

# HOUSE BILL No. 5958

April 19, 2006, Introduced by Reps. Nofs, Hildenbrand, Palsrok and Clemente and referred to the Committee on Energy and Technology.

A bill to amend 1981 PA 95, entitled "The precious metal and gem dealer act," by amending sections 2 and 3 (MCL 445.482 and 445.483), section 2 as amended by 1990 PA 34.

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

1           Sec. 2. As used in this act:

2           (a) "Agent or employee" means a person who, for compensation  
3 or valuable consideration, is employed either directly or  
4 indirectly by a dealer.

5           (b) "Dealer" means any person, corporation, partnership, or  
6 association, which, in whole or in part, engages in the ordinary  
7 course of repeated and recurrent transactions of buying or  
8 receiving precious items from the public within this state.

1 (c) "Gold" means elemental gold having an atomic weight of  
2 196.967 and the chemical element symbol of Au, whether found by  
3 itself or in combination with its alloys or any other metal.

4 (d) "Jewelry" means an ornamental item made of a material that  
5 includes a precious gem.

6 (e) "Local governmental unit" means a city, village, township,  
7 or county.

8 (f) "Local police agency" means the police agency of the city,  
9 village, or township, or if none, the county sheriff of the county,  
10 in which the dealer conducts business.

11 (g) "Platinum" means elemental platinum having an atomic  
12 weight of 195.09 and the chemical element symbol of Pt, whether  
13 found by itself or in combination with its alloys or any other  
14 metal.

15 (h) "Precious gem" means a diamond, alexandrite, ruby,  
16 sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet,  
17 jadeite, topaz, tourmaline, turquoise, or pearl.

18 (i) "Precious item" means jewelry, a precious gem, or an item  
19 containing gold, silver, or platinum. Precious item does not  
20 include the following:

21 (i) Coins, commemorative medals, and tokens struck by, or in  
22 behalf of, a government or private mint.

23 (ii) Bullion bars and discs of the type traded by banks and  
24 commodity exchanges.

25 (iii) Items at the time they are purchased directly from a  
26 dealer registered under this act, a manufacturer, or a wholesaler  
27 who purchased them directly from a manufacturer.

1 (iv) Industrial machinery or equipment.

2 (v) An item being returned to or exchanged at the dealer where  
3 the item was purchased and ~~which~~ **THAT** is accompanied by a valid  
4 sales receipt.

5 (vi) An item which is received for alteration, redesign, or  
6 repair in a manner that does not substantially change its use and  
7 returned directly to the customer.

8 (vii) An item which does not have a jeweler's identifying mark  
9 or a serial mark and which the dealer purchases for less than  
10 \$5.00.

11 (viii) Scrap metal which contains incidental traces of gold,  
12 silver, or platinum ~~which~~ **THAT** are recoverable as a by-product.

13 (ix) Jewelry which a customer trades for other jewelry having a  
14 greater value, and which difference in value is paid by the  
15 customer.

16 (j) "Silver" means elemental silver having an atomic weight of  
17 107.869 and the chemical element symbol of Ag, whether found by  
18 itself or in combination with its alloys or any other metal.

19 **(K) "TRADING ASSISTANT" MEANS A PERSON, CORPORATION, OR FIRM**  
20 **THAT CONTRACTS WITH OTHER PERSONS, CORPORATIONS, OR FIRMS TO OFFER**  
21 **ITS PRECIOUS ITEMS FOR SALE, PURCHASE, CONSIGNMENT, OR TRADE**  
22 **THROUGH MEANS OF AN INTERNET WEBSITE AND MEETS THE CONDITIONS**  
23 **DESCRIBED IN SECTION 3(3).**

24 Sec. 3. (1) A dealer shall not conduct business in a ~~city,~~  
25 ~~village, or township~~ **LOCAL GOVERNMENTAL UNIT** in this state unless  
26 the dealer has obtained a valid certificate of registration from  
27 that local ~~city, village~~ **GOVERNMENTAL UNIT** or ~~township~~ **LOCAL**

1 police agency.

2 (2) THIS SECTION DOES NOT REQUIRE A TRADING ASSISTANT  
3 COMPLYING WITH SUBSECTION (3), OR A PERSON ENGAGED IN THE SALE,  
4 PURCHASE, CONSIGNMENT, OR TRADE OF PRECIOUS ITEMS FOR HIMSELF OR  
5 HERSELF, TO OBTAIN A REGISTRATION UNDER THIS ACT.

6 (3) A TRADING ASSISTANT IN COMPLIANCE WITH THE FOLLOWING  
7 CONDITIONS IS EXEMPT FROM REGISTRATION AS A DEALER UNDER THIS ACT:

8 (A) HAS A FIXED PLACE OF BUSINESS WITHIN THIS STATE.

9 (B) HAS THE PERSONAL PROPERTY OR OTHER VALUABLE THING  
10 AVAILABLE ON A WEBSITE FOR VIEWING BY PHOTOGRAPH, IF AVAILABLE, BY  
11 THE GENERAL PUBLIC AT NO CHARGE, WHICH WEBSITE SHALL BE SEARCHABLE  
12 BY ZIP CODE OR STATE, OR BOTH. THE WEBSITE VIEWING SHALL INCLUDE,  
13 AS APPLICABLE, SERIAL NUMBER, MAKE, MODEL, AND OTHER UNIQUE  
14 IDENTIFYING MARKS, NUMBERS, NAMES, OR LETTERS APPEARING ON THE  
15 PERSONAL PROPERTY OR OTHER VALUABLE THING.

