

# HOUSE BILL 595

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By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: February 9, 2011

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Secondhand Precious Metal Object Dealers and Pawnbrokers – Summary**  
3 **Suspension of Licenses, Records, and Inspections**

4 FOR the purpose of requiring a licensed secondhand precious metal object dealer to  
5 provide certain notification to a certain local law enforcement unit before  
6 engaging in certain precious metal object transactions; authorizing the  
7 Secretary of Labor, Licensing, and Regulation to summarily suspend in a  
8 certain manner the license of a dealer who is convicted of or pleads guilty or  
9 nolo contendere to certain crimes; authorizing the Secretary to revoke the  
10 license of a dealer under certain circumstances; authorizing the Secretary to  
11 designate by regulation additional items for which a pawnbroker must make a  
12 certain written record; altering the information about certain transactions that  
13 a dealer must record; requiring an item to be tagged for the period it remains in  
14 storage; clarifying that a dealer is required to allow inspection by law  
15 enforcement personnel of precious metal objects or applicable records; and  
16 generally relating to licensing of secondhand precious metal object dealers and  
17 records and inspections of precious metal objects.

18 BY repealing and reenacting, with amendments,  
19 Article – Business Regulation  
20 Section 12–206, 12–301, 12–302(a), and 12–306  
21 Annotated Code of Maryland  
22 (2010 Replacement Volume and 2010 Supplement)

23 BY adding to  
24 Article – Business Regulation  
25 Section 12–209.1  
26 Annotated Code of Maryland  
27 (2010 Replacement Volume and 2010 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Business Regulation**

4 12–206.

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

7 (b) Notwithstanding subsection (a) of this section, a dealer who holds a  
8 license under this subtitle may:

9 (1) make purchases at an estate and judicial sale; and

10 (2) transact business at the residence of the owner of a precious metal  
11 object or a place where the owner keeps a precious metal object[:

12 (i)] on request of the owner[; and

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

15 **(C) A DEALER WHO INTENDS TO MAKE A PURCHASE OR CONDUCT A**  
16 **TRANSACTION UNDER SUBSECTION (B)(1) OR (2) OF THIS SECTION SHALL**  
17 **PROVIDE WRITTEN NOTICE TO THE LOCAL LAW ENFORCEMENT UNIT WITH**  
18 **JURISDICTION OVER THE LOCATION WHERE THE PURCHASE OR TRANSACTION**  
19 **MAY OCCUR NO LATER THAN 3 BUSINESS DAYS BEFORE THE PURCHASE OR**  
20 **TRANSACTION.**

21 **12–209.1.**

22 **(A) SUBJECT TO SUBSECTION (C) OF THIS SECTION, THE SECRETARY**  
23 **MAY ORDER SUMMARILY THE SUSPENSION OF THE LICENSE OF A LICENSEE IF**  
24 **THE LICENSEE:**

25 **(1) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE**  
26 **TO A FELONY UNDER THE LAWS OF THE UNITED STATES OR OF ANY STATE;**

27 **(2) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE**  
28 **TO A MISDEMEANOR INVOLVING THE INDIVIDUAL’S FITNESS TO ACT AS A**  
29 **PAWNBROKER OR DEALER UNDER THE LAWS OF THE UNITED STATES OR OF ANY**  
30 **STATE; OR**

1           **(3) WITHIN 10 DAYS AFTER THE CONVICTION, OR WITHIN 10 DAYS**  
2 **AFTER RELEASE FROM INCARCERATION AS A RESULT OF THE CONVICTION,**  
3 **WHICHEVER IS LATER, FAILS TO DISCLOSE TO THE SECRETARY THAT THE**  
4 **LICENSEE WAS CONVICTED OF A FELONY OR MISDEMEANOR AS SET FORTH IN**  
5 **ITEM (1) OR (2) OF THIS SUBSECTION.**

6           **(B) THE SECRETARY MAY ORDER SUMMARILY THE SUSPENSION OF THE**  
7 **LICENSE OF A LICENSEE UNDER THIS SECTION WITHOUT REGARD TO WHETHER**  
8 **ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR**  
9 **PLEA SET ASIDE.**

10           **(C) THE SECRETARY MAY ORDER SUMMARILY A SUSPENSION UNDER**  
11 **THIS SECTION ONLY IF THE SECRETARY GIVES THE LICENSEE:**

12                   **(1) WRITTEN NOTICE OF THE SUSPENSION AND THE FINDING ON**  
13 **WHICH THE SUSPENSION IS BASED; AND**

14                   **(2) AFTER THE SUMMARY SUSPENSION IS EFFECTIVE, AN**  
15 **OPPORTUNITY TO BE HEARD PROMPTLY BEFORE THE SECRETARY OR THE**  
16 **SECRETARY'S DESIGNEE SUBJECT TO SUBSECTION (D) OF THIS SECTION.**

17           **(D) (1) A LICENSEE WHOSE LICENSE HAS BEEN SUMMARILY**  
18 **SUSPENDED UNDER THIS SECTION SHALL BE GIVEN AN OPPORTUNITY TO BE**  
19 **HEARD BY THE SECRETARY OR THE SECRETARY'S DESIGNEE AS TO WHY THE**  
20 **LICENSE SHOULD NOT BE SUSPENDED WITHIN 10 DAYS AFTER THE EFFECTIVE**  
21 **DATE OF THE SUSPENSION.**

22                   **(2) NOTWITHSTANDING § 12-209 OF THIS SUBTITLE, THE**  
23 **DEFENSES THAT MAY BE RAISED TO THE SUMMARY SUSPENSION SHALL BE**  
24 **LIMITED TO:**

