

**COUNTY COUNCIL OF CECIL COUNTY, MARYLAND
LEGISLATIVE SESSION DAY 2016-17**

BILL NO. 2016-22

Title of Bill: Pawnbrokers, Dealers and Secondhand Dealers - Licensing and Regulation

Synopsis: A Bill to amend Part II of the Code of Cecil County by adding a new Chapter 262 (Pawnbrokers, Dealers and Secondhand Dealers), Sections 262-1 through 262-10, of the Cecil County Code, providing for licensure, regulation, and imposition of penalty upon violation of Chapter 262.

Introduced by: Council President on behalf of County Executive

Introduced and ordered posted on: September 6, 2016

Public hearing scheduled on: October 4, 2016 at: 7:00 p.m.

Scheduled for consideration: October 18, 2016

By: _____
Council Manager

PUBLIC HEARING

Notice of time and place of public hearing and title of Bill having been posted by _____ at the County Administration Building, 200 Chesapeake Blvd., Elkton and having been published according to the Charter on _____, a public hearing was held on _____, and concluded on _____.

By: _____
Council Manager

Explanation: CAPITAL LETTERS INDICATE LANGUAGE ADDED TO EXISTING DOCUMENT
~~Strike through~~ indicates language deleted from existing document
Underlining indicates language added to document by amendment.
~~Double Strike through~~ indicates language stricken from document by amendment.

Pawnbrokers, Dealers and Secondhand Dealers - Licensing and Regulation

1 **WHEREAS**, pursuant to Section 402 of the Cecil County Charter (the “Charter”), the County
2 Executive (the “Executive”) shall see that the affairs of the executive branch are administered properly and
3 efficiently, and that employees of the executive branch faithfully perform their duties; and

4 **WHEREAS**, pursuant to Section 402 of the Charter, the duties and responsibilities of the Executive
5 include, but are not limited to: (a) Supervising and directing offices, agencies and divisions of the executive
6 branch and ensuring that County employees as well as County boards and commissions faithfully perform
7 their duties; and, (b) preparing and submitting to the Council the annual County Budget; and

8 **WHEREAS**, unregulated commercial commerce in secondhand property has been identified as an
9 impediment to the investigation, charging, and prosecution of theft and related violations of the State
10 criminal laws, and as a source of revenue in the illicit drug market in Cecil County, Maryland; and

11 **WHEREAS**, the Cecil County Sheriff and the State’s Attorney for Cecil County have recommended
12 that the Cecil County Code be amended by adding a chapter licensing, regulating, and providing penalties
13 upon violation of the County Code by pawnbrokers, dealers, and secondhand dealers as defined herein;
14 and

15 **WHEREAS**, the County Executive has submitted the amendment and additions set forth herein to
16 the County Council for consideration and approval in order to address the recommendations made by the
17 Cecil County Sheriff and the State’s Attorney.

18 **NOW, THEREFORE, BE IT ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND**, that
19 Part II of the Code of Cecil County is hereby amended by adding a new Chapter 262, Sections 262-1 through
20 262-10, as follows:

21 **Chapter 262 – Pawnbrokers, Dealers, and Secondhand Dealers**

22 **262-1. Definitions.**

23 **Agent**

24 A person granted authority to act for a principal whether denominated an agent, attorney-in-fact, or
25 otherwise. “Agent” includes an original agent, co-agent, successor agent, and a person to which an agent's
26 authority is delegated.

27 **Automated Purchasing Machine**

28 A self-service device that is designed to dispense payment in exchange for personal property; also
29 known as a reverse vending machine.

30 **Dealer**

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31 An individual who acquires commercially from the public or trades commercially with the public in
32 secondhand precious metal objects and secondhand personal property; an individual who for
33 compensation arranges for the sale or delivery of a secondhand precious metal object and secondhand
34 personal property on behalf of a person that does not hold a license under this title; or unless otherwise
35 provided, a pawnbroker and secondhand dealer. Dealer includes a retail jeweler as to transactions in which
36 the retail jeweler acquires commercially from the public or trades commercially with the public in
37 secondhand precious metal objects.

38 **Employee**

39 An individual who is employed by a dealer, a secondhand dealer or pawnbroker to buy, sell or
40 supervise directly the buying or selling of secondhand precious metal objects, secondhand personal
41 property or articles that are pawned, bought or sold under the license of a pawnbroker or a secondhand
42 dealer.

