

# HOUSE BILL No. 5447

September 22, 2009, Introduced by Rep. Johnson and referred to the Committee on  
Regulatory Reform.

A bill to amend 1981 PA 95, entitled  
"The precious metal and gem dealer act,"  
by amending sections 2, 3, and 4 (MCL 445.482, 445.483, and  
445.484), sections 2 and 3 as amended by 2006 PA 295 and section  
4 as amended by 1990 PA 34.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. (1) 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,  
6 **LIMITED LIABILITY COMPANY**, or association, which, in whole or in

part, engages in ~~the ordinary course of repeated~~ **EITHER OR BOTH**  
**OF THE FOLLOWING:**

(i) **REPEATED** and recurrent transactions of buying or  
receiving precious items from the public within this state.

(ii) **ONE OR MORE SPORADIC OR INTERMITTENT TRANSACTIONS OF**  
**BUYING OR RECEIVING PRECIOUS ITEMS FROM THE PUBLIC THAT MEETS ANY**  
**OF THE FOLLOWING CONDITIONS:**

(A) **OCCURS IN 1 OR MORE LOCATIONS WITHIN THIS STATE EVEN**  
**THOUGH THE LOCATIONS MAY BE TEMPORARY.**

(B) **IS SPONSORED OR COSPONSORED BY A MEMBER OF THE PUBLIC.**

(C) **IS HELD IN A RESIDENCE OR A PLACE OF PUBLIC GATHERING OR**  
**ACCOMMODATION.**

(D) **IS CONDUCTED ON A LIMITED OR INVITATION-ONLY BASIS.**

(E) **INVOLVES PAYMENT TO, OR THE SHARING OF PROFITS WITH,**  
**ANOTHER PERSON WHO IS NOT A DEALER.**

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

(d) "Internet drop-off store" means a person, corporation,  
or firm that contracts with other persons, corporations, or firms  
to offer its precious items for sale, purchase, consignment, or  
trade through means of an internet website and meets the  
conditions described in section 3(3).

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

(f) "Local governmental unit" means a city, village,  
township, or county.

(g) "Local police agency" means the police agency of the ~~city, village, or township~~ **LOCAL GOVERNMENTAL UNIT**, or if none, the county sheriff of the county, in which the dealer or internet drop-off store conducts business.

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

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

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

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

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

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

(iv) Industrial machinery or equipment.

(v) An item being returned to or exchanged at the dealer where the item was purchased and that is accompanied by a valid sales receipt.

(vi) An item which is received for alteration, redesign, or repair in a manner that does not substantially change its use and

1 returned directly to the customer.

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

5 (viii) Scrap metal which contains incidental traces of gold,  
6 silver, or platinum that are recoverable as a by-product.

7 (ix) Jewelry which a customer trades for other jewelry having  
8 a greater value, and which difference in value is paid by the  
9 customer.

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

13 **(2) USE OF THE NAME "GOLD PARTY" OR OTHER SIMILAR NAME THAT**  
14 **MAY CONNOTE THE CONDUCT OF A PRIVATE OR NONPUBLIC TRANSACTION OR**  
15 **THE ABSENCE OF A PERMANENT BUSINESS LOCATION DOES NOT EXEMPT A**  
16 **PERSON, CORPORATION, PARTNERSHIP, ASSOCIATION, OR LIMITED**  
17 **LIABILITY COMPANY FROM THE REQUIREMENTS OF THIS ACT IF THE**  
18 **PERSON, CORPORATION, PARTNERSHIP, ASSOCIATION, OR LIMITED**  
19 **LIABILITY COMPANY IS ACTING OR OFFERING TO ACT AS A DEALER.**

20 Sec. 3. (1) A dealer shall not conduct business in a local  
21 governmental unit in this state unless the dealer has obtained a  
22 valid certificate of registration from that local governmental  
23 unit or local police agency.

