

HOUSE BILL No. 4105

February 7, 1989, Introduced by Reps. Dolan, Pridnia, Trim, Martin, Runco, Willis Bullard, Pitoniak, Gubow, Stabenow, Wallace, DeLange and Emmons and referred to the Committee on Judiciary.

A bill to amend sections 2, 4, and 5 of Act No. 95 of the Public Acts of 1981, entitled "The precious metal and gem dealer act," being sections 445.482, 445.484, and 445.485 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 2, 4, and 5 of Act No. 95 of the Public
2 Acts of 1981, being sections 445.482, 445.484, and 445.485 of the
3 Michigan Compiled Laws, are amended to read as follows:

4 Sec. 2. As used in this act:

5 (a) "Agent or employee" means a person who, for compensation
6 or valuable consideration, is employed either directly or indi-
7 rectly by a dealer.

8 (b) "Dealer" means any person, corporation, partnership, or
9 association, which, in whole or in part, engages in the ordinary

1 course of repeated and recurrent transactions of buying or
2 receiving precious items from the public within this state.

3 (c) "Gold" means elemental gold having an atomic weight of
4 196.967 and the chemical element symbol of Au, whether found by
5 itself or in combination with its alloys or any other metal.

6 (d) "Jewelry" means an ornamental item made of a material
7 that includes a precious gem.

8 (E) "LOCAL GOVERNMENTAL UNIT" MEANS A CITY, VILLAGE, TOWN-
9 SHIP, OR COUNTY.

10 (F) ~~(e)~~ "Local police agency" means the police agency of
11 the city, village, or township, or if none, the county sheriff OF
12 THE COUNTY, IN WHICH THE DEALER CONDUCTS BUSINESS.

13 (G) ~~(f)~~ "Platinum" means elemental platinum having an
14 atomic weight of 195.09 and the chemical element symbol of Pt,
15 whether found by itself or in combination with its alloys or any
16 other metal.

17 (H) ~~(g)~~ "Precious gem" means a diamond, alexandrite, ruby,
18 sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet,
19 jadeite, topaz, tourmaline, turquoise, or pearl.

20 (I) ~~(h)~~ "Precious item" means jewelry, a precious gem, or
21 an item containing gold, silver, or platinum. Precious item does
22 not include the following:

23 (i) Coins, commemorative medals, and tokens struck by, or in
24 behalf of, a government or private mint.

25 (ii) Bullion bars and discs of the type traded by banks and
26 commodity exchanges.

1 (iii) Items at the time they are purchased directly from a
2 dealer registered under this act, a manufacturer, or a wholesaler
3 who purchased them directly from a manufacturer.

4 (iv) Industrial machinery or equipment.

5 (v) An item being returned to or exchanged at the dealer
6 where the item was purchased and which is accompanied by a valid
7 sales receipt.

8 (vi) An item which is received for alteration, redesign, or
9 repair in a manner that does not substantially change its use and
10 returned directly to the customer.

11 (vii) An item which does not have a jeweler's identifying
12 mark or a serial mark and which the dealer purchases for less
13 than \$5.00.

14 (viii) Scrap metal which contains incidental traces of gold,
15 silver, or platinum which are recoverable as a by-product.

16 (ix) Jewelry which a customer trades for other jewelry
17 having a greater value, and which difference in value is paid by
18 the customer.

19 (j) "Silver" means elemental silver having an atomic weight
20 of 107.869 and the chemical element symbol of Ag, whether found
21 by itself or in combination with its alloys or any other metal.

22 Sec. 4. (1) A dealer shall maintain a permanent record of
23 each transaction, on record of transaction forms provided for in
24 subsection (6), legibly written in ink in the English language.

25 Each record of transaction form shall be filled out in

26 ~~triplicate~~ QUADRUPLICATE by the dealer or agent or employee of
27 the dealer. ~~with~~ ONE copy ~~going~~ OF THE FORM SHALL GO to

1 the ~~local~~ APPROPRIATE police agency OR SHERIFF'S DEPARTMENT
2 pursuant to subsection (3); ~~—~~ 1 copy ~~going~~ SHALL GO to the
3 customer; ~~—~~ and 1 copy ~~to~~ SHALL be retained by the dealer
4 pursuant to subsection (5). At the time a dealer receives or
5 purchases a precious item, the dealer or the agent or employee of
6 the dealer shall insure that the following information is
7 recorded accurately on a record of transaction form:

8 (a) The dealer certificate of registration number.

9 (b) A general description of the precious item or precious
10 items received or purchased, including ~~its~~ THE type of metal or
11 precious gem. In the case of watches, the description shall con-
12 tain the name of the maker and the number of both the works and
13 the case. In the case of jewelry, all letters and marks
14 inscribed on the jewelry shall be included in the description.

15 (c) The date of the transaction.

16 (d) The name of the person conducting the transaction.

