

1-1 By: Zaffirini S.B. No. 1450  
1-2 (In the Senate - Filed March 10, 2011; March 22, 2011, read  
1-3 first time and referred to Committee on Business and Commerce;  
1-4 April 18, 2011, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 3; April 18, 2011,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1450 By: Van de Putte  
1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the regulation of crafted precious metal dealers and  
1-11 dealerships; providing a criminal penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Subchapter B, Chapter 1956,  
1-14 Occupations Code, is amended to read as follows:

1-15 SUBCHAPTER B. ~~[SALE OF]~~ CRAFTED PRECIOUS METAL ~~[TO]~~ DEALERS AND  
1-16 DEALERSHIPS

1-17 SECTION 2. Subchapter B, Chapter 1956, Occupations Code, is  
1-18 amended by amending Section 1956.051 and adding Sections 1956.0611,  
1-19 1956.0612, 1956.0613, 1956.0614, 1956.0615, 1956.0616, 1956.0617,  
1-20 1956.0618, 1956.0619, 1956.06191, and 1956.06192 to read as  
1-21 follows:

1-22 Sec. 1956.051. DEFINITIONS. In this subchapter:

1-23 (1) "Commission" means the Texas Commission of  
1-24 Licensing and Regulation.

1-25 (2) "Crafted precious metal" means jewelry,  
1-26 silverware, an art object, a bar, ~~[or another object, other than]~~ a  
1-27 coin, a ~~[or]~~ commemorative medallion, or another object, including  
1-28 scrap or a broken item, made in whole or in part from precious  
1-29 metal.

1-30 (3) ~~[(2)]~~ "Dealer" means a person who engages in the  
1-31 business of purchasing and selling crafted precious metal.

1-32 (4) "Dealership" means a location at which or premises  
1-33 in which a dealer conducts business.

1-34 (5) ~~[(3)]~~ "Department" means the Texas Department of  
1-35 Licensing and Regulation ~~[Public Safety]~~.

1-36 (6) ~~[(4)]~~ "Precious metal" means gold, silver,  
1-37 platinum, palladium, iridium, rhodium, osmium, ruthenium, or an  
1-38 alloy of those metals.

1-39 Sec. 1956.0611. RULEMAKING. The commission may adopt rules  
1-40 necessary to implement and enforce this subchapter.

1-41 Sec. 1956.0612. DEALERSHIP LICENSE REQUIRED. A person may  
1-42 not engage in business as a crafted precious metal dealer unless the  
1-43 person holds a dealership license.

1-44 Sec. 1956.0613. MULTIPLE PLACES OF BUSINESS. (a) A  
1-45 separate dealership license is required for each place of business  
1-46 operated under this subchapter.

1-47 (b) The department may issue more than one dealership  
1-48 license to a person if the person complies with this subchapter for  
1-49 each license.

1-50 Sec. 1956.0614. APPLICATION REQUIREMENTS. (a) An  
1-51 application for a dealership license must be made to the department  
1-52 and must:

1-53 (1) be under oath;

1-54 (2) state:

1-55 (A) the full name and address of the applicant;

1-56 (B) the type of business entity formed by the  
1-57 applicant, if the applicant is not an individual;

1-58 (C) the full name and address of each general  
1-59 partner and the type of partnership, if the applicant is a  
1-60 partnership;

1-61 (D) the full name and address of each officer and  
1-62 owner, if the applicant is an unincorporated association;

