

Legislative Analysis



STATEWIDE DATABASE: PAWNBROKERS, PRECIOUS METAL & GEM DEALERS, & SECOND HAND DEALERS

Mary Ann Cleary, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bills 5835-5837

Sponsor: Rep. Mike Callton

Committee: Financial Services

Complete to 9-30-14

A SUMMARY OF HOUSE BILLS 5835-5837 AS INTRODUCED 9-18-14

Taken together, the bills would require the Department of State Police to implement and maintain a statewide electronic database of items pawned to or purchased by a pawnbroker, precious items received or purchased by a precious metal and gem dealer, and second hand articles purchased or received in exchange by a second hand dealer or junk dealer. These commercial entities would have to report certain specified information to the database.

Each of the bills would amend a different act. House Bill 5835 would amend the Precious Metal and Gem Dealer Act (PA 95 of 1981). House Bill 5836 would amend the act that regulates second hand dealers and junk dealers (PA 350 of 1917). House Bill 5837 would amend the act that regulates pawnbrokers (PA 273 of 1917). The three bills are tie-barred, meaning none can take effect unless all are enacted.

Each of those commercial entities are licensed by local units of government rather than the state. Currently, each statute requires extensive reporting of transactions to local law enforcement; the statewide database would appear to be replacing that.

Statewide Database

Under House Bill 5837, the Department of State Police (MSP) would have to implement and maintain a statewide electronic database. Only the MSP and other law enforcement agencies would have access to the information in the database. Information in the database would be confidential, not subject to disclosure under the Freedom of Information Act, and could not be disclosed except for purposes of the act and for law enforcement purposes.

The State Police could operate the database or could select and contract with a single third-party provider to operate it. If the department contracts with a third party then all information obtained would be electronically stored in the department.

By July 1, 2015, each of commercial entities covered by the bills would have to implement any software that the MSP determines is necessary to administer the collection of information. Each business would pay an annual fee of not more than \$250 for each of its licensed locations for the implementation and maintenance of the database; the MSP would determine the amount of the fee. The treasurer of each governmental unit would

collect the fee on behalf of the department. The treasurer could charge and collect a fee for processing the database fee in an amount up to \$50.

Transmission of Information

Each of the bills would require that certain information about transactions be electronically transmitted to the MSP database within 48 hours.

The information would have to include, among other things: a description of the item involved in the transaction; where applicable, the serial number, model number, or other identifying mark; the purchase price; the business's name and address; the date and time of the transaction and transaction number; identifying information about the customer, as specified, including date of birth and driver license, and address; the number of the check, bank draft, or money order, or the notation "cash" for a cash transaction; and the customer's thumbprint.

For pawnbrokers, additional information would be required, including the amount loaned on the item, if a pawned item; the purchase price, if a purchased item; if applicable, the item's trade name, color, size, number of jewels, material, stone set design, number of stones, description, kind, and size of each stone, inscription, or initials. Also required would be the customer's height, weight, gender, race, and signature.

Penalties

For pawnbrokers and precious metal and gem dealers, those that knowingly commit a violation for the first time would be guilty of a misdemeanor punishable by imprisonment for not more than one year and/or a fine of \$1,000. A subsequent violation would be a felony punishable by imprisonment for not more than two years and/or a fine of \$5,000. [As introduced, the bill addressing second hand dealers contains the first penalty but restricts felony penalties to the buying and selling of stolen scrap metal (and reduces these penalties)].

FISCAL IMPACT:

Michigan State Police

House Bills 5835 through 5837, as introduced, would have an indeterminate fiscal impact on the Michigan State Police (MSP) dependent on whether the annual database fee (not to exceed \$250) collected from pawnbrokers, precious metal and gem dealers, and secondhand and junk dealers¹ is sufficient to offset the costs to develop and maintain the statewide electronic database required under HB 5837.

Local Law Enforcement Agencies

HBs 5835 through 5837 would likely have positive fiscal impact on local law enforcement agencies which would no longer be required to receive and retain physical

¹ The number of pawnbrokers, precious metal and gem dealers, and secondhand and junk dealers is currently unknown as no state agency currently regulates such entities and the industry codes utilized by the North American Industry Classification System (NAICS) do not conform to Michigan's statutory definitions of pawnbrokers, precious metal and gem dealers, and secondhand and junk dealers.

transaction records from pawnbrokers, precious metal and gem dealers, and secondhand and junk dealers and would be able to utilize the statewide electronic database.

Local Treasurers' Offices

HBs 5835 through 5837 would have an indeterminate fiscal impact on the treasurers' offices of local units of governments dependent on whether the processing fee (not to exceed \$50) would be sufficient to offset the costs for local treasurers to collect the annual database fees from pawnbrokers, precious metal and gem dealers, and secondhand and junk dealers and remit the fee revenue to the MSP.

Local Licensure Agencies

HB 5837 would have a positive fiscal impact on local licensure agencies to the extent that it would permit locals to collect an application fee for the review and processing of applications for licensure of pawnbrokers (not to exceed \$50).

Penalties

Costs to state and local correctional systems would be increased, based on the number of additional convictions and incarcerations. New felony convictions would result in increased costs related to state prisons, county jails, and/or state probation supervision. New misdemeanor convictions would increase costs related to county jails and/or local misdemeanor probation supervision.

The average cost of prison incarceration in a state facility is roughly \$35,600 per prisoner per year, a figure that includes various fixed administrative and operational costs. The costs of local incarceration in a county jail and local misdemeanor probation supervision vary by jurisdiction. State costs for parole and felony probation supervision average about \$3,600 per supervised offender per year. Any increase in penal fine revenues would increase funding for local libraries, which are the constitutionally-designated recipients of those revenues.

Legislative Analyst: Chris Couch
Fiscal Analyst: Paul Holland

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.