43 **Pawn**

44 Property provided as security for a loan, pledge, or guaranty. The condition of being held as a
45 pledge against the payment of a loan.

46 **Pawnbroker**

47 An individual or business that engages in pawn transactions.

48 **Pawn Transaction**

49 A loan of money by a dealer on deposit or pledge of personal property or other valuable thing other
50 than securities or printed evidences of indebtedness, or a purchase by a dealer of personal property or
51 other valuable things on condition of selling the same back at a stipulated price.

52 **Precious Metal Object**

53 A precious metal that is: gold; iridium, palladium; platinum; or silver. A precious or semiprecious
54 stone, or a pearl that is or appears to have been attached to or inlaid in a precious metal listed in gold,
55 iridium, palladium, platinum or silver or any alloy of a precious metal. An object that is composed of a
56 precious metal item as listed or an alloy of a precious metal if; the market value of the metal in the object
57 lies principally in its precious metal component or at least 25% of the weight of the object is precious metal.

58 **Public Sale**

59 A sale open to the public and held in a location open accessible to the public, with sufficient public
60 notice of the time and place of the sale to give the public a reasonable opportunity to participate.

61 Secondhand Dealer

62 An individual or business that acquires commercially from the public and trades commercially with
63 the public in tangible secondhand personal property. The term "secondhand dealer" does not apply to a
64 pawnbroker; a business that deals primarily with the purchase and sale of antiques; a charitable
65 organization that accepts only donations; garage or yard sales; the purchase on consignment of second
66 hand clothing, furniture, books, or baby accessories and toys; activities of a club, school, church, or
67 charitable organization that include the sale of donated items; auctions, or estate sales.

68 Secondhand Personal Property

69 Previously owned personal property offered for commercial re-sale or as collateral by any person,
70 other than the manufacturer, wholesale distributor, or original retail seller.

71 262-2. License required; fee.

72 (A) Every pawnbroker or secondhand dealer doing business in the county on or after July 1,
73 1969 shall be required to purchase a license for that purpose. Such license shall be for the term of one (1)
74 year, beginning on July 1 and expiring on June 30 of the following year. The license shall be issued by the
75 Department of Finance. The price of the license shall be set annually by the County Council and listed on a
76 fee schedule maintained by the Department of Finance. Pawnbrokers, dealers, and secondhand dealers
77 will also be required to pay for any administrative/reporting fees that may be required.

78 (B) All license applicants and employees shall submit to a National and State criminal history
79 check and shall not have been convicted of any felonies, crimes of theft, fraud, precious metal,
80 pawnbroker, and secondhand dealer violations.

81 (C) Each licensee shall display the current county license and current Maryland Department of
82 Labor and Licensing Regulation license conspicuously in the place of business of the licensee.

83 (D) A license issued under this subsection is not transferable.

84 262-3. Daily list of transacted items; uniform bill of sale.

85 (A) Every pawnbroker, dealer, and secondhand dealer (including their employees) doing
86 business in the county shall cause to be written in a legible, complete and accurate manner, on forms
87 supplied by the Sheriff of the County, a list of articles and secondhand personal property bought, traded or
88 pledged, and shall forward, in electronic format, the same daily to the Sheriff's Pawn Unit. A separate entry
89 shall be made for each item purchased within the transaction. Each entry shall include a statement as to
90 whether the item was received in its original box and whether it appears to be new in the box. The above

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91 reports made to the Sheriff's Pawn Unit and articles purchased shall be open to the inspection of such
92 persons as, in the discretion of the Sheriff's Pawn Unit, may be regarded as having an interest in the same.
93 Pawnbrokers and secondhand dealers shall keep all records and receipts required by this section at the
94 business location for a minimum of 3 years from the date of the latest record transaction.

95 (B) In addition, pursuant to standards and forms established by the Sheriff, all pawnbrokers and
96 secondhand dealers shall use a uniform bill of sale, ticket or receipt for all items purchased, traded, or
97 taken on pledge by them. Pawnbrokers and secondhand dealers must file with the Sheriff in electronic
98 format the same daily, and keep all records and receipts required by this section at the business location
99 for a minimum of 3 years from the date of the latest record transaction.