1-63 (E) except as provided by Subsection (b), the

2-1 full name of each officer and shareholder, if the applicant is a  
 2-2 corporation;  
 2-3 (F) the full name and address of each manager and  
 2-4 operator of the dealership;  
 2-5 (G) the location where the dealership's business  
 2-6 is to be conducted and a copy of the certificate of occupancy for  
 2-7 the location;  
 2-8 (H) the intended hours of operation of the  
 2-9 dealership; and  
 2-10 (I) other relevant information required by the  
 2-11 department; and  
 2-12 (3) state that the applicant and, if applicable, any  
 2-13 business partner or officer of the corporation has not had a license  
 2-14 revoked under this subchapter or Chapter 371, Finance Code.  
 2-15 (b) The full name of each shareholder is not required if the  
 2-16 applicant is a corporation with five or more shareholders.  
 2-17 Sec. 1956.0615. FEES. (a) Except as provided by  
 2-18 Subsection (b), an applicant must submit with the application:  
 2-19 (1) an application fee of:  
 2-20 (A) \$500, if the applicant does not hold a  
 2-21 license under this subchapter; or  
 2-22 (B) \$200, if the application is for an additional  
 2-23 dealership license for a separate location; and  
 2-24 (2) an annual license fee in an amount determined by  
 2-25 the commission by rule.  
 2-26 (b) An applicant that is exempt from taxation under Section  
 2-27 501(c)(3), Internal Revenue Code of 1986, is exempt from the fees  
 2-28 required under Subsection (a).  
 2-29 Sec. 1956.0616. LICENSE TERM; RENEWAL. A license expires  
 2-30 on the first anniversary of the date of issuance and may be renewed  
 2-31 annually on payment of the required annual license fee.  
 2-32 Sec. 1956.0617. INVESTIGATION; NOTICE OF APPLICATION.  
 2-33 (a) On receipt of an application and the required fees, the  
 2-34 department shall:  
 2-35 (1) conduct an investigation to determine whether to  
 2-36 issue the license; and  
 2-37 (2) give notice of the application to:  
 2-38 (A) the Department of Public Safety; and  
 2-39 (B) each local law enforcement agency in the  
 2-40 county in which the dealership is to conduct business.  
 2-41 (b) The notice under Subsection (a) must state the name and  
 2-42 address of each person required by Section 1956.0614 to be listed on  
 2-43 the license application.  
 2-44 (c) The department shall give the Department of Public  
 2-45 Safety and local law enforcement agencies a reasonable period to  
 2-46 respond to the notice with information concerning the listed  
 2-47 persons or any other relevant information.  
 2-48 Sec. 1956.0618. NOTICE OF DENIAL; HEARING. (a) If the  
 2-49 department determines not to issue a license, the department shall  
 2-50 deliver to the applicant at the address provided in the application  
 2-51 a written notice by personal delivery or certified mail, return  
 2-52 receipt requested. The notice must include the department's reason  
 2-53 for denying the license.  
 2-54 (b) Not later than the 30th day after the date of receipt of  
 2-55 a notice under Subsection (a), an applicant may request a hearing on  
 2-56 the application denial. The department shall set the hearing not  
 2-57 later than the 60th day after the date of the request. A hearing  
 2-58 under this section is subject to Section 51.354.  
 2-59 (c) If the department denies the application, the  
 2-60 department shall retain the investigation fee and shall return to  
 2-61 the applicant the annual license fee submitted with the  
 2-62 application.  
 2-63 Sec. 1956.0619. CONTENTS AND DISPLAY OF LICENSE. (a) A  
 2-64 license must state:  
 2-65 (1) the name of the dealer;  
 2-66 (2) the address at which the dealership conducts  
 2-67 business; and  
 2-68 (3) that the dealership is authorized to deal in  
 2-69 crafted precious metals.

3-1 (b) A dealer shall display a license in a conspicuous  
3-2 location at the place of business provided on the license.

3-3 Sec. 1956.06191. APPLICATION FOR RELOCATION. A dealer who  
3-4 wishes to move a dealership from the location authorized by a  
3-5 license must file a relocation application with the department not  
3-6 later than the 30th day before the date the dealer moves and pay an  
3-7 application fee of \$20.

3-8 Sec. 1956.06192. CRIMINAL BACKGROUND CHECK REQUIRED.  
3-9 (a) A dealer shall conduct a criminal background check on an  
3-10 applicant for employment with the dealer.

3-11 (b) A dealer may not employ a person who has been convicted  
3-12 of an offense under Section 31.03, Penal Code.

3-13 SECTION 3. The heading to Section 1956.062, Occupations  
3-14 Code, is amended to read as follows:

3-15 Sec. 1956.062. REPORT OF PURCHASE OR EXCHANGE REQUIRED.

3-16 SECTION 4. Section 1956.062, Occupations Code, is amended  
3-17 by amending Subsections (b), (c), and (d) and adding Subsection  
3-18 (c-1) to read as follows:

3-19 (b) Before crafted precious metal is offered for sale or  
3-20 exchange, a dealer must notify each person intending to sell or  
3-21 exchange the metal that, before the dealer may accept any of the  
3-22 person's property, the person must file with the dealer a list  
3-23 describing all of the person's crafted precious metal to be  
3-24 accepted by the dealer. The list must contain:

3-25 (1) the proposed seller's or transferor's name and  
3-26 address;

3-27 (2) the date and time of the purchase or exchange;

3-28 (3) a complete and accurate description of the crafted  
3-29 precious metal, including:

3-30 (A) a serial number, if available; and

3-31 (B) the size, weight, material, length, number of  
3-32 items, capacity, or other identifying characteristics; and

3-33 (4) [~~(3)~~] the proposed seller's or transferor's  
3-34 certification that the information is true and complete.

