

**COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND****1997 Legislative Session**Bill No. CB-29-1997Chapter No. 63Proposed and Presented by Council Member Del GiudiceIntroduced by Council Member Del Giudice

Co-Sponsors

Date of Introduction September 30, 1997**BILL**

AN ACT concerning

Secondhand Dealers and Pawn Dealers

For the purpose of defining pawn dealers, restricting the number of licenses, providing for the licensing of employees, increasing licensing fees, increasing the retention period for pawned and sold items, providing for civil fines, and making related clarifying amendments.

BY repealing and reenacting with amendments:

## SUBTITLE 5. BUSINESSES AND LICENSES.

Sections 5-233, 5-234, 5-236, 5-237,

5-238, 5-238.01, 5-239, and 5-241,

The Prince George's County Code

(1995 Edition, 1996 Supplement).

BY adding:

## SUBTITLE 28. CIVIL MONETARY FINES OR PENALTIES.

Section 28-265,

The Prince George's County Code

(1995 Edition, 1996 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 5-233, 5-234, 5-236, 5-237, 5-238, 5-238.01, 5-239, and 5-241 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

## SUBTITLE 5. BUSINESSES AND LICENSES.

### DIVISION 19. SECONDHAND AND PAWN DEALERS.

#### Sec. 5-233. Definition.

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

- (1) Binoculars;
- (2) Cameras;
- (3) Firearms;
- (4) Furs;
- (5) Household appliances;
- (6) Musical instruments;
- (7) Office machines or equipment (excluding furniture and similar furnishings);
- (8) Radios, television sets, video disc machines, video cassette recorders, stereo equipment;
- (9) Personal computers, tape and disc recorders;
- (10) Watches;
- (11) Bicycles;
- (12) Typewriters;
- (13) Tangible personal property pledged as collateral (pawned items);
- (14) Power tools.

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

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

(a) It shall be unlawful for any person, corporation, or other business entity in Prince George's County to operate as, or act as agent for, a secondhand dealer or pawn dealer [(with

respect to any of the items listed in Section 5-233)] unless in possession of a valid and unsuspended Secondhand Dealer or Pawn Dealer's License issued by the Director of the Office of Business and Regulatory Affairs.

(b) The license shall be valid for one (1) year, and each license or renewal shall be subject to an annual fee of [Two Hundred Fifty Dollars (\$250.00)] Five Hundred Dollars (\$500.00).

(c) An applicant for a secondhand dealer or pawn dealer's license shall pay [a] an annual fee of Fifty Dollars (\$50.00) for each employee of the applicant [to be determined by the Director and set forth in regulation]. A secondhand dealer or pawn dealer shall pay to the Director [a] an additional fee of Fifty Dollars (\$50.00) for each employee when the employee is initially employed to cover the cost of conducting a criminal background check. Each employee of a secondhand dealer or pawn dealer shall submit a complete application for an employee license at least five business days prior to working in the business of a secondhand dealer or pawn dealer.

(d) The Director of the Office of Business and Regulatory Affairs may revoke or suspend the license described in [Subsection (a)] this Section upon a finding that the licensee has been convicted of a theft offense, has operated for a period of more than 30 days without a valid license, or has failed to comply with the provisions of this Division. The Director may deny an application for license if the applicant's license has been revoked or if the applicant is not of good moral character pursuant to the criteria set out in Section 5-204.

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

(e) The number of pawn dealer licenses shall be limited to thirty-eight (38). Except as provided in this Section, pawn dealer licenses may not be leased, sold, assigned, or otherwise transferred. All applicants for available authorized pawn dealer licenses for the ensuing year shall apply to be placed in a pool by December 31. Whenever more than one person applies for an available authorized pawn dealer license, the Director shall establish a list of applicants

by random drawing.

(1) Notwithstanding the restriction on the number of licenses contained in this Section, the Director may reissue a pawn dealer license to a person who possessed a valid and unsuspended secondhand dealer license on February 19, 1997.

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

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

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

**Sec. 5-236. Prohibition of trading with minor.**

No secondhand dealer or pawn dealer shall purchase, barter, exchange, or otherwise receive any item described in Section 5-233 from a [minor] person under the age of eighteen (18).

