

BILL ANALYSIS

C.S.H.B. 1769
By: Geren
Environmental Regulation
Committee Report (Substituted)

BACKGROUND AND PURPOSE

According to recent reports, precious metals are demanding high prices, and thefts of such precious metal from Texans' homes continue to take place. Interested parties contend that law enforcement needs additional tools to track, investigate, and monitor whether stolen property is involved in precious metal transactions. C.S.H.B. 1769 seeks to grant these additional tools by revising the regulation of certain metal dealers and providing criminal penalties.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the consumer credit commissioner in SECTION 3 of this bill.

ANALYSIS

C.S.H.B. 1769 amends the Occupations Code to redefine "personal identification document," for purposes of statutory provisions governing metal recycling entities, to include a passport or documentation issued by the United States agency responsible for citizenship and immigration that authorizes the person to be in the United States. The bill prohibits the consumer credit commissioner from registering a person as a crafted precious metal dealer if the person, in the calendar year preceding the calendar year for which the person seeks to act as a dealer, fails to comply with the bill's provisions requiring a record of purchase or exchange.

C.S.H.B. 1769 removes a provision requiring a dealer to report all identifiable crafted precious metal that the dealer purchases, takes in trade, accepts for sale on consignment, or accepts for auction and instead requires the dealer to maintain an accurate record of such crafted precious metal. The bill sets out the required contents of the record and removes a provision requiring the dealer to notify each person intending to sell or exchange metal that the person must file with the dealer a list describing all of the person's crafted precious metal to be accepted by the dealer. The bill requires the dealer to provide the record to a peace officer, on demand, and to mail or deliver a complete copy of the record to the chief of police or the sheriff not later than 48 hours after the time the transaction occurs. The bill authorizes the chief of police or the sheriff to provide for electronic submission of the record and requires the consumer credit commissioner to designate an Internet database that is designed to collect information from businesses regarding certain transactions and to make that information available to law enforcement agencies to assist the agencies in solving crimes. The bill requires the commissioner by rule, in addition to the required report, to require a dealer to report all identifiable crafted precious metal purchased, taken in trade, or accepted for sale on consignment or for auction to the Internet designated database not later than the end of the business day in which the transaction occurred. The bill specifies that "seller" includes a transferor who exchanges, or offers to exchange, crafted precious metal with a dealer.

Effective December 1, 2013, C.S.H.B. 1769 requires the dealer, for each transaction for which the dealer is required to maintain a record, rather than each transaction regulated by statutory provisions governing the sale of crafted precious metals to dealers, to submit a report on a

preprinted and prenumbered form prescribed by the consumer credit commissioner. The bill requires the form to include the information required to be included in the record and requires the commissioner, not later than November 1, 2013, to prescribe the required form.

C.S.H.B. 1769 limits the means by which the dealer may pay for a purchase of crafted precious metal to check or prepaid debit card. The bill requires the names of the dealer and seller to be printed on the check if payment is by check and, if payment is by prepaid debit card, grants the seller immunity from liability for any fees charged by the issuer of the card. The bill makes it a Class B misdemeanor offense to violate these provisions relating to payment for crafted precious metals.

C.S.H.B. 1769 removes an exemption from the prohibition against a dealer melting, defacing, altering, or disposing of certain crafted precious metal for a dealer who obtains the name, address, and description of the buyer and retains a record of that information.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 1769 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. Section 1956.001(8), Occupations Code, is amended.	SECTION 1. Same as introduced version.
No equivalent provision.	SECTION 2. Section 1956.0612, Occupations Code, is amended by adding Subsection (h) to read as follows: <u>(h) The commissioner may not register a person as a dealer if the person, in the calendar year preceding the calendar year for which the person seeks to act as a dealer, fails to comply with any requirement of Section 1956.062.</u>
SECTION 2. Section 1956.062, Occupations Code, is amended by amending Subsection (c) and adding Subsection (c-1) to read as follows:	SECTION 3. Section 1956.062, Occupations Code, is amended to read as follows:
No equivalent provision.	Sec. 1956.062. <u>RECORD</u> [REPORT] OF PURCHASE <u>OR</u> <u>EXCHANGE</u> REQUIRED.
No equivalent provision.	(a) A dealer shall <u>maintain an accurate record of</u> [as required by Section 1956.063, report] all identifiable crafted precious metal that the dealer purchases, takes in trade, accepts for sale on consignment, or accepts for auction.

No equivalent provision.

