

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND**  
**2010 Legislative Session**

Bill No. CB-40-2010

Chapter No. 50

Proposed and Presented by Council Members Olson and Dernoga

Introduced by Council Members Olson, Dernoga, Harrison, Bland, Turner Exum, Knotts

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

Date of Introduction July 13, 2010

**BILL**

1 AN ACT concerning

2 Secondhand and Pawn Dealers

3 For the purpose of further clarifying the definition of tangible personal property, the exceptions  
4 provision; and general regulations as it relates to the second hand dealer licensing

5 BY repealing and reenacting with amendments:

6 SUBTITLE 5. BUSINESSES AND LICENSES.

7 Sections 5-233, 5-324, 5-235 and 5-240

8 The Prince George's County Code

9 (2007 Edition, 2009 Supplement).

10  
11 SUBTITLE 28. CIVIL MONETARY FINES OR

12 PENALTIES.

13 Section 28-265

14 The Prince George's County Code

15 (2007 Edition, 2009 Supplement).

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19 and the same are hereby repealed and reenacted with the following amendments:

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

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

1 **Sec. 5-233. Definition.**

2 (a) The term "**secondhand dealer**" means any person, corporation, or other business entity  
 3 in this County engaged regularly in the business of receiving, in exchange for money, trade,  
 4 barter, or other valuable consideration, items of tangible personal property.

5 (b) The term "**tangible personal property**" includes the following used items:

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

23 Tangible personal property does not include new unopened merchandise in the original sealed  
 24 packaging, general use prepaid cards, gift certificates, store gift cards, cosmetics, devices, drugs  
 25 or medications, food or food additives for human consumption as defined in Title 21 Section  
 26 101(e), (f), (g), and (i) Health General Article, Annotated Code of Maryland.

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

31 **Sec. 5-234. Secondhand Dealer and Pawn Dealer's and Employee Licenses.**  
 32

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

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

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

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

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

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

1 transferred, or held and operated where the controlling interest of the licensee's pawn shop  
 2 business has been leased, sold, assigned or transferred to another individual or business. Such  
 3 provision would not preclude the capital stock of publically traded companies, trading on a  
 4 public stock exchange and registered with the Securities and Exchange Commission (the "SEC"),  
 5 from being bought and sold.

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

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

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

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

23 (h) Any person who operates as a pawn dealer or secondhand dealer must notify the  
 24 Director and Chief of Police, in writing, on a form to be supplied by the Department of  
 25 Environmental Resources of the lease, sale, assignment , or transfer of the controlling interest of  
 26 the licensee's pawn shop business within ten (10) days of the execution of the transaction.

27 **Sec. 5-235. Exceptions.**

28 (a) This Division shall have no application to the exchange of an item described in Section  
 29 5-233 if:

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

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

8 (3) The item received by a pawn or secondhand dealer is traded in for the purchase of  
9 another item equal or greater in value.

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

12 \* \* \* \* \*

13 **Sec. 5-240. Regulations.**

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

16 (b) A pawn dealer or a secondhand dealer may be open to the public between the hours of  
17 7:00 A.M. and 10:00 P.M. and shall not conduct any business with the public at any other time.

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

20 (d) The Department of Environmental Resources shall not issue a Pawn Dealer license [No  
21 license as pawn dealer [or a secondhand dealer shall be granted] to any person who has [an  
22 ordinary license] been issued a business license by the Department in accordance with Subtitle 5  
23 of the Prince George's County Code, or been issued a license for the retailing of spirituous  
24 liquors.

25 SECTION 2. BE IT ENACTED by the County Council of Prince George's County,  
26 Maryland, that Section 28-265 of the Prince George's County Code be and the same is hereby  
27 repealed and reenacted with the following amendments:

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

29 **DIVISION 3. MISCELLANEOUS CIVIL VIOLATIONS**

30 **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 Subsections (b) through (d) 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 Subsections (b) through (d) 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).] Two Hundred and Fifty Dollars (\$250.00) for the first violation, Five Hundred Dollars (\$500.00) for the second violation, and One Thousand Dollars (\$1,000) for the third and each subsequent violation in excess of three (3) violations at the same location within a twelve (12) month period.

[(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]

(c) The civil monetary fine assessed against the employee of the Secondhand or Pawn Dealer 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).] One Hundred Dollars (\$100.00).

(d) The civil monetary fine assessed against the Secondhand or Pawn Dealer for each civil violation of Sections 5-236, 5-237, and 5-239 of the County Code shall be Two Hundred and Fifty Dollars (\$250.00) for the first violation, Five Hundred Dollars (\$500.00) for the second violation, and One Thousand Dollars (\$1,000) for the third and each subsequent violation in excess of three (3) violations at the same location within a twelve (12) month period.

1 SECTION 3. BE IT FURTHER ENACTED that the provisions of this Act are hereby  
2 declared to be severable; and, in the event that any section, subsection, paragraph, subparagraph,  
3 sentence, clause, phrase, or word of this Act is declared invalid or unconstitutional by a court of  
4 competent jurisdiction, such invalidity or unconstitutionality shall not affect the remaining  
5 words, phrases, clauses, sentences, subparagraphs, paragraphs, subsections, or sections of this  
6 Act, since the same would have been enacted without the incorporation in this Act of any such  
7 invalid or unconstitutional word, phrase, clause, sentence, subparagraph, subsection, or section.

8 SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45)  
9 calendar days after it becomes law.

Adopted this 28th day of September, 2010.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND

BY: \_\_\_\_\_  
Thomas E. Dernoga  
Chair

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.