

# HOUSE BILL NO. 5997

July 23, 2020, Introduced by Reps. Wakeman and Marino and referred to the Committee on Regulatory Reform.

A bill to amend 1981 PA 95, entitled "The precious metal and gem dealer act," by amending sections 3, 4, 5, and 8 (MCL 445.483, 445.484, 445.485, and 445.488), section 3 as amended by 2006 PA 295 and sections 4 and 5 as amended by 1990 PA 34, and by adding section 4a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

**1**           Sec. 3. (1) A dealer shall not conduct business in a local



1 governmental unit in this state unless the dealer has obtained a  
 2 valid certificate of registration from that local governmental unit  
 3 or local police agency.

4 (2) This section does not require an internet drop-off store  
 5 ~~complying that complies~~ with subsection (3), or a ~~person-an~~  
 6 **individual** engaged in the sale, purchase, consignment, or trade of  
 7 precious items for himself or herself, to obtain a registration  
 8 under this act.

9 (3) An internet drop-off store ~~in compliance that complies~~  
 10 with the following conditions is exempt from registration as a  
 11 dealer under this act:

12 (a) Has a fixed place of business ~~within-in~~ this state, except  
 13 that ~~he or she-the dealer~~ exclusively transacts all purchases or  
 14 sales by means of the internet and the purchases and sales are not  
 15 physically transacted on the premises of that fixed place of  
 16 business.

17 (b) Has the personal property or other valuable thing  
 18 available on a website for viewing by photograph, if available, by  
 19 the general public at no charge. ~~, which website shall be~~ **The**  
 20 **dealer shall ensure that the website is** searchable by zip code or  
 21 state, or both, ~~. The website viewing shall include, and that the~~  
 22 **website includes for viewing**, as applicable, **any** serial number,  
 23 make, model, and other unique identifying marks, numbers, names, or  
 24 letters ~~appearing that appear~~ on the personal property or other  
 25 valuable thing.

26 (c) Maintains records of the sale, purchase, consignment, or  
 27 trade of the personal property or other valuable thing for at least  
 28 2 years. ~~, which records shall~~ **The dealer shall ensure that the**  
 29 **records** contain a description, including a photograph, if



1 available, and, if applicable, **any** serial number, make, model, and  
2 other unique identifying marks, numbers, names, or letters  
3 ~~appearing~~**that appear** on the personal property or other valuable  
4 thing.

5 (d) Provide the local police agency with any name under which  
6 it conducts business on the website and access to the business  
7 premises at any time during normal business hours for purposes of  
8 inspection.

9 ~~(e) Within 24 hours after a request from a local police~~  
10 ~~agency, provide an electronic copy of the seller's or consignor's~~  
11 ~~name, address, telephone number, driver license number and issuing~~  
12 ~~state, the buyer's name and address if applicable, and a~~  
13 ~~description of the personal property or other valuable thing as~~  
14 ~~described in subdivision (c). The provision of information shall be~~  
15 ~~in a format acceptable to the local police agency but shall at~~  
16 ~~least be in a legible format and in the English language.~~

17 **(e)** ~~(f)~~ Provide that payment for the personal property or  
18 other valuable thing is executed by means of check or other  
19 electronic payment system, ~~so long as the payment is~~ **and** not made  
20 in cash. ~~No payment shall be provided to the~~ **A dealer shall not pay**  
21 **a** seller until the item is sold.

22 **(f)** ~~(g)~~ Immediately remove the personal property or other  
23 valuable thing from the website if the local police agency  
24 determines that the personal property or other valuable thing is  
25 stolen.

26 (4) A dealer shall apply to the local police agency for a  
27 certificate of registration, and pay a fee not to exceed \$50.00 to  
28 cover the reasonable cost of processing and issuing the certificate  
29 of registration, by disclosing the following information:



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

2 (b) The name and address under which the applicant does  
3 business.

4 (c) The name, address, and thumbprint of all agents or  
5 employees of the dealer. Within 24 hours after hiring a new  
6 employee, the dealer shall forward to the local police agency the  
7 name, address, and thumbprint of the new employee.

