

AN ACT

relating to the regulation of crafted precious metal dealers;
providing criminal and administrative penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 1956.051, Occupations Code, is amended
to read as follows:

Sec. 1956.051. DEFINITIONS. In this subchapter:

(1) "Commission" means the Finance Commission of
Texas.

(2) "Commissioner" means the consumer credit
commissioner.

(3) "Crafted precious metal" means jewelry,
silverware, an art object, or another object, made wholly or partly
from precious metal, other than a coin, a bar, a ~~or~~ commemorative
medallion, or scrap or a broken item selling at five percent or more
than the scrap value of the item ~~made in whole or in part from
precious metal~~.

(4) ~~[(2)]~~ "Dealer" means a person registered to engage
~~who engages~~ in the business of purchasing and selling crafted
precious metal, including purchases or sales made through the mail.

(5) ~~[(3)]~~ "Department" means the Texas Department of
Public Safety.

(6) ~~[(4)]~~ "Precious metal" means gold, silver,
platinum, palladium, iridium, rhodium, osmium, ruthenium, or an

1 alloy of those metals.

2 SECTION 2. Subchapter B, Chapter 1956, Occupations Code, is
3 amended by adding Section 1956.0511 to read as follows:

4 Sec. 1956.0511. ADMINISTRATION BY COMMISSION. (a)
5 Notwithstanding any other provision of this chapter, the commission
6 shall administer and enforce this subchapter, unless the context
7 clearly requires another state agency to perform a specific duty.

8 (b) To the extent of any conflict between this subchapter
9 and other provisions of this chapter, this subchapter prevails.

10 SECTION 3. Section 1956.060, Occupations Code, is amended
11 to read as follows:

12 Sec. 1956.060. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED
13 BY PERSON LICENSED UNDER TEXAS PAWNSHOP ACT. This subchapter does
14 not apply to crafted precious metal acquired by:

15 (1) a person licensed under Chapter 371, Finance Code;
16 or

17 (2) an entity affiliated with a person licensed under
18 Chapter 371, Finance Code, if the entity's recordkeeping practices
19 satisfy the requirements of that chapter.

20 SECTION 4. Subchapter B, Chapter 1956, Occupations Code, is
21 amended by adding Sections 1956.0611, 1956.0612, 1956.0613,
22 1956.0614, and 1956.0615 to read as follows:

23 Sec. 1956.0611. RULEMAKING. The commission may adopt rules
24 necessary to implement and enforce this subchapter.

25 Sec. 1956.0612. REGISTRATION AS DEALER. (a) A person may
26 not engage in the business of purchasing and selling crafted
27 precious metal unless the person is registered with the

1 commissioner as a dealer under this section.

2 (b) To register as a dealer, a person must provide to the
3 commissioner, on or before December 31 preceding each calendar year
4 in which the person seeks to act as a dealer:

5 (1) a list of each location in this state at which the
6 person will conduct business as a dealer; and

7 (2) a processing fee for each location included on the
8 list furnished under Subdivision (1).

9 (c) The commissioner shall prescribe the processing fee in
10 an amount necessary to cover the costs of administering this
11 section.

12 (d) After the December 31 deadline, a dealer may amend the
13 registration required under Subsection (a) to reflect any change in
14 the information provided by the registration.

15 (e) The commissioner shall make available to the public a
16 list of dealers registered under this section.

17 (f) The commissioner may prescribe the registration form.

18 (g) A reference to a registration in another subchapter of
19 this chapter does not apply to a person to the extent the person is
20 registered under this subchapter.

21 Sec. 1956.0613. INVESTIGATION BY COMMISSIONER. The
22 commissioner shall:

23 (1) monitor the operations of a dealer to ensure
24 compliance with this chapter; and

25 (2) receive and investigate complaints against a
26 dealer or a person acting as a dealer.

27 Sec. 1956.0614. REVOCATION OF REGISTRATION. (a) The

1 commissioner may revoke the registration of a dealer if the
2 commissioner concludes that the dealer has violated this chapter.
3 The commissioner shall recite the basis of the decision in an order
4 revoking the registration.

5 (b) If the commissioner proposes to revoke a registration,
6 the dealer is entitled to a hearing before the commissioner or a
7 hearings officer, who shall propose a decision to the commissioner.
8 The commissioner or hearings officer shall prescribe the time and
9 place of the hearing. The hearing is governed by Chapter 2001,
10 Government Code.

11 (c) A dealer aggrieved by a ruling, order, or decision of
12 the commissioner is entitled to appeal to a district court in the
13 county in which the hearing was held. An appeal under this
14 subsection is governed by Chapter 2001, Government Code.