17 (e) The name, date of birth, driver's license number or
18 state of Michigan personal identification card number, and street
19 and house number of the ~~person with whom the transaction is~~
20 ~~being made~~ CUSTOMER, together with a legible imprint of the
21 right thumb of the ~~person with whom the transaction is made~~
22 CUSTOMER, or if that is not possible, ~~then~~ OF the left thumb or
23 a finger of ~~that person~~ THE CUSTOMER. However, the thumbprint
24 or fingerprint shall only be required on the record of transac-
25 tion form retained by the dealer. The thumbprint or fingerprint
26 shall be made available to ~~the local~~ A police agency ~~only~~
27 during the course of a police investigation involving a precious

1 item or items described on the record of transaction. After a
2 period of 1 year from the date of the record of transaction, if a
3 police investigation concerning a precious item or items
4 described on the record of transaction has not occurred, the
5 dealer and ~~local~~ ANY police agency OR SHERIFF'S DEPARTMENT
6 HOLDING A COPY OF THE RECORD OF TRANSACTION shall destroy, and
7 not keep a permanent record of, the ~~records~~ RECORD of
8 transaction. A dealer who goes out of business or changes his or
9 her business address to another local jurisdiction either within
10 or out of this state shall transmit the records of all transac-
11 tions made by the dealer within 1 year before his or her closing
12 or moving, to the local police agency.

13 (f) The price to be paid by the dealer for the precious item
14 or precious items.

15 (g) The form of payment made to the customer; check, money
16 order, bank draft, or cash. If the payment is by check, money
17 order, or bank draft, the dealer shall indicate the number of the
18 check, money order, or bank draft.

19 (h) The customer's signature.

20 (2) The record of each transaction shall be numbered consec-
21 utively, commencing with the number 1 and the calendar year.

22 (3) Within 48 hours after receiving or purchasing a precious
23 item, the dealer shall send a copy of the record of transaction
24 form to the local police agency AND, IF THE RECORD OF TRANSACTION
25 FORM INDICATES THAT THE CUSTOMER RESIDES OUTSIDE THE JURISDICTION
26 OF THE LOCAL POLICE AGENCY, SHALL SEND A COPY OF THE RECORD OF
27 TRANSACTION FORM TO THE POLICE AGENCY OR SHERIFF'S DEPARTMENT OF

1 THE LOCAL GOVERNMENTAL UNIT IN WHICH THE CUSTOMER RESIDES. The
2 record of transaction forms received by ~~the~~ A police agency OR
3 SHERIFF'S DEPARTMENT shall not be open to inspection by the gen-
4 eral public. Each ~~local police~~ POLICE agency OR SHERIFF'S
5 DEPARTMENT HOLDING RECORD OF TRANSACTION FORMS shall be responsi-
6 ble for insuring the confidentiality of the record of transaction
7 forms and insuring that the record of transaction forms are used
8 only for the purpose for which they were received.

9 (4) The record of transaction forms of a dealer and each
10 precious item received shall be open to an inspection by the
11 county prosecuting attorney, THE local police agency, THE POLICE
12 AGENCY OR SHERIFF'S DEPARTMENT OF THE LOCAL GOVERNMENTAL UNIT IN
13 WHICH THE CUSTOMER RESIDES, and the Michigan state police, at all
14 times during the ordinary business hours of the dealer. As a
15 condition of doing business, a dealer is ~~deemed~~ CONSIDERED to
16 have given consent to the inspection prescribed by this
17 subsection. The record of transaction forms of a dealer shall
18 not be open to inspection by the general public.

19 (5) Except as otherwise provided in this section, each
20 record of a transaction shall be retained by the dealer for not
21 less than 1 year after the transaction to which the record
22 pertains.

23 (6) The form of the record of transaction shall have an
24 8-1/2 by 11 inch size and shall be as follows:

1 "Record of Transaction

2 Dealer Certificate # _____ # _____
 3 (Printed on (Transaction number printed
 4 the form) on the form)

5 (1) Description of Property - _____

6 _____

7 _____

8 _____

9 _____

10 (2) _____, 19____ (3) _____
 11 (Date) (Name of Dealer/Employee)

12 (4) _____, _____ 19____
 13 (Name of Customer) (Date of Birth)

14 _____,
 15 (Driver's license No./ (Street Address)
 16 Mich. Personal ID Number)

17 _____
 18 (City & State) (Zip)

19 (5) _____
 20 (Price Paid)

21 (6) _____
 22 (Check no., bank draft
 23 no., money order no., or
 24 cash)

25 Thumbprint _____ "
 26 (Signature of Customer)

27 (7) AS USED IN THIS SECTION, "CUSTOMER" MEANS THE PERSON
 28 WITH WHOM THE DEALER OR THE AGENT OR EMPLOYEE OF THE DEALER MAKES
 29 THE TRANSACTION OF RECEIVING OR PURCHASING A PRECIOUS ITEM.

30 Sec. 5. A precious item received by a dealer shall be
 31 retained by the dealer for ~~7~~ 9 calendar days after it was

1 received, without any form of alteration other than that required
2 to make an accurate appraisal of its value.