8 (5) A dealer or an agent or employee of a dealer ~~who~~**that** is  
9 convicted of a misdemeanor under this act or under section 535 of  
10 the Michigan penal code, 1931 PA 328, MCL 750.535, ~~shall not be~~**is**  
11 **not** permitted to operate as a dealer within this state for a period  
12 of 1 year after conviction.

13 (6) A dealer or an agent or employee of a dealer ~~who~~**that** is  
14 convicted of a felony under this act or under section 535 of the  
15 Michigan penal code, 1931 PA 328, MCL 750.535, ~~shall not be~~**is not**  
16 permitted to operate as a dealer within this state for a period of  
17 5 years after the conviction.

18 (7) This act shall not be construed to excuse a dealer from  
19 complying with the local zoning ordinance or any local ordinance  
20 regulating commercial activities. However, a local ~~government may~~  
21 ~~not pass an ordinance, or enforce an existing ordinance, that~~  
22 ~~provides additional standards which must be met before the issuance~~  
23 ~~of a certificate of registration.~~**governmental unit shall not adopt**  
24 **or enforce a local law, ordinance, resolution, or rule that**  
25 **duplicates, extends, revises, or conflicts with any provision of**  
26 **this act.**

27 (8) ~~Upon receipt of the~~**When it receives an** application  
28 described in subsection (4), the local police agency shall issue a  
29 certificate of registration in accordance with this section.



1           (9) ~~Upon receipt of the~~ **When it receives a** certificate of  
 2 registration from the local police agency **under subsection (8)**, the  
 3 dealer shall post it in a conspicuous place in the dealer's place  
 4 of business.

5           (10) Not less than 10 days before a dealer changes the name or  
 6 address under which the dealer does business, the dealer shall  
 7 notify the local police agency of the change.

8           Sec. 4. (1) A dealer shall maintain a permanent record of each  
 9 transaction, on **a** record of transaction ~~forms provided for~~ **form**  
 10 **described** in subsection ~~(6), (3)~~, legibly written in ink in the  
 11 English language, ~~. Each record of transaction form shall be filled~~  
 12 ~~out in quadruplicate and completed~~ by the dealer or agent or  
 13 employee of the dealer. ~~One copy of the form shall go to the~~  
 14 ~~appropriate police agency or sheriff's department pursuant to~~  
 15 ~~subsection (3);~~ **The dealer shall provide** 1 copy ~~shall go of the~~  
 16 **form** to the customer ~~;~~ and ~~1 copy shall be retained by the dealer~~  
 17 ~~pursuant~~ **retain 1 copy, subject** to subsection ~~(5).~~ **(4)**. At the time  
 18 a dealer receives or purchases a precious item, the dealer or the  
 19 agent or employee of the dealer shall ~~insure~~ **ensure** that the  
 20 following information is recorded accurately on a record of  
 21 transaction form:

22           (a) The ~~dealer~~ **dealer's name, address, and** certificate of  
 23 registration number.

24           (b) A ~~general~~ **complete and accurate** description of the  
 25 precious item or precious items received or purchased, including  
 26 the type of metal or precious gem. In the case of watches, the  
 27 description shall contain the name of the maker and the number of  
 28 both the works and the case. In the case of jewelry, all letters  
 29 and marks inscribed on the jewelry shall be included in the



1 description.

2 (c) The date **and time** of the transaction **and the transaction**  
3 **number described in subsection (2)**.

4 (d) The name of the ~~person~~**individual** conducting the  
5 transaction.

