

By: Solomons

H.B. No. 2490

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of certain metal dealers; providing  
3 criminal penalties.

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

5 SECTION 1. Section 1956.001(8), Occupations Code, is  
6 amended to read as follows:

7 (8) "Personal identification document" means:

8 (A) a valid driver's license issued by a state in  
9 the United States;

10 (B) a United States military identification  
11 card; ~~or~~

12 (C) a personal identification certificate issued  
13 by the department under Section 521.101, Transportation Code, or a  
14 corresponding card or certificate issued by another state;

15 (D) a passport; or

16 (E) documentation issued by the United States  
17 agency responsible for citizenship and immigration that authorizes  
18 the person to be in the United States.

19 SECTION 2. Section 1956.051, Occupations Code, is amended  
20 by amending Subdivisions (1) and (2) and adding Subdivisions (1-a)  
21 and (3-a) to read as follows:

22 (1) "Commissioner" means the consumer credit  
23 commissioner.

24 (1-a) "Crafted precious metal" means jewelry,

1 silverware, an art object, or another object, other than a coin or  
2 commemorative medallion, made in whole or in part from precious  
3 metal.

4 (2) "Dealer" means a person licensed to engage [~~who~~  
5 ~~engages~~] in the business of purchasing and selling crafted precious  
6 metal.

7 (3-a) "Finance commission" means the Finance  
8 Commission of Texas.

9 SECTION 3. Subchapter B, Chapter 1956, Occupations Code, is  
10 amended by adding Sections 1956.0511, 1956.0611, 1956.0612,  
11 1956.0613, 1956.0614, and 1956.0615 to read as follows:

12 Sec. 1956.0511. ADMINISTRATION BY FINANCE COMMISSION OF  
13 TEXAS. (a) Notwithstanding any other provision of this chapter,  
14 the finance commission shall administer and enforce this  
15 subchapter, unless the context clearly requires another state  
16 agency to perform a specific duty.

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

19 Sec. 1956.0611. DEALER'S LICENSE REQUIRED. A person may  
20 not engage in the business of purchasing and selling crafted  
21 precious metal unless the person holds a dealer's license issued  
22 under this subchapter.

23 Sec. 1956.0612. ELIGIBILITY. (a) To be eligible for a  
24 dealer's license, an applicant must:

25 (1) be of good moral character; and

26 (2) show that:

27 (A) the applicant will operate lawfully and

1 fairly under this subchapter; and

2 (B) the applicant or the applicant's owners and  
3 managers have the financial responsibility, experience, character,  
4 and general fitness to command the confidence of the public in the  
5 applicant's operations.

6 (b) Subsection (a)(1) applies to each:

7 (1) operator and legal or beneficial owner, if the  
8 applicant is a business entity; and

9 (2) officer, owner of at least five percent of the  
10 shares outstanding, and director, if the applicant is a  
11 corporation.

12 (c) The finance commission by rule may establish other  
13 qualifications for a dealer's license.

14 Sec. 1956.0613. LICENSE APPLICATION; FEE. An applicant for  
15 a dealer's license shall submit a license application on a form  
16 prescribed by the commissioner. The finance commission shall  
17 establish an application fee in an amount not to exceed \$500.

18 Sec. 1956.0614. APPROVAL; ISSUANCE OF LICENSE. The  
19 commissioner shall approve the application and issue a dealer's  
20 license to the applicant if the commissioner determines that the  
21 applicant is eligible for the license.

22 Sec. 1956.0615. RULEMAKING. (a) The finance commission  
23 may adopt rules to enforce this subchapter.

24 (b) The finance commission shall establish fees under this  
25 subchapter, including an annual fee to be paid by a license holder,  
26 in amounts reasonable and necessary to cover the costs of  
27 administering the commission's programs and activities under this

1 subchapter.

2 SECTION 4. Section 1956.062, Occupations Code, is amended  
3 by amending Subsection (c) and adding Subsection (c-1) to read as  
4 follows:

5 (c) The dealer shall:

6 (1) record the identification [~~proposed seller's~~  
7 ~~driver's license~~] number [~~or department personal identification~~  
8 ~~certificate number on physical presentation~~] of the seller's  
9 personal identification document;

10 (2) visually verify the accuracy of the seller's  
11 personal identification document and make a copy of the document;  
12 and

13 (3) obtain a digital or video photograph that  
14 accurately depicts each item of crafted precious metal purchased  
15 [~~license or personal identification certificate by the seller~~].