(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;

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

(3) obtain a digital or video photograph

(b) ~~The record [Before crafted precious metal is offered for sale or exchange, a dealer must notify each person intending to sell or exchange the metal that, before the dealer may accept any of the person's property, the person must file with the dealer a list describing all of the person's crafted precious metal to be accepted by the dealer. The list] must include [contain]:~~

~~(1) the date of the transaction;~~

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

~~(3) the [proposed] seller's name as listed on the seller's personal identification document;~~

~~(4) the identifying number of the seller's personal identification document;~~

~~(5) the physical [and] address at which the seller is residing at the time of the transaction;~~

~~(6) the seller's sex, height, date of birth, and eye color;~~

~~(7) [(2)] a complete and accurate description of the crafted precious metal that includes:~~

~~(A) the number of items accepted;~~

~~(B) for each item accepted, the size, weight, and length of the item, and the material from which the item is made;~~

~~(C) for each item accepted that contains a precious metal, the color, weight, purity, and type of each precious metal;~~

~~(D) the color, number, size, and approximate weight of any stone included in the items accepted; and~~

~~(E) other identifying characteristics of the items accepted;~~

~~(8) a digital or video photograph that accurately depicts each item accepted; and~~

~~(9) [(3)] the [proposed] seller's certification that:~~

~~(A) the information in the record is true and complete; and~~

~~(B) the seller is the legal owner of or is lawfully entitled to transfer the crafted precious metal.~~

(c) ~~[The dealer shall record the proposed seller's driver's license number or department personal identification certificate number on physical presentation of the license or personal identification certificate by the seller. The record must accompany the list.~~

that accurately depicts each item of crafted precious metal purchased ~~[license or personal identification certificate by the seller]~~.
(c-1) The copy of the document and photograph described by Subsection (c) ~~[record]~~ must accompany the list.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

~~[(d)]~~ The dealer shall:
(1) provide to a peace officer, on demand, the record ~~[list]~~ required by this section ~~[Subsection (b)]~~; and
(2) except as provided by Subsection (d), mail or deliver a complete copy of the record ~~[list]~~ to the chief of police or the sheriff as provided by Section 1956.063 not later than 48 hours after the time the transaction occurs ~~[list is filed with the dealer]~~.
(d) The chief of police or the sheriff may provide for electronic submission of a record under Subsection (c)(2).
(e) In addition to the report required by Subsection (c)(2), the commissioner shall by rule require a dealer to report all crafted precious metal described by Subsection (a) to the Internet database designated under Subsection (f) not later than the end of the business day in which the transaction occurred.
(f) For purposes of Subsection (e), the commissioner shall designate an Internet database that is designed to collect information from businesses regarding certain transactions and to make that information available to law enforcement agencies to assist the agencies in solving crimes.
(g) In this section, "seller" includes a transferor who exchanges, or offers to exchange, crafted precious metal with a dealer.

SECTION 4. Section 1956.063(c), Occupations Code, is amended to read as follows:
(c) For each transaction for which the dealer is required by Section 1956.062 to maintain a record ~~[regulated by this subchapter]~~, the dealer shall submit a report on a preprinted and prenumbered form prescribed by the commissioner. The form must include the information required to be included in the record ~~[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; and~~
~~[(4) the name, physical description, and physical address of the seller or transferor].~~

SECTION 3. Subchapter B, Chapter 1956, Occupations Code, is amended.

SECTION 4. Section 1956.064(a), Occupations Code, is amended to read as follows:

- (a) A dealer may not melt, deface, alter, or dispose of crafted precious metal that is the subject of a report required by this subchapter before the **21st** ~~[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 and the disposition is the redemption of pledged property by the pledgor.

SECTION 5. Section 1956.069(a), Occupations Code, is amended.

SECTION 6. The change in law made by this Act applies 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.

No equivalent provision.

SECTION 5. Same as introduced version.

SECTION 6. Section 1956.064(a), Occupations Code, is amended to read as follows:

- (a) A dealer may not melt, deface, alter, or dispose of crafted precious metal that is the subject of a report required by this subchapter before the **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 and the disposition is the redemption of pledged property by the pledgor.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Not later than November 1, 2013, the consumer credit commissioner shall prescribe the form required by Section 1956.063, Occupations Code, as amended by this Act.

SECTION 7. This Act takes effect September 1, 2013.

SECTION 10. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2013.

(b) Section 1956.063(c), Occupations Code, as amended by this Act, takes effect December 1, 2013.