6 (e) The **first and last** name, date of birth, ~~driver's~~**driver**  
7 license number or state of Michigan personal identification card  
8 number, and street and house number of the customer, together with  
9 a legible imprint of the right thumb of the customer, or if that is  
10 not possible, of the left thumb or a finger of the customer.  
11 However, the thumbprint or fingerprint ~~shall is~~ only ~~be~~ required on  
12 the record of transaction form retained by the dealer. The **dealer**  
13 **shall make the** thumbprint or fingerprint ~~shall be made~~ available to  
14 a police agency during the course of a police investigation  
15 involving a precious item or items described on the record of  
16 transaction. ~~After~~**Except as provided in section 4a, after** a period  
17 of 1 year from the date of the record of transaction, if a police  
18 investigation concerning a precious item or items described on the  
19 record of transaction has not occurred, the dealer and any police  
20 agency or sheriff's department ~~holding~~**that holds** a copy of the  
21 record of transaction shall destroy, and not keep a permanent  
22 record of, the record of transaction. A dealer ~~who~~**that** goes out of  
23 business or changes ~~his or her~~**its** business address to another  
24 local jurisdiction either within or out of this state shall  
25 transmit the records of all transactions, made by the dealer within  
26 1 year before ~~his or her closing or moving,~~**the dealer closes or**  
27 **moves**, to the local police agency.

28 (f) The price ~~to be~~ paid by the dealer for the precious item  
29 or precious items.



1 (g) The form of payment made to the customer; check, money  
2 order, bank draft, or cash. If the payment is by check, money  
3 order, or bank draft, the dealer shall indicate the number of the  
4 check, money order, or bank draft.

5 (h) The customer's signature.

6 (2) ~~The A dealer shall number each~~ record of each ~~a~~  
7 transaction ~~shall be numbered consecutively,~~ commencing with the  
8 number 1 and the calendar year.

9 ~~(3) Within 48 hours after receiving or purchasing a precious~~  
10 ~~item, the dealer shall send a copy of the record of transaction~~  
11 ~~form to the local police agency and, if the record of transaction~~  
12 ~~form indicates that the customer resides outside the jurisdiction~~  
13 ~~of the local police agency, shall send a copy of the record of~~  
14 ~~transaction form to the police agency of the city, village, or~~  
15 ~~township in which the customer resides as set forth on the record~~  
16 ~~of transaction, or, if that city, village, or township does not~~  
17 ~~have a police agency, to the sheriff's department of the county in~~  
18 ~~which the customer resides as set forth on the record of~~  
19 ~~transaction. The record of transaction forms received by a police~~  
20 ~~agency or sheriff's department shall not be open to inspection by~~  
21 ~~the general public. Each police agency or sheriff's department~~  
22 ~~holding record of transaction forms shall be responsible for~~  
23 ~~insuring the confidentiality of the record of transaction forms and~~  
24 ~~insuring that the record of transaction forms are used only for the~~  
25 ~~purpose for which they were received.~~

26 (3) ~~(4) The A dealer shall make each~~ record of transaction  
27 ~~forms of a dealer form~~ and each precious item ~~received shall be it~~  
28 **receives** open to an inspection by the county prosecuting attorney,  
29 the local police agency, the police agency or sheriff's department



1 of the local governmental unit in which the customer resides, and  
2 the ~~Michigan~~ **department of** state police, at all times during the  
3 ordinary business hours of the dealer. As a condition of doing  
4 business, a dealer is considered to have given consent to the  
5 inspection ~~prescribed by~~ **described in** this subsection. The record  
6 of transaction forms of a dealer ~~shall~~ **are** not ~~be~~ open to  
7 inspection by the general public.

8 (4) ~~(5)~~ Except as otherwise provided in this section, **a dealer**  
9 **shall retain** each record of a transaction ~~shall be retained by the~~  
10 ~~dealer for not less than~~ **at least** 1 year after the transaction to  
11 which the record pertains.

12 (5) ~~(6)~~ The form of the record of transaction shall have an 8-  
13 1/2- by ~~11~~ **11**-inch size and shall be as follows:

14 (Dealer's Name and Address)

15 "Record of Transaction

16 Dealer Certificate # \_\_\_\_\_ # \_\_\_\_\_

17 (Printed on (Transaction number  
18 the form) printed on the form)

19 (1) Description of Property - \_\_\_\_\_

20 \_\_\_\_\_

21 \_\_\_\_\_

22 \_\_\_\_\_

23 \_\_\_\_\_

24 (2) \_\_\_\_\_, 1920 (3) \_\_\_\_\_

25 (Date and time) (Name of Dealer/Employee)

26 (4) \_\_\_\_\_, \_\_\_\_\_ 19\_\_\_\_

27 (Name of Customer) (Date of Birth)