16 (c-1) The copy of the document and photograph described by  
17 Subsection (c) [~~record~~] must accompany the list.

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

20 (c) The dealer shall submit the report on a form prescribed  
21 by the finance commission [~~district attorney or person performing~~  
22 ~~the duties of district attorney of the county in which the~~  
23 ~~transaction occurs~~]. The form must include the following:

24 (1) the date of the transaction;

25 (2) a description of the crafted precious metal  
26 purchased by the dealer;

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

1           (4) the name, physical description, and physical  
2 address of the seller; and

3           (5) a copy of the document and photograph described by  
4 Section 1956.062(c).

5           SECTION 6. Subchapter B, Chapter 1956, Occupations Code, is  
6 amended by adding Section 1956.0631 to read as follows:

7           Sec. 1956.0631. PAYMENT FOR CRAFTED PRECIOUS METAL  
8 PURCHASED. A dealer may pay for a purchase of crafted precious  
9 metal only by check. The names of the dealer and seller must be  
10 printed on the check.

11           SECTION 7. Section 1956.064, Occupations Code, is amended  
12 to read as follows:

13           Sec. 1956.064. REQUIRED RETENTION OF CRAFTED PRECIOUS  
14 METAL. (a) A dealer may not melt, deface, alter, or dispose of  
15 crafted precious metal that is the subject of a report required by  
16 this subchapter before the 31st [~~11th~~] day after the date the report  
17 is filed unless:

18           (1) the peace officer to whom the report is submitted,  
19 for good cause, authorizes disposition of the metal; or

20           (2) [~~the dealer obtains the name, address, and~~  
21 ~~description of the buyer and retains a record of that information,~~

22 ~~or~~

23           [~~(3)~~] the dealer is a pawnbroker and the disposition  
24 is the redemption of pledged property by the pledgor.

25           (b) A peace officer who has reasonable suspicion to believe  
26 that an item of crafted precious metal in the possession of a dealer  
27 is stolen may place the item on hold by issuing to the dealer a

1 written notice that:

2 (1) specifically identifies the item alleged to be  
3 stolen and subject to the hold; and

4 (2) informs the dealer of the requirements of  
5 Subsection (c).

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

12 SECTION 8. Section 1956.067(a), Occupations Code, is  
13 amended to read as follows:

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

19 (1) a registration statement with the department;  
20 [~~and~~]

21 (2) a copy of the registration statement and a copy of  
22 the dealer's license issued under this subchapter with the local  
23 law enforcement agency of:

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

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

1 located; and

2 (3) a copy of the dealer's license issued under this  
3 subchapter with the county and, if applicable, the municipality in  
4 which the temporary location is located.

5 SECTION 9. Section 1956.069(a), Occupations Code, is  
6 amended to read as follows:

7 (a) A person [~~dealer~~] commits an offense if the person  
8 [~~dealer~~]:

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

11 (2) violates [~~disposes of crafted precious metal or~~  
12 ~~fails to make a record available for inspection by a peace officer~~  
13 ~~as required by~~] Section 1956.0611, 1956.0631, or 1956.064;

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

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

18 (5) purchases an object in violation of Section  
19 1956.068.

20 SECTION 10. The change in law made by this Act applies only  
21 to an offense committed on or after the effective date of this Act.  
22 An offense committed before the effective date of this Act is  
23 governed by the law in effect on the date the offense was committed,  
24 and the former law is continued in effect for that purpose. For  
25 purposes of this section, an offense was committed before the  
26 effective date of this Act if any element of the offense occurred  
27 before that date.

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

4           SECTION 12. (a) Except as provided by Subsection (b) of  
5 this section, this Act takes effect September 1, 2011.

6           (b) Section 1956.0611, Occupations Code, as added by this  
7 Act, and Sections 1956.067(a) and 1956.069(a), Occupations Code, as  
8 amended by this Act, take effect January 1, 2012.