

MAINE STATE LEGISLATURE

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MAJORITY & MINORITY REPORTS OF THE COMMITTEE
ON LEGAL AFFAIRS
ON ITS STUDY OF
REGULATION OF TRANSACTIONS IN
PRECIOUS METALS, JEWELRY, AND PRECIOUS AND SEMI-PRECIOUS GEMS
FOR RESALE AND SCRAP

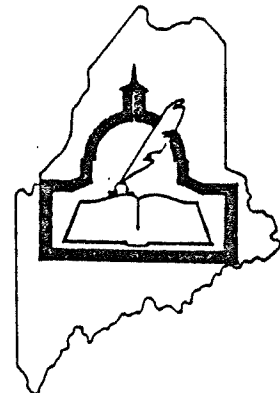
Senate

Melvin A. Shute
Richard R. Charette
Paul E. Violette

House

Harold R. Cox
James T. Dudley
Dan A. Gwadosky
John McSweeney
Francis J. Perry
Robert N. Soulas
Courtney E. Stover
Warren F. Studley
Dana S. Swazey
Robert D. Treadwell

William E. Saufley
Legislative Assistant



JAN 26 1982

MAJORITY REPORT OF THE COMMITTEE ON LEGAL AFFAIRS
ON ITS STUDY OF REGULATION OF TRANSACTIONS IN
PRECIOUS METALS, JEWELRY, AND PRECIOUS AND SEMI-PRECIOUS GEMS
FOR RESALE AND SCRAP

Attached herewith is the report of the majority of the Joint
Standing Committee on Legal Affairs on the committee's study of
Regulation of Transactions in Precious Metals, Jewelry, and Precious
and Semi-Precious Gems for Resale and Scrap.

For the majority report and bill:

Harold R. Cox

Rep. Harold R. Cox, House Chairman

Richard R. Charette

Sen. Richard R. Charette

Robert D. Treadwell, Sr.

Rep. Robert D. Treadwell, Sr.

Robert N. Soulas

Rep. Robert N. Soulas

Courtney E. Stover

Rep. Courtney E. Stover

John McSweeney

Rep. John McSweeney

Warren F. Studley

Rep. Warren F. Studley

Dana S. Swazey

Rep. Dana S. Swazey

Francis J. Perry

Rep. Francis J. Perry

Dan A. Gwadosky

Rep. Dan Gwadosky

MAJORITY REPORT

INTRODUCTION

The Joint Standing Committee on Legal Affairs, pursuant to directive of the Legislative Council, undertook an interim study into the regulation of transactions in precious metals, jewelry, and precious and semi-precious gems for resale and scrap.

A study subcommittee was formed, with the following membership:

Senate

Richard R. Charette

House

Harold R. Cox, Chairman
James T. Dudley
Dan A. Gwadosky
John McSweeney
Robert D. Treadwell

The subcommittee held three meetings: on September 10, October 15, and November 19, 1981. All meetings were held at the State House, announced in the Weekly Legislative Calendar, and open to the public. The subcommittee received proposals and comments from individuals and representatives of law enforcement, the Department of Business Regulation, antiques and precious metals dealers, the Maine Merchants Association and retail concerns. The subcommittee also reviewed a bill from the First Regular Session on this subject, as well as comparative legislation from other states (see Appendix I).

Finally, the subcommittee submitted the preliminary draft of the report and proposed legislation to the full committee for its comment and approval. The bill proposal by the majority of the committee is attached as Appendix II.

I. Findings and Recommendations of the Committee Majority

A. Findings

1. Economic factors exist both in Maine and elsewhere which cause substantial increases in the value of items composed of precious metals and precious and semi-precious gems.
2. Similar factors create like results in the markets for other used goods of all kinds.
3. Since these goods are subject to dramatic increases in value, law enforcement authorities report parallel increases in thefts of these goods. The threat, sometimes realized, of price decreases accelerates turnover and exacerbates law enforcement problems.