24 (2) This section does not require an internet drop-off store  
25 complying with subsection (3), or a person engaged in the sale,  
26 purchase, consignment, or trade of precious items for himself or  
27 herself, to obtain a registration under this act.

1           (3) An internet drop-off store in compliance with the  
2 following conditions is exempt from registration as a dealer  
3 under this act:

4           (a) Has a fixed place of business within this state except  
5 that he or she exclusively transacts all purchases or sales by  
6 means of the internet and the purchases and sales are not  
7 physically transacted on the premises of that fixed place of  
8 business.

9           (b) Has the personal property or other valuable thing  
10 available on a website for viewing by photograph, if available,  
11 by the general public at no charge, which website shall be  
12 searchable by zip code or state, or both. The website viewing  
13 shall include, as applicable, serial number, make, model, and  
14 other unique identifying marks, numbers, names, or letters  
15 appearing on the 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  
18 least 2 years, which records shall contain a description,  
19 including a photograph, if available, and, if applicable, serial  
20 number, make, model, and other unique identifying marks, numbers,  
21 names, or letters appearing on the personal property or other  
22 valuable thing.

23           (d) Provide the local police agency with any name under  
24 which it conducts business on the website and access to the  
25 business premises at any time during normal business hours for  
26 purposes of inspection.

27           (e) Within 24 hours after a request from a local police

1 agency, provide an electronic copy of the seller's or consignor's  
2 name, address, telephone number, driver license number and  
3 issuing state, the buyer's name and address if applicable, and a  
4 description of the personal property or other valuable thing as  
5 described in subdivision (c). The provision of information shall  
6 be in a format acceptable to the local police agency but shall at  
7 least be in a legible format and in the English language.

8 (f) Provide that payment for the personal property or other  
9 valuable thing is executed by means of check or other electronic  
10 payment system, so long as the payment is not made in cash. No  
11 payment shall be provided to the seller until the item is sold.

12 (g) Immediately remove the personal property or other  
13 valuable thing from the website if the local police agency  
14 determines that the personal property or other valuable thing is  
15 stolen.

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

21 (a) The name, **HOME** address, and thumbprint of the applicant.

22 (b) The name and **BUSINESS** address under which the applicant  
23 does business.

24 (c) The name, **HOME** address, and thumbprint of all agents or  
25 employees of the dealer. Within 24 hours after hiring a new  
26 employee, the dealer shall forward to the local police agency the  
27 name, **HOME** address, and thumbprint of the new employee.

1 (5) A dealer or an agent or employee of a dealer who is  
2 convicted of a misdemeanor under this act or under section 535 of  
3 the Michigan penal code, 1931 PA 328, MCL 750.535, shall not be  
4 permitted to operate as a dealer within this state for a period  
5 of 1 year after **THE DATE OF THE** conviction.

6 (6) A dealer or an agent or employee of a dealer who is  
7 convicted of a felony under this act or under section 535 of the  
8 Michigan penal code, 1931 PA 328, MCL 750.535, shall not be  
9 permitted to operate as a dealer within this state for a period  
10 of 5 years after the **DATE OF THE** conviction.

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

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

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

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

26 (11) **EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A**  
27 **DEALER SHALL OPERATE FROM A FIXED LOCATION. A PERSON,**

