

Amend **CSSB 1450** (senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Section 1956.0605 to read as follows:

Sec. 1956.0605. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED BY CERTAIN CRAFTED PRECIOUS METAL DEALERS. This subchapter does not apply to:

(1) a person that is required to hold a dealership license under Subchapter B-1; or

(2) crafted precious metal acquired by a person described by Subdivision (1).

SECTION 2. Chapter 1956, Occupations Code, is amended by adding Subchapter B-1 to read as follows:

SUBCHAPTER B-1. SALE OF CRAFTED PRECIOUS METAL TO DEALERS AND DEALERSHIPS IN CERTAIN MUNICIPALITIES

Sec. 1956.071. DEFINITIONS. In this subchapter:

(1) "Commission" means the Texas Commission of Licensing and Regulation.

(2) "Crafted precious metal" means jewelry, silverware, an art object, a bar, a coin, a commemorative medallion, or another object, including scrap or a broken item, made in whole or in part from precious metal.

(3) "Dealer" means a person who engages in the business of purchasing and selling crafted precious metal.

(4) "Dealership" means a location at which or premises in which a dealer conducts business.

(5) "Department" means the Texas Department of Licensing and Regulation.

(6) "Precious metal" means gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or an alloy of those metals.

Sec. 1956.072. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

(1) a person that engages in business in a municipality:

(A) with a population of 200,000 or more; and

(B) located in a county:

(i) with a population of 300,000 or less;
and

(ii) that is located adjacent to an international border; and

(2) crafted precious metal that is:

(A) sold or used primarily for personal, family, or household purposes; and

(B) acquired by a person described by Subdivision (1) for sale.

Sec. 1956.073. EXCEPTION: PRECIOUS METAL EXTRACTED, RECOVERED, OR SALVAGED FROM INDUSTRIAL BY-PRODUCTS OR INDUSTRIAL WASTE PRODUCTS. This subchapter does not apply to a person whose purchase or sale of precious metal or a product made of precious metal is merely incidental to the person's business of extracting, recovering, or salvaging precious metal from industrial by-products or industrial waste products.

Sec. 1956.074. EXCEPTION: DENTAL, PHARMACEUTICAL, OR MEDICAL APPLICATION OF CRAFTED PRECIOUS METAL. This subchapter does not apply to a dental, pharmaceutical, or medical application of crafted precious metal.

Sec. 1956.075. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED FROM ANOTHER DEALER WHO PREVIOUSLY MADE REQUIRED REPORTS. This subchapter does not apply to crafted precious metal acquired in good faith in a transaction involving the stock-in-trade of another dealer who previously made the reports concerning that metal as required by this subchapter if:

(1) the selling dealer delivers to the acquiring dealer a written document stating that the reports have been made;

(2) the acquiring dealer submits a copy of the statement to the chief of police of the municipality or the sheriff of the county in which the selling dealer is located; and

(3) each dealer involved in the transaction retains a copy of the statement until the third anniversary of the date of the transaction.

Sec. 1956.076. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED IN DISSOLUTION OR LIQUIDATION SALE. This subchapter does not apply to crafted precious metal acquired in a nonjudicial sale, transfer,

assignment, assignment for the benefit of creditors, or consignment of the assets or stock-in-trade, in bulk, or a substantial part of those assets, of an industrial or commercial enterprise, other than a dealer, for the voluntary dissolution or liquidation of the seller's business, or for disposing of an excessive quantity of personal property, or property that has been acquired in a nonjudicial sale or transfer from an owner other than a dealer, the seller's entire household of personal property, or a substantial part of that property, if the dealer:

(1) gives written notice to the chief of police of the municipality or the sheriff of the county in which the dealer's business is located that a reporting exemption is being claimed under this section;

(2) retains in the dealer's place of business, until the third anniversary of the date of the transaction, a copy of the bill of sale, receipt, inventory list, or other transfer document; and

(3) makes the record retained available for inspection by a peace officer.

Sec. 1956.077. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED IN JUDICIAL SALE. This subchapter does not apply to crafted precious metal acquired in a sale made:

(1) by any public officer in the officer's official capacity as a trustee in bankruptcy, executor, administrator, receiver, or public official acting under judicial process or authority; or

(2) on the execution of, or by virtue of, any process issued by a court.

Sec. 1956.078. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED AS PAYMENT FOR OTHER CRAFTED PRECIOUS METAL BY PERSON IN BUSINESS OF SELLING TO CONSUMERS. This subchapter does not apply to crafted precious metal acquired in good faith as partial or complete payment for other crafted precious metal by a person whose principal business is primarily that of selling directly to the consumer crafted precious metal that has not been subject to a prior sale.

