

HOUSE BILL No. 4266

February 26, 2015, Introduced by Rep. Callton and referred to the Committee on Financial Services.

A bill to amend 1981 PA 95, entitled "The precious metal and gem dealer act," by amending sections 3, 4, and 8 (MCL 445.483, 445.484, and 445.488), section 3 as amended by 2006 PA 295 and section 4 as amended by 1990 PA 34, and by adding section 4a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

5 (2) This section does not require an internet drop-off store
6 ~~complying~~ **THAT COMPLIES** with subsection (3), or a ~~person~~ **AN**
7 **INDIVIDUAL** engaged in the sale, purchase, consignment, or trade
8 of precious items for himself or herself, to obtain a

1 registration under this act.

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

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

10 (b) Has the personal property or other valuable thing
11 available on a website for viewing by photograph, if available,
12 by the general public at no charge. ~~, which website shall be~~ **THE**
13 **DEALER SHALL ENSURE THAT THE WEBSITE IS** searchable by zip code or
14 state, or both, ~~. The website viewing shall include,~~ **AND THAT THE**
15 **WEBSITE INCLUDES FOR VIEWING,** as applicable, **ANY** serial number,
16 make, model, and other unique identifying marks, numbers, names,
17 or letters ~~appearing~~ **THAT APPEAR** on the personal property or
18 other valuable thing.

19 (c) Maintains records of the sale, purchase, consignment, or
20 trade of the personal property or other valuable thing for at
21 least 2 years. ~~, which records shall~~ **THE DEALER SHALL ENSURE THAT**
22 **THE RECORDS** contain a description, including a photograph, if
23 available, and, if applicable, **ANY** serial number, make, model,
24 and other unique identifying marks, numbers, names, or letters
25 ~~appearing~~ **THAT APPEAR** on the personal property or other valuable
26 thing.

27 (d) Provide the local police agency with any name under

1 which it conducts business on the website and access to the
2 business premises at any time during normal business hours for
3 purposes of inspection.

4 ~~—— (c) Within 24 hours after a request from a local police
5 agency, provide an electronic copy of the seller's or consignor's
6 name, address, telephone number, driver license number and
7 issuing state, the buyer's name and address if applicable, and a
8 description of the personal property or other valuable thing as
9 described in subdivision (c). The provision of information shall
10 be in a format acceptable to the local police agency but shall at
11 least be in a legible format and in the English language.~~

12 (E) ~~(f)~~ Provide that payment for the personal property or
13 other valuable thing is executed by means of check or other
14 electronic payment system, ~~so long as the payment is AND not
15 made in cash. No payment shall be provided to the~~ **A DEALER SHALL
16 NOT PAY A** seller until the item is sold.

17 (F) ~~(g)~~ Immediately remove the personal property or other
18 valuable thing from the website if the local police agency
19 determines that the personal property or other valuable thing is
20 stolen.

21 (4) A dealer shall apply to the local police agency for a
22 certificate of registration, and pay a fee not to exceed \$50.00
23 to cover the reasonable cost of processing and issuing the
24 certificate of registration, by disclosing the following
25 information:

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

27 (b) The name and address under which the applicant does

1 business.

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

6 (5) A dealer or an agent or employee of a dealer ~~who~~**THAT** is
7 convicted of a misdemeanor under this act or under section 535 of
8 the Michigan penal code, 1931 PA 328, MCL 750.535, ~~shall not be~~
9 **IS NOT** permitted to operate as a dealer within this state for a
10 period of 1 year after conviction.

11 (6) A dealer or an agent or employee of a dealer ~~who~~**THAT** is
12 convicted of a felony under this act or under section 535 of the
13 Michigan penal code, 1931 PA 328, MCL 750.535, ~~shall not be~~**IS**
14 **NOT** permitted to operate as a dealer within this state for a
15 period of 5 years after the conviction.

