

**House Bill 2490**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

(8) "Personal identification document" means:

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

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

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

(D) a passport; or

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

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

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

(1-a) "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 not more than five percent more than the scrap value of the item. ~~[made in whole or in part from precious metal].~~

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

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

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[Unless otherwise indicated, all SECTIONS below are from FA1])

**No equivalent provision.**

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SECTION 1. Section 1956.051, Occupations Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

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

(1-a) "Crafted precious metal" means jewelry, silverware, an art object, or another object, other than a coin or commemorative medallion, made in whole or in part from precious metal.

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

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

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

SECTION 4. Section 1956.060, Occupations Code, is amended to read as follows:

Sec. 1956.060. 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 or an employee of a person licensed under Chapter 371, Finance Code.

SECTION 5. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Sections 1956.0611, 1956.0612, 1956.0613, 1956.0614, and 1956.0615 to read as follows:

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

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[Unless otherwise indicated, all SECTIONS below are from FA1])

**No equivalent provision.**

**No equivalent provision.**

SECTION 2. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Sections 1956.0611 through 1956.0615 to read as follows:

Sec. 1956.0611. **REGISTRATION AS DEALER.** (a) A person may not engage in the business of purchasing and selling crafted precious metal unless the person is registered with the commissioner as a dealer under this section.

(b) To register as a dealer, a person must provide to the

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commissioner, on or before December 31 preceding each calendar year in which the person seeks to act as a dealer:  
(1) a list of each location in this state at which the person will conduct business as a dealer; and  
(2) a processing fee for each location included on the list furnished under Subdivision (1).  
(c) The commissioner shall prescribe the processing fee in an amount necessary to cover the costs of administering this section.  
(d) After the December 31 deadline, a dealer may amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.  
(e) The commissioner shall make available to the public a list of dealers registered under this section.  
(f) The commissioner may prescribe the registration form.  
(g) A reference to a registration in another subchapter of this chapter does not apply to a person to the extent the person is registered under this subchapter.  
Sec. 1956.0612. INVESTIGATION BY COMMISSIONER.  
The commissioner shall:  
(1) monitor the operations of a dealer to ensure compliance with this chapter; and  
(2) receive and investigate complaints against a dealer or a person acting as a dealer.  
Sec. 1956.0613. REVOCATION OF REGISTRATION. (a)  
The commissioner may revoke the registration of a dealer if the commissioner concludes that the dealer has violated this chapter. The commissioner shall recite the basis of the decision in an order revoking the registration.  
(b) If the commissioner proposes to revoke a registration, the dealer is entitled to a hearing before the commissioner or a

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Sec. 1956.0612. ELIGIBILITY. (a) To be eligible for a dealer's license, an applicant must:  
(1) be of good moral character; and  
(2) show that:  
(A) the applicant will operate lawfully and fairly under this subchapter; and  
(B) the applicant or the applicant's owners and managers have the financial responsibility, experience, character, and general fitness to command the confidence of the public in the applicant's operations.  
(b) Subsection (a)(1) applies to each:  
(1) operator and legal or beneficial owner, if the applicant is a business entity; and  
(2) officer, owner of at least five percent of the shares outstanding, and director, if the applicant is a corporation.  
(c) The finance commission by rule may establish other qualifications for a dealer's license.  
Sec. 1956.0613. LICENSE APPLICATION; FEE. An applicant for a dealer's license shall submit a license

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[Unless otherwise indicated, all SECTIONS below are from FA1])

hearings officer, who shall propose a decision to the commissioner. The commissioner or hearings officer shall prescribe the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.  
(c) A dealer aggrieved by a ruling, order, or decision of the commissioner is entitled to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.  
Sec. 1956.0615. ADMINISTRATIVE PENALTY. The commissioner may assess an administrative penalty not to exceed \$500 against a person for each knowing and willful violation of this chapter.

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application on a form prescribed by the commissioner. The finance commission shall establish an application fee in an amount not to exceed \$500.

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

Sec. 1956.0615. RULEMAKING. (a) The finance commission may adopt rules to enforce this subchapter.  
(b) The finance commission shall establish fees under this subchapter, including an annual fee to be paid by a license holder, in amounts reasonable and necessary to cover the costs of administering the commission's programs and activities under this subchapter.

SECTION 6. Section 1956.062, Occupations Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:

(c) The dealer shall:

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

(2) visually verify the accuracy of the seller's personal identification document and make a copy of the document [license or personal identification certificate by the seller].

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

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SECTION 7. Section 1956.063(c), Occupations Code, is amended to read as follows:

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

(1) the date of the transaction;

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

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

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

(5) a copy of the document described by Section 1956.062(c).

SECTION 8. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Section 1956.0631 to read as follows:

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

SECTION 9. Section 1956.064, Occupations Code, is amended to read as follows:

Sec. 1956.064. 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

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No equivalent provision.

No equivalent provision.

No equivalent provision.

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report required by this subchapter before the 31st ~~[11th]~~ 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 obtains the name, address, and description of the buyer and retains a record of that information; or~~

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

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

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

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

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

No equivalent provision.

SECTION 10. Section 1956.067(a), Occupations Code, is amended to read as follows:

(a) A dealer who conducts business at a temporary location for a period of less than one year ~~[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

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dealer ~~[person]~~ has filed:

- (1) a registration statement with the department; ~~[and]~~
- (2) a copy of the registration statement and a copy of the dealer's license issued under this subchapter 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; and
- (3) a copy of the dealer's license issued under this subchapter with the county and, if applicable, the municipality in which the temporary location is located.

SECTION 11. Section 1956.069(a), Occupations Code, is amended to read as follows:

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

- (1) fails to make or permit inspection of a report as required by Section 1956.062 or 1956.063;
- (2) violates ~~[disposes of crafted precious metal or fails to make a record available for inspection by a peace officer as required by]~~ Section 1956.0611, 1956.0631, or 1956.064;
- (3) fails to obtain or retain a statement as required by Section 1956.066;
- (4) fails to file a registration statement as required by Section 1956.067; or
- (5) purchases an object in violation of Section 1956.068.

No equivalent provision.

SECTION 12. The change in law made by this Act applies

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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 section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

SECTION 14. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.  
(b) Section 1956.0611, Occupations Code, as added by this Act, and Sections 1956.067(a) and 1956.069(a), Occupations Code, as amended by this Act, take effect January 1, 2012.

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SECTION 3. Not later than November 1, 2011, the consumer credit commission shall prescribe the forms and fees necessary to implement Subchapter B, Chapter 1956, Occupations Code, as amended by this Act.

SECTION 4. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.  
(b) Section 1956.0611, Occupations Code, as added by this Act, takes effect December 1, 2011.

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