100 (C) Pawnbrokers, dealers, and secondhand dealers may not acquire precious metal objects or
101 secondhand personal property, or take any merchandise in a pawn transaction or secondhand personal
102 property transaction from an individual who is a minor.

103 (D) Pawnbrokers, dealers, and secondhand dealers shall:

104 (1) Obtain a valid state driver's license or state identification card or, if that is
105 unavailable, two forms of valid identification, one of which must be a government issued photo
106 identification card that positively identifies the person from whom the pawnbroker, dealer, or secondhand
107 dealer obtained an article.

108 (2) Photograph, photocopy or scan the identification provided and document the name,
109 date of birth, the individual's sex, race, any distinguishing features, age, height and weight and driver's
110 license number of the individual, together with a current phone number, on the forms provided by the
111 Sheriff's Pawn Unit.

112 (3) Provide a statement indicating whether or not the person making the transaction is
113 personally known to the pawnbroker, dealer, or secondhand dealer.

114 (4) Obtain the signature of the person from whom the precious metal object or
115 secondhand personal property is acquired, along with the name and signature of the dealer, secondhand
116 dealer, or employee who accepted the item(s).

117 (E) The records set forth in this section are exempt from Title 10, Subtitle 6 of the State
118 Government Article.

119 **262-4. Form and contents of list.**

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120 The pawnbroker, dealer, or secondhand dealer in preparing the required list under subsection 262-3
121 of this ordinance, shall adhere to the following instructions:

122 (A) All articles shall be photographed and reported by the maker's name and number, the color
123 and size, serial number, model number, together with any initials, inscriptions or any peculiar distinguishing
124 marks or characteristics.

125 (B) Diamonds and other precious stones shall be described by giving the approximate weight of
126 the stone, style of mounting, whether a lady's or gentleman's ring, the number and shape of stones and
127 any initials, inscriptions, scratch numbers or peculiar distinguishing marks or characteristics, and, where
128 applicable, metal color and content (e.g., 10k, 14k et al).

129 (C) Watches shall be designated by the kind of metal, maker's name, movement number, case
130 number, kind of movement, whether lady's or gentleman's and any initials, inscriptions, scratch numbers or
131 peculiar distinguishing marks or characteristics.

132 (D) All jewelry shall be described as to kind, character and whether lady's or gentleman's,
133 number of stones, identification of each stone (if known), shape of stone, and any initials, inscriptions or
134 peculiar distinguishing marks or characteristics of the stones.

135 (E) Chain style necklaces shall be designated by kind, character of metal or other material,
136 design of link and whether lady's, gentleman's or child's and, in all cases, any inscriptions, initials or
137 peculiar distinguishing marks or characteristics.

138 (F) Silverware shall be designated by the kind of character, maker's name any initials,
139 inscriptions or peculiar distinguishing marks or characteristics, and the number of pieces of each type.

140 (G) Furs shall be designated by kind, character, whether lady's, gentleman's or child's, color,
141 maker's, owner's or alterer's name, if any is attached, or any initials, inscriptions or peculiar distinguishing
142 marks or characteristics.

143 (H) Field, marine and open glasses, binoculars, etc., shall be designated by full description,
144 maker's or owner's name and all initials, inscriptions or peculiar distinguishing marks or characteristics,
145 whether upon the case or the instruments.

146 (I) Instruments, such as surgical, architectural, mathematical, surveying, etc., shall be
147 designated by the kind, character, design, name of maker and any initials, inscriptions or peculiar
148 distinguishing marks or characteristics, whether upon the case or the instruments.

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149 (J) Tools shall be designated by the trade in which the same may be used, whether carpenter's,
150 machinist's or otherwise, all numbers, name or number of maker and any initials, inscriptions or peculiar
151 distinguishing marks or characteristics, whether upon the tools or upon the box or case.

152 (K) Clothing shall be designated by kind, character, whether lady's, gentleman's or child's, color,
153 size, material, maker's, owner's or alterer's name, if attached, and any initials, inscriptions or peculiar
154 distinguishing marks or characteristics.

155 **262-5. Disposal of Property.**

156 A pawnbroker, dealer, or secondhand dealer may not transfer, alter or dispose of any secondhand
157 property for a period of thirty (30) days after the date upon which the transaction was reported to the
158 Sheriff's Pawn Unit. This section does not apply to secondhand precious metal object dealers regulated
159 pursuant to Md. Code Ann., Subtitle 12, Business Regulation Article, or to property that may be redeemed
160 or repurchased with the original pawn ticket by the person who pawned the property or by that person's
161 authorized agent.