16 (C) MAINTAINS RECORDS OF THE SALE, PURCHASE, CONSIGNMENT, OR  
17 TRADE OF THE PERSONAL PROPERTY OR OTHER VALUABLE THING FOR AT LEAST  
18 2 YEARS, WHICH RECORDS SHALL CONTAIN A DESCRIPTION, INCLUDING A  
19 PHOTOGRAPH, IF AVAILABLE, AND, IF APPLICABLE, SERIAL NUMBER, MAKE,  
20 MODEL, AND OTHER UNIQUE IDENTIFYING MARKS, NUMBERS, NAMES, OR  
21 LETTERS APPEARING ON THE PERSONAL PROPERTY OR OTHER VALUABLE THING.

22 (D) PROVIDE THE LOCAL POLICE AGENCY WITH ANY NAME UNDER WHICH  
23 IT CONDUCTS BUSINESS ON THE WEBSITE, ACCESS TO THE BUSINESS  
24 PREMISES AT ANY TIME DURING NORMAL BUSINESS HOURS FOR PURPOSES OF  
25 INSPECTION, AND, WITHIN 24 HOURS AFTER ENTERING INTO THE CONTRACT  
26 FOR THE SALE, PURCHASE, CONSIGNMENT, OR TRADE OF THE PERSONAL  
27 PROPERTY OR OTHER VALUABLE THING, AN ELECTRONIC COPY OF THE NAME,

1 ADDRESS, TELEPHONE NUMBER, DRIVER LICENSE NUMBER AND ISSUING STATE,  
2 AND DESCRIPTION OF THE PERSONAL PROPERTY OR OTHER VALUABLE THING AS  
3 DESCRIBED IN SUBDIVISION (C). THE PROVISION OF INFORMATION SHALL BE  
4 IN A FORMAT ACCEPTABLE TO THE LOCAL POLICE AGENCY BUT SHALL AT  
5 LEAST BE IN A LEGIBLE FORMAT AND IN THE ENGLISH LANGUAGE.

6 (E) PROVIDE THAT PAYMENT FOR THE PERSONAL PROPERTY OR OTHER  
7 VALUABLE THING IS EXECUTED BY MEANS OF CHECK OR OTHER ELECTRONIC  
8 PAYMENT SYSTEM, SO LONG AS THE PAYMENT IS NOT MADE IN CASH.

9 (F) IMMEDIATELY REMOVE THE PERSONAL PROPERTY OR OTHER VALUABLE  
10 THING FROM THE WEBSITE AND NOTIFY THE LOCAL POLICE AGENCY UPON  
11 LEARNING IF THE VERIFICATION REVEALS THAT THE PERSONAL PROPERTY OR  
12 OTHER VALUABLE THING IS STOLEN.

13 (4) ~~-(2)-~~ A dealer shall apply to the local police agency for  
14 a certificate of registration, and pay a fee not to exceed \$50.00  
15 to cover the reasonable cost of processing and issuing the  
16 certificate of registration, by disclosing the following  
17 information:

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

19 (b) The name and address under which the applicant does  
20 business.

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

25 (5) ~~-(3)-~~ A dealer or an agent or employee of a dealer who is  
26 convicted of a misdemeanor under this act or under section 535 of  
27 Act No. 328 of the Public Acts of 1931, as amended, being section

1 ~~750.535 of the Michigan Compiled Laws~~ **THE MICHIGAN PENAL CODE,**  
2 **1931 PA 328, MCL 750.535,** shall not be permitted to operate as a  
3 dealer within this state for a period of 1 year after conviction.

4 (6) ~~-(4)-~~ A dealer or an agent or employee of a dealer who is  
5 convicted of a felony under this act or under section 535 of ~~Act~~  
6 ~~No. 328 of the Public Acts of 1931, as amended,~~ **THE MICHIGAN PENAL**  
7 **CODE, 1931 PA 328, MCL 750.535,** shall not be permitted to operate  
8 as a dealer within this state for a period of 5 years after the  
9 conviction.

10 (7) ~~-(5)-~~ This act shall not be construed to excuse a dealer  
11 from complying with the local zoning ordinance or any local  
12 ordinance regulating commercial activities. However, a local  
13 government may not pass an ordinance, or enforce an existing  
14 ordinance, that provides additional standards which must be met  
15 before the issuance of a certificate of registration.

16 (8) ~~-(6)-~~ Upon receipt of the application described in  
17 subsection ~~-(2)-~~ (4), the local police agency shall issue a  
18 certificate of registration in accordance with this section.

19 (9) ~~-(7)-~~ Upon receipt of the certificate of registration from  
20 the local police agency, the dealer shall post it in a conspicuous  
21 place in the dealer's place of business.

22 (10) ~~-(8)-~~ Not less than 10 days before a dealer changes the  
23 name or address under which the dealer does business, the dealer  
24 shall notify the local police agency of the change.

25 Enacting section 1. This amendatory act does not take effect  
26 unless all of the following bills of the 93rd Legislature are  
27 enacted into law:

1 (a) Senate Bill No.\_\_\_\_ or House Bill No. 5955(request no.  
2 05001'05).

3 (b) Senate Bill No.\_\_\_\_ or House Bill No. 5956(request no.  
4 05001'05 a).

5 (c) Senate Bill No.\_\_\_\_ or House Bill No. 5957(request no.  
6 05001'05 b).