Sec. 1956.079. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED

FROM OR REPORTED TO GOVERNMENTAL AGENCY. This subchapter does not apply to crafted precious metal:

(1) acquired as surplus property from the United States, a state, a subdivision of a state, or a municipal corporation; or

(2) reported by a dealer as an acquisition or a purchase, or reported as destroyed or otherwise disposed of, to:

(A) a state agency under another law of this state; or

(B) a municipal or county office or agency under another law of this state or a municipal ordinance.

Sec. 1956.080. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED BY PERSON LICENSED UNDER TEXAS PAWNSHOP ACT. This subchapter does not apply to crafted precious metal acquired by a person licensed under Chapter 371, Finance Code.

Sec. 1956.081. EFFECT ON OTHER LAWS AND ORDINANCES. This subchapter does not:

(1) excuse noncompliance with another state law or municipal ordinance covering the reporting, holding, or releasing of crafted precious metal;

(2) prohibit a municipality from enacting, amending, or enforcing an ordinance relating to a dealer; or

(3) supersede a municipal ordinance except to the extent the ordinance does not require reporting for transactions involving crafted precious metal.

Sec. 1956.082. RULEMAKING. The commission may adopt rules necessary to implement and enforce this subchapter.

Sec. 1956.083. DEALERSHIP LICENSE REQUIRED. A person may not engage in business as a crafted precious metal dealer unless the person holds a dealership license.

Sec. 1956.084. MULTIPLE PLACES OF BUSINESS. (a) A separate dealership license is required for each place of business operated under this subchapter.

(b) The department may issue more than one dealership license to a person if the person complies with this subchapter for each license.

Sec. 1956.085. APPLICATION REQUIREMENTS. (a) An

application for a dealership license must be made to the department and must:

(1) be under oath;

(2) state:

(A) the full name and address of the applicant;

(B) the type of business entity formed by the applicant, if the applicant is not an individual;

(C) the full name and address of each general partner and the type of partnership, if the applicant is a partnership;

(D) the full name and address of each officer and owner, if the applicant is an unincorporated association;

(E) except as provided by Subsection (b), the full name of each officer and shareholder, if the applicant is a corporation;

(F) the full name and address of each manager and operator of the dealership;

(G) the location where the dealership's business is to be conducted and a copy of the certificate of occupancy for the location;

(H) the intended hours of operation of the dealership; and

(I) other relevant information required by the department; and

(3) state that the applicant and, if applicable, any business partner or officer of the corporation has not had a license revoked under this subchapter or Chapter 371, Finance Code.

(b) The full name of each shareholder is not required if the applicant is a corporation with five or more shareholders.

Sec. 1956.086. FEES. (a) Except as provided by Subsection (b), an applicant must submit with the application:

(1) an application fee of:

(A) \$500, if the applicant does not hold a license under this subchapter; or

(B) \$200, if the application is for an additional dealership license for a separate location; and

(2) an annual license fee in an amount determined by

the commission by rule.

(b) An applicant that is exempt from taxation under Section 501(c)(3), Internal Revenue Code of 1986, is exempt from the fees required under Subsection (a).

Sec. 1956.087. LICENSE TERM; RENEWAL. A license expires on the first anniversary of the date of issuance and may be renewed annually on payment of the required annual license fee.

Sec. 1956.088. INVESTIGATION; NOTICE OF APPLICATION. (a) On receipt of an application and the required fees, the department shall:

(1) conduct an investigation to determine whether to issue the license; and

(2) give notice of the application to:

(A) the Department of Public Safety; and

(B) each local law enforcement agency in the county in which the dealership is to conduct business.

(b) The notice under Subsection (a) must state the name and address of each person required by Section 1956.085 to be listed on the license application.

(c) The department shall give the Department of Public Safety and local law enforcement agencies a reasonable period to respond to the notice with information concerning the listed persons or any other relevant information.

Sec. 1956.089. NOTICE OF DENIAL; HEARING. (a) If the department determines not to issue a license, the department shall deliver to the applicant at the address provided in the application a written notice by personal delivery or certified mail, return receipt requested. The notice must include the department's reason for denying the license.

(b) Not later than the 30th day after the date of receipt of a notice under Subsection (a), an applicant may request a hearing on the application denial. The department shall set the hearing not later than the 60th day after the date of the request. A hearing under this section is subject to Section 51.354.

