440/96 - ECM

1997 Regular Session  
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**By: Chairman, Economic and Environmental Affairs Committee (Departmental - Labor, Licensing and Regulation)**

Introduced and read first time: January 27, 1997

Rule 32(e) suspended

Assigned to: Economic and Environmental Affairs

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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; altering certain required  
6 statements on the application form for a certain license; requiring certain proof  
7 before issuance of a license; prohibiting the issuance of a certain license to a minor;  
8 requiring certain notice to law enforcement units prior to engaging in transactions  
9 at a location other than the business address; establishing a procedure whereby the  
10 Secretary may require submission of a national and State criminal history check;  
11 authorizing the Secretary to deny, suspend, or revoke a license or reprimand a  
12 licensee, under certain circumstances, for employing an individual whose  
13 secondhand precious metal dealer's license has been revoked; altering the  
14 requirements for submitting certain records to primary law enforcement units;  
15 requiring the submission of certain records to local law enforcement units under  
16 certain circumstances; establishing a procedure through which the Secretary may  
17 obtain a restraining order or an administrative subpoena; prohibiting transactions  
18 with minors; clarifying that an object is a precious metal object under certain  
19 conditions; altering the place at which a dealer must hold a certain precious metal  
20 object under certain circumstances; establishing a time period within which a  
21 precious metal object, or a record of such acquisition is to be delivered to the  
22 storage facility; establishing grounds and procedures by which law enforcement  
23 officials may obtain a search warrant; authorizing the Secretary to impose certain  
24 civil penalties for certain violations; altering certain criminal penalties for certain  
25 violations; defining certain terms; and generally relating to secondhand precious  
26 metal object dealers and pawnbrokers.

27 BY repealing and reenacting, with amendments,

28 Article - Business Regulation

29 Section 12-101, 12-202, 12-205, 12-206, 12-207, 12-209, 12-301, 12-304 through  
30 12-306, inclusive, and 12-502

31 Annotated Code of Maryland

32 (1992 Volume and 1996 Supplement)

1 BY adding to  
2 Article - Business Regulation  
3 Section 12-403  
4 Annotated Code of Maryland  
5 (1992 Volume and 1996 Supplement)

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

8 **Article - Business Regulation**

9 12-101.

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

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

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

17 (c) "Employee" means an individual who is employed by a dealer or pawnbroker  
18 to buy, sell, or supervise directly the buying or selling of secondhand precious metal  
19 objects.

20 (D) "FIXED BUSINESS ADDRESS" MEANS A SINGLE PHYSICAL LOCATION  
21 WHERE A LICENSEE REGULARLY CONDUCTS BUSINESS AND AT WHICH THE  
22 LICENSEE OR AN EMPLOYEE OF THE LICENSEE IS PHYSICALLY PRESENT:

23 (1) DURING NORMAL BUSINESS HOURS; OR

24 (2) OTHER HOURS AS PROVIDED IN THE APPLICATION FOR THE  
25 LICENSE WHICH ARE SUFFICIENT TO PROVIDE AN AUTHORIZED LAW  
26 ENFORCEMENT OFFICER OR AGENT ACCESS TO THE LICENSEE'S PLACE OF BUSINESS  
27 AS PROVIDED IN § 12-306 OF THIS TITLE.

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

30 (F) "LOCAL LAW ENFORCEMENT UNIT" MEANS THE DEPARTMENT OF STATE  
31 POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY RESOLUTION OF  
32 THE COUNTY GOVERNING BODY, WITH JURISDICTION OVER ANY PLACE WHERE A  
33 DEALER TRANSACTS BUSINESS OTHER THAN THE DEALER'S FIXED BUSINESS  
34 ADDRESS.

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

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

3

1 [(g)] (I) "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 paragraph (1) of this subsection or  
10 any alloy of a precious metal; or

11 (3) an object that is composed of a precious metal listed in paragraph (1) of  
12 this 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 [(h)] (J) "Primary law enforcement unit" means the Department of State Police,  
17 a police department, or sheriff, as designated by resolution of the county governing body  
18 in the county in which the license is held.

