

BILL ANALYSIS

S.B. 288
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Business & Industry
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Crafted precious metal dealers purchase and sell metal objects such as jewelry and silverware, often through the mail or a storefront. Those who purchase only coins, bars, commemorative medals, or certain scrap items are excluded from the statutory definition of a dealer. Similarly, those who operate under a pawnshop license are excluded from the crafted precious metal dealer regulations.

H.B. 2490, 82nd Legislature, Regular Session, 2011, amended Chapter 1956 (Metal Recycling Entities), Occupations Code, to provide that crafted precious metals dealers must register with the Office of the Consumer Credit Commissioner, comply with detailed reporting and regular hold-period requirements, and prominently display their registration to the public. Additionally, the statute requires crafted precious metal dealers to comply with any hold orders they receive from law enforcement personnel, who may place an item on hold for up to 60 days if they believe it is stolen.

S.B. 288 clarifies the definition of "crafted precious metal" in Chapter 1956 because the definition as passed in H.B. 2490 created confusion regarding the applicability of a specific exclusion. S.B. 288 also clarifies the hold-period, record retention, reporting requirement, and investigatory provisions of Chapter 1956.

S.B. 288 amends current law relating to the regulation of crafted precious metal dealers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

ANALYSIS

SECTION 1. Amends Section 1956.051(3), Occupations Code, to redefine "crafted precious metal."

SECTION 2. Amends Section 1956.0613, Occupations Code, as follows:

Sec. 1956.0613. New heading: INVESTIGATION BY COMMISSIONER; INSPECTION OF RECORDS. (a) Creates this subsection from existing text. Requires the consumer credit commissioner (commissioner) to monitor the operations of a dealer to ensure compliance with this subchapter (Sale of Crafted Precious Metal to Dealers), rather than this chapter (Metal Recycling Entities), and to receive and investigate complaints against a dealer or a person acting as a dealer.

(b) Authorizes the commissioner or the commissioner's authorized representative, if the commissioner receives a written complaint regarding a violation of this subchapter by a person, or has reasonable cause to believe that a person is violating this subchapter, to inspect any record, account, paper, book, or correspondence of the person, regardless of whether the person is registered as a dealer.

(c) Authorizes the commissioner or the commissioner's authorized representative to take statements in an investigation of a matter under this subchapter.

SECTION 3. Amends Section 1956.063, Occupations Code, by amending Subsections (c) and (d) and adding Subsection (c-1), as follows:

(c) Requires a dealer, for each transaction regulated by this subchapter, to submit a report on a preprinted and prenumbered form prescribed by the commissioner or in the manner described by Subsection (c-1).

(c-1) Authorizes a dealer to submit a list required by Section 1956.062(b) (relating to the required procedure for sale or exchange of crafted precious metal) in satisfaction of the reporting requirement of this section if the list contains the information described by Subsection (c).

(d) Requires the dealer to retain a copy of the report until the later of the second anniversary of the date the dealer sells or otherwise disposes of the crafted precious metal purchased by the dealer or the third anniversary of the date the report is filed.

SECTION 4. Amends Sections 1956.064(b) and (c), Occupations Code, as follows:

(b) Authorizes a peace officer who has reasonable suspicion to believe that an item of crafted precious metal in the possession of a dealer, or in the possession of another person on behalf of the dealer, is stolen to place the item on hold for a period not to exceed 60 days by issuing to the dealer or other person a written notice that specifically identifies the item alleged to be stolen and subject to the hold and informs the dealer or other person of the requirements of Subsection (c).

(c) Prohibits the dealer or other person, on receiving the notice, from melting, defacing, altering, or disposing of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order.

SECTION 5. Makes application of Section 1956.063(d), Occupations Code, as amended by this Act, prospective.

SECTION 6. Effective date: September 1, 2013.

EFFECTIVE DATE

September 1, 2013.