

THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND

June 16, 2015
Legislative Session Day

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June 16, 2015

CODE HOME RULE
BILL NO. 3-2015

INTRODUCED BY: William W. Pickrum, President of the Board of County Commissioners for Kent County, Maryland.

AN ACT to add Chapter 120 Pawnbrokers and Secondhand Dealers to the Code of Public Local Laws of Kent County, Maryland. The purpose of this Chapter is to regulate the purchase, sale, record-keeping, and reporting of certain transactions involving used items of value within Kent County, Maryland; to prevent the transfer of lost, stolen, or other illegally obtained items not regulated under Article 12, Business Regulation Article, Annotated Code of Maryland; and to enhance the traceability and recovery of lost, stolen, or illegally obtained items.

THE COUNTY COMMISSIONERS OF KENT COUNTY



William W. Pickrum, President

INTRODUCED, read first time, June 16, 2015, ordered posted and public hearing scheduled on June 30, 2015, at 6:00 p.m. in the County Commissioners Hearing Room, R. Clayton Mitchell, Jr., Kent County Government Center, 400 High Street, Chestertown, Maryland.

By Order of:



Sondra M. Blackiston, Clerk

KENT COUNTY

2015 JUL 14 AM 10:58

FILED
CLERK OF
CIRCUIT COURT

PUBLIC HEARING

HAVING been posted and notice of time and place of hearing and copies having been made available to the public and the press, a public hearing was held on June 30, 2015. Reported favorably [~~with~~ [without] amendments; read second time and ordered to be considered on July 7, 2015, a legislative session day.

A BILL ENTITLED CHR 3-2015 PAWNBROKERS AND SECONDHAND DEALERS

NOW THEREFORE BE IT ENACTED BY THE COUNTY COMMISSIONERS OF KENT COUNTY, MARYLAND that the Code of Public Local Laws of Kent County, Maryland is hereby amended to add Chapter 120 as follows:

Chapter 120

PAWNBROKERS AND SECONDHAND DEALERS

§ 120-1. Declaration of Legislative Intent.

It is the intent of this Chapter is to regulate the purchase, sale, record-keeping, and reporting of certain transactions involving used items of value within Kent County Maryland; to prevent the transfer of lost, stolen or other illegally obtained items not regulated under Article 12, Business Regulation Article, Annotated Code of Maryland; and to enhance the traceability and recovery of lost, stolen or illegally obtained items. Title 12 of the Business Regulation Article of the Annotated Code of Maryland generally regulates all transactions dealing with secondhand precious metal objects, coins, or numismatic items and this Chapter 120 is not intended to supersede same.

§ 120-2. Definitions.

As used in this Chapter, the following terms shall be defined as follows:

ANTIQUÉ DEALER - A person whose primary retail trade is buying and selling objects made in, or typical of, an earlier period of time, that either have special value because of their age or are examples of works of art or handicrafts.

ITEM - Any piece or thing of tangible personal property including, but not limited to, a household appliance, personal computer, compact disc player, digital video disc player, power tool, camera, firearm, radio, television set, video game system, video game accessory or component, stereo equipment, documents, drawings, paintings, or works of art, or any costume jewelry.

PAWNBROKER - A person who engages in Pawnbroker Transactions.

PAWNBROKER OR SECONDHAND DEALER ESTABLISHMENT A place of business where pawnbroker transactions or secondhand dealer transactions occur. The terms "pawnbroker" or "secondhand dealer establishment" include either or both the individuals or persons operating the business and its fixed place of business, as applicable.

PAWNBROKER TRANSACTION

An act of, or engaging in the act of, lending money on the deposit or pledge of tangible personal property other than secondhand precious metal objects, coins, or numismatic items; or purchasing tangible personal property, other than secondhand precious metal objects, coins, or numismatic items, on the condition of reselling the property to the seller at a stipulated price.

PERSON - An individual, corporation, partnership of any kind, business trust, limited liability company, or any other type of business entity legally recognized under the laws of the State of Maryland.

REGULATED BUSINESS - A pawnbroker, secondhand dealer, or other person engaging in any business, or conducting any business or transaction, described in this § 120-2.