4. The difficulty of tracing transactions in stolen used goods and to regain their possession for return to their rightful owners is compounded by the problems of identifying dealers, the proliferation of such dealers, and the rapid turnover of these goods. In some cases, smelting or other alteration of the goods may take place on the dealer's premises within moments of the transaction.

5. While problems in this area exist throughout the State, some factors constitute extraordinary difficulties only in certain localities. Some municipalities have proposed or adopted local ordinances to address these concerns.

6. Present Maine law in this area is limited to the record keeping requirement of 15 M.R.S.A. §456 (as amended by P.L. 1981, c. 232), which requires dealers to identify the seller, and to maintain records on each transaction.

7. Several other states have recently enacted more comprehensive legislation on the subject of valuable used goods. The Council of State Governments Committee on Suggested State Legislation adopted the South Carolina law as the model approach. That law contains provisions, inter alia, for registration of dealers, prohibition of itinerant dealers, daily reports to law enforcement officials, a ten-day "holding period" when articles may not be transferred or altered, and criminal penalties for violations.

8. Law enforcement authorities in Maine municipalities having ordinances on this subject report successful results.

B. Recommendations

1. Dealers in used goods in Maine should be regulated in a manner that will assist law enforcement efforts to recover stolen used goods, and to enforce the criminal and tax laws. The prerequisite to such regulation is the registration of these dealers. Exceptions should be made for certain groups (e.g., charities) and types of transactions (e.g., trade-ins, exchanges).

2. Registration of dealers should be, at least initially, undertaken at the state level, through the Department of Business Regulation. The portability of the goods dictates that there should be a central registry for the state, which in turn can serve as an information resource to all levels of law enforcement. The fees for registration should fairly represent the costs of administration. Reasonable grounds should be drawn to provide for revocation or refusal to renew registration.

3. Dealers in used goods should continue to be required to maintain detailed records of transactions.

4. In order to allow time for stolen materials to be located and recovered before alteration, scrap or resale, a reasonable holding period for dealers to retain the goods should be established. Where special factors exist that clearly establish that certain goods are clearly the property of the seller to convey, and that the purposes of the legislation would not therefore be thwarted, local law enforcement should be granted authority to waive the holding period in order to prevent undue loss to the dealer.

5. Special reporting and bonding requirements should apply to itinerant dealers, i.e., dealers with no permanent place of business or home in the State.

6. Penalties for violators should be those for a Class E crime, and repeat violations should constitute Class D crimes.

7. State regulation should not preempt compatible local controls through ordinance or licensing procedures.

8. Precious metals transactions should be carried out using the Troy system.

9. Transactions with unemancipated minors should require written consent of the minor's parent or guardian.

II. Background

In the past several years, the values of precious items such as gold, silver and jewels have fluctuated dramatically. For example, newspaper accounts showed the following values for gold and silver on the same date in consecutive years:

	(\$ per troy oz.)	
	Sept. 8, 1980	Sept. 8, 1981
GOLD (New York: unfabricated)	\$672.00 (+21.00)	\$439.00 (-0.50)
SILVER (New York)	\$18.870 (+1.67)	\$10.27 (-0.36)

Particularly in times of economic distress, when precious items are rapidly increasing in value, there is a powerful incentive for increasing theft and transfer of these items. At the same time, dealers proliferate, as is evidenced by newspaper advertisements announcing purchases at motels and other temporary locations.

In the harried atmosphere of escalating prices, even the most scrupulous dealers are encouraged to quickly acquire, smelt or break down, and resell these items. Meanwhile, law enforcement is stymied in its attempts to trace and recover stolen goods.

The problems for law enforcement which occur in a period of escalating values in precious items also occur at other times and with other sorts of items. The FBI's Uniform Crime Reports detail the increase in break-ins and thefts during periods of economic upheaval.

L.D. 1430, proposed in the First Regular Session of the 110th Maine Legislature, provided for regulation of dealers in certain precious items. In the course of conducting its public meetings, the study subcommittee noted that that measure addressed only a part of the problem plaguing law enforcement. The proposal was limited both in whom it covered and in what it covered.