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

(a) Each secondhand dealer or pawn dealer shall record or cause to be recorded the purchase, barter, exchange, pledge, or other receipt by him of any item described in Section 5-233 and also any subsequent disposition of that item from his possession. [Recording] Information shall be [on forms obtainable from] recorded on electronic data storage media in

a format specified by the County Police Department and shall include:

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

- (4) Consideration received;

(5) The name, address, telephone number, date of birth, and physical description, including the sex, race, distinguishing features, approximate age, height, weight, hair and eye color of the person or persons from whom the item is received and to whom it is disposed. The secondhand dealer or pawn dealer shall require two forms of identification of those persons by a driver's license or similar credentials[, unless the persons are known to the secondhand dealer or the dealer's agent]. The record shall be signed by the dealer or dealer's agent, where applicable, and the seller.

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

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

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

- (1) Delivering or electronically transmitting the copy by 10:00 A.M. on the next business day after the record is made; or
- (2) Mailing the copy at the end of the business day when the record is made, by first class mail, from a post office or mailbox in Prince George's County.

**Sec. 5-238. Retention of items.**

No secondhand dealer or pawn dealer and no employee or other person acting for that

dealer shall dispose of any item described in Section 5-233 and received by the dealer until a period of [eighteen (18)] thirty (30) days shall have elapsed after the date of submission or electronic transmission of the report required by Section 5-237, or the item is inspected by the County Police Department, whichever shall occur first. Where the dealer finds that the [eighteen (18)] thirty (30) day[s] waiting period constitutes a burden, he may contact the Police Department by letter stating his need for early action and requesting an expedited inspection. Within [48] 96 hours after receiving the request, the Police Department shall approve or deny the request. The dealer shall retain, for an additional period of twelve (12) days, any item described in Section 5-233 if the County Police Department requests that the dealer retain the item and the County Police Department has reasonable cause to believe the item has been stolen. Items which are required to be retained by the provisions of this Section shall be tagged in compliance with regulations of the County Police Department and shall be securely stored in a separate location within the business, apart from other items of property. In any case, no item shall be sold or otherwise be removed from the location of the licensed business of the secondhand dealer or pawn dealer during the period of prescribed retention. The [eighteen (18)] thirty (30) day holding period required by this Section shall not apply to pawned items which are redeemed with the original ticket.

**Sec. 5-238.01. Release of stolen property.**

(a) A dealer shall hold for, and release to, an authorized member of the County Police Department any item of personal property listed in Section 5-233 located at the place of business of the secondhand dealer if:

- (1) The item is established to have been stolen;
- (2) The owner of the item or victim of the theft has:
  - (A) Positively identified the item; or
  - (B) Provided an affidavit of ownership; and
- (3) The stolen property report describes the item.

(b) When the County Police Department no longer needs an item for evidence, the County Police Department shall give the item to its owner.

(c) A secondhand dealer or pawn dealer who is required to release an item under this Subdivision is not entitled to reimbursement for any pledge or purchase price paid for the item from:

- (1) The County Police Department to which the secondhand dealer or pawn dealer released the item;
- (2) The owner of the item; or
- (3) The victim of the theft.

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

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

**Sec. 5-241. Penalty.**

(a) Any person may be liable for a civil fine as provided for in Subtitle 28 for a violation of the provisions of this Division. If the violation is of a continuing nature, each and every day during which the violation continues is a separate violation. (b) Any person or corporation who violates or fails to comply with any provision of this Division or who makes any false statement in connection therewith or who gives false identification shall, upon conviction, be guilty of a misdemeanor and subject to a fine not exceeding One Thousand Dollars (\$1,000.00) or imprisonment not exceeding six (6) months, or both such fine and imprisonment.

SECTION 2. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Section 28-265 of the Prince George's County Code be and the same are

hereby added:

**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:

<u>2nd violation</u>	<u>\$250.00</u>
<u>3rd violation</u>	<u>\$500.00</u>
<u>Each violation in excess of three</u>	<u>\$1,000.00</u>

SECTION 3. BE IT FURTHER ENACTED that the provisions of CR-6-1997 will be of no further force and effect after the effective date of this Act.

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

Adopted this 28th day of October, 1997.

COUNTY COUNCIL OF PRINCE  
GEORGE'S COUNTY, MARYLAND



BY:

Dorothy F. Bailey  
Chair

ATTEST:

Joyce T. Sweeney  
Clerk of the Council

APPROVED:

DATE: \_\_\_\_\_

BY:

Wayne K. Curry  
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.