

HOUSE BILL No. 4718

April 27, 1989, Introduced by Reps. Martin and Joe Young, Jr.
and referred to the Committee on State Affairs.

A bill to amend the title and sections 1, 2, 3, 4, 5, 6, 7, 9, and 11 of Act No. 95 of the Public Acts of 1981, entitled "The precious metal and gem dealer act," being sections 445.481, 445.482, 445.483, 445.484, 445.485, 445.486, 445.487, 445.489, and 445.491 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 1, 2, 3, 4, 5, 6, 7, 9,
2 and 11 of Act No. 95 of the Public Acts of 1981, being sections
3 445.481, 445.482, 445.483, 445.484, 445.485, 445.486, 445.487,
4 445.489, and 445.491 of the Michigan Compiled Laws, are amended
5 to read as follows:

TITLE

1
2 An act to regulate the business of buying and receiving
3 gold, silver, platinum, gems, jewelry, ~~and other~~ precious
4 items, SECONDHAND PERSONALTY, OR JUNK; to provide powers to cer-
5 tain state and local officers and agencies with respect to such
6 regulation; to provide for the registration of precious ~~metal~~
7 ITEM DEALERS and ~~gem~~ SECONDHAND OR JUNK dealers; to provide for
8 civil damages; and to prescribe CRIMINAL penalties.

9 Sec. 1. This act shall be known and may be cited as "the
10 precious ~~metal~~ ITEM and ~~gem~~ SECONDHAND OR JUNK dealer act".

11 Sec. 2. As used in this act:

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

15 (B) "DEALER" MEANS A PRECIOUS ITEM DEALER OR A SECONDHAND OR
16 JUNK DEALER.

17 (C) ~~(b) "Dealer"~~ "PRECIOUS ITEM DEALER" means any person,
18 corporation, partnership, or association, which, in whole or in
19 part, engages in the ordinary course of repeated and recurrent
20 transactions of buying or receiving precious items from the
21 public within this state.

22 (D) ~~(c)~~ "Gold" means elemental gold having an atomic
23 weight of 196.967 and the chemical element symbol of Au, whether
24 found by itself or in combination with its alloys or any other
25 metal.

26 (E) ~~(d)~~ "Jewelry" means an ornamental item made of a
27 material that includes a precious gem.

1 (F) ~~(e)~~ "Local police agency" means the police agency of
2 the city, village, or township, or if none, the county sheriff.

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

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

10 (J) ~~(h)~~ "Precious item" means jewelry, a precious gem, or
11 an item containing gold, silver, or platinum. Precious item does
12 not include the following:

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

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

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

20 (iv) Industrial machinery or equipment.

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

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

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

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

6 (ix) Jewelry which a customer trades for other jewelry
7 having a greater value, and which difference in value is paid by
8 the customer.

9 (K) "SECONDHAND OR JUNK DEALER" MEANS ANY PERSON, CORPORA-
10 TION, PARTNERSHIP, OR ASSOCIATION WHICH, IN WHOLE OR PART,
11 ENGAGES IN THE ORDINARY COURSE OF REPEATED AND RECURRENT TRANSAC-
12 TIONS OF BUYING, RECEIVING, EXCHANGING, OR STORING EITHER OF THE
13 FOLLOWING:

14 (i) USED PERSONAL PROPERTY OF ANY KIND OR DESCRIPTION FOR
15 WHICH THE SECONDHAND OR JUNK DEALER PAYS A PRICE OF \$200.00 OR
16 MORE, OR FOR WHICH HE OR SHE CHARGES A RESALE PRICE OF \$200.00 OR
17 MORE.

18 (ii) CAST IRON, TOOL STEEL, OLD IRON OR STEEL, ALUMINUM,
19 COPPER, BRASS, LEAD PIPE OR TOOLS, AND LIGHTING OR PLUMBING
20 FIXTURES.

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

25 Sec. 3. (1) A dealer shall not conduct business in a city,
26 village, or township in this state ~~unless the dealer has~~

1 ~~obtained~~ WITHOUT OBTAINING a valid certificate of registration
2 from that local ~~city, village or township~~ police agency.

3 (2) A dealer shall apply to the local police agency for a
4 certificate of registration, and pay a fee not to exceed \$50.00
5 to cover the reasonable cost of processing and issuing the cer-
6 tificate of registration, by disclosing the following
7 information:

8 (a) The name, address, and thumbprint of the applicant.

9 (b) The name and address under which the applicant does
10 business.

11 (c) The name, address, and thumbprint of all agents or
12 employees. ~~of the dealer.~~ Within 24 hours after hiring a new
13 employee, the dealer shall forward to the local police agency the
14 name, address, and thumbprint of the new employee.

