

## **BILL ANALYSIS**

C.S.H.B. 2490  
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Environmental Regulation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Observers note that cash-for-gold establishments are largely unregulated, and they assert that these establishments perform informal transactions with sellers, do not keep a record of items purchased, and melt down purchased precious metals almost immediately, making it difficult for law enforcement agencies to track, investigate, and monitor whether stolen property is involved in such transactions. The observers contend that the oversight and regulation of cash-for-gold establishments should be strengthened by establishing licensing requirements and increasing reporting requirements for those who buy and sell crafted precious metal items. C.S.H.B. 2490 seeks to address such matters.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Finance Commission of Texas in SECTIONS 5 and 13 of this bill.

### **ANALYSIS**

C.S.H.B. 2490 amends the Occupations Code to require the Finance Commission of Texas to administer and enforce provisions relating to the sale of crafted precious metal to dealers, unless the context clearly requires another state agency to perform a specific duty. The bill provides that to the extent of any conflict between those provisions and other provisions relating to metal recycling entities, the provisions relating to the sale of crafted precious metal to dealers prevail.

C.S.H.B. 2490 prohibits a person from engaging in the business of buying and selling crafted precious metal unless the person holds a dealer's license issued under the provisions relating to the sale of crafted precious metal to dealers. The bill establishes eligibility requirements for a dealer's license and authorizes the finance commission by rule to establish other qualifications for a dealer's license. The bill requires an applicant for a dealer's license to submit a license application on a form prescribed by the consumer credit commissioner and requires the finance commission to establish an application fee in an amount not to exceed \$500. The bill requires the commissioner to approve the application and issue a dealer's license to the applicant if the commissioner determines that the applicant is eligible for the license. The bill authorizes the finance commission to adopt rules to enforce the provisions relating to the sale of crafted precious metal to dealers. The bill requires the finance commission to establish fees, including an annual fee to be paid by a license holder, in amounts reasonable and necessary to cover the costs of administering the finance commission's programs and activities. The bill makes its provisions relating to the sale of crafted precious metals to dealers inapplicable to precious metal acquired by a person or an employee of a person licensed under the Texas Pawnshop Act.

C.S.H.B. 2490, in a provision requiring a crafted precious metal dealer to record certain information about the proposed seller, requires the dealer to record the identification number of the seller's personal identification document and visually verify the accuracy of the seller's personal identification document and make a copy of the document. The bill removes a requirement for the dealer to record the proposed seller's driver's license number or Department

of Public Safety-issued personal identification certificate number on physical presentation of that license or certificate. The bill requires the copy of the document to accompany the required list describing all of the seller's crafted precious metal to be accepted by the dealer.

C.S.H.B. 2490, in a provision relating to a dealer's reporting of crafted precious metal purchases, requires the finance commission, rather than the district attorney or person performing the duties of district attorney of the county in which the transaction occurs, to prescribe the form of the report and sets out content requirements for the form. The bill requires such a form to be submitted for each transaction regulated under the bill's provisions and requires the form to be preprinted and prenumbered. The bill restricts a dealer to paying for a purchase of crafted precious metal only by check and requires the names of the dealer and seller to be printed on the check. The bill extends the required retention period within which a dealer is prohibited from melting, defacing, altering, or disposing of crafted precious metal that is the subject of a report, unless otherwise provided, to end the prohibition on the 31st day, rather than on the 11th day, after the date the report is filed and removes an exemption from the retention period requirement for a dealer who obtains the name, address, and description of the buyer and retains a record of that information. The bill exempts an employee of a pawnbroker from the retention period.

C.S.H.B. 2490 authorizes a peace officer who has reasonable suspicion to believe that an item of crafted precious metal in the possession of a dealer is stolen to place the item on hold by issuing to the dealer a written notice that specifically identifies the item alleged to be stolen and subject to the hold and informs the dealer that any processing of the identified crafted precious metal is prohibited until the hold is released. The bill prohibits the dealer, on receiving the notice, from melting, defacing, altering, or disposing of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order. The bill removes a requirement for a dealer who retains certain information to make that information available for inspection by any peace officer.

C.S.H.B. 2490, in a provision prohibiting a dealer who conducts business at a temporary location for less than a specified period of time from engaging in the business of buying precious metal or used items made of precious metal unless certain conditions are met, extends the duration of that specified period from 90 days to one year. The bill adds to the conditions under which a crafted precious metal dealer conducting business at a temporary location for less than the specified period may buy such precious metal items the dealer's filing a copy of the dealer's license to engage in such business with the appropriate local law enforcement agency, with the county, and, if applicable, with the municipality in which the temporary location is located. The bill redefines "personal identification document," "crafted precious metal," and "dealer" and defines "commissioner" and "finance commission."

C.S.H.B. 2490 makes it an offense to engage in the business of buying and selling crafted precious metal without a license and to pay for such purchases by a method other than by check.

C.S.H.B. 2490 requires the Finance Commission of Texas, not later than December 1, 2011, to adopt rules to implement the bill's licensing provisions.

C.S.H.B. 2490 establishes that provisions requiring a dealer's license to engage in the licensed activity, authorizing a dealer to engage in business at a temporary location by filing a copy of the license with certain local authorities, and making it an offense to violate certain provisions take effect January 1, 2012.

#### **EFFECTIVE DATE**

Except as otherwise provided, September 1, 2011.

## **COMPARISON OF ORIGINAL AND SUBSTITUTE**

C.S.H.B. 2490 contains a provision not included in the original redefining "crafted precious metal."

C.S.H.B. 2490 contains a provision not included in the original making its provisions relating to the sale of crafted precious metals to dealers inapplicable to precious metal acquired by an employee of a person licensed as a pawnbroker.

C.S.H.B. 2490 differs from the original by requiring a dealer to record the identification number of the seller's personal identification document, visually verify the accuracy of such document, and make a copy of the document, whereas the original, in addition to those requirements, requires the dealer to obtain a digital or video photograph that accurately depicts each item of crafted precious metal purchased.

C.S.H.B. 2490 differs from the original by specifying that a report the dealer is required to submit is to be submitted on a preprinted and prenumbered form prescribed by the Finance Commission of Texas for each regulated transaction, whereas the original specifies the report is on a form prescribed by that commission and does not require such a report for each such transaction.

C.S.H.B. 2490 differs from the original by exempting an employee of a pawnbroker from the period of retention applicable to purchased crafted precious metal, whereas the original exempts the pawnbroker.