

MEMORANDUM

January 10, 2019

TO: County Council

FROM: Robert H. Drummer, Senior Legislative Attorney 

SUBJECT: Bill 40-18, Secondhand Personal Property – Dealers - License

PURPOSE: Public Hearing; No Council votes required

Bill 40-18, Secondhand Personal Property – Dealers - License, sponsored by Lead Sponsors Councilmember Friedson and Council Vice-President Katz and co-sponsors Councilmember Alborno, Council President Navarro, and Councilmember Riemer, was introduced on December 11, 2018. A Public Safety Committee worksession is tentatively scheduled for January 28, 2019 at 9:30 a.m. Bill 40-18 would exclude certain personal property from the definition of secondhand personal property and provide that a secondhand personal property dealer license expires one year from the date of issuance.¹

Background

The County's Secondhand Personal Property Law, Chapter 44A of the County Code, was first enacted in 1983 and provides law enforcement officials with a tool necessary to recover stolen property and identify suspects who commit crimes in the County. The law requires a dealer in secondhand personal property to obtain a license from the Office of Consumer Protection, report all transactions to the Police, and hold all property received for a certain time after reporting the transaction. The Police can then check stolen property reports against the list of secondhand personal property received or sold by dealers.

Under Chapter 44A:

Dealer means a person conducting the business of buying, receiving, or marketing secondhand personal property in the County, including:

- (1) an auctioneer; and
- (2) a person who buys, receives, markets, or assists in the sale of secondhand personal property through the Internet or another electronic method.

Personal property includes radios and other audio equipment; televisions and other video equipment; photographic, optical and computer equipment; typewriters, calculators and other

¹Key search terms: #EstateSales, secondhand property, Office of Consumer Protection.

electronic or electrical home or office appliances, machines or equipment; firearms; bicycles; jewelry; furs, leather goods; watches; paintings; fine or historic china, crystal, glass or porcelain; *objets d'art*; power tools; carpets and rugs; musical instruments; and any item serialized, marked for identification purposes, or engraved.

Secondhand personal property means previously owned personal property offered for sale or as collateral by any person, other than the manufacturer, wholesale distributor, or original retail seller, acting in the ordinary course of business. Secondhand personal property does not include:

- (1) personal property purchased at a public sale; or
- (2) items of personal property that have a resale value below a dollar threshold specified for that type of personal property in a regulation adopted under method (3).

Under these definitions, individuals and businesses that assist in coordination and marketing of estate sales and other personal property sales held at the residence of the owner of the personal property are covered under the law's definition of "dealer," even though they are not the intended target of the law's requirements. Bill 40-18 would correct this by excluding from the definition of "secondhand personal property" personal property that is offered for sale only on residential property and is owned by a resident of that property or part of the estate of a deceased immediate past resident of that property.

Also, the current term of the secondhand personal property license required under Chapter 44A presents an administrative problem for the Office of Consumer Protection. Under current law, each license expires on July 30 of each year, leading to a high volume of license renewal applications at the same time each year. Bill 40-18 would address this by providing that licenses issued under the law are valid for a period of one year from the date of issuance, thereby spreading the volume of applications over the year.

This packet contains:

Bill 40-18

Legislative Request Report

Circle #

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Bill No. 40-18
Concerning: Secondhand Personal
Property – Dealers – License
Revised: 11/18/2018 Draft No. 2
Introduced: December 11, 2018
Expires: June 11, 2020
Enacted: _____
Executive: _____
Effective: _____
Sunset Date: None
Ch. _____, Laws of Mont. Co. _____

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

Lead Sponsors: Councilmember Friedson and Council Vice-President Katz
Co-Sponsors: Councilmember Alborno, Council President Navarro, and Councilmember Riemer

AN ACT to:

- (1) exclude certain personal property from the definition of secondhand personal property;
- (2) provide that a secondhand personal property dealer license expires one year from the date of issuance; and
- (3) generally amend County laws related to secondhand personal property.

By amending

Montgomery County Code
Chapter 44A, Secondhand Personal Property
Sections 44A-1 and 44A-11

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Sections 44A-1 and 44A-11 are amended as follows:

44A-1. Definitions.

When used in this Chapter:

* * *

Personal property includes radios and other audio equipment; televisions and other video equipment; photographic, optical and computer equipment; typewriters, calculators and other electronic or electrical home or office appliances, machines or equipment; firearms; bicycles; jewelry; furs, leather goods; watches; paintings; fine or historic china, crystal, glass or porcelain; objets d'art; power tools; carpets and rugs; musical instruments; and any item serialized, marked for identification purposes, or engraved.

* * *

Secondhand personal property means previously owned personal property offered for sale or as collateral by any person, other than the manufacturer, wholesale distributor, or original retail seller, acting in the ordinary course of business. Secondhand personal property does not include:

- (1) personal property purchased at a public sale; [or]
- (2) personal property that is offered for sale only on residential property and is:
 - (A) owned by a resident of that property; or
 - (B) part of the estate of a deceased immediate past resident of that property; or
- (3) items of personal property that have a resale value below a dollar threshold specified for that type of personal property in a regulation adopted under method (3).

* * *

44A-11. Expiration and renewal of license; prohibition on transfer

- 28 (a) Each license issued under this Chapter expires [July 30 of each year]
29 one year from the date of issuance.
- 30 (b) A license issued under this Chapter may be renewed on application
31 and payment of a fee established by regulation under method (3).
- 32 (c) A license must not be transferred or assigned.

33 *Approved:*

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Nancy Navarro, President, County Council Date

35 *Approved:*

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Marc Elrich, County Executive Date

37 *This is a correct copy of Council action.*

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Megan Davey Limarzi, Esq., Clerk of the Council Date

LEGISLATIVE REQUEST REPORT

Bill 40-18

Secondhand Personal Property – Dealers - License

DESCRIPTION:	Bill 40-18 would exclude certain personal property from the definition of secondhand personal property and provide that a secondhand personal property dealer license expires one year from the date of issuance.
PROBLEM:	Individuals and businesses that assist in coordination and marketing of estate sales are covered under the current definition of “dealer” under the County’s secondhand personal property law, even though they are not the intended target of the law’s requirements. Also, the current term of the license presents an administrative problem for the Office of Consumer Protection.
GOALS AND OBJECTIVES:	Provide that individuals and businesses that assist in coordination and marketing of estate sales held at the residence of the decedent are not considered secondhand personal property dealers. Provide that licenses issued under the law are valid for a period of one year from the date of issuance.
COORDINATION:	Department of Police Office of Consumer Protection
FISCAL IMPACT:	To be requested
ECONOMIC IMPACT:	To be requested
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Josh Hamlin, Legislative Attorney, 240-777-7892
APPLICATION WITHIN MUNICIPALITIES:	To be researched.
PENALTIES:	N/A