15 (3) A dealer or ~~an~~ ITS agent or employee ~~of a dealer~~ who
16 is convicted of a misdemeanor under this act or under section 535
17 of THE MICHIGAN PENAL CODE, Act No. 328 of the Public Acts of
18 1931, as amended, being section 750.535 of the Michigan Compiled
19 Laws, shall not be permitted to operate as a dealer within this
20 state for a period of 1 year after conviction.

21 (4) A dealer or ~~an~~ ITS agent or employee ~~of a dealer~~ who
22 is convicted of a felony under this act or under section 535 of
23 Act No. 328 of the Public Acts of 1931, as amended, shall not be
24 permitted to operate as a dealer within this state for a period
25 of 5 years after the conviction.

26 (5) This act shall not be construed to excuse a dealer from
27 complying with the local zoning ordinance or any local ordinance

1 regulating commercial activities. However, a local government
2 may not pass an ordinance, or enforce an existing ordinance, that
3 provides additional standards which must be met before the issu-
4 ance of a certificate of registration.

5 (6) Upon receipt of the application described in subsection
6 (2) AND SUBJECT TO SUBSECTIONS (3) AND (4), the local police
7 agency shall issue a certificate of registration in accordance
8 with this section.

9 (7) Upon receipt of the certificate of registration from the
10 local police agency, the dealer shall post it in a conspicuous
11 place in the dealer's place of business.

12 (8) Not less than 10 days before a dealer changes the name
13 or address under which ~~the dealer~~ HE OR SHE does business, the
14 dealer shall notify the local police agency of the change.

15 Sec. 4. (1) A dealer shall maintain a permanent record of
16 each transaction, on record of transaction forms provided for in
17 subsection (6), legibly written in ink in the English language.
18 Each record of transaction form shall be filled out in triplicate
19 by the dealer or ITS agent or employee ~~of the dealer~~ with 1
20 copy going to the local police agency pursuant to subsection (3),
21 1 copy going to the customer, and 1 copy to be retained by the
22 dealer pursuant to subsection (5). At the time a dealer receives
23 or purchases ~~a precious~~ AN item OF THE TYPE REGULATED UNDER
24 THIS ACT, the dealer or ~~the~~ ITS agent or employee ~~of the~~
25 ~~dealer~~ shall insure that the following information is recorded
26 accurately on a record of transaction form:

1 (a) The dealer certificate of registration number.

2 (b) A general description of the ~~precious~~ item ~~or~~

3 ~~precious items~~ OF THE TYPE REGULATED UNDER THIS ACT received or

4 purchased, including its type of metal or precious gem, IF

5 APPLICABLE. In the case of watches, the description shall con-

6 tain the name of the maker and the number of both the works and

7 the case. In the case of jewelry, all letters and marks

8 inscribed on the jewelry shall be included in the description.

9 (c) The date of the transaction.

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

11 (e) The name, date of birth, driver's license number or

12 state of Michigan personal identification card number, and street

13 and house number of the person with whom the transaction is being

14 made, together with a legible imprint of the right thumb of the

15 person with whom the transaction is made, or if that is not pos-

16 sible, then the left thumb or a finger of that person. However,

17 the thumbprint or fingerprint shall only be required on the

18 record of transaction form retained by the dealer. The thumb-

19 print or fingerprint shall be made available to the local police

20 agency only during the course of a police investigation involving

21 ~~a precious item or items~~ AN ITEM described on the record of

22 transaction. After a period of 1 year from the date of the

23 record of transaction, if a police investigation concerning ~~a~~

24 ~~precious item or items~~ AN ITEM described on the record of trans-

25 action has not occurred, the dealer and local police agency shall

26 destroy, and not keep a permanent record of, the records of

27 transaction. A dealer who goes out of business or changes his or

1 her business address to another local jurisdiction either within
2 or out of this state shall transmit the records of all transac-
3 tions HE OR SHE made ~~by the dealer~~ within 1 year before his or
4 her closing or moving, to the local police agency:

5 (f) The price to be paid by the dealer for the ~~precious~~
6 item ~~or precious items~~ OF THE TYPE REGULATED UNDER THIS ACT.

7 (g) The form of payment made to the customer ~~—~~ IN 1 OR
8 MORE OF THE FOLLOWING CATEGORIES: check, money order, bank draft,
9 or cash. If the payment is by check, money order, or bank draft,
10 the dealer shall indicate ~~the~~ ITS number. ~~of the check, money~~
11 ~~order, or bank draft.~~

12 (h) The customer's signature.

