

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

House Bill 782 (Delegate Schulz, *et al.*)
Economic Matters

Secondhand Precious Metal Object Dealers and Pawnbrokers - Exemptions for Auctioneers

This bill exempts “auctioneers” who conduct an auction in the State from the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act.

The bill takes effect June 1, 2013.

Fiscal Summary

State Effect: No likely impact in FY 2013. Minimal decrease in general fund revenues for the Department of Labor, Licensing, and Regulation (DLLR) beginning in FY 2014 due to reduced license fee and fine revenue collection. DLLR does not anticipate a significant decrease in licensees. No effect on general fund expenditures for DLLR, as any operational impact results in greater efficiencies elsewhere. Minimal decrease in general fund expenditures for the Department of State Police (DSP) beginning in FY 2014 due to reduced registrations with the Regional Automated Property Information Database (RAPID) system. DSP can implement the bill with existing budgeted resources.

Local Effect: Minimal.

Small Business Effect: Meaningful.

Analysis

Bill Summary: An auctioneer conducting an auction in the State is exempt from the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act. An

“auctioneer” means an individual who sells or offers to sell the real or personal property of other persons at auction, with or without receiving consideration, as a bid caller. An “auction” means the sale of real or personal property by competitive bid of prospective buyers.

Current Law: DLLR regulates dealers who acquire and trade secondhand precious metal objects, including gold and silver. Dealers of these objects, including individuals, retail jewelers, and pawnbrokers who deal in secondhand precious metal objects, must be licensed before doing business in the State in accordance with the Maryland Secondhand Precious Metal Object Dealers and Pawnbrokers Act. The fee for an initial license is \$300, and the renewal fee is \$265. Licenses must be renewed biennially.

A secondhand precious metal objects dealer, as defined in the Act, includes an auctioneer as defined in the bill. Specifically, a “dealer” means (1) an individual who acquires commercially from the public or trades commercially with the public in secondhand precious metal objects; (2) an individual who for compensation arranges for the sale or delivery of a secondhand precious metal object on behalf of a person that does not hold a license under the Act; or (3) unless otherwise provided, a pawnbroker.

In general, a secondhand precious metal object dealer may only purchase secondhand precious metal objects at the address for which the dealer’s license is issued. There are three exemptions from this requirement. A dealer may:

- make purchases at an estate sale;
- make purchases at a judicial sale; and
- transact business at the residence of the owner of a precious metal object, on request of the owner, and after giving written notice of the proposed transaction to local law enforcement.

Licensees are required to record specified information for each transaction on a form provided by DLLR. Records must be kept for at least three years at a location within the State. Further, dealers must submit 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 written 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.

The Act does not apply to specified transactions:

- merchandise acquired from an established manufacturer or dealer who holds a license under the Act, if a dealer is not a pawnbroker and meets specified recordkeeping requirements;
- metal acquired for use in dentistry by a State-licensed dentist;
- coins or numismatic items; or
- the purchase of junk or scrap metal otherwise subject to regulation in the State.

The transaction requirements also do not apply to (1) certain retail jewelers with a fixed Maryland business address in the State when accepting merchandise for normal business operations or (2) pawnbrokers located in a county that regulates pawnbrokers unless the pawnbroker does business as a dealer.

Any secondhand precious metal object acquired by a dealer must be held for at least 18 days in the county where the dealer holds a license, after a record is submitted to law enforcement. The primary law enforcement agency may require a dealer to hold a precious metal object for an additional 12 days if the agency has reason to believe that the item is stolen. A dealer may submit a request to the primary law enforcement unit for a shorter holding period for a specific precious metal object.

Background: The amount of regulatory activity related to secondhand precious metal object dealers and pawnbrokers depends largely on the value of precious metals at a given time. The 2005 through 2012 increase in the price of gold coincided with a significant increase in the number of secondhand precious metal object dealers and pawnbrokers licensed by DLLR. Prior to 2008, the total number of licenses issued by the department averaged 254. By January 2009, the department active license total was 348, a 37% increase. By January 2011, the number of active precious metal licensees had climbed to 591 – more than double the pre-2008 average and 70% higher than in January 2009. As of January 2013, DLLR has 643 active licensees.

Chapter 562 of 2009 (SB 597) established electronic reporting requirements for dealers, thereby repealing the authorization that allowed dealers to mail or submit paper transaction records to law enforcement. The State uses the RAPID system to transmit acquisition information from secondhand dealers to local law enforcement through an Internet interface. RAPID enables police departments statewide to immediately gain access to timely information about property that has been sold to pawnbrokers, precious metal dealers, or vehicle salvage yards.

DSP reports that, since the inception of the RAPID system, law enforcement has recovered \$13.2 million in stolen property. In 2012 alone, \$883,000 worth of stolen

precious metal objects were recovered from dealers who reported secondhand precious metal object purchases.

Small Business Effect: Businesses affected by the bill are likely small businesses. Auctioneers benefit from reduced licensing and regulation, while competing secondhand precious metal objects dealers experience a competitive disadvantage with auctioneers operating without a secondhand precious metal objects dealer license.

Additional Comments: DSP advises that the bill creates a lone exemption for auctioneers to transact in secondhand precious metal objects without being licensed as a secondhand precious metal objects dealer and reporting each transaction. Under current law, there are no exempt industries – only limited instances of exempt transactions. Thus, the bill creates a business industry that may attract stolen precious metal objects due to the lack of transaction reporting requirements. In addition, under the bill, an auctioneer can conduct business without a fixed business address, which is a general requirement (subject to limited exceptions, as discussed above) for licensed secondhand precious metal objects dealers.

Additional Information

Prior Introductions: None.

Cross File: SB 998 (Senator Brinkley) - Education, Health, and Environmental Affairs.

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

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