1 CORPORATION, PARTNERSHIP, ASSOCIATION, OR LIMITED LIABILITY  
2 COMPANY DESIRING TO OPERATE AT, OR CONDUCT AN EVENT AT, A  
3 LOCATION WITHIN THE LOCAL GOVERNMENTAL UNIT ISSUING THE DEALER  
4 REGISTRATION OTHER THAN THAT LOCATION FOR WHICH THE REGISTRATION  
5 WAS ISSUED SHALL SEND A WRITTEN OR ELECTRONIC NOTICE REGARDING  
6 THE CONDUCT OF THE EVENT TO THE LOCAL GOVERNMENTAL UNIT AND THE  
7 LOCAL POLICE AGENCY, NOT LESS THAN 10 DAYS BEFORE ANY PROPOSED  
8 EVENT. THE DEALER SHALL STATE THE DATE, TIME, AND ADDRESS AT  
9 WHICH THE EVENT WILL OCCUR. IF A DEALER DESIRES TO OPERATE AT, OR  
10 CONDUCT AN EVENT AT, A LOCATION OUTSIDE THE LOCAL GOVERNMENTAL  
11 UNIT ISSUING THE DEALER REGISTRATION, THE DEALER SHALL APPLY FOR  
12 A REGISTRATION WITHIN THE NEW LOCAL GOVERNMENTAL UNIT. A LOCAL  
13 GOVERNMENTAL UNIT MAY ENACT AN ORDINANCE TO ADMINISTER THE  
14 PROVISIONS OF THIS SUBSECTION AND MAY PROVIDE FOR THE IMPOSITION  
15 OF AN ADDITIONAL FEE BASED UPON THE ACTUAL COST OF ADMINISTERING  
16 THE ORDINANCE.

17 (12) IN THE CASE OF A DEALER BUYING OR SELLING GOLD, SILVER,  
18 OR OTHER PRECIOUS ITEM HAVING AN ASCERTAINABLE MARKET VALUE, A  
19 DEALER SHALL POST OR OTHERWISE MAKE AVAILABLE THE FOLLOWING:

20 (A) THE MARKET PRICE, CURRENT AS OF 24 HOURS FROM THE  
21 CLOSING OF THE PREVIOUS MARKET DAY.

22 (B) THE SPECIFIC TYPE OF WEIGHTS AND MEASURES BEING USED BY  
23 THE DEALER.

24 (C) THE BUYING AND SELLING POLICIES OF THE DEALER.

25 Sec. 4. (1) A dealer shall maintain a permanent record of  
26 each transaction, on record of transaction forms provided for in  
27 subsection (6), legibly written in ink in the English language.



Each record of transaction form shall be filled out in quadruplicate by the dealer or agent or employee of the dealer. One copy of the form shall go to the appropriate **LOCAL** police agency or sheriff's department pursuant to subsection (3); 1 copy shall go to the customer; and 1 copy shall be retained by the dealer pursuant to subsection (5). At the time a dealer receives or purchases a precious item, the dealer or the agent or employee of the dealer shall insure that the following information is recorded accurately on a record of transaction form:

(a) The dealer certificate of registration number.

(b) A general description of the precious item or precious items received or purchased, including the type of metal or precious gem. In the case of watches, the description shall contain the name of the maker and the number of both the works and the case. In the case of jewelry, all letters and marks inscribed on the jewelry shall be included in the description.

(c) The date **AND LOCATION** of the transaction.

(d) The name of the person conducting the transaction **AND, IF APPLICABLE, THE NAME AND HOME ADDRESS OF THE PERSON RECEIVING A PAYMENT OR SHARE OF THE PROFITS REGARDING THE TRANSACTION.**

(e) The name, date of birth, driver's license number or state of Michigan personal identification card number, and ~~street and house number~~ **HOME ADDRESS** of the customer, together with a legible imprint of the right thumb of the customer, or if that is not possible, of the left thumb or a finger of the customer. However, the thumbprint or fingerprint shall only be required on the record of transaction form retained by the dealer. The

1 thumbprint or fingerprint shall be made available to a **LOCAL**  
2 police agency during the course of a police investigation  
3 involving a precious item or items described on the record of  
4 transaction. After a period of 1 year from the date of the record  
5 of transaction, if a police investigation concerning a precious  
6 item or items described on the record of transaction has not  
7 occurred, the dealer and any **LOCAL** police agency or sheriff's  
8 department holding a copy of the record of transaction shall  
9 destroy, and not keep a permanent record of, the record of  
10 transaction. A dealer who goes out of business or changes his or  
11 her business address to another local jurisdiction either within  
12 or out of this state shall transmit the records of all  
13 transactions made by the dealer within 1 year before his or her  
14 closing or moving, to the local police agency.

