

HOUSE BILL 1515

C2

9lr3239

By: **Delegates Minnick and Pena-Melnyk**
Introduced and read first time: March 5, 2009
Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Secondhand Goods Dealers – Licensing**
3 **As Dealers Required**

4 FOR the purpose of requiring secondhand goods dealers to be licensed as dealers by
5 the Secretary of Labor, Licensing, and Regulation before doing business in the
6 State; providing that certain provisions of law supersede existing laws of a
7 county or municipal corporation that regulate secondhand goods dealers;
8 authorizing a county or municipal corporation to enact or enforce certain laws
9 that regulate secondhand goods dealers; altering certain grounds for certain
10 disciplinary actions by the Secretary to encompass the purchase or resale of
11 secondhand goods; prohibiting a dealer from buying secondhand goods from a
12 minor; requiring secondhand goods dealers to make certain records of certain
13 business transactions in a certain manner; requiring the records of a
14 secondhand goods dealer to include certain information for each item bought
15 and offered for resale; requiring secondhand goods dealers to submit certain
16 records to certain law enforcement units by transmitting a copy of the record
17 electronically in a certain manner; requiring all secondhand goods dealers
18 wherever located in the State to release to certain law enforcement units under
19 certain circumstances and in a certain manner certain items of personal
20 property that are established to have been stolen; requiring a certain law
21 enforcement unit to provide to a secondhand goods dealer a certain receipt for
22 certain stolen property under certain circumstances; providing that a
23 secondhand goods dealer who is required to release certain stolen property
24 under certain circumstances is not entitled to certain reimbursement for any
25 purchase price paid for the item from certain parties; altering a certain
26 definition; adding a certain definition; making conforming changes; requiring
27 any person doing business as a secondhand goods dealer to be licensed as a
28 dealer on or before a certain date; and generally relating to the licensing and
29 regulation of secondhand goods dealers.

30 BY repealing and reenacting, without amendments,

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Business Regulation
2 Section 12–101(a)
3 Annotated Code of Maryland
4 (2004 Replacement Volume and 2008 Supplement)

5 BY repealing and reenacting, with amendments,
6 Article – Business Regulation
7 Section 12–101(b); 12–201, 12–209(a)(1) and (2) and (c), and 12–213 to be under
8 the amended subtitle “Subtitle 2. Licensing”; 12–301(b) and (c),
9 12–302(b), 12–304(b), 12–306(d)(2), 12–401(a), (b), (e), and (f), and 12–601
10 to be under the amended title “Title 12. Secondhand Precious Metal
11 Object Dealers, Pawnbrokers, and Secondhand Goods Dealers”
12 Annotated Code of Maryland
13 (2004 Replacement Volume and 2008 Supplement)

14 BY adding to
15 Article – Business Regulation
16 Section 12–101(k) and 12–102(e)
17 Annotated Code of Maryland
18 (2004 Replacement Volume and 2008 Supplement)

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

21 **Article – Business Regulation**

22 Title 12. Secondhand Precious Metal Object Dealers, [and] Pawnbrokers, **AND**
23 **SECONDHAND GOODS DEALERS.**

24 12–101.

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

26 (b) (1) “Dealer” means:

27 (i) an individual who acquires commercially from the public or
28 trades commercially with the public in secondhand precious metal objects;

29 (ii) an individual who for compensation arranges for the sale or
30 delivery of a secondhand precious metal object on behalf of a person that does not hold
31 a license under this title; [or]

32 (iii) **A SECONDHAND GOODS DEALER; OR**

33 **(IV)** unless otherwise provided, a pawnbroker.

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

4 (K) "SECONDHAND GOODS DEALER" MEANS A PERSON THAT BUYS
5 OUTRIGHT FROM THE PUBLIC AND RESELLS TO THE PUBLIC SECONDHAND
6 PERSONAL PROPERTY, INCLUDING APPLIANCES, BICYCLES, POWER TOOLS,
7 CLOTHING, ELECTRONIC GAMING SYSTEMS AND GAMES, MUSICAL
8 INSTRUMENTS, SPORTS CARDS AND MEMORABILIA, TOYS, AND OTHER
9 PERSONAL PROPERTY, BUT NOT INCLUDING PRECIOUS METAL OBJECTS.

10 12-102.

11 (E) (1) THE PROVISIONS OF THIS TITLE THAT REGULATE
12 SECONDHAND GOODS DEALERS SUPERSEDE ANY EXISTING LAW OF A COUNTY OR
13 MUNICIPAL CORPORATION THAT REGULATES SECONDHAND GOODS DEALERS.