15 Sec. 1956.0615. ADMINISTRATIVE PENALTY. The commissioner
16 may assess an administrative penalty not to exceed \$500 against a
17 person for each knowing and wilful violation of this chapter.

18 SECTION 5. Section 1956.063(c), Occupations Code, is
19 amended to read as follows:

20 (c) For each transaction regulated by this subchapter, the
21 [The] dealer shall submit a [the] report on a preprinted and
22 prenumbered form prescribed by the commissioner [district attorney
23 or person performing the duties of district attorney of the county
24 in which the transaction occurs]. The form must include the
25 following:

- 26 (1) the date of the transaction;
27 (2) a description of the crafted precious metal

1 purchased by the dealer;

2 (3) the name and physical address of the dealer; and

3 (4) the name, physical description, and physical
4 address of the seller or transferor.

5 SECTION 6. Section 1956.064, Occupations Code, is amended
6 by amending Subsection (b) and adding Subsection (c) to read as
7 follows:

8 (b) A peace officer who has reasonable suspicion to believe
9 that an item of crafted precious metal in the possession of a dealer
10 is stolen may place the item on hold for a period not to exceed 60
11 days by issuing to the dealer a written notice that:

12 (1) specifically identifies the item alleged to be
13 stolen and subject to the hold; and

14 (2) informs the dealer of the requirements of
15 Subsection (c).

16 (c) On receiving the notice, the dealer may not melt,
17 deface, alter, or dispose of the identified crafted precious metal
18 until the hold is released in writing by a peace officer of this
19 state or a court order. [A dealer who retains information under
20 Subsection (a)(2) shall make that information available for
21 inspection by any peace officer.]

22 SECTION 7. Section 1956.067(a), Occupations Code, is
23 amended to read as follows:

24 (a) A dealer who conducts business at a temporary location
25 for a period of less than one year [~~90 days~~] may not engage in the
26 business of buying precious metal or used items made of precious
27 metal unless, within a 12-month period at least 30 days before the

1 date on which each purchase is made, the dealer [~~person~~] has filed:

2 (1) a registration statement with the department;
3 [~~and~~]

4 (2) a copy of the registration statement and a copy of
5 the dealer's certificate of registration issued under this
6 subchapter with the local law enforcement agency of:

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

9 (B) if the temporary location is not located in a
10 municipality, the county in which the temporary location is
11 located; and

12 (3) a copy of the dealer's certificate of registration
13 issued under this subchapter with the county and, if applicable,
14 the municipality in which the temporary location is located.

15 SECTION 8. Section 1956.069(a), Occupations Code, is
16 amended to read as follows:

17 (a) A person [~~dealer~~] commits an offense if the person
18 [~~dealer~~]:

19 (1) fails to make or permit inspection of a report as
20 required by Section 1956.062 or 1956.063;

21 (2) violates [~~disposes of crafted precious metal or~~
22 ~~fails to make a record available for inspection by a peace officer~~
23 ~~as required by~~] Section 1956.0612 or 1956.064;

24 (3) fails to obtain or retain a statement as required
25 by Section 1956.066;

26 (4) fails to file a registration statement as required
27 by Section 1956.067; or

1 (5) purchases an object in violation of Section
2 1956.068.

3 SECTION 9. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect on the date the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 SECTION 10. Not later than December 1, 2011, the Finance
12 Commission of Texas shall adopt rules to implement Subchapter B,
13 Chapter 1956, Occupations Code, as amended by this Act.

14 SECTION 11. (a) Except as provided by Subsection (b) of
15 this section, this Act takes effect September 1, 2011.

16 (b) Section 1956.0612, Occupations Code, as added by this
17 Act, and Sections 1956.067(a) and 1956.069(a), Occupations Code, as
18 amended by this Act, take effect January 1, 2012.

President of the Senate

Speaker of the House

I certify that H.B. No. 2490 was passed by the House on May 3, 2011, by the following vote: Yeas 135, Nays 9, 1 present, not voting; that the House refused to concur in Senate amendments to H.B. No. 2490 on May 25, 2011, and requested the appointment of a conference committee to consider the differences between the two houses; and that the House adopted the conference committee report on H.B. No. 2490 on May 28, 2011, by the following vote: Yeas 146, Nays 0, 2 present, not voting.

Chief Clerk of the House

H.B. No. 2490

I certify that H.B. No. 2490 was passed by the Senate, with amendments, on May 23, 2011, by the following vote: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; and that the Senate adopted the conference committee report on H.B. No. 2490 on May 29, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor