

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2009 Legislative Session**

Bill No. CB-38-2009

Chapter No. 33

Proposed and Presented by Council Member Olson

Introduced by Council Members Olson, Exum and Dernoga

Co-Sponsors \_\_\_\_\_

Date of Introduction October 13, 2009

**BILL**

1 AN ACT concerning

2 Secondhand and Pawn Dealers

3 For the purpose of clarifying the definition of tangible personal property; requiring the display of  
4 licenses and ordinances; and making related clarifying amendments.

5 BY repealing and reenacting with amendments:

6 SUBTITLE 5. BUSINESSES AND LICENSES.

7 Sections 5-232, 5-233, 5-234, 5-235, 5-237, 5-239  
8 and 5-240,

9 The Prince George's County Code  
10 (2007 Edition, 2008 Supplement).

11 SUBTITLE 28. CIVIL MONETARY FINES OR  
12 PENALTIES.

13 Section 28-265,  
14 The Prince George's County Code  
15 (2007 Edition, 2008 Supplement).

16 SECTION 1. BE IT ENACTED by the County Council of Prince George's County,  
17 Maryland, that Sections 5-232, 5-233, 5-234, 5-235, 5-237, 5-239, 5-240 and 28-265 of the  
18 Prince George's County Code be and the same are hereby repealed and reenacted with the  
19 following amendments:

20 **SUBTITLE 5. BUSINESSES AND LICENSES.**

21 **DIVISION 19. SECONDHAND AND PAWN DEALERS.**

1 **Sec. 5-232. Purpose.**

2 The purpose of this Division is to promote the safety and welfare of the citizens of Prince  
 3 George's County by prescribing procedures which will significantly curtail the disposition of  
 4 certain stolen property by thieves and which will assist in identifying that stolen property so that  
 5 it may be returned to the owners thereof.

6 **Sec. 5-233. Definition.**

7 (a) The term "**secondhand dealer**" means any person, corporation, or other business entity  
 8 in this County engaged regularly in the business of receiving, in exchange for money, trade,  
 9 barter, or other valuable consideration, items of tangible personal property[, including, but not  
 10 limited to, the following:].

11 (b) The term "**tangible personal property**" includes:

- 12 (1) Binoculars;
- 13 (2) Cameras;
- 14 (3) Firearms;
- 15 (4) Furs;
- 16 (5) Household appliances;
- 17 (6) Musical instruments;
- 18 (7) Office machines or equipment (excluding furniture and similar furnishings);
- 19 (8) Radios, television sets, video disc machines, video cassette recorders, stereo  
 20 equipment;
- 21 (9) Personal computers, tape and disc recorders;
- 22 (10) Watches;
- 23 (11) Bicycles;
- 24 (12) Typewriters;
- 25 (13) Tangible personal property pledged as collateral (pawned items);
- 26 (14) Power tools[.]; and
- 27 (15) Any item serialized, marked for identification purposes, or engraved.

28 Tangible personal property does not include cosmetics, devices, drugs or medications, food or  
 29 food additives for human consumption as defined in Title 21 Section 101(e), (f), (g), and (i)  
 30 Health General Article, Annotated Code of Maryland.

1 [(b)] (c) The term "**pawn dealer**" means any person, corporation, or other business entity  
2 in the County, including a secondhand dealer, engaged in the business of lending money on the  
3 deposit or pledge of tangible personal property or in the business of purchasing tangible personal  
4 property on the condition of reselling the same to the seller at a stipulated price.

5 **Sec. 5-234. Secondhand Dealer and Pawn Dealer's and Employee Licenses.**

6 (a) It shall be unlawful for any person, corporation, or other business entity in Prince  
7 George's County to operate as, or act as agent for, a secondhand dealer or pawn dealer unless in  
8 possession of a valid and unsuspended Secondhand Dealer or Pawn Dealer's License issued by  
9 the Director of Environmental Resources.

10 (b) The license shall be valid for one (1) year, and each license or renewal shall be subject  
11 to an annual fee of Five Hundred Dollars (\$500.00).

12 (c) An applicant for a secondhand dealer or pawn dealer's license shall pay an annual fee  
13 of Fifty Dollars (\$50.00) for each employee of the applicant. A secondhand dealer or pawn  
14 dealer shall pay to the Director an additional fee of Fifty Dollars (\$50.00) for each employee  
15 when the employee is initially employed to cover the cost of conducting a criminal background  
16 check. Each employee of a secondhand dealer or pawn dealer shall submit a complete  
17 application for an employee license at least five (5) business days prior to working in the  
18 business of a secondhand dealer or pawn dealer.