28 \_\_\_\_\_,

29 (Driver's license No./ (Street Address)





1 Mich. Personal ID Number) \_\_\_\_\_  
2 (City & State) (Zip)

3 (5) \_\_\_\_\_  
4 (Price Paid) (County of Residence)

5 (6) \_\_\_\_\_  
6 (Check no., bank draft  
7 no., money order no., or cash)

8 \_\_\_\_\_  
9 (Name of police agency of city, village,  
10 or township in which customer resides)

11  
12  
13 Thumbprint \_\_\_\_\_"  
14 (Signature of Customer)

15 (6) ~~(7)~~—As used in this section, "customer" means the person  
16 individual from whom the dealer or the agent or employee of the  
17 dealer receives or purchases a precious item.

18 **Sec. 4a. (1) Within 48 hours after a transaction in which it**  
19 **receives or purchases a precious item, a dealer shall**  
20 **electronically transmit the following information to the**  
21 **department, in a format determined by the department, for inclusion**  
22 **in the database:**

23 (a) A description of the precious item that includes the  
24 information described in section 4(1)(b).

25 (b) If applicable, the serial number or model number of the  
26 precious item.

27 (c) The purchase price of the precious item.

28 (d) The dealer's name and address.

29 (e) The date and time of the transaction and the name of the

1 employee of the dealer who purchased or received the precious item,  
2 or authorized the purchase or receipt of the precious item, on the  
3 dealer's behalf.

4 (f) The transaction number.

5 (g) The customer's date of birth; operator's license number or  
6 other identification number; street address, including city,  
7 village, or township of residence, state, and zip code; and county  
8 of residence.

9 (h) The number of the dealer's check, bank draft, or money  
10 order or the notation "cash" if the dealer paid the purchase price  
11 in cash.

12 (i) The customer's thumbprint.

13 (2) A dealer shall retain an electronic copy of any  
14 information transmitted under subsection (1) for at least 5 years,  
15 in a format determined by the department.

16 (3) Within 180 days after the effective date of this section,  
17 each dealer shall implement any software that the department  
18 determines is necessary to administer the collection of information  
19 required under this section and the retention of information by the  
20 dealer under subsection (2).

21 (4) A dealer shall pay an annual fee of not more than \$250.00  
22 for each of its registered locations for the implementation and  
23 maintenance of the database. The department shall determine the  
24 specific amount of the fee and collect the fee.

25 (5) As used in this section:

26 (a) "Database" means the statewide electronic database  
27 implemented and maintained by the department under section 6 of  
28 1917 PA 273, MCL 446.206.

29 (b) "Department" means the department of state police.



1           Sec. 5. A precious item received by a dealer shall be retained  
 2 by the dealer for ~~9-15~~ calendar days after it was received, without  
 3 any form of alteration other than that required to make an accurate  
 4 appraisal of its value.

5           Sec. 8. (1) A dealer ~~who~~**that** knowingly violates section 3(7),  
 6 3(8), 4(1)(e), 4(3), 4(4), or ~~4(5)~~**4a** is guilty of a misdemeanor ~~τ~~  
 7 punishable by imprisonment for not more than 1 year ~~τ~~ or a fine of  
 8 \$1,000.00, or both.

9           (2) A dealer ~~who~~**that** violates section 3(7), 3(8), 4(1)(e),  
 10 4(3), 4(4), or ~~4(5)~~**4a** a subsequent time is guilty of a felony ~~τ~~  
 11 punishable by imprisonment for not more than 2 years ~~τ~~ or a fine of  
 12 \$5,000.00, or both.

13           Enacting section 1. This amendatory act takes effect 90 days  
 14 after the date it is enacted into law.

15           Enacting section 2. This amendatory act does not take effect  
 16 unless all of the following bills of the 100th Legislature are  
 17 enacted into law:

18           (a) Senate Bill No. \_\_\_\_ or House Bill No. 5995 (request no.  
 19 05255'19).

20           (b) Senate Bill No. \_\_\_\_ or House Bill No. 5996 (request no.  
 21 05989'20).