14 (2) NOTWITHSTANDING PARAGRAPH (1) OF THIS SUBSECTION, A
15 COUNTY OR MUNICIPAL CORPORATION MAY ENACT OR ENFORCE A LAW THAT
16 REGULATES SECONDHAND GOODS DEALERS IF THE LAW IS MORE STRINGENT
17 THAN THE PROVISIONS OF THIS TITLE.

18 Subtitle 2. [Secondhand Precious Metal Object Dealers] LICENSING.

19 12-201.

20 (a) Except as otherwise provided in this title, an individual shall have a
21 license before the individual does business as a dealer in the State.

22 (b) Except those pawnbrokers who are exempt from State licensing under §
23 12-102(c) of this title, all pawnbrokers **AND ALL SECONDHAND GOODS DEALERS**
24 must be licensed as dealers.

25 12-209.

26 (a) (1) Except as otherwise provided, in this subsection, a dealer's or
27 applicant's agents, employees, management personnel, or partners include only those
28 individuals who are directly involved in pawn transactions, **THE PURCHASE OR**
29 **RESALE OF SECONDHAND GOODS**, or the acquisition or sale of secondhand precious
30 metals on behalf of the dealer or applicant.

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

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

3 (ii) fraudulently or deceptively uses a license;

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

6 (iv) under the laws of the United States or of any state, is
7 convicted of a:

8 1. felony; or

9 2. misdemeanor that is directly related to the fitness and
10 qualification of the applicant or licensee to be involved in a pawn transaction, **THE**
11 **PURCHASE OR RESALE OF SECONDHAND GOODS**, or the sale or acquisition of
12 secondhand precious metals;

13 (v) knowingly employs or knowingly continues to employ, after
14 being notified by the Secretary, an individual who, under the laws of the United States
15 or of any state, is convicted of:

16 1. a felony; or

17 2. a misdemeanor that is directly related to the fitness
18 and qualification of the employee to be involved in a pawn transaction, **THE**
19 **PURCHASE OR RESALE OF SECONDHAND GOODS**, or the sale or acquisition of
20 secondhand precious metals;

21 (vi) knowingly employs or knowingly continues to employ in any
22 capacity, after being notified by the Secretary, an individual whose precious metals
23 dealer's license has been revoked;

24 (vii) willfully fails to provide or willfully misrepresents any
25 information required to be provided under this title;

26 (viii) violates this title; or

27 (ix) violates a regulation adopted under this title.

28 (c) The Secretary shall consider the following facts in the granting, denial,
29 renewal, suspension, or revocation of a license or the reprimand of a licensee when an
30 applicant or licensee is convicted of a felony or misdemeanor described in subsection
31 (a)(2)(iv) of this section:

32 (1) the nature of the crime;

1 (2) the relationship of the crime to the activities authorized by the
2 license;

3 (3) with respect to a felony, the relevance of the conviction to the
4 fitness and qualification of the applicant or licensee to act as a pawnbroker, **A**
5 **SECONDHAND GOODS DEALER**, or a secondhand precious metal object dealer;

6 (4) the length of time since the conviction; and

7 (5) the behavior and activities of the applicant or licensee before and
8 after the conviction.

9 12-213.

10 A dealer may not acquire a precious metal object, [or] take any merchandise in
11 a pawn transaction, **OR BUY SECONDHAND GOODS** from an individual who is a
12 minor.

13 12-301.

14 (b) Each pawnbroker **AND EACH SECONDHAND GOODS DEALER** shall
15 make a written record, on a form provided by the Secretary, of each business
16 transaction that involves:

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

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

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

22 (i) binoculars;

23 (ii) cameras;

24 (iii) firearms;

25 (iv) furs;

26 (v) household appliances;

27 (vi) musical instruments;

28 (vii) office machines or equipment;

1 (viii) radios, televisions, videodisc machines, videocassette
2 recorders, and stereo equipment;

3 (ix) personal computers, tapes, and disc recorders;

4 (x) watches;

5 (xi) bicycles; and

6 (xii) tangible personal property pledged as collateral.

7 (c) Each pawnbroker **AND EACH SECONDHAND GOODS DEALER** shall
8 make a written record, on a form provided by the Secretary, of each transaction that
9 involves the acquisition of an item described in subsection (b)(3) of this section for the
10 purpose of resale.

11 12-302.