19 (d) The Director of Environmental Resources may revoke or suspend the license described  
20 in this Section upon a finding that the licensee has been convicted of a theft offense, has operated  
21 for a period of more than thirty (30) days without a valid license, is engaged regularly in the  
22 business of receiving, in exchange for money, trade, barter, or other valuable consideration,  
23 items prohibited in Section 5-233(b), or has failed to comply with the provisions of this Division.  
24 The Director may deny an application for license if the applicant's license has been revoked or if  
25 the applicant is not of good moral character pursuant to the criteria set out in Section 5-204. The  
26 Director may deny an application for license if the applicant has not obtained a valid use and  
27 occupancy permit for the proposed location within two hundred and seventy (270) days from the  
28 date of the application.

29 (1) The Director's decision following a hearing shall be in writing; shall be sent to all  
30 parties at the hearing; and may be appealed within thirty (30) days after the decision by an  
31 aggrieved party to the Board of Appeals.

1 (e) The number of pawn dealer licenses shall be limited to thirty-one (31). Except as  
 2 provided in this Section, pawn dealer licenses may not be leased, sold, assigned, or otherwise  
 3 transferred.

4 (1) Notwithstanding the restriction on the number of licenses contained in this  
 5 Section, the Director shall not reissue a secondhand dealer or pawn dealer's license that has been  
 6 revoked or otherwise surrendered even if the total number of issued licenses falls below the  
 7 number authorized pursuant to this Section.

8 (2) Notwithstanding the restriction on the number of licenses contained in this  
 9 Section, the Director may transfer a valid and unsuspended pawn dealer license to the parent,  
 10 sibling, or child of the person to whom the license was issued, upon the payment of a fee of  
 11 Five Hundred Dollars (\$500.00), provided the person is otherwise qualified to obtain the license.  
 12 A license which has been revoked shall not be transferred.

13 (f) Any person who operates as a pawn dealer or secondhand dealer without possessing a  
 14 valid unexpired pawn dealer license or secondhand dealer license and who subsequently obtains  
 15 a pawn dealer license or secondhand dealer license shall have the license suspended for two  
 16 business days for each day the person operated without a license. If the person operates more  
 17 than thirty (30) calendar days without a license, the Director shall not issue a license for a period  
 18 of one year after the violation was determined by the Director in accordance with this Section.

19 (g) Prior to issuing a secondhand dealer license or pawn dealer license, the Director shall  
 20 ascertain that the applicant has a valid use and occupancy permit for the proposed location.

21 **Sec. 5-234.01. Display of Licenses and ordinances.**

22 (a) Each license issued under this Division shall be conspicuously displayed at all times in  
 23 the licensee's place of business.

24 (b) A copy of the secondhand and pawn dealers ordinance, consisting of Division 19 of  
 25 Subtitle 5 of the Prince George's County Code, shall be displayed in a conspicuous place in the  
 26 licensee's place of business so that it may be readily seen and read by persons entering the  
 27 premises and employees of the licensee's place of business.

28 (c) A sign shall be posted in a conspicuous place visible from the main entrance of the  
 29 licensee's place of business containing the following message in letters of at least one and one-  
 30 half (1 1/2) inches in height and a corresponding width: "RECEIVING, IN EXCHANGE FOR  
 31 MONEY, TRADE, BARTER, OR OTHER VALUABLE CONSIDERATION COSMETICS.

1 DEVICES, DRUGS OR MEDICATIONS, FOOD OR FOOD ADDITIVES FOR HUMAN  
2 CONSUMPTION IS PROHIBITED”.

3 **Sec. 5-235. Exceptions.**

4 (a) This Division shall have no application to the exchange of an item described in Section  
5 5-233 if:

6 (1) The exchange is incident to the activities of a club or similar organization  
7 meeting, church, church-sponsored group, charitable organization, antique show, trade show,  
8 convention, or auction; or

9 (2) The item received by a secondhand dealer is new or unused [merchandise]  
10 tangible personal property transmitted directly from an established, reputable manufacturer or  
11 wholesaler with a fixed business address and provided that the secondhand dealer retains as a  
12 part of his records an invoice or other customary proof of origin of such merchandise.

13 (b) This Division shall have no application to the sale or exchange of books, periodicals or  
14 other written materials.