25                           **(I) THAT THE LICENSEE IS NOT THE PERSON WHO WAS**  
26 **CONVICTED OR PLED GUILTY OR NOLO CONTENDERE AS PROVIDED IN**  
27 **SUBSECTION (A)(1) AND (2) OF THIS SECTION; AND**

28                           **(II) IN THE CASE OF A LICENSE SUSPENSION UNDER**  
29 **SUBSECTION (A)(2) OF THIS SECTION, THAT THE MISDEMEANOR DOES NOT**  
30 **INVOLVE THE LICENSEE'S FITNESS TO ACT AS A PAWNBROKER OR DEALER.**

31           **(E) A SUMMARY SUSPENSION ORDERED BY THE SECRETARY UNDER**  
32 **THIS SECTION:**

33                   **(1) MAY START IMMEDIATELY OR AT ANY LATER DATE, AS SET BY**  
34 **THE ORDER; AND**



- 1 (vi) musical instruments;
- 2 (vii) office machines or equipment;
- 3 (viii) radios, televisions, videodisc machines, videocassette  
4 recorders, and stereo equipment;
- 5 (ix) personal computers, tapes, and disc recorders;
- 6 (x) watches;
- 7 (xi) bicycles; [and]
- 8 (xii) tangible personal property pledged as collateral; AND

9 **(XIII) ANY OTHER ITEM THAT THE SECRETARY MAY**  
10 **DESIGNATE BY REGULATION BASED ON THE REPORT OF A LAW ENFORCEMENT**  
11 **UNIT THAT THE ITEMS ARE FREQUENTLY AVAILABLE FOR RESALE.**

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

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

18 (e) **(1)** The dealer shall tag each item individually with a number that  
19 corresponds to the transaction under which it was acquired. However, items acquired  
20 in a matching set may be tagged as a set.

21 **(2) EACH ITEM SHALL REMAIN TAGGED FOR THE PERIOD IT**  
22 **REMAINS STORED IN COMPLIANCE WITH § 12-305(D) OF THIS SUBTITLE.**

23 (f) For the purposes of this subtitle, there is a presumption that an object is  
24 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 found in  
27 the place of business or storage facility of a dealer.

28 12-302.

29 (a) In addition to any other information required by the Secretary, the  
30 records of a dealer shall include:

1 (1) the date, place, and time of each transaction that involves the  
2 acquisition of a precious metal object;

3 (2) [the name and address of the principal, if the transaction is by an  
4 agent;

5 (3)] a description of the precious metal object, including:

6 (i) its approximate metallic composition;

7 (ii) any jewels, stones, or glass parts;

8 (iii) any mark, number, word, or other identification on the  
9 precious metal object;

10 (iv) its weight, if payment is based on weight;

11 (v) a statement whether it appears to have been altered by any  
12 means, including:

13 1. obscuring a serial number or identifying feature;

14 2. melting; or

15 3. recutting a gem; and

16 (vi) the amount paid or other consideration;

17 [(4)] (3) for each individual from whom the dealer acquires a  
18 precious metal object:

19 (i) the name, date of birth, and driver's license number of the  
20 individual; or

21 (ii) identification information about the individual that:

22 1. positively identifies the individual from at least 2  
23 forms of identification, which may include an age of majority card, military  
24 identification, or passport; and

25 2. provides a physical description of the individual,  
26 including the sex, race, any distinguishing features, and approximate age, height, and  
27 weight of the individual;

28 [(5)] (4) a statement indicating whether or not the person making  
29 the transaction is personally known to the dealer; and

1            ~~[(6)]~~ (5)        the signature of the person from whom the precious metal  
2 object or personal property is acquired and the dealer or employee who accepted the  
3 precious metal object.

4        12-306.

5            (a)        A dealer shall allow an authorized law enforcement officer or agent, on  
6 request, to enter the place of business or storage premises of the dealer during  
7 business hours to inspect a record required to be maintained under this title or  
8 precious metal object as part of a stolen property investigation or an investigation of a  
9 violation of this title.

10           (b)        ~~[(1)]~~        On request of the dealer, the officer or agent shall make the  
11 inspection in the presence of the dealer or an agent of the dealer.

12                        ~~[(2)]~~        If the dealer refuses to allow access or produce the record or  
13 precious metal object for inspection, the officer or agent shall seek a search warrant.

14                        (3)        A warrant authorizing an administrative inspection for possible  
15 regulatory violations shall be issued if the officer or agent establishes probable cause  
16 for the selection of the place of business in question for inspection and that the  
17 inspection will be reasonably limited in time, place, and scope.

18            (c)        A dealer who refuses to allow access or to produce records, precious metal  
19 objects for inspection on request, shall be subject to the provisions of § 12-209 of this  
20 title and, in addition, may be assessed a civil penalty as provided in subsection (d) of  
21 this section.

22            (d)        (1)        The Secretary may impose on a licensee who violates this section a  
23 civil penalty not exceeding \$500 for each violation.

24                        (2)        In setting the amount of a civil penalty under this subsection, the  
25 Secretary shall consider:

26                                (i)        the seriousness of the violation;

27                                (ii)       the good faith of the violator;

28                                (iii)      any previous violations;

29                                (iv)      the harmful effect of the violation on the complainant, the  
30 public, and the business of the dealer or pawnbroker; and

31                                (v)       any other relevant factors.]

32            SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
33 July 1, 2011.