

By: Bohac

H.B. No. 3467

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of crafted precious metal dealers;
providing criminal penalties; authorizing a fee.

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

SECTION 1. Subchapter B, Chapter 1956, Occupations Code, is
amended by adding Section 1956.06125 to read as follows:

Sec. 1956.06125. REGISTRATION WITH COUNTY OR MUNICIPALITY.

A county or municipality may:

(1) require a person to obtain a license or permit from
the county or municipality before the person engages in the
business of purchasing and selling crafted precious metal in that
county or municipality; and

(2) impose a fee for the issuance or renewal of the
license or permit.

SECTION 2. 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~~

1 ~~person's property, the person must file with the dealer a list~~
2 ~~describing all of the person's crafted precious metal to be~~
3 ~~accepted by the dealer. The list]~~ must include ~~[contain]~~:

4 (1) the date of the transaction;

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

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

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

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

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

14 (7) a digital or video photograph that accurately
15 depicts the seller;

16 (8) a clean and legible thumbprint of the seller;

17 (9) ~~[-2-]~~ a complete and accurate description of the
18 crafted precious metal that includes:

19 (A) the number of items accepted;

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

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

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

27 (E) other identifying characteristics of the

1 items accepted;

2 (10) the total amount paid by the dealer to the seller,
3 including the amounts attributable to each type of precious metal
4 accepted;

5 (11) a digital or video photograph that accurately
6 depicts each item accepted; and

7 (12) [(3)] the [proposed] seller's certification
8 that:

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

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

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

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

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

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

26 (d) The chief of police or the sheriff may require the
27 electronic submission through an Internet website of a record under

1 Subsection (c)(2).

2 (e) In this section, "seller" includes a transferor who
3 exchanges, or offers to exchange, crafted precious metal with a
4 dealer.

5 SECTION 3. Section 1956.063(c), Occupations Code, is
6 amended to read as follows:

7 (c) For each transaction for which the dealer is required by
8 Section 1956.062 to maintain a record [~~regulated by this~~
9 ~~subchapter~~], the dealer shall submit a report on a preprinted and
10 prenumbered form prescribed by the commissioner. The form must
11 include the information required to be included in the record
12 [~~following~~].

13 [~~(1) the date of the transaction,~~
14 [~~(2) a description of the crafted precious metal~~
15 ~~purchased by the dealer,~~
16 [~~(3) the name and physical address of the dealer, and~~
17 [~~(4) the name, physical description, and physical~~
18 ~~address of the seller or transferor~~].

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

21 Sec. 1956.0631. PAYMENT FOR CRAFTED PRECIOUS METAL
22 PURCHASED. (a) Except as provided by Subsection (b), a dealer may
23 pay for a purchase of crafted precious metal only by check.

24 (b) A dealer may pay for a purchase of crafted precious
25 metal in cash only if:

26 (1) the purchase occurs in a jurisdiction in which the
27 dealer is permitted to electronically submit the record of the

1 purchase through an Internet website under Section 1956.062(d); and
2 (2) the dealer submits the record for that purchase
3 electronically.

4 SECTION 5. Section 1956.064(a), Occupations Code, is
5 amended to read as follows:

6 (a) A dealer may not melt, deface, alter, or dispose of
7 crafted precious metal that is the subject of a report required by
8 this subchapter before the 21st ~~[11th]~~ day after the date the report
9 is filed unless:

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

12 ~~(2) [the dealer obtains the name, address, and~~
13 ~~description of the buyer and retains a record of that information,~~
14 ~~or~~

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

17 SECTION 6. Section 1956.066, Occupations Code, is amended
18 to read as follows:

19 Sec. 1956.066. PURCHASE FROM MINOR PROHIBITED. ~~[(a)]~~ A
20 dealer may not purchase crafted precious metal from a person
21 younger than 18 years of age ~~[unless the seller delivers to the~~
22 ~~dealer before the purchase a written statement from the seller's~~
23 ~~parent or legal guardian consenting to the transaction].~~

24 ~~[(b)] The dealer shall retain the statement with the records~~
25 ~~required to be kept under this subchapter. The dealer may destroy~~
26 ~~the statement after the later of:~~

27 ~~[(1) the date the item is sold, or~~

1 ~~[(2) the first anniversary of the date the dealer~~
2 ~~purchased the item.]~~

3 SECTION 7. Section 1956.067(b), Occupations Code, is
4 amended to read as follows:

5 (b) The registration statement must contain:

6 (1) the name and address of the dealer;

7 (2) the location where business is to be conducted;

8 (3) the location where the precious metal or used
9 items made of precious metal will be held after the purchase;

10 (4) if the dealer is an association, the name and
11 address of each member of the association;

12 (5) ~~[(4)]~~ if the dealer is a corporation, the name and
13 address of each officer and director of the corporation; and

14 (6) ~~[(5)]~~ other relevant information required by the
15 department.

16 SECTION 8. Subchapter B, Chapter 1956, Occupations Code, is
17 amended by adding Section 1956.0681 to read as follows:

18 Sec. 1956.0681. PURCHASE OF DEFACED, ALTERED, OR BROKEN
19 ITEMS. A dealer, in the course of business, may not purchase from a
20 person other than a manufacturer of or a regular dealer in crafted
21 precious metal an object that has been defaced, altered, or broken
22 to the extent that the object cannot be used for its original
23 purpose without substantial repair.

24 SECTION 9. Section 1956.069, Occupations Code, is amended
25 to read as follows:

26 Sec. 1956.069. CRIMINAL PENALTY. (a) A person commits an
27 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, 1956.062, 1956.063,
or 1956.064;

(2) ~~[(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]~~

(3) fails to obtain a license or permit required by a county or municipality as authorized under Section 1956.06125; or

(4) ~~[(5)]~~ purchases an object in violation of Section 1956.066, 1956.068, or 1956.0681.

(b) An offense under Subsection (a)(1), (2), or (3) ~~[this section]~~ is a Class B misdemeanor, except that:

(1) the offense is a Class A misdemeanor if it is shown on the trial of the offense that the defendant has been previously convicted of an offense under this section; and

(2) the offense is a state jail felony if it is shown on the trial of the offense that the defendant has previously been convicted two or more times of an offense under this section.

(c) An offense under Subsection (a)(4) is a Class A misdemeanor, unless it is shown on the trial of the offense that the defendant has been previously convicted of an offense under that subsection, in which event the offense is a state jail felony.

SECTION 10. 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

1 governed by the law in effect on the date the offense was committed,
2 and the former law is continued in effect for that purpose. For
3 purposes of this section, an offense was committed before the
4 effective date of this Act if any element of the offense occurred
5 before that date.

6 SECTION 11. Not later than November 1, 2013, the consumer
7 credit commissioner shall prescribe the form required by Section
8 1956.063, Occupations Code, as amended by this Act.

9 SECTION 12. (a) Except as provided by Subsection (b) of
10 this section, this Act takes effect September 1, 2013.

11 (b) Sections 1956.063(c) and 1956.069, Occupations Code, as
12 amended by this Act, take effect December 1, 2013.