(c) If the department denies the application, the department shall retain the application fee and shall return to the applicant the annual license fee submitted with the application.

Sec. 1956.090. CONTENTS AND DISPLAY OF LICENSE. (a) A license must state:

- (1) the name of the dealer;
- (2) the address at which the dealership conducts business; and
- (3) that the dealership is authorized to deal in crafted precious metals.

(b) A dealer shall display a license in a conspicuous location at the place of business provided on the license.

Sec. 1956.091. APPLICATION FOR RELOCATION. A dealer who wishes to move a dealership from the location authorized by a license must file a relocation application with the department not later than the 30th day before the date the dealer moves and pay an application fee of \$20.

Sec. 1956.092. CRIMINAL BACKGROUND CHECK REQUIRED. (a) A dealer shall conduct a criminal background check on an applicant for employment with the dealer.

(b) A dealer may not employ a person who has been convicted of an offense under Section 31.03, Penal Code.

Sec. 1956.093. REPORT OF PURCHASE OR EXCHANGE REQUIRED.

(a) A dealer shall, as required by Section 1956.094, report all identifiable crafted precious metal that the dealer purchases, takes in trade, accepts for sale on consignment, or accepts for auction.

(b) Before crafted precious metal is offered for sale or exchange, a dealer must notify each person intending to sell or exchange the metal that, before the dealer may accept any of the person's property, the person must file with the dealer a list describing all of the person's crafted precious metal to be accepted by the dealer. The list must contain:

- (1) the proposed seller's or transferor's name and address;
- (2) the date and time of the purchase or exchange;
- (3) a complete and accurate description of the crafted precious metal, including:
 - (A) a serial number, if available; and
 - (B) the size, weight, material, length, number of

items, capacity, or other identifying characteristics; and

(4) the proposed seller's or transferor's certification that the information is true and complete.

(c) The dealer shall record the proposed seller's or transferor's driver's license number or Department of Public Safety personal identification certificate number on physical presentation of the license or personal identification certificate by the seller or transferor. The record must accompany the list.

(d) All lists and records required by this section must be legible.

(e) The dealer shall:

(1) provide to a peace officer or the department, on demand, the list required by Subsection (b); and

(2) mail or deliver a complete copy of the list to the chief of police or the sheriff as provided by Section 1956.094 not later than 48 hours after the list is filed with the dealer.

Sec. 1956.094. FORM OF REPORT; FILING. (a) A report required by this subchapter must comply with this section unless a similar report is required by another state law or a municipal ordinance, in which event the required report must comply with the applicable law or ordinance.

(b) If a transaction regulated by this subchapter occurs in a municipality that maintains a police department, the original and a copy of the report required by this subchapter shall be submitted to the municipality's chief of police. If the transaction does not occur in such a municipality, the original and a copy of the report shall be submitted to the sheriff of the county in which the transaction occurs.

(c) The dealer shall submit the report on a form prescribed by the district attorney or person performing the duties of district attorney of the county in which the transaction occurs.

(d) The dealer shall retain a copy of the report until the third anniversary of the date the report is filed.

Sec. 1956.095. RECEIPT REQUIRED. (a) A dealer, at the time of the sale or exchange of crafted precious metal, shall deliver a receipt to the seller or transferor. Each receipt delivered by the dealer must:

(1) be numbered sequentially;
(2) contain the date of the transaction or acquisition; and
(3) itemize the crafted precious metal purchased or exchanged.

(b) An accurate copy or record of the receipt shall be:

(1) maintained until the third anniversary of the date of the sale or exchange; and
(2) available on request for inspection during business hours by a peace officer or the department.

Sec. 1956.096. REQUIRED RETENTION OF CRAFTED PRECIOUS METAL. (a) A dealer may not melt, deface, alter, or dispose of crafted precious metal that is the subject of a report required by this subchapter before the 22nd day after the date the report is filed unless:

(1) the peace officer to whom the report is submitted, for good cause, authorizes disposition of the metal; or
(2) the dealer is a pawnbroker and the disposition is the redemption of pledged property by the pledgor.

(b) During the hold period required by Subsection (a), the crafted precious metal shall be stored or displayed:

(1) in the exact form received;
(2) in a manner as to be identifiable from the description provided under Section 1956.093; and
(3) in a manner as to not impede or prevent the crafted precious metal's examination by a peace officer or the department.