A. **Regulated Business does not include:**

1. A charitable, religious, or nonprofit organization, if the exchange of items for consideration is incidental to the organization's primary activity;
2. An antique show, trade show, convention, or auction. In order to qualify under this exemption, the activity must be of no more than seven (7) days in duration at any individual location within Kent County within any twelve (12) month period;
3. An antique dealer.
4. A Scrap Metal Dealer
5. Automobile dealerships dealing in new or used automobiles, trucks, and other vehicles, and auto parts.
6. A used clothing mart or store.
7. Notwithstanding the foregoing, any of the persons described in items 3 through 6 hereof shall be considered a regulated business to the extent the person deals with items not falling within the definition of their respective businesses.

SCRAP METAL DEALER - A person meeting the definition of a "Junk Dealer" or "scrap metal processor" under § 17-1001 (f) 1 through 2 of the Business Regulation Article of the Annotated Code of Maryland.

SALE or PURCHASE – The acquisition or disposition of an item for consideration, whether cash, trade, other item, or anything of value.

SECONDHAND DEALER - A person that engages in secondhand dealer transactions.

SECONDHAND DEALER TRANSACTION - An act of, or engaging in the act of, purchasing items other than secondhand precious metal objects, coins, or numismatic items, and offering the tangible personal property to the public for sale, trade, barter, or other consideration.

§ 120-3. License required.

All regulated businesses must obtain all business and professional licenses as required by State and County regulations.

§ 120-4. Registration.

All regulated businesses are required to register with the Kent County Sheriff's Office in a manner specified by the Sheriff's Office prior to engaging in pawnbroker or secondhand dealer transactions.

§ 120-5. Relation to State Law.

The requirements of this Chapter are in addition to the requirements for pawnbrokers and secondhand dealers regulated under Article 12, Business Regulation Article, Annotated Code of Maryland. Businesses not regulated under that section, but fitting the definition of a Regulated Business above, must fulfill the requirements of, and are subject to regulation under, this Chapter.

§ 120-6. Enforcement.

The Kent County Sheriff's Office shall be the primary Law Enforcement Agency for enforcement of this Chapter.

§ 120-7. Prohibited Transactions.

- A. **Trade with minors prohibited.** A regulated business shall not engage in pawnbroker, or secondhand dealer transactions, or any other transaction otherwise permitted by the Chapter with an individual who is under the age of 18.
- B. **Trade with intoxicated persons prohibited.** A regulated business shall not engage in pawnbroker or secondhand dealer transactions, or any other transaction otherwise permitted by the Chapter, with an individual who they know or suspect to be under the influence of alcohol or drugs.

§ 120-8. Recordkeeping & Retention of Property.

A. Recordkeeping Requirements.

- 1. A regulated business shall maintain a record of each item purchased, bartered, exchanged, or received in the course of business, including a record of the disposition of the item.
- 2. The record shall be signed by the seller and the regulated business, or an agent or employee of such business, and shall include:
 - a. The date, time, and place of the transaction;
 - b. The name and address of the principal, if the transaction is conducted by an agent;
 - c. A comprehensive description of the item, including any visible identification marks such as initials, name of manufacturer, model and serial number, owner applied identification numbers, and whether the item appears to be new or in its original box or packaging; and Photographs of all costume jewelry or any other item of unique design, or without serial number or owner applied number,

including those regulated under Article 12, Business Regulation Article, Annotated Code of Maryland.

- d. The consideration received;
- e. For each individual from or to whom the regulated business acquires or transfers an item (a “transferor”) the following shall be recorded:
 - i. The name, address, telephone number, date of birth, and driver's license number of the transferor; or
 - ii. Identification information about the transferor that identifies the transferor from at least two forms of identification, which may include a State Identification Card, military identification, or passport; and
 - iii. Provides a physical description of the transferor, including the gender, race, any distinguishing features, and approximate age, height, weight, hair, and eye color of the transferor.
 - iv. The name, address, and telephone number shall be recorded for each transferor to whom the regulated business sells or transfers the item.

