

BILL ANALYSIS

C.S.S.B. 1132
By: Johnson
Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Precious metal dealers, known as "cash-for-gold" shops, may purchase jewelry, melt it down, and resell the resulting precious metals. Precious metal dealers are not subject to the same retention requirements as pawnshops despite having very similar business models. As a result, these shops provide an easy outlet to resell stolen jewelry, leaving no trail for police investigators. Precious metal dealers are required to register with the Office of the Consumer Credit Commissioner (OCCC), maintain records of transactions and sellers, and retain items for at least 11 days.

The OCCC is not required to enforce its regulatory actions proactively, and compliance with these regulations remains poor. Reports from police investigators indicate that some dealers profit from purchasing and melting stolen jewelry. C.S.S.B. 1132 seeks to increase compliance with existing state laws relating to crafted metal dealers by, among other things, requiring the consumer credit commissioner to examine at least 10 crafted precious metal dealers annually to ensure compliance and to notify local law enforcement agencies of certain enforcement actions within their jurisdictions.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 1132 amends the Occupations Code to authorize the consumer credit commissioner or the commissioner's representative, at the times the commissioner considers necessary, to examine each place of business of each dealer of crafted precious metal and investigate the dealer's transactions and records, including books, accounts, papers, and correspondence, to the extent the transactions and records pertain to the business of the sale of crafted precious metal.

The bill provides the following:

- a jewelry store, as defined by the bill, is exempt from the application of this requirement;
- a dealer must give the commissioner or the commissioner's representative free access to the dealer's office, place of business, files, safes, and vaults and allow the commissioner or the representative to make a copy of an item that may be investigated; and
- the commissioner or the commissioner's representative must examine at least 10 dealers each calendar year.

These provisions take effect January 1, 2022.

C.S.S.B. 1132 requires the commissioner, as soon as practicable after an enforcement order against a dealer for a violation of provisions relating to the sale of crafted precious metal becomes final, including an order assessing an administrative penalty or an order to pay restitution, to provide notice of the order to the chief of police of the municipality in which the violation occurred or the sheriff of the county in which the violation occurred, if the violation did not occur in a municipality. The notice must include the following:

- a copy of the enforcement order;
- the information on consumer complaint procedures described by the applicable Finance Code provisions; and
- any other information the commissioner considers necessary or proper to the enforcement of provisions relating to the sale of crafted precious metal.

C.S.S.B. 1132 updates the definition of "crafted precious metal" to, among other things, explicitly incorporate into the definition descriptions of the items excepted from the applicability of the regulation as a crafted precious metal under the statutory provisions repealed by the bill. The bill defines "jewelry store" as a retail establishment that derives 75 percent or more of its annual revenue from the sale to consumers of crafted precious metal or other items of personal adornment, including watches, bracelets, necklaces, brooches, rings, and earrings.

C.S.S.B. 1132 requires the registration processing fee prescribed by the commissioner to be used to cover all necessary costs generally related to the regulation of the sale of crafted precious metal to dealers rather than only the necessary costs of administering dealer registration provisions. The bill requires the commissioner to monitor the operations of a dealer only to ensure compliance with the provisions generally related to the regulation of the sale of crafted precious metal to dealers rather than monitoring matters of compliance applicable to all metal recycling entities.

C.S.S.B. 1132 repeals the following provisions of the Occupations Code:

- Section 1956.052;
- Section 1956.053; and
- Section 1956.054.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1132 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute exempts a jewelry store, as defined by the substitute, from the applicability of the examination requirement but the engrossed did not provide for that exemption.

The substitute, but not the engrossed, updates the statutory definition of "crafted precious metal" to incorporate and carry forward certain exceptions and uses as set out in the applicable statutory provisions, which themselves are repealed by the substitute but which were not repealed by the engrossed.