162 **262-6. Law Enforcement Hold.**

163 When contacted by law enforcement or by the Sheriff's Pawn Unit with a request to have an item
164 placed on hold that is still within the required thirty (30) day hold period and/or the business is still in
165 possession of an article, precious metal object, or secondhand property, the dealer, secondhand dealer, or
166 pawnbroker shall hold that item for investigative purposes until it is determined by law enforcement or the
167 Sheriff's Pawn Unit that the item will either be seized, it is determined that the item is no longer needed for
168 investigative purposes, or forty five (45) days, whichever shall first occur.

169 In circumstances where law enforcement is able to determine that an item has been stolen or is
170 evidence related to a crime or criminal investigation, Law Enforcement may seize the item from a dealer,
171 secondhand dealer, or pawnbroker and hold the item until the criminal proceedings reach a final decision,
172 or the criminal investigation is closed without charges. In all such instances, the seizure shall be
173 documented on a form provided by the Sheriff's Pawn Unit.

174 When contacted by law enforcement or by the Sheriff's Pawn Unit to have an item/transaction
175 placed on hold or if the item is seized in accordance with this section, the dealer, secondhand dealer, or
176 pawnbroker (and its employees) shall keep that information confidential.

177 **262-7. Items required to be tagged.**

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178 All secondhand personal property and precious metals shall, within 24-hours of acquisition by the
179 dealer, secondhand dealer, or pawnbroker, be tagged with the transaction number, item description and
180 date acquired. An item listed in this section may not be sold until such time as the item is in compliance
181 with this section.

182 **262-8. Offsite Storage.**

183 A dealer, secondhand dealer, or pawnbroker may utilize an offsite storage location within Cecil
184 County, provided that the location is approved by the Sheriff's Pawn Unit and the contents of the offsite
185 storage are available for inspection by the Sheriff's Pawn Unit upon reasonable request. If the item being
186 stored is a vehicle, it shall be secured in a locked, fenced location.

187 **262-9. Prohibited Items.**

188 (A) Automated purchasing machines are prohibited from use within the county.

189 (B) Gift Cards/Store Credit cards may not be purchased by a dealer, secondhand dealer, or
190 pawnbroker.

191 **262-10. Penalties.**

192 (A) All dealers, secondhand dealers, pawnbrokers, licensees, and their employees shall at all
193 times comply with the provisions set forth in Sections 262-1 through 262-9. The licensee is responsible for
194 all transactions conducted by their employees who operate under their license as a pawnbroker.

195 (B) Whenever, in this Code or in any law, resolution, local law, rule, regulation or order of the
196 County, any act is prohibited, made or declared to be unlawful, or a criminal offense, or whenever, in such
197 Code or law, resolution, local law, rule, regulation or order, the doing of any act is required or the failure to
198 do any act is declared to be unlawful or an offense or a misdemeanor, where no specific penalty is provided
199 therefor, the violation of any such provision of this Code or any law, resolution, local law, rule, regulation or
200 order shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) per day, per transaction, for
201 each violation of this ordinance, or by imprisonment for not more than six (6) months, or both, in the
202 discretion of the court.

203 (C) Upon conviction under this section 262-10, the defendant's license shall be revoked by the
204 County, and the licensee shall be ineligible to hold a license under Chapter 262 of the ordinance, for a
205 period of one (1) year from the date of conviction.

206 **AND BE IT HEREBY ENACTED BY THE COUNTY COUNCIL OF CECIL COUNTY, MARYLAND,** that the
207 license application fee for pawnbrokers, dealers, and secondhand dealers under new Part II, Chapter 262,

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208 Sections 262-1 through 262-10 of the Code of Cecil County is Two Hundred Fifty (\$250.00) for Fiscal Year
209 2017.

210 **AND BE IT FURTHER ENACTED** that this Act shall take effect 60 calendar days from the date that it
211 becomes law.

CERTIFICATION

I, HEREBY CERTIFY that the above Bill was posted for the public on the public bulletin board with the date, time and location of the public hearing meeting, copies were made available for the public, a copy was distributed to the press, and copy was made available on the Cecil County website.

BY: Council Manager