12 (b) In addition to any other information required by the Secretary, the
13 records of a pawnbroker **OR SECONDHAND GOODS DEALER** shall include, for each
14 item pawned **AND FOR EACH ITEM BOUGHT AND OFFERED FOR RESALE**:

15 (1) the type of item;

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

18 (3) its color and size.

19 12-304.

20 (b) (1) Except as provided in [paragraph (2)] **PARAGRAPHS (2) AND (3)**
21 of this subsection, the dealer shall submit the records by one of the following methods:

22 (i) by delivering or mailing a copy of the records by the end of
23 the next business day after the day on which the item was acquired; or

24 (ii) by transmitting a copy of the records electronically, in a
25 format acceptable to the receiving law enforcement unit, by the end of each business
26 day.

27 (2) (i) A dealer who holds a license for a place of business in
28 Howard County shall submit the records to the law enforcement unit by transmitting
29 a copy of the records electronically in accordance with paragraph (1)(ii) of this
30 subsection.

1 (ii) Subparagraph (i) of this paragraph does not apply to an
2 antique dealer that:

- 3 1. does not engage in pawn transactions; and
4 2. holds a valid trader's license or dealer's license under
5 State law.

6 (3) **A SECONDHAND GOODS DEALER SHALL SUBMIT THE RECORDS**
7 **TO THE LAW ENFORCEMENT UNIT BY TRANSMITTING A COPY OF THE RECORDS**
8 **ELECTRONICALLY IN ACCORDANCE WITH PARAGRAPH (1)(II) OF THIS**
9 **SUBSECTION.**

10 12-306.

11 (d) (2) In setting the amount of a civil penalty under this subsection, the
12 Secretary shall consider:

- 13 (i) the seriousness of the violation;
14 (ii) the good faith of the violator;
15 (iii) any previous violations;
16 (iv) the harmful effect of the violation on the complainant, the
17 public, and the business of the dealer, [or] pawnbroker, **OR SECONDHAND GOODS**
18 **DEALER**; and
19 (v) any other relevant factors.

20 12-401.

21 (a) This section applies to all dealers, [and] all pawnbrokers, **AND ALL**
22 **SECONDHAND GOODS DEALERS** wherever located in the State.

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

- 27 (1) the item is established to have been stolen;
28 (2) the owner of the item or victim of the theft has positively identified
29 the item;
30 (3) the owner of the item or the agent or designee of the owner has
31 provided an affidavit of ownership;

- 1 (4) the stolen property report describes the item by:
- 2 (i) a date;
- 3 (ii) initials;
- 4 (iii) an insurance record;
- 5 (iv) a photograph;
- 6 (v) a sales receipt;
- 7 (vi) a serial number;
- 8 (vii) specific damage;
- 9 (viii) a statement of the facts that show that the item is one of a
- 10 kind; or
- 11 (ix) a unique engraving; and

12 (5) the primary law enforcement unit provides to the dealer, [or]

13 pawnbroker, **OR SECONDHAND GOODS DEALER** a receipt that describes the item

14 and that notifies the dealer, [or] pawnbroker, **OR SECONDHAND GOODS DEALER** of

15 the [dealer's or pawnbroker's] right to file an application for a statement of charges

16 against the individual who sold the item to the dealer, [or] pawnbroker, **OR**

17 **SECONDHAND GOODS DEALER**, or other alleged thief for theft under § 7-104 of the

18 Criminal Law Article.

19 (e) A dealer, [or] pawnbroker, **OR SECONDHAND GOODS DEALER** who is

20 required to release an item under this section is not entitled to reimbursement for any

21 pledge or purchase price paid for the item from:

22 (1) the primary law enforcement unit to which the dealer,

23 **PAWNBROKER, OR SECONDHAND GOODS DEALER** released the item;

24 (2) the owner of the item; or

25 (3) the victim of the theft.

26 (f) If the owner of the item or the victim of the theft chooses to participate in

27 the prosecution of the alleged identified thief, then the charges of theft from the owner

28 or the victim of the theft and the charges of theft from the dealer, [or] pawnbroker, **OR**

29 **SECONDHAND GOODS DEALER** may be heard in a joint trial.

1 This title is the Maryland Secondhand Precious Metal Object Dealers, [and]
2 Pawnbrokers, **AND SECONDHAND GOODS DEALERS** Act.

3 SECTION 2. AND BE IT FURTHER ENACTED, That any person doing
4 business as a secondhand goods dealer shall be licensed as a dealer as required by this
5 Act on or before October 1, 2010.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2009.