19 12-202.

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

21 (i) submit to the Secretary an application on the form that the  
22 Secretary provides; and

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

24 (2) The application fee is nonrefundable.

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

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

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

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

32 [(ii)] (2) the fixed BUSINESS address [of the business] of the  
33 applicant;

4

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

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

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

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

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

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

17 "If issued a license, I agree to allow a municipal, county, or State police officer  
18 acting in the course of a stolen property investigation OR AN INVESTIGATION OF A  
19 VIOLATION OF THIS TITLE to inspect and photograph all precious metal objects and  
20 records at my business or storage locations."

21 12-205.

22 (a) [The] UPON RECEIPT OF A COMPLETE FEDERAL AND STATE CRIMINAL  
23 RECORD REPORT FROM THE CENTRAL REPOSITORY IN ACCORDANCE WITH § 12-204  
24 OF THIS SUBTITLE, THE Secretary shall issue a license to each applicant who meets the  
25 requirements of this subtitle.

26 (b) The Secretary:

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

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

29 (i) a hotel or motel room;

30 (ii) a motor vehicle; or

31 (iii) a post office box; OR

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

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

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

5

1 (E) WHENEVER A LICENSE IS SUSPENDED OR REVOKED, ANOTHER LICENSE  
2 MAY NOT BE ISSUED TO A DEALER FOR THE SAME BUSINESS LOCATION UNLESS THE  
3 APPLICANT PROVIDES THE DOCUMENTATION AND INFORMATION, WHICH THE  
4 SECRETARY ESTABLISHES BY REGULATION, IS NECESSARY TO DEMONSTRATE THAT  
5 THE APPLICANT WILL BE ENGAGING IN A BUSINESS WHICH IS SEPARATE AND  
6 INDEPENDENT FROM THE BUSINESS OF THE REVOKED OR SUSPENDED LICENSE.

7 12-206.

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

10 (b) Notwithstanding subsection (a) of this section, AND EXCEPT AS PROVIDED  
11 IN SUBSECTION (C) OF THIS SECTION, a dealer who holds a license under this subtitle  
12 may:

13 (1) [operate] TRANSACT BUSINESS AS A DEALER for up to 7 consecutive  
14 days at an [auction, convention, sale, or show] EVENT THAT TAKES PLACE AT A  
15 LOCATION OTHER THAN THE FIXED BUSINESS ADDRESS AT WHICH A TRANSACTION  
16 MAY OCCUR after giving written notice AT LEAST 7 DAYS IN ADVANCE OF THE EVENT  
17 TO THE PRIMARY LAW ENFORCEMENT UNIT AND to the local law enforcement unit  
18 with jurisdiction over the place where the [auction, convention, sale, or show] EVENT  
19 will be held;

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

21 (3) transact business at the residence of the owner of a precious metal  
22 object or a place where the owner keeps OR DISPLAYS a precious metal object:

23 (i) on request of the owner; and

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

26 (C) A DEALER IS NOT REQUIRED TO COMPLY WITH SUBSECTION (B)(1) OF  
27 THIS SECTION UNLESS THE DEALER, OR THE DEALER'S EMPLOYEE OR AGENT, HAS  
28 ACQUIRED SPACE AT A LOCATION OTHER THAN THE FIXED BUSINESS ADDRESS AT  
29 WHICH A TRANSACTION MAY OCCUR OR HAS PUBLISHED NOTICE OF OR  
30 ADVERTISED THE EVENT BY ANY MEANS.

31 12-207.

32 (a) Unless a license is renewed for a 2-year term as provided in this section, the  
33 license expires on the first April 30 that comes:

34 (1) after the effective date of the license; and

35 (2) in an even-numbered year.