16 (7) This act shall not be construed to excuse a dealer from
17 complying with the local zoning ordinance or any local ordinance
18 regulating commercial activities. However, a local ~~government may~~
19 ~~not pass an ordinance, or enforce an existing ordinance, that~~
20 ~~provides additional standards which must be met before the~~
21 ~~issuance of a certificate of registration.~~**GOVERNMENTAL UNIT SHALL**
22 **NOT ADOPT OR ENFORCE A LOCAL LAW, ORDINANCE, RESOLUTION, OR RULE**
23 **THAT DUPLICATES, EXTENDS, REVISES, OR CONFLICTS WITH ANY**
24 **PROVISION OF THIS ACT.**

25 (8) ~~Upon receipt of the~~**WHEN IT RECEIVES AN** application
26 described in subsection (4), the local police agency shall issue
27 a certificate of registration in accordance with this section.

1 (9) ~~Upon receipt of the~~ **WHEN IT RECEIVES A** certificate of
2 registration from the local police agency **UNDER SUBSECTION (8)**,
3 the dealer shall post it in a conspicuous place in the dealer's
4 place of business.

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

8 Sec. 4. (1) A dealer shall maintain a permanent record of
9 each transaction, on **A** record of transaction ~~forms provided for~~
10 **FORM DESCRIBED** in subsection ~~(6),~~ **(3)**, legibly written in ink in
11 the English language, ~~Each record of transaction form shall be~~
12 ~~filled out in quadruplicate~~ **AND COMPLETED** by the dealer or agent
13 or employee of the dealer. ~~One copy of the form shall go to the~~
14 ~~appropriate police agency or sheriff's department pursuant to~~
15 ~~subsection (3);~~ **THE DEALER SHALL PROVIDE** 1 copy shall go **OF THE**
16 **FORM** to the customer ~~;~~ and ~~1 copy shall be retained by the dealer~~
17 ~~pursuant~~ **RETAIN 1 COPY, SUBJECT** to subsection ~~(5).~~ **(4)**. At the
18 time a dealer receives or purchases a precious item, the dealer
19 or the agent or employee of the dealer shall ~~insure~~ **ENSURE** that
20 the following information is recorded accurately on a record of
21 transaction form:

22 (a) The ~~dealer~~ **DEALER'S NAME, ADDRESS, AND** certificate of
23 registration number.

24 (b) A ~~general~~ **COMPLETE AND ACCURATE** description of the
25 precious item or precious items received or purchased, including
26 the type of metal or precious gem. In the case of watches, the
27 description shall contain the name of the maker and the number of

1 both the works and the case. In the case of jewelry, all letters
2 and marks inscribed on the jewelry shall be included in the
3 description.

4 (c) The date **AND TIME** of the transaction **AND THE TRANSACTION**
5 **NUMBER DESCRIBED IN SUBSECTION (2)**.

6 (d) The name of the ~~person~~**INDIVIDUAL** conducting the
7 transaction.

8 (e) The **FIRST AND LAST** name, date of birth, driver's license
9 number or state of Michigan personal identification card number,
10 and street and house number of the customer, together with a
11 legible imprint of the right thumb of the customer, or if that is
12 not possible, of the left thumb or a finger of the customer.
13 However, the thumbprint or fingerprint ~~shall~~**IS** only ~~be~~required
14 on the record of transaction form retained by the dealer. The
15 **DEALER SHALL MAKE THE** thumbprint or fingerprint ~~shall be made~~
16 available to a police agency during the course of a police
17 investigation involving a precious item or items described on the
18 record of transaction. ~~After~~**EXCEPT AS PROVIDED IN SECTION 4A,**
19 **AFTER** a period of 1 year from the date of the record of
20 transaction, if a police investigation concerning a precious item
21 or items described on the record of transaction has not occurred,
22 the dealer and any police agency or sheriff's department ~~holding~~
23 **THAT HOLDS** a copy of the record of transaction shall destroy, and
24 not keep a permanent record of, the record of transaction. A
25 dealer ~~who~~**THAT** goes out of business or changes ~~his or her~~**ITS**
26 business address to another local jurisdiction either within or
27 out of this state shall transmit the records of all transactions,

1 made by the dealer within 1 year before ~~his or her closing or~~
2 ~~moving,~~ **THE DEALER CLOSSES OR MOVES**, to the local police agency.

3 (f) The price ~~to be paid~~ by the dealer for the precious item
4 or precious items.

5 (g) The form of payment made to the customer; check, money
6 order, bank draft, or cash. If the payment is by check, money
7 order, or bank draft, the dealer shall indicate the number of the
8 check, money order, or bank draft.