Sec. 1956.0965. STOLEN CRAFTED PRECIOUS METAL. (a) A dealer or an agent or employee of a dealership shall:

(1) monitor the purchase of crafted precious metal to identify or prevent transactions involving stolen crafted precious metal;
(2) make reasonable efforts to avoid accepting or purchasing stolen crafted precious metal; and
(3) immediately report to a local law enforcement agency:

(A) an offer to sell to the dealership crafted precious metal actually known or reasonably suspected to be stolen;

(B) the identity, if known, and the description of the person offering to sell the metal described by Paragraph (A); and

(C) the purchase of crafted precious metal subsequently determined or reasonably suspected to be stolen.

(b) A dealer shall cooperate with a local law enforcement agency regarding any matter relating to stolen crafted precious metal and assist in the prompt resolution of an official investigation.

Sec. 1956.0966. INSPECTION OF CRAFTED PRECIOUS METAL.

(a) A dealer shall make crafted precious metal purchased by the dealer available for inspection by a peace officer or the department during regular business hours while in the dealer's possession.

(b) Information obtained under this section is confidential except for use in a criminal investigation or prosecution or a civil court proceeding.

Sec. 1956.0967. PURCHASE FROM MINOR. (a) A dealer may not purchase crafted precious metal from a person younger than 18 years of age unless the seller delivers to the dealer before the purchase a written statement from the seller's parent or legal guardian consenting to the transaction.

(b) The dealer shall retain the statement with the records required to be kept under this subchapter. The dealer may destroy the statement after the later of:

(1) the date the item is sold; or

(2) the first anniversary of the date the dealer purchased the item.

Sec. 1956.097. PURCHASE AT TEMPORARY LOCATION OF DEALER.

(a) A dealer who conducts business at a temporary location for a period of less than 90 days may not engage in the business of buying precious metal or used items made of precious metal unless, within a 12-month period at least 30 days before the date on which each purchase is made, the person has filed:

(1) a registration statement with the department; and

(2) a copy of the registration statement with the local law enforcement agency of:

(A) the municipality in which the temporary location is located; or

(B) if the temporary location is not located in a municipality, the county in which the temporary location is located.

(b) The registration statement must contain:

(1) the name and address of the dealer;

(2) the location where business is to be conducted;

(3) if the dealer is an association, the name and address of each member of the association;

(4) if the dealer is a corporation, the name and address of each officer and director of the corporation; and

(5) other relevant information required by the department.

Sec. 1956.098. PURCHASE OF MELTED ITEMS. A dealer, in the course of business, may not purchase from a person other than a manufacturer of or a regular dealer in crafted precious metal an object formed as the result of the melting of crafted precious metal.

Sec. 1956.0985. GROUNDS FOR DENIAL, REVOCATION, OR SUSPENSION OF LICENSE. The department may deny, revoke, or suspend a dealership license if the dealer:

(1) violates this subchapter or a rule adopted or an order issued under this subchapter;

(2) falsifies information on a license application; or

(3) is convicted of an offense under Section 31.03, 37.09, or 37.10, Penal Code.

Sec. 1956.0986. NOTICE OF HEARING. (a) The department shall send written notice to the dealer of a dealership license revocation or suspension hearing that includes the cause or allegations of the revocation or suspension hearing.

(b) A hearing under this section is subject to Subchapter G, Chapter 51.

Sec. 1956.099. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter.

(b) An offense under this section is a Class B misdemeanor.

SECTION 3. Section 215.031, Local Government Code, is

amended to read as follows:

Sec. 215.031. HAWKERS; PEDDLERS; PAWNBROKERS; CRAFTED PRECIOUS METAL DEALERS. The governing body of the municipality may license, tax, suppress, prevent, or otherwise regulate:

(1) hawkers;

(2) peddlers; [~~and~~]

(3) pawnbrokers; and

(4) crafted precious metal dealers licensed under Subchapter B-1, Chapter 1956, Occupations Code.

SECTION 4. (a) As soon as practicable after the effective date of this Act, the Texas Commission of Licensing and Regulation shall adopt the rules and procedures necessary to implement Subchapter B-1, Chapter 1956, Occupations Code, as added by this Act.

(b) A crafted precious metal dealer is not required to hold a license under Subchapter B-1, Chapter 1956, Occupations Code, as added by this Act, before March 1, 2012.

(c) Section 1956.096(a), Occupations Code, as added by this Act, applies only to crafted precious metal that is the subject of a report filed on or after the effective date of this Act. Crafted precious metal that is the subject of a report filed before the effective date of this Act is governed by the law in effect when the report was filed, and the former law is continued in effect for that purpose.

(d) Section 1956.099, Occupations Code, as added by this Act, applies only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 5. This Act takes effect September 1, 2011.