36 (b) At least 1 month before a license expires, the Secretary shall mail to the  
37 licensee, at the last known address of the licensee:

38 (1) a renewal application form; and

6

1 (2) a notice that states:

2 (i) the date on which the current license expires;

3 (ii) the date by which the Secretary must receive the renewal  
4 application for the renewal to be issued and mailed before the license expires; and

5 (iii) the amount of the renewal fee.

6 (c) Before a license expires, the licensee periodically may renew it for an  
7 additional 2-year term, if the licensee:

8 (1) submits to the Secretary a renewal application on the form that the  
9 Secretary provides;

10 (2) signs the renewal application under oath;

11 (3) updates the information submitted in the original application and states  
12 that the information is current;

13 (4) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, agrees  
14 to comply with each requirement applicable to the original application;

15 (5) states that the licensee:

16 (i) has not violated this title;

17 (ii) has not been convicted of an offense specified in § 12-209 of this  
18 subtitle; and

19 (iii) has not had a similar license denied, suspended, or revoked in  
20 another jurisdiction;

21 (6) otherwise is entitled to be licensed; and

22 (7) pays to the Secretary a renewal fee of \$300.

23 (D) THE SECRETARY MAY REQUIRE A LICENSEE TO SUBMIT A NATIONAL AND  
24 STATE CRIMINAL HISTORY CHECK WITH THE RENEWAL APPLICATION;

25 [(d)] (E) The Secretary shall renew the license of each licensee who meets the  
26 requirements of this section.

27 [(e)] (F) A license is not transferable.

28 [(f)] (G) (1) A licensee may change the place of business for which a license is  
29 issued only if the licensee:

30 (i) submits to the Secretary an application to transfer the license to a  
31 new business location on a form that the Secretary provides; and

32 (ii) receives the written approval of the Secretary.

33 (2) Within 45 days after the written notice is filed with the Secretary, the  
34 Secretary shall approve or disapprove the application and notify the licensee of the  
35 approval or disapproval, in writing.

7

1 (3) If the Secretary approves a proposed change of place of business, the  
2 licensee shall:

3 (i) submit to the Secretary a current list of names of each employee to  
4 be employed at the new location; and

5 (ii) attach the written approval of the Secretary to the license until an  
6 amended license is received by the licensee.

7 12-209.

8 (a) (1) [In] EXCEPT AS OTHERWISE PROVIDED, IN this subsection, a dealer's  
9 or applicant's agents, employees, management personnel, or partners include only those  
10 individuals who are directly involved in pawn transactions or the acquisition or sale of  
11 secondhand precious metals on behalf of the dealer or applicant.

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

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

18 (ii) fraudulently or deceptively uses a license;

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

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

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

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

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

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

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

33 (b) (1) If a licensee is charged with a violation of this title that could result in  
34 suspension or revocation of the license, OR IF THE SECRETARY HAS PROBABLE CAUSE  
35 TO BELIEVE THAT THIS TITLE HAS BEEN, OR WILL BE, VIOLATED THROUGH  
36 TRANSACTIONS LIKELY TO OCCUR PURSUANT TO § 12-206 OF THIS SUBTITLE, the  
37 Secretary may seek from a circuit court an immediate restraining order to prohibit the  
38 licensee from:

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

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

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

7 (III) IN THE CASE OF AN EVENT HELD IN ACCORDANCE WITH §  
8 12-206 OF THIS SUBTITLE, ARRANGEMENTS ARE MADE BY THE LICENSEE WHICH  
9 WILL ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS TITLE.

10 12-301.

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

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

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

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

20 (3) buying the following items for the purpose of resale:

- 21 (i) binoculars;
- 22 (ii) cameras;
- 23 (iii) firearms;
- 24 (iv) furs;
- 25 (v) household appliances;
- 26 (vi) musical instruments;
- 27 (vii) office machines or equipment;
- 28 (viii) radios, televisions, videodisc machines, videocassette recorders,  
29 and stereo equipment;
- 30 (ix) personal computers, tapes, and disc recorders;
- 31 (x) watches;
- 32 (xi) bicycles; and
- 33 (xii) tangible personal property pledged as collateral.