The initial proposal would have regulated dealers in precious metals, precious and semi-precious gems, and jewelry for resale and scrap. This approach fails to recognize that many of the same dealers also carry on a steady business in antiques, collectibles, and other second-hand items. By regulating only a part of this trade, an unnecessary and unjustifiable distinction would be made.

Further, law enforcement authorities encounter precisely the same sorts of difficulties with locating and recovering other stolen items as they do with the brief list of precious items in the original bill. Identification of dealers, examination of records, and a period in which to catch up with the goods are equally important whether the stolen item is a gold ring, a leather coat, or a stereo system.

III. Conclusion

It is the sense of the majority of the committee that the accompanying legislation, addressing the entire issue, represents a moderate but comprehensive approach. It addresses each of the recommendations we have listed above.

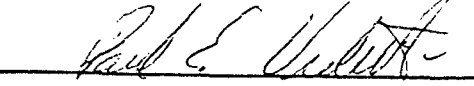
During deliberations of the subcommittee and the full committee, representatives of all affected groups were given the opportunity to actively participate in the drafting of the proposal. All groups, including dealers in antiques and other items were accommodated to some substantial degree. Dealers and law enforcement representatives agreed that this proposal, while perhaps not ideal for a single group, provided a reasonable compromise, and that they "could live with it."

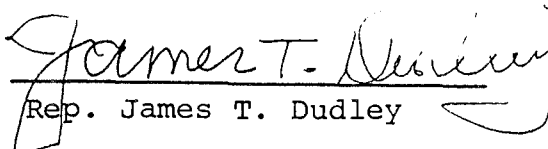
We recommend its adoption.


MINORITY REPORT OF THE COMMITTEE ON LEGAL AFFAIRS
ON ITS STUDY OF REGULATION OF TRANSACTIONS IN
PRECIOUS METALS, JEWELRY, AND PRECIOUS AND SEMI-PRECIOUS GEMS
FOR RESALE AND SCRAP

Attached herewith is the report of the minority of the Joint Standing Committee on Legal Affairs on the committee's study of Regulation of Transactions in Precious Metals, Jewelry, and Precious and Semi-Precious Gems for Resale and Scrap.

For the minority report:


Sen. Paul E. Violette


Rep. James T. Dudley


Sen. Melvin A. Shute, Sen. Chairman

MINORITY REPORT

In the opinion of a minority of the committee, the approach recommended by the majority suffers from the following defects:

(1) Overbreadth. The majority approach calls for coverage of dealers in all kinds of used goods. The original bill which precipitated the study, covered only certain precious items. The narrower proposal had the following advantages:

(a) It addressed only those items which, because they are expensive and alterable, have presented the most urgent need for regulation; and conversely,

(b) It did not place onerous restrictions on the conduct of a variety of businesses, such as antiques and other used goods sales.

(2) Lack of dollar limit. As written, the majority proposal could require burdensome paperwork and holding periods for items of nominal value. Placing a minimum dollar value on items covered by such regulation would avert unjustifiable costs of regulation.

These and other possible drawbacks to the majority approach will no doubt receive further comment at the public hearing on the study bill. Thus, the minority makes no recommendation of a separate study bill.

COMPARATIVE MATERIALS ON PRECIOUS METALS RESALE:

SIDE-BY-SIDE COMPARISON

*States Counter Metals Thefts
with Dealer Licensing Laws*

R.I. Jewelers Need License to Buy Metal

By CLYDE HARRINGTON
Providence Editor

PROVIDENCE—With the exception of jewelry manufacturers purchasing directly from trade suppliers, and dealers in coins purchased for numismatic value,

Buyers Must Obtain License

McBurney 3rd., (D-Pawtucket), and John J. Bevilacqua, (D-Providence), was passed this fall with amendments. However, subsequent hearings on actual regulations for licensing dealers in precious metals were held in

cut off fences—the middlemen in the stolen goods market.
“The smaller shops

*Some States Counter
High Metals Thefts
With Dealer License*

**Maryland's Precious
Metal Dealers
under Scrutiny**

The Maryland Legislature is considering a bill (HB 372) to govern secondhand precious metal dealers. Due to increased theft of gold, silver and platinum, statewide legislation has been proposed to bring the problem under control. The bill provides for dealer licensing; written records of transactions, which are subject to periodic examination; a 15-day, item-holding period; a detailing of penalties; police permission to inspect business premises in the course of stolen property investigation; and a prohibition of transactions with minors unless accompanied by a parent with proof of the relationship who agrees in writing. A similar bill has been pre-filed for consideration in the 1982 Kentucky General Assembly.