3. The regulated business shall:

- a. Maintain the record for at least three years from the date of the transaction;
- b. Retain the record in an electronic data storage medium specified or accepted by the Sheriff's Office; and
- c. Submit a copy of the record to the Sheriff's Office by electronically transmitting the record by 10:00 a.m. on the next business day after the transaction.
- d. Photographs may be transmitted with the record but must also be retained in the dealer's records, either in hard copy or electronically.
- e. It shall be a violation of this Chapter to misstate or under-value any item received in order to evade or circumvent the provisions thereof.

- 4. If a regulated businesses is required by law to report transactions via the Regional Pawn Data Sharing System (RPDSS) into the Regional Automated Property Information Database (RAPID), such reporting shall satisfy the reporting requirements of this Chapter, so long as such reporting includes all the information required in the Chapter, and includes all items that this Chapter requires to be reported.

B. Retention of Property.

1. A regulated business shall hold each item purchased or received in the course of business for eighteen (18) days after submitting a copy of the record of the transaction or until the item is inspected by the Sheriff's Office, whichever occurs first.
2. During the holding period for an item, the regulated business:
 - a. Shall tag the item in a manner that identifies it as the property recorded in the dealer's records, including date and transaction number or receipt number;
 - b. Shall store the item in a secure location on the premises that is separate from items for sale or at an off-site storage location listed in the license application; and
 - c. Shall not remove the item from the dealer's licensed location of business or off-site storage location.
3. The holding period required by this section does not apply to a pawned item that is redeemed with the original pawn ticket.

§ 120-9. Law Enforcement Procedures.

A. Release of Stolen Property to Sheriff's Office: A regulated business is subject to the same provisions as required in § 12-401 of the Business Regulation Article, Annotated Code of Maryland for items regulated under that title in regard to the releasing of stolen property regulated under this Chapter to the Sheriff's Office.

B. Inspections and Right of Entry.

1. A regulated business shall allow an authorized member of the Sheriff's Office, or other law enforcement agency designated by the Sheriff's Office to enter the dealer's establishment or storage premises at any reasonable time for the purpose of enforcing this Chapter.
2. If a regulated business refuses to allow entry, the Sheriff's Office may seek a court order allowing entry.
3. This section does not prohibit the Sheriff's Office from seeking a search warrant for the investigation of any criminal violation, including a violation of this Chapter.

§ 120-10. Violations and Penalties.

A. Notice of Violation

1. Except as provided in subsection A.3 of this section, if a violation of this subtitle is found, the Sheriff's Office shall provide to the licensee a written notice that describes the

violation, specifies the action necessary to correct the violation, and sets forth the time to correct the violation.

2. The Sheriff's Office shall serve a notice of violation by certified mail, or by personal service.
3. If, within 12 months after receiving a notice of a violation, the regulated business commits another violation of the same section of this Chapter, no further notice under Section V.A.1 is required, and the business shall be subject to penalties as set forth in Section V.B.

B. Penalties.

1. After the requirements of § 120-10 A have been satisfied, the following penalties for civil infractions shall apply for violations of this Chapter:
 - a. 1st violation: \$250.00 fine
 - b. 2nd violation: \$500.00 fine
 - c. 3rd Violation: \$1,000.00 fine
2. For a continuing course of conduct, and after the requirements of § 120-10.A have been satisfied, each and every day during which the violation continues will constitute a separate violation.
3. Nothing in this Chapter supersedes the authority of the State or Local Government to enact administrative sanctions regarding the business or other licenses of the regulated business.
4. The sanctions imposed under of this Chapter are in addition to, and separate from, any violations and penalties that may be imposed under state law for violations thereof.

§ 120-11. Application.

This Chapter is intended to apply in all areas of Kent County, including the municipalities located therein, subject to § 4-111 of the Local Government Article of the Annotated Code of Maryland.

SECTION 3. BE IT FURTHER ENACTED by the County Commissioners of Kent County that this Act shall take effect on the 21st day of August, 2015.

Read Third Time July 7, 2015

PASSED this 7th day of July, 2015.

Failed of Passage _____

By Order of:



Sondra M. Blackiston, Clerk



THE COUNTY COMMISSIONERS OF KENT COUNTY



William W. Pickrum, President



Ronald H. Fithian, Member



William A. Short, Member

ORDERED a fair summary thereof of the entire bill shall be published in at least one newspaper of general circulation in the County, not less than three times at weekly intervals within a four week period.