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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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 12, 1997

CHAPTER _____

1 AN ACT concerning

2 **Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act -**
3 **Amendments**

4 FOR the purpose of establishing procedures for storing or holding precious metal objects
5 or personal property at a location other than the business address; requiring that
6 those locations be accessible to law enforcement units and certain agents; expanding
7 the definition of "primary law enforcement unit" to include certain units designated
8 in a certain manner by certain municipal governing bodies; altering certain required
9 statements on the application form for a certain license; requiring certain proof
10 before issuance of a license; prohibiting the issuance of a certain license to a minor;
11 requiring certain notice to law enforcement units prior to engaging in transactions
12 at a location other than the business address; establishing a procedure whereby the
13 Secretary of Labor, Licensing, and Regulation may require submission of a national
14 and State criminal history check; authorizing the Secretary to deny, suspend, or
15 revoke a license or reprimand a licensee, under certain circumstances, for
16 employing an individual whose secondhand precious metal dealer's license has been
17 revoked; requiring the Secretary to distribute a certain list to dealers; requiring the
18 Secretary to provide a certain list to dealers under certain circumstances; altering
19 the requirements for submitting certain records to primary law enforcement units;
20 requiring the submission of certain records to local law enforcement units under
21 certain circumstances; requiring the records submitted to certain local law
22 enforcement units to include certain information; establishing a procedure through
23 which the Secretary may obtain a restraining order or an administrative subpoena;
24 ~~prohibiting transactions with minors~~; clarifying that an object is a precious metal
25 object under certain conditions; altering the place at which a dealer must hold a
26 certain precious metal object under certain circumstances; establishing a time

2
1 period within which a precious metal object, or a record of such acquisition is to be
2 delivered to the storage facility; establishing grounds and procedures by which law
3 enforcement officials may obtain a search warrant; authorizing the Secretary to
4 impose certain civil penalties for certain violations; altering certain criminal
5 penalties for certain violations; defining certain terms; providing for the application
6 of certain provisions of this Act; and generally relating to ~~secondhand precious~~
7 ~~metal object dealers and pawnbrokers~~ the Maryland Secondhand Precious Metal
8 Object Dealers and Pawnbrokers Act.

9 BY repealing and reenacting, with amendments,
10 Article - Business Regulation
11 Section 12-101, 12-202, 12-205, 12-206, 12-207, 12-209, 12-301, 12-304 through
12 12-306, inclusive, and 12-502
13 Annotated Code of Maryland
14 (1992 Volume and 1996 Supplement)

15 BY adding to
16 Article - Business Regulation
17 Section 12-403
18 Annotated Code of Maryland
19 (1992 Volume and 1996 Supplement)

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

22 **Article - Business Regulation**

23 12-101.

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

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

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

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

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

37 (1) DURING NORMAL BUSINESS HOURS; OR

38 (2) OTHER HOURS AS PROVIDED IN THE APPLICATION FOR THE
39 LICENSE WHICH ARE SUFFICIENT TO PROVIDE AN AUTHORIZED LAW

3
1 ENFORCEMENT OFFICER OR AGENT ACCESS TO THE LICENSEE'S PLACE OF BUSINESS
2 AS PROVIDED IN § 12-306 OF THIS TITLE.

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

5 (F) "LOCAL LAW ENFORCEMENT UNIT" MEANS THE DEPARTMENT OF STATE
6 POLICE, A POLICE DEPARTMENT, OR SHERIFF, AS DESIGNATED BY RESOLUTION OF
7 THE COUNTY OR MUNICIPAL GOVERNING BODY, WITH JURISDICTION OVER ANY
8 PLACE WHERE A DEALER TRANSACTS BUSINESS OTHER THAN THE DEALER'S FIXED
9 BUSINESS ADDRESS.

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

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

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

16 (1) a precious metal that is:

17 (i) gold;

18 (ii) iridium;

19 (iii) palladium;

20 (iv) platinum; or

21 (v) silver;

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

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

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

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

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

33 12-202.

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

35 (i) submit to the Secretary an application on the form that the
36 Secretary provides; and

4

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

2 (2) The application fee is nonrefundable.

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

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

6 (2)] In addition to any other information that the Secretary requires, the
7 application shall state:

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

10 [(ii)] (2) the fixed BUSINESS address [of the business] of the
11 applicant;

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

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

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

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

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

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

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

32 12-205.

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

37 (b) The Secretary:

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

5

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

2 (i) a hotel or motel room;

3 (ii) a motor vehicle; ~~or~~

4 (iii) a post office box; OR

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

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

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

10 (E) WHENEVER A LICENSE IS SUSPENDED OR REVOKED, ANOTHER LICENSE
11 MAY NOT BE ISSUED TO A DEALER FOR THE SAME BUSINESS LOCATION UNLESS THE
12 APPLICANT PROVIDES THE DOCUMENTATION AND INFORMATION, WHICH THE
13 SECRETARY ESTABLISHES BY REGULATION, IS NECESSARY TO DEMONSTRATE THAT
14 THE APPLICANT WILL BE ENGAGING IN A BUSINESS WHICH IS SEPARATE AND
15 INDEPENDENT FROM THE BUSINESS OF THE REVOKED OR SUSPENDED LICENSE.

16 12-206.

