

By: Geren, Bohac, Raymond

H.B. No. 1769

Substitute the following for H.B. No. 1769:

By: Marquez

C.S.H.B. No. 1769

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of certain metal dealers; providing a criminal penalty.

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

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 1956.0612, Occupations Code, is amended by adding Subsection (h) to read as follows:

(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.

SECTION 3. Section 1956.062, Occupations Code, is amended to read as follows:

Sec. 1956.062. RECORD [~~REPORT~~] OF PURCHASE OR EXCHANGE REQUIRED. (a) A dealer shall maintain an accurate record of [~~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.

(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

1 length of the item, and the material from which the item is made;

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

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

7 (E) other identifying characteristics of the
8 items accepted;

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

11 (9) [(3)] the [proposed] seller's certification that:

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

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

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

21 ~~[(d)]~~ The dealer shall:

22 (1) provide to a peace officer, on demand, the record
23 ~~[list]~~ required by this section ~~[Subsection (b)]~~; and

24 (2) except as provided by Subsection (d), mail or
25 deliver a complete copy of the record ~~[list]~~ to the chief of police
26 or the sheriff as provided by Section 1956.063 not later than 48
27 hours after the time the transaction occurs ~~[list is filed with the~~

1 ~~dealer]~~.

2 (d) The chief of police or the sheriff may provide for
3 electronic submission of a record under Subsection (c)(2).

4 (e) In addition to the report required by Subsection (c)(2),
5 the commissioner shall by rule require a dealer to report all
6 crafted precious metal described by Subsection (a) to the Internet
7 database designated under Subsection (f) not later than the end of
8 the business day in which the transaction occurred.

9 (f) For purposes of Subsection (e), the commissioner shall
10 designate an Internet database that is designed to collect
11 information from businesses regarding certain transactions and to
12 make that information available to law enforcement agencies to
13 assist the agencies in solving crimes.

14 (g) In this section, "seller" includes a transferor who
15 exchanges, or offers to exchange, crafted precious metal with a
16 dealer.

17 SECTION 4. Section 1956.063(c), Occupations Code, is
18 amended to read as follows:

19 (c) For each transaction for which the dealer is required by
20 Section 1956.062 to maintain a record ~~[regulated by this~~
21 ~~subchapter]~~, the dealer shall submit a report on a preprinted and
22 prenumbered form prescribed by the commissioner. The form must
23 include the information required to be included in the record
24 ~~[following:~~

25 ~~[(1) the date of the transaction,~~
26 ~~[(2) a description of the crafted precious metal~~
27 ~~purchased by the dealer,~~

1 ~~[(3) the name and physical address of the dealer, and~~
2 ~~[(4) the name, physical description, and physical~~
3 ~~address of the seller or transferor].~~

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

6 Sec. 1956.0631. PAYMENT FOR CRAFTED PRECIOUS METAL
7 PURCHASED. A dealer may pay for a purchase of crafted precious
8 metal only by check or prepaid debit card. If payment is by check,
9 the names of the dealer and seller must be printed on the check. If
10 payment is by prepaid debit card, the seller may not be liable for
11 any fees charged by the issuer of the card.

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

14 (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 11th day after the date the report is
17 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 SECTION 7. Section 1956.069(a), Occupations Code, is
26 amended to read as follows:

27 (a) A person commits an offense if the person:

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

(2) violates Section 1956.0612, 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.

SECTION 8. 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.

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 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.