

BILL ANALYSIS

Senate Research Center

S.B. 1132
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Business & Commerce
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

After the Great Recession, businesses that purchase jewelry at a steep discount, melt it down, and resell the resulting precious metals proliferated across the state. Known as "cash-for-gold" shops, these establishments are not subject to the same regulations as pawn shops with similar business models. As a result, these shops provide an easy outlet to resell stolen jewelry without leaving behind a trail for police investigators.

In 2011, concerns from law enforcement led to the passage of H.B. 2490, transferring oversight of "crafted metal dealers" (i.e., cash-for-gold shops) to the Office of the Consumer Credit Commissioner (OCCC) and imposing reporting requirements and rules to prevent fencing of stolen goods. Under H.B. 2490, shops are required to register with OCCC, maintain records of transactions and sellers, and retain items for at least 11 days.

However, these regulations have not been well-enforced. Reports from police investigators indicate that many crafted metal dealers continue to profit from fencing stolen jewelry. This issue was highlighted by the murder of more than 20 elderly individuals in North Texas by a serial killer from 2016-2018. After each murder, the killer stole the victims' jewelry and resold it at crafted metal dealers. Had the dealers retained items and kept records in accordance with state law, the killer would likely have been identified by police investigators much sooner.

In 2019, OCCC was given authority to order restitution and issue injunctions against crafted metal dealers, per Texas Sunset Advisory Commission recommendations. However, OCCC does not actively enforce the law and only investigates dealers in response to complaints, which are rare due to a general lack of awareness that such shops are subject to state regulation. In FY2020, OCCC only took two enforcement actions against the approximately 1,100 dealers in the state.

S.B. 1132 aims to increase compliance with existing state laws on crafted metal dealers by asking OCCC to do at least 10 risk-based examinations of crafted metal dealers annually. Additionally, OCCC is to notify local law enforcement of enforcement actions within their jurisdiction to ensure that police are aware of both potential criminal activity and OCCC's role in enforcing state laws on crafted metal dealers. The cost of performing examinations can be covered by allowing the existing registration fee on dealers to cover the cost of administration. Ultimately, introducing a degree of active enforcement will make it more difficult for criminals to resell stolen items and will facilitate police investigations.

S.B. 1132 does not impose any new reporting requirements or regulations on crafted metal dealers.

(Original Author's/Sponsor's Statement of Intent)

S.B. 1132 amends current law relating to the regulation of crafted precious metal dealers and authorizes the change of a fee.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1956.051, Occupations Code, by amending Subdivision (3) and adding Subdivision (5-a), to redefine "crafted precious metal" and to define "jewelry store" in Subchapter B (Sale of Crafted Precious Metal to Dealers).

SECTION 2. Amends Section 1956.0612(c), Occupations Code, to require the consumer credit commissioner (commissioner) to prescribe the processing fee required to register as a dealer of crafted precious metal in an amount necessary to cover the costs of administering Subchapter B, rather than the costs of administering Section 1956.0612 (Registration as Dealer).

SECTION 3. Amends Section 1956.0613, Occupations Code, as follows:

Sec. 1956.0613. INVESTIGATION BY COMMISSIONER. Requires the commissioner to perform certain duties, including monitoring the operations of a dealer to ensure compliance with Subchapter B, rather than with Chapter 1956 (Metal Recycling Entities).

SECTION 4. Amends Subchapter B, Chapter 1956, Occupations Code, by adding Section 1956.06131, as follows:

Sec. 1956.06131. EXAMINATION OF COMMISSIONER. (a) Authorizes the commissioner or the commissioner's representative, at the times the commissioner considers necessary, to:

(1) examine each place of business of each dealer; and

(2) investigate the dealer's transactions and records, including books, accounts, papers, and correspondence, to the extent the transactions and records pertain to the business regulated under Subchapter B.

(b) Requires a dealer to:

(1) give the commissioner or the commissioner's representative free access to the dealer's office, place of business, files, safes, and vaults; and

(2) allow the commissioner or the representative to make a copy of an item that is authorized to be investigated under Subsection (a)(2).

(c) Requires the commissioner or the commissioner's representative to examine under Subsection (a) at least 10 dealers each calendar year.

(d) Provides that this section does not apply with respect to a jewelry store.

SECTION 5. Amends Subchapter B, Chapter 1956, Occupations Code, by adding Section 1956.0616, as follows:

Sec. 1956.0616. NOTICE OF ENFORCEMENT ORDER. (a) Requires the commissioner, as soon as practicable after an enforcement order against a dealer for a violation of Subchapter B becomes final, including an order assessing an administrative penalty or an order to pay restitution under Section 14.251(b)(3) (relating to authorizing the commissioner to order a person who violates or causes a violation of Subchapter B to pay restitution to an identifiable person), Finance Code, to provide notice of the order to:

(1) the chief of police of the municipality in which the violation occurred;
or

(2) the sheriff of the county in which the violation occurred, if the violation did not occur in a municipality.

(b) Requires that the notice include:

(1) a copy of the enforcement order;

(2) the information on complaint procedures described by Section 14.062(b) (relating to requiring the Office of Consumer Credit Commissioner to make information available describing its procedures for complaint investigation and resolution), Finance Code; and

(3) any other information the commissioner considers necessary or proper to the enforcement of Subchapter B.

SECTION 6. Repealer: Section 1956.052 (Applicability of Subchapter), Occupations Code.

Repealer: Section 1956.053 (Exception: Precious Metal Extracted, Recovered, or Salvaged From Industrial By-Products or Industrial Waste Products), Occupations Code.

Repealer: Section 1956.054 (Exception: Dental, Pharmaceutical, or Medical Application of Crafted Precious Metal), Occupations Code.

SECTION 7. (a) Effective date, except as provided by Subsection (b) of this section: September 1, 2021.

(b) Effective date, Section 1956.06131, Occupations Code, as added by this Act: January 1, 2022.