**Jewelers Need
License to Buy
Metals from Public**

Laws Will Control Thefts



STATE OF MAINE
ONE HUNDRED AND TENTH LEGISLATURE
COMMITTEE ON LEGAL AFFAIRS

TABLE

COMPARISON OF STATE PROVISIONS
REGULATING RESALE OF PRECIOUS METALS

	Require Registration	Investigation Registration Period	Fee (Annual)	Itinerants: Special Rules	Required records re sales	Law Enforcement Reports	Photos, Fingerprints	Confidentiality	Records Retained	Holding Period	PENALTIES (Max.)			Agency
											Civil Fine	Criminal: \$ and/or jail	Private suits: Special rules	
ME	Y (5)	N	1yr (7)	\$10 (7)	Y (9)	Y (10)	N*	N	--	5dd (14)	\$500 - \$1000 (16)	--	--	Town Clerk (5)
SC	Y (5)	Y (5)	1yr (7)	\$25 (7)	Y (9)	Y (10)	Daily (10)	Y (10)	Y (11)	3yrs (10)	10dd (14)	\$500 + 90dd (16)	--	Local law enforcement agency (5)
MI	Y (6)	N	?	\$50 (8)	N	Y (11)	48hrs (11)	Y (11)	N (11)	1 yr (11)	7dd (14)	\$5000 + 2yrs (16)	Treble Dams (20)	Local police (6)
RI	Y (6)	N	1yr (8)	\$50 + \$50/yr (9)	N	Y (12)	Weekly (12)	N	--	7dd (14)	--	\$2000 + 3yrs (16)	Actual Plus (20)	State Treasurer (6)
NJ	Y (6)	N	--	--	Y (9)	Y (13)	N	N	--	1 yr (13)	48hr (15)	\$100 - \$500 (17)	Disord. Conduct (17)	Local Police (6) and State Office of Weights and Measures (9)

Y = Yes N = No

* Reports to town clerk (10)

(X) = Page number in comparison

COMPARATIVE MATERIALS ON PRECIOUS METALS RESALE:

SIDE-BY-SIDE COMPARISON

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* INDICATES PROVISIONS WHICH HAVE NO PARALLEL IN MAINE LD.

SOURCES:

ME: LD 1430 FROM FIRST REGULAR SESSION, 110TH LEGISLATURE
SC: SOUTH CAROLINA BILL, ADOPTED BY COUNCIL OF STATE GOV'T
 COMMITTEE ON SUGGESTED STATE LEGISLATION
RI: RHODE ISLAND BILL, NOT ADOPTED BY CSG
NJ: NEW JERSEY BILL, NOT ADOPTED BY CSG
MI: MICHIGAN LAW

PREPARED BY WILLIAM E. SAUFLEY, OFFICE OF LEGISLATIVE ASSISTANTS,
FOR THE USE OF THE INTERIM STUDY ON PRECIOUS METALS RESALE
REGULATION, LEGAL AFFAIRS COMMITTEE, 110TH ME. LEGISLATURE.
AUGUST, 1981.

Be it enacted by the People of the State of Maine, as follows:

32 MRSA c. 12 is enacted to read:

CHAPTER 12

DEALERS IN PRECIOUS METALS AND STONES

AND JEWELRY FOR RESALE AND SCRAP

§ 711. Purpose

1. Legislative findings. The Legislature finds that the price of gold, silver and other precious metals, precious stones and jewels has increased dramatically in the past 5 years. Consequently, dealers in these articles have proliferated, and there is a greater incentive for the theft and resale of precious metals, precious stones and jewelry.