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

15 (3) Within 48 hours after receiving or purchasing ~~a~~
16 ~~precious~~ AN item OF THE TYPE REGULATED UNDER THIS ACT, the
17 dealer shall send a copy of the record of transaction form to the
18 local police agency. The record of transaction forms received by
19 the LOCAL police agency shall not be open to inspection by the
20 general public. Each local ~~police~~ POLICE agency shall be
21 responsible for insuring the confidentiality of the record of
22 transaction forms and insuring that the record of transaction
23 forms are used only for the purpose for which they were
24 received.

25 (4) The record of transaction forms of a dealer and each
26 ~~precious~~ item received shall be open to an inspection by the
27 county prosecuting attorney, local police agency, and the

1 Michigan state police, at all times during the ordinary business
 2 hours of the dealer. As a condition of doing business, a dealer
 3 is ~~deemed~~ CONSIDERED to have given consent to the inspection
 4 prescribed by this subsection. The record of transaction forms
 5 of a dealer shall not be open to inspection by the general
 6 public.

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

11 (6) The form of the record of transaction shall have an
 12 8-1/2 by 11 inch size and shall be as follows:

13 "Record of Transaction

14 Dealer Certificate # _____ # _____
 15 (Printed on the form) (Transaction number printed
 16 on the form)

17 (1) Description of Property - _____
 18 _____
 19 _____
 20 _____
 21 _____

22 (2) _____, 19____ (3) _____
 23 (Date) (Name of Dealer/Employee)

24 (4) _____, 19____
 25 (Name of Customer) (Date of Birth)

26 _____,
 27 (Driver's license No./ (Street Address)
 28 Mich. Personal ID Number)
 29 (City & State) (Zip)

30 (5) _____

1 (Price Paid)

2 (6) _____
 3 (Check no., bank draft
 4 no., money order no., or
 5 cash)

6 Thumbprint _____ "
 7 (Signature of Customer)

8 Sec. 5. A ~~precious item received by a~~ dealer WHO RECEIVES
 9 AN ITEM OF THE TYPE THAT IS REGULATED UNDER THIS ACT shall ~~be~~
 10 ~~retained by the dealer~~ RETAIN THAT ITEM for 7 calendar days
 11 ~~after it was received,~~ without any form of alteration other
 12 than that required to make an accurate appraisal of its value.

13 Sec. 6. A dealer or ~~an~~ ITS agent or employee ~~of a~~
 14 ~~dealer~~ shall not DO EITHER OF THE FOLLOWING:

15 (a) Knowingly receive or purchase ~~a precious~~ AN item OF
 16 THE TYPE REGULATED UNDER THIS ACT from any person who is less
 17 than 18 years of age or any person known by the dealer or ITS
 18 agent or employee ~~of the dealer~~ to have been convicted of theft
 19 or receipt of stolen property within the preceding 5 years,
 20 whether the person is acting in his or her own behalf or as the
 21 agent of another.

22 (b) Knowingly receive or purchase ~~a precious~~ AN item OF
 23 THE TYPE REGULATED UNDER THIS ACT from a person unless that
 24 person presents a valid driver's license or a valid state of
 25 Michigan personal identification card.

26 Sec. 7. (1) A dealer or ~~an~~ ITS agent or employee ~~of a~~
 27 ~~dealer~~ who knowingly fails to make an entry of any material
 28 matter in his or her records kept as required by section 4 is

1 guilty of a misdemeanor, punishable by imprisonment for not more
2 than 1 year, or a fine of \$1,000.00, or both.

3 (2) A dealer or ~~an~~ ITS agent or employee ~~of a dealer~~ who
4 knowingly violates subsection (1) a SECOND OR subsequent time is
5 guilty of a felony, punishable by imprisonment for not more than
6 2 years, or a fine of \$5,000.00, or both.

7 Sec. 9. A dealer or ~~an~~ ITS agent or employee ~~of a~~
8 ~~dealer~~ who does any of the following is guilty of a felony, pun-
9 ishable by imprisonment for not more than 2 years, or a fine of
10 \$5,000.00, or both:

11 (a) Totally fails to record a transaction on a record of
12 transaction form as required by section 4.

13 (b) Knowingly falsifies the records kept as required by
14 section 4.

15 (c) Violates section 6.

16 Sec. 11. A person who has ~~a precious~~ AN item OF THE TYPE
17 REGULATED UNDER THIS ACT stolen, embezzled, or converted from him
18 or her may bring ~~an~~ A CIVIL action for 3 times the amount of
19 the damages, costs of ~~suit~~ THE CIVIL ACTION, and reasonable
20 attorneys' fees against any dealer who, by himself or herself or
21 through his or her agent or employee, received or purchased the
22 ~~precious~~ item knowing it was stolen, embezzled, or converted.