9 (h) The customer's signature.

10 (2) ~~The~~ **A DEALER SHALL NUMBER EACH** record of each ~~A~~
11 transaction ~~shall be numbered~~ consecutively, commencing with the
12 number 1 and the calendar year.

13 ~~—— (3) Within 48 hours after receiving or purchasing a precious~~
14 ~~item, the dealer shall send a copy of the record of transaction~~
15 ~~form to the local police agency and, if the record of transaction~~
16 ~~form indicates that the customer resides outside the jurisdiction~~
17 ~~of the local police agency, shall send a copy of the record of~~
18 ~~transaction form to the police agency of the city, village, or~~
19 ~~township in which the customer resides as set forth on the record~~
20 ~~of transaction, or, if that city, village, or township does not~~
21 ~~have a police agency, to the sheriff's department of the county~~
22 ~~in which the customer resides as set forth on the record of~~
23 ~~transaction. The record of transaction forms received by a police~~
24 ~~agency or sheriff's department shall not be open to inspection by~~
25 ~~the general public. Each police agency or sheriff's department~~
26 ~~holding record of transaction forms shall be responsible for~~
27 ~~insuring the confidentiality of the record of transaction forms~~

1 and insuring that the record of transaction forms are used only
2 for the purpose for which they were received.

3 (3) ~~(4) The~~ **A DEALER SHALL MAKE EACH** record of transaction
4 ~~forms of a dealer FORM~~ and each precious item ~~received shall be~~
5 **IT RECEIVES** open to an inspection by the county prosecuting
6 attorney, the local police agency, the police agency or sheriff's
7 department of the local governmental unit in which the customer
8 resides, and the ~~Michigan~~ **DEPARTMENT OF** state police, at all
9 times during the ordinary business hours of the dealer. As a
10 condition of doing business, a dealer is considered to have given
11 consent to the inspection ~~prescribed by~~ **DESCRIBED IN** this
12 subsection. The record of transaction forms of a dealer ~~shall~~ **ARE**
13 not ~~be~~ open to inspection by the general public.

14 (4) ~~(5)~~ Except as otherwise provided in this section, **A**
15 **DEALER SHALL RETAIN** each record of a transaction ~~shall be~~
16 ~~retained by the dealer for not less than~~ **AT LEAST** 1 year after
17 the transaction to which the record pertains.

18 (5) ~~(6)~~ The form of the record of transaction shall have an
19 8-1/2 by 11 inch size and shall be as follows:

20 (DEALER'S NAME AND ADDRESS)

21 "Record of Transaction

22 Dealer Certificate # _____ # _____

23 (Printed on (Transaction number

24 the form) printed on the form)

25 (1) Description of Property - _____

26 _____

27 _____

28 _____

1 _____

2 (2) _____, 1920 (3) _____

3 (Date AND TIME) (Name of Dealer/Employee)

4 (4) _____, _____ 19__

5 (Name of Customer) (Date of Birth)

6 _____,

7 (Driver's license No./ (Street Address)

8 Mich. Personal ID Number)

9 _____

10 (City & State) (Zip)

11 (5) _____

12 (Price Paid) (County of Residence)

13 (6) _____

14 (Check no., bank draft

15 no., money order no., or

16 cash)

17 _____

18 (Name of police agency of city, village, or township

19 in which customer resides)

20

21

22 Thumbprint _____"

23 (Signature of Customer)

24 (6) ~~(7)~~—As used in this section, "customer" means the ~~person~~

25 **INDIVIDUAL** from whom the dealer or the agent or employee of the

26 dealer receives or purchases a precious item.

