

SENATE BILL 998

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3lr3254
CF HB 782

By: **Senator Brinkley**

Introduced and read first time: February 20, 2013

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Secondhand Precious Metal Object Dealers and Pawnbrokers – Exemptions**
3 **for Auctioneers**

4 FOR the purpose of exempting auctioneers from the licensing and regulatory
5 requirements for secondhand precious metal object dealers and pawnbrokers;
6 defining certain terms; and generally relating to auctioneers and secondhand
7 precious metal object dealers and pawnbrokers.

8 BY repealing and reenacting, with amendments,
9 Article – Business Regulation
10 Section 12–101 and 12–102
11 Annotated Code of Maryland
12 (2010 Replacement Volume and 2012 Supplement)

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

15 **Article – Business Regulation**

16 12–101.

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

18 (B) **“AUCTION” MEANS THE SALE OF REAL OR PERSONAL PROPERTY BY**
19 **COMPETITIVE BID OF PROSPECTIVE BUYERS.**

20 (C) **“AUCTIONEER” MEANS AN INDIVIDUAL WHO SELLS OR OFFERS TO**
21 **SELL THE REAL OR PERSONAL PROPERTY OF OTHER PERSONS AT AUCTION,**
22 **WITH OR WITHOUT RECEIVING CONSIDERATION, AS A BID CALLER.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **[(b)] (D)** (1) “Dealer” means:

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

4 (ii) an individual who for compensation arranges for the sale or
5 delivery of a secondhand precious metal object on behalf of a person that does not hold
6 a license under this title; or

7 (iii) unless otherwise provided, a pawnbroker.

8 (2) “Dealer” includes a retail jeweler as to transactions in which the
9 retail jeweler acquires commercially from the public or trades commercially with the
10 public in secondhand precious metal objects.

11 **[(c)] (E)** “Employee” means an individual who is employed by a dealer or
12 pawnbroker to buy, sell, or supervise directly the buying or selling of secondhand
13 precious metal objects.

14 **[(d)] (F)** “Fixed business address” means a single physical location in
15 Maryland where a licensee regularly conducts business and at which the licensee or an
16 employee of the licensee is physically present:

17 (1) during normal business hours; or

18 (2) other hours as provided in the application for the license which are
19 sufficient to provide an authorized law enforcement officer or agent access to the
20 licensee’s place of business as provided in § 12–306 of this title.

21 **[(e)] (G)** “License” means a license issued by the Secretary to do business as
22 a dealer.

23 **[(f)] (H)** “Local law enforcement unit” means the Maryland Department of
24 State Police, a Maryland police department, or Maryland sheriff, as designated by
25 resolution of the county or municipal governing body, with jurisdiction over any place
26 where a dealer transacts business other than the dealer’s fixed business address.

27 **[(g)] (I)** “Pawnbroker” means a person who engages in pawn transactions.

28 **[(h)] (J)** “Pawn transaction” means a loan of money by a dealer on deposit
29 or pledge of personal property or other valuable thing other than securities or printed
30 evidences of indebtedness, or a purchase by a dealer of personal property or other
31 valuable things on condition of selling the same back at a stipulated price.

32 **[(i)] (K)** “Precious metal object” means:

1 (1) a precious metal that is:

2 (i) gold;

3 (ii) iridium;

4 (iii) palladium;

5 (iv) platinum; or

6 (v) silver;

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

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

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

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

15 **[(j)] (L)** “Primary law enforcement unit” means the Department of State
16 Police, a police department, or sheriff, as designated by resolution of the county or
17 municipal governing body in the county in which the license is held.

18 12–102.

19 (a) This title does not apply to a transaction that involves:

20 (1) merchandise acquired from an established manufacturer or dealer
21 who holds a license under this title, other than a pawnbroker, if the dealer who
22 acquires the merchandise keeps an invoice or other customary proof of origin for the
23 merchandise;

24 (2) a metal acquired for use in dentistry by a dentist licensed to
25 practice dentistry under Title 4 of the Health Occupations Article;

26 (3) coins or numismatic items; or

27 (4) the purchase of junk or scrap metal that is subject to the record
28 keeping and reporting requirements under § 17–1011 of this article.

29 (b) If a retail jeweler has a fixed business address in the State, this title does
30 not apply to a transaction in which the retail jeweler:

1 (1) accepts, in accordance with a posted return policy, the return of an
2 item that the jeweler originally sold;

3 (2) accepts, in accordance with a published trade-in policy,
4 merchandise in trade that the jeweler originally sold;

5 (3) repossesses merchandise that the jeweler originally sold, if the
6 original buyer has defaulted;

7 (4) retains merchandise that the jeweler originally accepted for repair
8 as a bailee for hire, if the customer who deposited the merchandise:

9 (i) defaulted; or

10 (ii) failed to reclaim the merchandise within the time agreed on
11 with the jeweler; or

12 (5) accumulates pieces of precious metals in the course of performing
13 repairs, remountings, fabrications, or custom orders.

14 **(C) THIS TITLE DOES NOT APPLY TO AN AUCTIONEER WHO CONDUCTS**
15 **AN AUCTION IN THE STATE.**

16 **[(c)] (D)** Except as otherwise provided in this title, this title does not apply
17 to a pawnbroker located in a county that regulates pawnbrokers unless the
18 pawnbroker does business as a dealer.

19 **[(d)] (E)** (1) A county or municipal corporation may not enact a law to
20 regulate dealers, coins, or numismatic items.

21 (2) This title supersedes any existing law of a county or municipal
22 corporation that regulates dealers, coins, or numismatic items.

23 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 June 1, 2013.