15 (f) The price to be paid by the dealer for the precious item  
16 or precious items.

17 (g) The form of payment made to the customer; check, money  
18 order, bank draft, **ELECTRONIC CREDIT OR FUNDS TRANSFER**, or cash.  
19 If the payment is by check, money order, or bank draft, the  
20 dealer shall indicate the number of the check, money order, or  
21 bank draft.

22 (h) The customer's signature.

23 (2) The record of each transaction shall be numbered  
24 consecutively, commencing with the number 1 and the calendar  
25 year.

26 (3) Within 48 hours after receiving or purchasing a precious  
27 item, the dealer shall send a copy of the record of transaction

1 form to the local police agency and, if the record of transaction  
2 form indicates that the customer resides outside the jurisdiction  
3 of the local police agency, shall send a copy of the record of  
4 transaction form to the police agency of the ~~city, village, or~~  
5 ~~township~~ **LOCAL GOVERNMENTAL UNIT** in which the customer resides as  
6 set forth on the record of transaction, or, if that ~~city,~~  
7 ~~village, or township~~ **LOCAL GOVERNMENTAL UNIT** does not have a  
8 police agency, to the sheriff's department of the county in which  
9 the customer resides as set forth on the record of transaction.

10 The record of transaction forms received by a **LOCAL** police agency  
11 or sheriff's department shall not be open to inspection by the  
12 general public. Each **LOCAL** police agency or sheriff's department  
13 holding record of transaction forms shall be responsible for  
14 insuring the confidentiality of the record of transaction forms  
15 and insuring that the record of transaction forms are used only  
16 for the purpose for which they were received.

17 (4) The record of transaction forms of a dealer and each  
18 precious item received shall be open to an inspection by the  
19 county prosecuting attorney, the local police agency, the police  
20 agency or sheriff's department of the local governmental unit in  
21 which the customer resides, and the Michigan state police, at all  
22 times during the ordinary business hours of the dealer. As a  
23 condition of doing business, a dealer is considered to have given  
24 consent to the inspection prescribed by this subsection. The  
25 record of transaction forms of a dealer shall not be open to  
26 inspection by the general public.

27 (5) Except as otherwise provided in this section, each

1 record of a transaction shall be retained by the dealer for not  
 2 less than 1 year after the transaction to which the record  
 3 pertains.

4 (6) The form of the record of transaction shall have an 8-  
 5 1/2 by 11 inch size and shall be as follows:

6 "Record of Transaction

7 Dealer Certificate # \_\_\_\_\_ # \_\_\_\_\_  
 8 (Printed on (Transaction number  
 9 the form) printed on the form)

10 (1) Description of Property - \_\_\_\_\_  
 11 \_\_\_\_\_  
 12 \_\_\_\_\_  
 13 \_\_\_\_\_  
 14 \_\_\_\_\_

15 (2) \_\_\_\_\_, 19\_\_\_\_ (3) \_\_\_\_\_  
 16 (Date) (Name of Dealer/Employee)

17 (4) \_\_\_\_\_, 19\_\_\_\_  
 18 (Name of Customer) (Date of Birth)

19 (Driver's license No./  
 20 Mich. Personal ID Number) (Street Address)  
 21

22 \_\_\_\_\_ (City & State) \_\_\_\_\_ (Zip)  
 23

24 (5) \_\_\_\_\_  
 25 (Price Paid) (County of Residence)

26 (6) \_\_\_\_\_  
 27 (Check no., bank draft  
 28 no., money order no., or  
 29 cash)

30 \_\_\_\_\_  
 31 (Name of police agency of city, village, or township  
 32 in which customer resides)  
 33

34  
 35 Thumbprint \_\_\_\_\_"

1 (Signature of Customer)

2 (7) As used in this section, "customer" means the person  
3 from whom the dealer or the agent or employee of the dealer  
4 receives or purchases a precious item.