

**Department of Legislative Services**  
 Maryland General Assembly  
 2009 Session

**FISCAL AND POLICY NOTE**

House Bill 1515 (Delegates Minnick and Pena-Melnyk)  
 Economic Matters

**Business Regulation - Secondhand Goods Dealers - Licensing As Dealers  
 Required**

This bill requires “secondhand goods dealers” to be regulated by the Department of Labor, Licensing, and Regulation (DLLR) in the same manner as secondhand precious metal objects dealers and pawnbrokers. Thus, secondhand goods dealers must be licensed and have a fixed business address. The provisions of the bill supersede local laws that regulate secondhand goods dealers; however, local governments may enact or enforce local laws that regulate secondhand goods dealers in a more stringent manner than State law.

The bill specifies that any person doing business as a secondhand goods dealer must be licensed as a dealer by October 1, 2010.

**Fiscal Summary**

**State Effect:** General fund revenues increase by \$75,000 in FY 2010. Future year revenues reflect new licensed dealers and license renewals. General fund expenditures increase by \$113,500 in FY 2010. Future years reflect annualization and inflation. Potential minimal additional increase in general fund revenues and expenditures due to imposition of existing criminal and civil penalties on unlicensed dealers and for other violations.

(in dollars)	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
GF Revenue	\$75,000	\$37,500	\$76,500	\$38,300	\$78,000
GF Expenditure	\$113,500	\$142,300	\$148,700	\$155,400	\$162,400
Net Effect	(\$38,500)	(\$104,800)	(\$72,200)	(\$117,100)	(\$84,400)

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Potential minimal increase in revenues and expenditures due to imposition of existing criminal penalties on unlicensed dealers and for other violations subject to existing sanctions. Potential operational impact on local law enforcement due to receipt of electronic records of transactions.

**Small Business Effect:** Potential meaningful application and administrative costs for individuals and businesses not previously required to be licensed as secondhand goods dealers, including expenditures for fingerprinting and criminal background checks of all employees.

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## Analysis

**Bill Summary:** A “secondhand goods dealer” is a person that buys outright from the public and resells to the public secondhand personal property, including appliances, bicycles, power tools, clothing, electronic gaming systems and games, musical instruments, sports cards and memorabilia, toys, and other personal property – not including precious metal objects. Secondhand goods dealers must maintain records of transactions and electronically submit specified records to law enforcement by the end of each business day.

**Current Law:** DLLR regulates secondhand precious metal object dealers and pawnbrokers. “Dealers” are individuals who (1) acquire commercially from the public or trade commercially with the public in secondhand precious metal objects; (2) are compensated for the sale or delivery of a secondhand precious metal object on behalf of an unlicensed party; or (3) pawnbrokers. Dealers of these objects, including individuals, retail jewelers, and pawnbrokers not otherwise regulated by a county, must be licensed before doing business in the State. An unlicensed dealer and a person who otherwise willfully or knowingly violates the law is guilty of a misdemeanor and subject to a maximum fine of \$10,000 and/or imprisonment for up to two years. The Secretary of Labor, Licensing, and Regulation is authorized to impose civil penalties of up to \$5,000, payable to the general fund. The civil penalties may be in addition to or instead of reprimanding a licensee or suspending or revoking a license as well as imposed against dealers operating without a required license.

Applicants for licensure must pay a nonrefundable fee of \$75 and sign an application under oath that contains specified information, including a fixed business address. The applicant must also agree to submit to an investigation of the dealer’s inventory by law enforcement agencies in the case of a stolen property investigation. All licensed dealers and their employees must submit to a criminal history records check, including fingerprinting at the individual’s expense. Licenses are issued for a period of two years.

Licensees are required to maintain records of all transactions that involve the acquisition of secondhand precious metal objects, including identifying information and a physical description of the person from whom the object was acquired. All records must be submitted to law enforcement and retained by the dealer for at least three years in a location within the State. Any secondhand precious metal object acquired by a dealer must be held for at least 18 days after a record is submitted to law enforcement.

**State Revenues:** The bill requires any person that sells secondhand goods to be licensed by DLLR by October 1, 2010. Based on the bill's broad definition of secondhand goods dealers, the department estimates the bill may result in approximately 1,500 new dealers being regulated by the department. Each applicant is required to pay the \$75 application fee, which is deposited in the general fund. As a result, it is estimated that general fund revenues increase by \$75,000 in fiscal 2010, as shown in **Exhibit 1**. The estimate assumes that 1,000 dealers become licensed in fiscal 2010 and 500 become licensed in fiscal 2011. These dealers are expected to renew their licenses in fiscal 2012 and fiscal 2013, respectively. The estimate also assumes a 2% annual increase in dealers being licensed beginning in fiscal 2012.

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**Exhibit 1**  
**General Fund Revenues from License Fees**

	<u>FY 2010</u>	<u>FY 2011</u>	<u>FY 2012</u>	<u>FY 2013</u>	<u>FY 2014</u>
General Fund Revenues	\$75,000	\$37,500	\$76,500	\$38,250	\$78,030

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Additional general fund revenues may result from the monetary penalty provision for cases of unlicensed dealers and other violations heard in the District Court. Civil penalties imposed by the Secretary of Labor, Licensing, and Regulation on unlicensed dealers and for other violations also accrue to the general fund.

**State Expenditures:** The bill is estimated to result in approximately 1,500 additional dealers being licensed under DLLR's current licensing program for precious metal dealers and pawnbrokers. DLLR currently licenses and regulates 360 dealers under this program. Due to the significant increase in licensees, DLLR's general fund expenditures increase by \$113,477 in fiscal 2010, which accounts for the bill's October 1, 2009 effective date. This estimate reflects the cost of hiring one program manager and one administrative aide to oversee the regulation of secondhand goods dealers specified by the bill. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

Positions	2
Salaries and Fringe Benefits	\$91,912
Computer Programming	7,500
Operating Expenses	<u>14,065</u>
<b>Total FY 2010 State Expenditures</b>	<b>\$113,477</b>

Future year expenditures reflect full salaries with 4.4% annual increases, 3% employee turnover, and 1% annual increases in ongoing operating expenses.

DLLR expenditures may increase for administrative hearings resulting from the new regulatory program. These costs are excluded from the estimate as the costs associated with administrative hearings depend on the number of administrative hearings in any year, which cannot be reliably estimated.

General fund expenditures may also increase minimally if unlicensed dealers and persons who violate other requirements are committed to Division of Correction or local detention facilities. The number of people convicted is expected to be minimal.

**Local Fiscal Effect:** Additional revenue may result from the monetary penalty provision for cases of unlicensed dealers and other violations heard in the circuit courts.

Expenditures may increase minimally for incarceration of unlicensed dealers and persons who violate other requirements. Counties pay the full cost of incarceration for people in their facilities for the first 90 days of the sentence, plus part of the per diem cost after 90 days.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Charles, Frederick, and Somerset counties; Department of Labor, Licensing, and Regulation; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - March 24, 2009  
mcp/mcr

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