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

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

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

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

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

32 (i) on request of the owner; and

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

35 (C) A DEALER IS NOT REQUIRED TO COMPLY WITH SUBSECTION (B)(1) OF
36 THIS SECTION UNLESS THE DEALER, OR THE DEALER'S EMPLOYEE OR AGENT, HAS
37 ACQUIRED SPACE AT A LOCATION OTHER THAN THE FIXED BUSINESS ADDRESS AT

6

1 WHICH A TRANSACTION MAY OCCUR OR HAS PUBLISHED NOTICE OF OR
2 ADVERTISED THE EVENT BY ANY MEANS.

3 12-207.

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

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

7 (2) in an even-numbered year.

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

10 (1) a renewal application form; and

11 (2) a notice that states:

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

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

15 (iii) the amount of the renewal fee.

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

18 (1) submits to the Secretary a renewal application on the form that the
19 Secretary provides;

20 (2) signs the renewal application under oath;

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

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

25 (5) states that the licensee:

26 (i) has not violated this title;

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

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

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

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

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

7

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

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

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

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

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

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

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

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

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

18 12-209.

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

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

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

29 (ii) fraudulently or deceptively uses a license;

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

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

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

8

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

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

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

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

8 (3) THE SECRETARY SHALL DISTRIBUTE PERIODICALLY TO ALL
9 DEALERS A LIST OF INDIVIDUALS WHOSE LICENSES HAVE BEEN REVOKED IN THE
10 STATE.

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

17 (i) buying or selling a secondhand precious metal object;

18 (ii) disposing of a secondhand precious metal object; or

19 (iii) disposing of a record about a secondhand precious metal object.

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

21 (i) the court lifts the order; [or]

22 (ii) the charges are adjudicated or dismissed; OR

23 (III) IN THE CASE OF AN EVENT HELD IN ACCORDANCE WITH §
24 12-206 OF THIS SUBTITLE, ARRANGEMENTS ARE MADE BY THE LICENSEE WHICH
25 WILL ENSURE COMPLIANCE WITH THE PROVISIONS OF THIS TITLE.

26 12-301.

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

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

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

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

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

9

- 1 (i) binoculars;
- 2 (ii) cameras;
- 3 (iii) firearms;
- 4 (iv) furs;
- 5 (v) household appliances;
- 6 (vi) musical instruments;
- 7 (vii) office machines or equipment;
- 8 (viii) radios, televisions, videodisc machines, videocassette recorders,
9 and stereo equipment;
- 10 (ix) personal computers, tapes, and disc recorders;
- 11 (x) watches;
- 12 (xi) bicycles; and
- 13 (xii) tangible personal property pledged as collateral.

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

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

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

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

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

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

28 12-304.

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

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

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

10

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

4 (2) IF THE DEALER TRANSACTS BUSINESS IN ACCORDANCE WITH §
5 12-206(B) OF THIS TITLE, THE DEALER ALSO SHALL SUBMIT A COPY OF THE RECORDS
6 TO THE LOCAL LAW ENFORCEMENT UNIT IN ACCORDANCE WITH SUBSECTION (B) OF
7 THIS SECTION.

8 (3) ON THE REQUEST OF A DEALER, THE SECRETARY SHALL PROVIDE
9 TO THE DEALER A LIST OF LOCAL LAW ENFORCEMENT UNITS.

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

13 [(b)] (C) Each copy of a record, submitted to the primary law enforcement unit
14 AND, IF APPLICABLE, LOCAL LAW ENFORCEMENT UNIT, shall include:

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

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

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

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

25 12-305.

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

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

37 (3) IN PARTIAL COMPLIANCE WITH THE 18-DAY HOLDING
38 REQUIREMENT UNDER THIS SUBSECTION, A DEALER MAY MAINTAIN AN OBJECT

11

1 AND THE RECORD OF ITS ACQUISITION AT A LOCATION OTHER THAN THE DEALER'S
2 FIXED BUSINESS ADDRESS, IF THE LOCAL LAW ENFORCEMENT UNIT IN THE
3 JURISDICTION WHERE THE ITEM WAS ACQUIRED PROVIDES WRITTEN APPROVAL.

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

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

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

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

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

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

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

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

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

21 12-306.

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

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

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

31 (3) A WARRANT AUTHORIZING AN ADMINISTRATIVE INSPECTION FOR
32 POSSIBLE REGULATORY VIOLATIONS SHALL BE ISSUED IF THE OFFICER OR AGENT
33 ESTABLISHES PROBABLE CAUSE FOR THE SELECTION OF THE PLACE OF BUSINESS IN
34 QUESTION FOR INSPECTION AND THAT THE INSPECTION WILL BE REASONABLY
35 LIMITED IN TIME, PLACE, AND SCOPE.

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

12

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

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

5 (I) THE SERIOUSNESS OF THE VIOLATION;

6 (II) THE GOOD FAITH OF THE VIOLATOR;

7 (III) ANY PREVIOUS VIOLATIONS;

8 (IV) THE HARMFUL EFFECT OF THE VIOLATION ON THE
9 COMPLAINANT, THE PUBLIC, AND THE BUSINESS OF THE DEALER OR PAWNBROKER;
10 AND

11 (V) ANY OTHER RELEVANT FACTORS.

12 12-403.

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

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

20 12-502.

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

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

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That § 12-209(a)(2)(vi) of
29 the Business Regulation Article, as enacted by this Act, shall be construed only
30 prospectively and may not be applied or interpreted to have any effect on or application
31 to licensees or license applicants for employees hired before the effective date of this Act.

32 SECTION 2- 3. AND BE IT FURTHER ENACTED, That this Act shall take
33 effect October 1, 1997.