27 **SEC. 4A. (1) WITHIN 48 HOURS AFTER A TRANSACTION IN WHICH IT**

28 **RECEIVES OR PURCHASES A PRECIOUS ITEM, A DEALER SHALL**

29 **ELECTRONICALLY TRANSMIT THE FOLLOWING INFORMATION TO THE**

30 **DEPARTMENT, IN A FORMAT DETERMINED BY THE DEPARTMENT, FOR**

31 **INCLUSION IN THE DATABASE:**

32 (A) A DESCRIPTION OF THE PRECIOUS ITEM THAT INCLUDES THE

- 1 INFORMATION DESCRIBED IN SECTION 4(1)(B).
- 2 (B) IF APPLICABLE, THE SERIAL NUMBER OR MODEL NUMBER OF THE
3 PRECIOUS ITEM.
- 4 (C) THE PURCHASE PRICE OF THE PRECIOUS ITEM.
- 5 (D) THE DEALER'S NAME AND ADDRESS.
- 6 (E) THE DATE AND TIME OF THE TRANSACTION AND THE NAME OF THE
7 EMPLOYEE OF THE DEALER WHO PURCHASED OR RECEIVED THE PRECIOUS
8 ITEM, OR AUTHORIZED THE PURCHASE OR RECEIPT OF THE PRECIOUS ITEM,
9 ON THE DEALER'S BEHALF.
- 10 (F) THE TRANSACTION NUMBER.
- 11 (G) THE CUSTOMER'S DATE OF BIRTH; OPERATOR'S LICENSE NUMBER
12 OR OTHER IDENTIFICATION NUMBER; STREET ADDRESS, INCLUDING CITY,
13 VILLAGE, OR TOWNSHIP OF RESIDENCE, STATE, AND ZIP CODE; AND
14 COUNTY OF RESIDENCE.
- 15 (H) THE NUMBER OF THE DEALER'S CHECK, BANK DRAFT, OR MONEY
16 ORDER OR THE NOTATION "CASH" IF THE DEALER PAID THE PURCHASE
17 PRICE IN CASH.
- 18 (I) THE CUSTOMER'S THUMBPRINT.
- 19 (2) A DEALER SHALL RETAIN AN ELECTRONIC COPY OF ANY
20 INFORMATION TRANSMITTED UNDER SUBSECTION (1) FOR AT LEAST 5
21 YEARS, IN A FORMAT DETERMINED BY THE DEPARTMENT.
- 22 (3) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THIS
23 SECTION, EACH DEALER SHALL IMPLEMENT ANY SOFTWARE THAT THE
24 DEPARTMENT DETERMINES IS NECESSARY TO ADMINISTER THE COLLECTION
25 OF INFORMATION REQUIRED UNDER THIS SECTION AND THE RETENTION OF
26 INFORMATION BY THE DEALER UNDER SUBSECTION (2).
- 27 (4) A DEALER SHALL PAY AN ANNUAL FEE OF NOT MORE THAN

1 \$250.00 FOR EACH OF ITS REGISTERED LOCATIONS FOR THE
2 IMPLEMENTATION AND MAINTENANCE OF THE DATABASE. THE DEPARTMENT
3 SHALL DETERMINE THE SPECIFIC AMOUNT OF THE FEE AND COLLECT THE
4 FEE.

5 (5) AS USED IN THIS SECTION:

6 (A) "DATABASE" MEANS THE STATEWIDE ELECTRONIC DATABASE
7 IMPLEMENTED AND MAINTAINED BY THE DEPARTMENT UNDER SECTION 6 OF
8 1917 PA 273, MCL 446.206.

9 (B) "DATABASE FEE" MEANS THE FEE DESCRIBED IN SUBSECTION
10 (4).

11 (C) "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

12 Sec. 8. (1) A dealer ~~who~~**THAT** knowingly violates section
13 3(7), 3(8), 4(1)(e), 4(3), 4(4), or ~~4(5)~~**4A** is guilty of a
14 misdemeanor ~~,~~ punishable by imprisonment for not more than 1 year
15 ~~,~~ or a fine of \$1,000.00, or both.

16 (2) A dealer ~~who~~**THAT** violates section 3(7), 3(8), 4(1)(e),
17 4(3), 4(4), or ~~4(5)~~**4A** a subsequent time is guilty of a felony ~~,~~
18 punishable by imprisonment for not more than 2 years ~~,~~ or a fine
19 of \$5,000.00, or both.

20 Enacting section 1. This amendatory act takes effect 90 days
21 after the date it is enacted into law.

22 Enacting section 2. This amendatory act does not take effect
23 unless all of the following bills of the 98th Legislature are
24 enacted into law:

25 (a) Senate Bill No. _____ or House Bill No. 4267 (request no.
26 00016'15 **).

27 (b) Senate Bill No. _____ or House Bill No. 4268 (request no.

1 00017'15 **).