3-35 (c) The dealer shall record the proposed seller's or  
3-36 transferor's driver's license number or Department of Public Safety  
3-37 [department] personal identification certificate number on  
3-38 physical presentation of the license or personal identification  
3-39 certificate by the seller or transferor. The record must accompany  
3-40 the list.

3-41 (c-1) All lists and records required by this section must be  
3-42 legible.

3-43 (d) The dealer shall:

3-44 (1) provide to a peace officer or the department, on  
3-45 demand, the list required by Subsection (b); and

3-46 (2) mail or deliver a complete copy of the list to the  
3-47 chief of police or the sheriff as provided by Section 1956.063 not  
3-48 later than 48 hours after the list is filed with the dealer.

3-49 SECTION 5. Subchapter B, Chapter 1956, Occupations Code, is  
3-50 amended by adding Section 1956.0635 to read as follows:

3-51 Sec. 1956.0635. RECEIPT REQUIRED. (a) A dealer, at the  
3-52 time of the sale or exchange of crafted precious metal, shall  
3-53 deliver a receipt to the seller or transferor. Each receipt  
3-54 delivered by the dealer must:

3-55 (1) be numbered sequentially;

3-56 (2) contain the date of the transaction or  
3-57 acquisition; and

3-58 (3) itemize the crafted precious metal purchased or  
3-59 exchanged.

3-60 (b) An accurate copy or record of the receipt shall be:

3-61 (1) maintained until the third anniversary of the date  
3-62 of the sale or exchange; and

3-63 (2) available on request for inspection during  
3-64 business hours by a peace officer or the department.

3-65 SECTION 6. Section 1956.064, Occupations Code, is amended  
3-66 to read as follows:

3-67 Sec. 1956.064. REQUIRED RETENTION OF CRAFTED PRECIOUS  
3-68 METAL. (a) A dealer may not melt, deface, alter, or dispose of  
3-69 crafted precious metal that is the subject of a report required by

4-1 this subchapter before the 22nd [~~11th~~] day after the date the report  
4-2 is filed unless:

4-3 (1) the peace officer to whom the report is submitted,  
4-4 for good cause, authorizes disposition of the metal; or

4-5 (2) [~~the dealer obtains the name, address, and~~  
4-6 ~~description of the buyer and retains a record of that information;~~  
4-7 ~~or~~

4-8 [~~3~~] the dealer is a pawnbroker and the disposition  
4-9 is the redemption of pledged property by the pledgor.

4-10 (b) During the hold period required by Subsection (a), the  
4-11 crafted precious metal shall be stored or displayed:

4-12 (1) in the exact form received;

4-13 (2) in a manner as to be identifiable from the  
4-14 description provided under Section 1956.062; and

4-15 (3) in a manner as to not impede or prevent the crafted  
4-16 precious metal's examination by a peace officer or the department  
4-17 [~~A dealer who retains information under Subsection (a)(2) shall~~  
4-18 ~~make that information available for inspection by any peace~~  
4-19 ~~officer].~~

4-20 SECTION 7. Subchapter B, Chapter 1956, Occupations Code, is  
4-21 amended by adding Section 1956.0645 to read as follows:

4-22 Sec. 1956.0645. STOLEN CRAFTED PRECIOUS METAL. (a) A  
4-23 dealer or an agent or employee of a dealership shall:

4-24 (1) monitor the purchase of crafted precious metal to  
4-25 identify or prevent transactions involving stolen crafted precious  
4-26 metal;

4-27 (2) make reasonable efforts to avoid accepting or  
4-28 purchasing stolen crafted precious metal; and

4-29 (3) immediately report to a local law enforcement  
4-30 agency:

4-31 (A) an offer to sell to the dealership crafted  
4-32 precious metal actually known or reasonably suspected to be stolen;

4-33 (B) the identity, if known, and the description  
4-34 of the person offering to sell the metal described by Paragraph (A);  
4-35 and

4-36 (C) the purchase of crafted precious metal  
4-37 subsequently determined or reasonably suspected to be stolen.

4-38 (b) A dealer shall cooperate with a local law enforcement  
4-39 agency regarding any matter relating to stolen crafted precious  
4-40 metal and assist in the prompt resolution of an official  
4-41 investigation.

