

**Department of Legislative Services**  
Maryland General Assembly  
2011 Session

**FISCAL AND POLICY NOTE**

House Bill 595

(Chair, Economic Matters Committee)(By Request -  
Departmental - Labor, Licensing and Regulation)

Economic Matters

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**Secondhand Precious Metal Object Dealers and Pawnbrokers - Summary  
Suspension of Licenses, Records, and Inspections**

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This departmental bill allows the Secretary of Labor, Licensing, and Regulation to summarily suspend the license of a licensed secondhand precious metal object dealer or pawnbroker if the licensee pleads guilty or *nolo contendere* to, or is convicted of, a felony, or a misdemeanor involving the individual's fitness to act as a dealer or pawnbroker. The Secretary may summarily suspend a licensee who does not disclose within a specified timeframe a felony conviction or misdemeanor conviction related to the individual's fitness to act as a dealer or pawnbroker.

The bill also changes various provisions of the Maryland Secondhand Dealers and Pawnbrokers Act.

The bill takes effect July 1, 2011.

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**Fiscal Summary**

**State Effect:** Minimal increase in general fund revenues due under expanded imposition of existing criminal penalties under the bill. Expenditures are not materially affected.

**Local Effect:** Expanded imposition of existing criminal penalties is not expected to materially impact local government operations or finances.

**Small Business Effect:** The Department of Labor, Licensing, and Regulation (DLLR) has determined that this bill has minimal or no impact on small business (attached). Legislative Services concurs with this assessment.

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## Analysis

### Bill Summary:

#### *Summary License Suspension*

The Secretary may summarily suspend a licensee regardless of whether or not the individual is pursuing an appeal or other proceeding to have the conviction or plea set aside. A licensee who has been summarily suspended by the Secretary must be given the opportunity for a hearing within 10 days of the suspension to present evidence as to why the license should not be suspended. The bill specifies that the only defenses a licensee may raise refuting the validity of the summary suspension are (1) that the licensee is not the person who was convicted or who pled guilty or *nolo contendere* to a criminal charge; or (2) that the misdemeanor for which the licensee was guilty does not involve the licensee's fitness to act as a dealer or pawnbroker. If a licensee's conviction or plea-upon which the summary suspension is based – is upheld following an appeals process, the Secretary must revoke the individual's license.

#### *Other Provisions*

The bill also makes various changes to the Secondhand Dealers and Pawnbrokers Act, including:

- requiring a licensee to give written notice to a law enforcement unit at least three days before conducting business at an off-site location;
- authorizing the Secretary to expand, by regulation, the list of items for which a pawnbroker must keep written records to include items reported by law enforcement that are frequently available for resale;
- requiring that items held by a pawnbroker and tagged with a transaction number must remain tagged while the items remain in storage;
- repealing a provision that requires the dealer to record the name and address of a purchasing agent, if an item is purchased by a person who is not the dealer or the dealer's employee; and
- repealing the requirement for a warrant and modifying the penalties that may be imposed against a licensee who refuses to give a law enforcement officer access to the licensee's records in the course of a stolen property investigation or an investigation related to the violation of the Act.

**Current Law:** DLLR regulates dealers who acquire and trade secondhand precious metal objects, including gold, iridium, palladium, platinum, silver, precious and semiprecious stones, and pearls. 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.

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 on a staggered, two-year basis.

Licensees are required to record specified information for each transaction on a form provided by the Secretary. Records must be kept for at least three years at the dealer's place of business. Further, dealers must submit records by transmitting the required information from the records electronically, in a format acceptable to the receiving law enforcement unit, by noon of the business day following the transaction. 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. 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.

The Secretary may deny a license to an applicant, reprimand a licensee, or suspend or revoke a license if the applicant or licensee, or the licensee's associate, engages in any of a number of actions as specified in statute, including being convicted of a felony, or a misdemeanor related to the applicant or licensee's fitness and qualification to be involved in pawn or secondhand precious metal object dealer transactions.

In general, persons who violate the Secondhand Precious Metal Object Dealers and Pawnbrokers Act may face criminal and civil penalties. Persons who willfully or knowingly violate these provisions are guilty of a misdemeanor and may be imprisoned for up to two years and are also subject to fines of up to \$10,000. The Secretary of Labor, Licensing, and Regulation may also fine a person who violates the law up to \$5,000 per offense.

**Background:** DLLR advises that the current disciplinary process set forth in the Secondhand Dealers and Pawnbrokers Act requires the presence of a licensee at a hearing in order for the licensee to be formally disciplined. In some cases, a licensee may be incarcerated and unable to face regulatory action at DLLR regarding the individual's license. DLLR advises that in these circumstances a licensee's business may continue to operate because the licensee has not been formally disciplined. The bill allows the Secretary to issue a summary suspension in these cases without the presence of a licensee.

The bill repeals a section of the Act that addresses specific disciplinary action that may be taken against a licensee who refuses to make transaction records available to a law enforcement officer during the course of a stolen property investigation or during an investigation of a violation of the Act. Although penalty provisions exist for violations of the Act, a specific monetary penalty of \$500 is specified for this violation. The bill repeals this penalty and subjects licensees to the Act's general penalty provision for this violation.

As of December 2010, there were 590 secondhand precious metal object dealers and pawnbrokers licensed with DLLR.

**State Fiscal Effect:** General fund revenues increase to the extent that licensees who refuse to allow law enforcement officers access to their records are subject to greater civil or criminal fines as a result of the bill. The fine for such a violation under current law is \$500; under the bill, a licensee may be fined up to \$10,000. DLLR advises that the volume of such violations is low. Thus, any increase in revenue due to the bill is expected to be minimal.

Licensees are also subject to the bill's incarceration penalty in these instances. Due to the low number of violations and the expectation that incarceration is unlikely to be sought in these instances, any additional expenditures related to incarceration are expected to be negligible.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Carroll, Cecil, Harford, and Montgomery counties; Governor's Office of Crime Control and Prevention; Department of Labor, Licensing, and Regulation; Department of State Police; Department of Legislative Services

**Fiscal Note History:** First Reader - February 21, 2011  
ncs/mcr

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## ANALYSIS OF ECONOMIC IMPACT ON SMALL BUSINESSES

TITLE OF BILL: Secondhand Precious Metal Object Dealers and Pawnbrokers –  
Summary Suspension of Licenses, Records, and Inspections

BILL NUMBER: HB 595

PREPARED BY: Department of Labor, Licensing, and Regulation

### PART A. ECONOMIC IMPACT RATING

This agency estimates that the proposed bill:

☒ WILL HAVE MINIMAL OR NO ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESS

OR

☐ WILL HAVE MEANINGFUL ECONOMIC IMPACT ON MARYLAND SMALL  
BUSINESSES

### PART B. ECONOMIC IMPACT ANALYSIS

The proposed legislation will have no impact on small business in Maryland.