2. Intent. It is the intent of the Legislature to assist law enforcement agencies in their efforts to retrieve stolen precious metals, precious stones and jewelry, and ultimately to return the same to the rightful owner.

3. Administration and enforcement. This chapter shall be administered by the municipalities and enforced by any law enforcement agency.

SC Be it enacted by the General Assembly of the State of South
Carolina:

SECTION 1. The General Assembly finds that the value of precious metals has drastically increased and there is a corresponding increase in the number of thefts of such previous metals from homes in the State of South Carolina. Likewise, the number of dealers engaged in the purchase of precious metals has increased and there is no statewide regulation of such business. The General Assembly has determined that it is in the public interest to require dealers in precious metals to better identify the sellers of such metals and the goods purchased and to require that the dealers operate from permanent locations, obtain permits to engage in such business and maintain possession of purchased goods without altering their form for a limited period of time to enable law enforcement to better perform its duties, to deter fencing of stolen property and to aid in the apprehension of criminals.

§ 712. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Dealer. "Dealer" means any person who conducts transactions in precious metals, precious stones and jewelry for resale or scrap.

SECTION 2. As used in this act, unless the context indicates otherwise, the following terms shall mean:

"Dealer" means any person who holds himself out to the public as a purchaser of precious metals, or who in the course of operation of any business engages in the purchase of silver, gold or precious metals.

(b) "Dealer" means any person, corporation, partnership, or association, which, in whole or in part, engages in the ordinary course of repeated and recurrent transactions of buying or receiving precious items from the public within this state.

The word "person," when used in this chapter, shall include individuals, co-partnerships, associations, and corporations.

This chapter shall not apply to any financial institution which is covered by federal or state deposit insurance.

1. Any person in the business of buying precious metals who buys, attempts to buy or offers to buy precious metals on the basis of bulk value from any person who is not in the business of selling precious metals shall:

6. This act is not applicable to government agencies, State or Federally chartered banks or Federally regulated commodity markets.

ME

- 2. Jewelry. "Jewelry" means ornamental pieces made of precious metals or set with a precious stone or stones and which are worn for personal adornment.
- 3. Precious metals. "Precious metals" means gold, silver or platinum and any alloy containing gold, silver or platinum, whether or not they are in a worked or unworked state.
- 4. Precious stones. "Precious stones" means any cut and polished gemstone.
- 5. Transaction. "Transaction" means any purchase, sale, transfer, exchange or barter, offer for sale or purchase, promise to sell or buy, attempt to sell or buy any precious metal, precious stone or jewelry.

SC

"Precious metals" means any article made, in whole or in part, of gold, silver or platinum, which article has been used or sold by a retailer. The term precious metals shall not include any coin or any gold or silver ingot or bar unless the total purchase exceeds the sum of fifty dollars.

"Wholesale precious metals" are articles made in whole or in part of silver, gold or platinum that have not been previously used, or traded, or sold by a retailer and that are being purchased by a dealer from a manufacturer or from a wholesaler or distributor of newly-manufactured precious metals.

MI

- (c) "Gold" means elemental gold having an atomic weight of 196.967 and the chemical element symbol of Au, whether found by itself or in combination with its alloys or any other metal.
- (d) "Jewelry" means an ornamental item made of a material that includes a precious gem.
- (f) "Platinum" means elemental platinum having an atomic weight of 195.09 and the chemical element symbol of Pt, whether found by itself or in combination with its alloys or any other metal.
- (g) "Precious gem" means a diamond, alexandrite, ruby, sapphire, opal, amethyst, emerald, aquamarine, morganite, garnet, jadeite, topaz, tourmaline, turquoise, or pearl.
- (h) "Precious item" means jewelry, a precious gem, or an item containing gold, silver, or platinum. Precious item does not include the following:
 - (i) Coins, commemorative medals, and tokens struck by, or in behalf of, a government or private mint.
 - (ii) Bullion bars and discs of the type traded by banks and commodity exchanges.
 - (iii) Items at the time they are purchased directly from a dealer registered under this act, a manufacturer, or a wholesaler who purchased them directly from a manufacturer.
 - (iv) Industrial machinery or equipment.
- (v) An item being returned to or exchanged at the dealer where the item was purchased and which is accompanied by a valid sales receipt.
- (vi) An item which is received for alteration, redesign, or repair in a manner that does not substantially change its use and returned directly to the customer.
- (vii) An item which does not have a jeweler's identifying mark or a serial mark and which the dealer purchases for less than \$5.00.
- (viii) Scrap metal which contains incidental traces of gold, silver, or platinum which are recoverable as a by-product.
- (ix) Jewelry which a customer trades for other jewelry having a greater value, and which difference in value is paid by the customer.
- (j) "Silver" means elemental silver having an atomic weight of 107.869 and the chemical element symbol of Ag, whether found by itself or in combination with its alloys or any other metal.