4-42 SECTION 8. The heading to Section 1956.065, Occupations  
4-43 Code, is amended to read as follows:

4-44 Sec. 1956.065. INSPECTION OF CRAFTED PRECIOUS METAL [~~BY~~  
4-45 ~~PEACE OFFICER~~].

4-46 SECTION 9. Subsection (a), Section 1956.065, Occupations  
4-47 Code, is amended to read as follows:

4-48 (a) A dealer shall make crafted precious metal purchased by  
4-49 the dealer available for inspection by a peace officer or the  
4-50 department during regular business hours while in the dealer's  
4-51 possession.

4-52 SECTION 10. Subchapter B, Chapter 1956, Occupations Code,  
4-53 is amended by adding Sections 1956.0685 and 1956.0686 to read as  
4-54 follows:

4-55 Sec. 1956.0685. GROUNDS FOR DENIAL, REVOCATION, OR  
4-56 SUSPENSION OF LICENSE. The department may deny, revoke, or suspend  
4-57 a dealership license if the dealer:

4-58 (1) violates this subchapter or a rule adopted or an  
4-59 order issued under this subchapter;

4-60 (2) falsifies information on a license application; or

4-61 (3) is convicted of an offense under Section 31.03,  
4-62 37.09, or 37.10, Penal Code.

4-63 Sec. 1956.0686. NOTICE OF HEARING. (a) The department  
4-64 shall send written notice to the dealer of a dealership license  
4-65 revocation or suspension hearing that includes the cause or  
4-66 allegations of the revocation or suspension hearing.

4-67 (b) A hearing under this section is subject to Subchapter G,  
4-68 Chapter 51.

4-69 SECTION 11. Subsection (a), Section 1956.069, Occupations

5-1 Code, is amended to read as follows:

5-2 (a) A person commits an offense if the person violates this  
5-3 subchapter ~~[dealer commits an offense if the dealer:~~

5-4 ~~[(1) fails to make or permit inspection of a report as~~  
5-5 ~~required by Section 1956.062 or 1956.063;~~

5-6 ~~[(2) disposes of crafted precious metal or fails to~~  
5-7 ~~make a record available for inspection by a peace officer as~~  
5-8 ~~required by Section 1956.064;~~

5-9 ~~[(3) fails to obtain or retain a statement as required~~  
5-10 ~~by Section 1956.066;~~

5-11 ~~[(4) fails to file a registration statement as~~  
5-12 ~~required by Section 1956.067; or~~

5-13 ~~[(5) purchases an object in violation of Section~~  
5-14 ~~1956.068].~~

5-15 SECTION 12. Section 215.031, Local Government Code, is  
5-16 amended to read as follows:

5-17 Sec. 215.031. HAWKERS; PEDDLERS; PAWNBROKERS; CRAFTED  
5-18 PRECIOUS METAL DEALERS. The governing body of the municipality may  
5-19 license, tax, suppress, prevent, or otherwise regulate:

5-20 (1) hawkers;

5-21 (2) peddlers; ~~and~~

5-22 (3) pawnbrokers; and

5-23 (4) crafted precious metal dealers.

5-24 SECTION 13. (a) As soon as practicable after the effective  
5-25 date of this Act, the Texas Commission of Licensing and Regulation  
5-26 shall adopt the rules and procedures necessary to implement  
5-27 Subchapter B, Chapter 1956, Occupations Code, as amended by this  
5-28 Act.

5-29 (b) A crafted precious metal dealer is not required to hold  
5-30 a license under Subchapter B, Chapter 1956, Occupations Code, as  
5-31 amended by this Act, before March 1, 2012.

5-32 (c) Subsection (a), Section 1956.064, Occupations Code, as  
5-33 amended by this Act, applies only to crafted precious metal that is  
5-34 the subject of a report filed on or after the effective date of this  
5-35 Act. Crafted precious metal that is the subject of a report filed  
5-36 before the effective date of this Act is governed by the law in  
5-37 effect when the report was filed, and the former law is continued in  
5-38 effect for that purpose.

5-39 (d) Section 1956.069, Occupations Code, as amended by this  
5-40 Act, applies only to an offense committed on or after the effective  
5-41 date of this Act. An offense committed before the effective date of  
5-42 this Act is governed by the law in effect on the date the offense was  
5-43 committed, and the former law is continued in effect for that  
5-44 purpose. For purposes of this subsection, an offense was committed  
5-45 before the effective date of this Act if any element of the offense  
5-46 occurred before that date.

5-47 SECTION 14. This Act takes effect September 1, 2011.

5-48 \* \* \* \* \*