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

4 (d) A separate record entry shall be made for each item involved in a transaction.  
5 However, items in a matching set may be recorded as a set if acquired in a single  
6 transaction.

7 (e) The dealer shall tag each item individually with a number that corresponds to  
8 the transaction under which it was acquired. However, items acquired in a matching set  
9 may be tagged as a set.

10 (F) FOR THE PURPOSES OF THIS SUBTITLE, THERE IS A PRESUMPTION THAT  
11 AN OBJECT IS A PRECIOUS METAL OBJECT IF:

12 (1) IT REASONABLY APPEARS TO BE A PRECIOUS METAL OBJECT; AND

13 (2) IT WAS RECEIVED BY A DEALER IN THE COURSE OF BUSINESS OR IS  
14 FOUND IN THE PLACE OF BUSINESS OR STORAGE FACILITY OF A DEALER.

15 12-304.

16 [(a) A dealer shall submit a copy of each record to the primary law enforcement  
17 unit by:

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

20 (2) mailing the copy at the end of the business day when the record is made,  
21 by first class mail, from a post office or mailbox in the county where the dealer holds a  
22 license.]

23 (A) (1) A DEALER SHALL SUBMIT A COPY OF EACH RECORD TO THE  
24 PRIMARY LAW ENFORCEMENT UNIT IN ACCORDANCE WITH SUBSECTION (B) OF THIS  
25 SECTION.

26 (2) IF THE DEALER TRANSACTS BUSINESS IN ACCORDANCE WITH §  
27 12-206(B) OF THIS TITLE, THE DEALER ALSO SHALL SUBMIT A COPY OF THE RECORDS  
28 TO THE LOCAL LAW ENFORCEMENT UNIT IN ACCORDANCE WITH SUBSECTION (B) OF  
29 THIS SECTION.

30 (B) THE DEALER SHALL SUBMIT THE RECORDS BY DELIVERING OR MAILING  
31 A COPY OF THE RECORDS BY THE END OF THE NEXT BUSINESS DAY AFTER THE DAY  
32 ON WHICH THE ITEM WAS ACQUIRED.

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

35 (1) the license number of the dealer;

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

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

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

10

1 (1) shall be kept confidential;

2 (2) is not a public record; and

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

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

7 12-305.

8 (a) (1) [A] EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, A dealer  
9 who acquires a precious metal object OR ITEM OF PERSONAL PROPERTY shall keep it in  
10 the county where the dealer holds a license FROM THE TIME OF ACQUISITION UNTIL  
11 [for] at least 18 days after submitting a copy of a record of its acquisition under § 12-304  
12 of this subtitle.

13 (2) A DEALER WHO ACQUIRES A PRECIOUS METAL OBJECT OR ITEM OF  
14 PERSONAL PROPERTY AT AN EVENT WHICH TAKES PLACE AT A LOCATION OTHER  
15 THAN THE DEALER'S FIXED BUSINESS ADDRESS SHALL PLACE THE OBJECT AND A  
16 RECORD OF ITS ACQUISITION AT A LOCATION IN ACCORDANCE WITH SUBSECTION  
17 (D)(1) OR (2) OF THIS SECTION BY THE NEXT BUSINESS DAY AFTER ACQUIRING THE  
18 OBJECT.

19 (3) IN PARTIAL COMPLIANCE WITH THE 18-DAY HOLDING  
20 REQUIREMENT UNDER THIS SUBSECTION, A DEALER MAY MAINTAIN AN OBJECT  
21 AND THE RECORD OF ITS ACQUISITION AT A LOCATION OTHER THAN THE DEALER'S  
22 FIXED BUSINESS ADDRESS, IF THE LOCAL LAW ENFORCEMENT UNIT IN THE  
23 JURISDICTION WHERE THE ITEM WAS ACQUIRED PROVIDES WRITTEN APPROVAL.