15 \* \* \* \* \*

16 **Sec. 5-237. Requirement for record.**

17 (a) Each secondhand dealer or pawn dealer shall record or cause to be recorded the  
18 purchase, barter, exchange, pledge, or other receipt by him of any item described in Section 5-  
19 233 and also any subsequent disposition of that item from his possession. Information shall be  
20 recorded on electronic data storage media in a format specified by the County Police Department  
21 and shall include:

- 22 (1) The date, time, and place of the transaction;
- 23 (2) The name and address of the principal, if the transaction is by an agent;
- 24 (3) A comprehensive description of the items, including any visible identification  
25 marks such as initials, name of manufacturer, model and serial numbers, and owner applied  
26 identification numbers, and whether the item appears to be new or unused or in its original box  
27 or packaging;
- 28 (4) Consideration received;

29 (5) The name, address, telephone number, date of birth, and physical description,  
30 including the sex, race, distinguishing features, approximate age, height, weight, hair and eye  
31 color of the person or persons from whom the item is received and to whom it is disposed. The

1 secondhand dealer or pawn dealer shall require two forms of identification of those persons by a  
2 driver's license or similar credentials. The record shall be signed by the dealer or dealer's agent,  
3 where applicable, and the seller.

4 (6) The secondhand dealer or pawn dealer shall retain a copy of the above records for  
5 three (3) years after the date of the transaction.

6 (b) The requirements imposed upon a secondhand dealer or pawn dealer by this Section  
7 shall also be binding upon any employee or other person acting for the secondhand dealer or  
8 pawn dealer.

9 (c) The completed Police Department form shall be submitted by the secondhand dealer or  
10 pawn dealer to the County Police Department by:

11 (1) Delivering or electronically transmitting the copy by 10:00 A.M. on the next  
12 business day after the record is made; or

13 (2) Mailing the copy at the end of the business day when the record is made, by first  
14 class mail, from a post office or mailbox in Prince George's County.

15 \* \* \* \* \*

16 **Sec. 5-239. Inspections by police.**

17 Any authorized member of the County Police Department may, during normal business  
18 hours and in the presence of the secondhand dealer or pawn dealer or his representative, inspect  
19 at the dealer's place of business the records required to be kept by this Division and any item of  
20 property listed in Section 5-233. If the secondhand dealer or pawn dealer refuses to permit such  
21 an inspection, a search warrant shall be obtained and the Secondhand Dealer or Pawn Dealer's  
22 License for the refusing dealer shall automatically be suspended pending the outcome of the  
23 inspection and until the suspension is terminated by the Director of Environmental Resources. It  
24 shall be unlawful for a secondhand dealer or pawn dealer to operate as such while his license is  
25 suspended.

26 **Sec. 5-240. Regulations.**

27 (a) The Chief of Police of the County Police Department is authorized to issue regulations  
28 to implement this Division.

29 (b) A pawn dealer or a secondhand dealer may be open to the public between the hours of  
30 7:00 A.M. and 10:00 P.M. and shall not conduct any business with the public at any other time.

(c) The use of a drive-up window or other practice, service, or device that enables a patron to conduct business from a motor vehicle without leaving the motor vehicle is prohibited.

(d) No license as pawn dealer or a secondhand dealer shall be granted to any person who has an ordinary license, or license for the retailing of spirituous liquors.

**SUBTITLE 28. CIVIL MONETARY FINES OR PENALTIES.**

**DIVISION 3. MISCELLANEOUS CIVIL VIOLATIONS.**

**Subdivision 2. Specific Civil Penalties Prescribed.**

**Sec. 28-265. Secondhand dealer and pawn dealer violations.**

(a) Any person who violates Sections 5-234, 5-236, 5-237, 5-238, 5-238.01, and 5-239 of this Code concerning secondhand and pawn dealers shall, upon citation issued pursuant to Subdivision 1, be deemed to have committed a civil violation and shall pay to the County a civil monetary fine in the amount prescribed by Subsection (b) of this Section.

(1) Each separate day of violation that remains uncorrected is a distinct civil violation subject to an additional citation and fine in the amount prescribed by Subsection (b) of this Section.

(b) The civil monetary fine for each civil violation of Sections 5-234, 5-238, and 5-238.01 of the County Code shall be One Hundred Dollars (\$100.00), except as provided in Subsection

(c). The civil monetary fine for each civil violation of Sections 5-236, 5-237, and 5-239 of the County Code shall be Twenty-five Dollars (\$25.00), except as provided in Subsection (c).

(c) For a repeated civil violation of Sections 5-234, 5-238, and 5-238.01 at the same location within a twelve (12) month period, the following fines shall apply:

2nd violation	\$250.00
3rd violation	\$500.00
Each violation in excess of three (3)	\$1,000.00

SECTION 2. BE IT FURTHER ENACTED that the provisions of this Act are hereby declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this Act, since the same would have been enacted without the incorporation in this Act of any such

1 | invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

2 | SECTION 3. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)

3 | calendar days after it becomes law.

Adopted this 3<sup>rd</sup> day of November, 2009.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Marilynn M. Bland  
Chairperson

ATTEST:

\_\_\_\_\_  
Redis C. Floyd  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_ BY: \_\_\_\_\_  
Jack B. Johnson  
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks \*\*\* indicate intervening existing Code provisions that remain unchanged.