24 (b) (1) A dealer may submit to the primary law enforcement unit a written  
25 request for a shorter holding period for a specific precious metal object.

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

28 (3) After inspecting the precious metal object, the primary law enforcement  
29 unit may authorize in writing a shorter holding period.

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

32 (c) (1) Except as provided in paragraph (2) of this subsection, a dealer may not  
33 alter a precious metal object before or during the 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.

37 (d) During the holding period for a precious metal object, a dealer shall keep the  
38 precious metal object and the record of its acquisition in:

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

11

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

2 12-306.

3 (a) A dealer shall allow an authorized law enforcement officer OR AGENT, on  
4 request, to enter the place of business or storage premises of the dealer during business  
5 hours to inspect a record REQUIRED TO BE MAINTAINED UNDER THIS TITLE or  
6 precious metal object as part of a stolen property investigation OR AN INVESTIGATION  
7 OF A VIOLATION OF THIS TITLE.

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

10 (2) If the dealer refuses to allow access or produce the record or precious  
11 metal object for inspection, the officer OR AGENT shall seek a search warrant.

12 (3) A WARRANT AUTHORIZING AN ADMINISTRATIVE INSPECTION FOR  
13 POSSIBLE REGULATORY VIOLATIONS SHALL BE ISSUED IF THE OFFICER OR AGENT  
14 ESTABLISHES PROBABLE CAUSE FOR THE SELECTION OF THE PLACE OF BUSINESS IN  
15 QUESTION FOR INSPECTION AND THAT THE INSPECTION WILL BE REASONABLY  
16 LIMITED IN TIME, PLACE, AND SCOPE.

17 (C) A DEALER WHO REFUSES TO ALLOW ACCESS OR TO PRODUCE RECORDS,  
18 PRECIOUS METAL OBJECTS FOR INSPECTION ON REQUEST, SHALL BE SUBJECT TO  
19 THE PROVISIONS OF § 12-209 OF THIS TITLE AND, IN ADDITION, MAY BE ASSESSED A  
20 CIVIL PENALTY AS PROVIDED IN SUBSECTION (D) OF THIS SECTION.

21 (D) (1) THE SECRETARY MAY IMPOSE ON A LICENSEE WHO VIOLATES THIS  
22 SECTION A CIVIL PENALTY NOT EXCEEDING \$500 FOR EACH VIOLATION.

23 (2) IN SETTING THE AMOUNT OF A CIVIL PENALTY UNDER THIS  
24 SUBSECTION, THE SECRETARY SHALL CONSIDER:

25 (I) THE SERIOUSNESS OF THE VIOLATION;

26 (II) THE GOOD FAITH OF THE VIOLATOR;

27 (III) ANY PREVIOUS VIOLATIONS;

28 (IV) THE HARMFUL EFFECT OF THE VIOLATION ON THE  
29 COMPLAINANT, THE PUBLIC, AND THE BUSINESS OF THE DEALER OR PAWNBROKER;  
30 AND

31 (V) ANY OTHER RELEVANT FACTORS.

32 12-403.

33 (A) IF THERE IS PROBABLE CAUSE TO BELIEVE THAT A VIOLATION OF THIS  
34 TITLE HAS OCCURRED, THE SECRETARY SHALL HAVE THE AUTHORITY TO ISSUE  
35 SUBPOENAS FOR RECORDS, REPORTS, OR ARTICLES IN CONNECTION WITH ANY  
36 INVESTIGATION OR ADMINISTRATIVE PROCEEDING UNDER THIS TITLE.

12

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

4 12-502.

5 (a) A person who willfully or knowingly violates this title is guilty of a  
6 misdemeanor and, on conviction, is subject to a fine not exceeding [~~\$5,000~~] \$10,000 or  
7 imprisonment not exceeding [1 year] 2 YEARS or both.

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

11 (c) Each violation of this title is a separate offense.

12 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
13 October 1, 1997.