RI

gold, silver, platinum group metals, or precious stones, or any articles containing the same, other than coins purchased for their numismatic rather than their metal content, herein referred to as "precious metals,"

NJ

5. For purposes of this act:
- a. "Precious metals" means gold, silver, platinum, palladium and alloys thereof.

OTHER DEFINITIONS

(NO PARALLEL IN MAINE LD)

SC

"Local law enforcement agency" means the county sheriff's office for businesses located outside the corporate limits of a municipality and the municipal police for businesses located within the corporate limits of a municipality.

Sec. 2. As used in this act:

MI

(a) "Agent or employee" means a person who, for compensation or valuable consideration, is employed either directly or indirectly by a dealer.

(e) "Local police agency" means the police agency of the city, village, or township, or if none, the county sheriff.

NJ

b. "His name and address" means the name of the buyer and the legal name of the business under which the buyer is doing business, together with the permanent business address.

c. "Transient buyer" means a buyer of precious metals as provided for in this act who has not been in any retail business continuously for at least 6 months at the address in the municipality where he is required to register or who intends to close out or discontinue all retail business in the municipality within 6 months.

ME

1. Registration required. No dealer may conduct transactions in precious metals, precious stones or jewelry unless that dealer is registered under this chapter.

2. Penalty. Any dealer who conducts transactions in precious metals, precious stones or jewelry in violation of subsection 1, commits a civil violation for which a forfeiture of not less than \$500 nor more than \$1,000 shall be adjudged.

3. Procedure. A dealer shall register with the town clerk of the municipality in which the dealer plans to do business before commencing any transactions.

SC

SECTION 3. No dealer as defined herein shall operate in the State of South Carolina unless he first obtains a permit to engage in the business of purchasing precious metals from the local law enforcement agency and operates only from a permanent shop or place of business.

Upon receipt of such application for a permit, the law enforcement agency shall cause an investigation of such persons' business responsibility or moral character to be made as it deems necessary for the protection of the public good. If, as a result of the investigation, the character and business reputation are found to be unsatisfactory, the permit shall be denied. If, as a result of the investigation, the character and business reputation are found to be satisfactory, the permit shall be issued. The permit shall be denied or issued within thirty days from the date of application.

A separate permit shall be obtained from the local law enforcement agency in each municipality or county in the State in which the dealer intends to operate such a business. If the dealer intends to operate in more than one location within a municipality or county, then separate permits shall be issued for each place of business; provided, however, only one annual fee shall be collected.

The permits under this act shall be in addition to and not in lieu of other business licenses.

A permit may be denied or revoked at any time if the law enforcement agency discovers that the information on the application is inaccurate or the dealer or applicant does not comply with the requirements of this act or otherwise violates federal, state or local law.

MI Sec. 3. (1) A dealer shall not conduct business in a city, village, or township in this state unless the dealer has obtained a valid certificate of registration from that local city, village or township police agency.

(3) A dealer or an agent or employee of a dealer who is convicted of a misdemeanor under this act or under section 535 of Act No. 328 of the Public Acts of 1931, as amended, being section 750 535 of the Michigan Compiled Laws shall not be permitted to operate as a dealer within this state for a period of 1 year after conviction.

(4) A dealer or an agent or employee of a dealer who is convicted of a felony under this act or under section 535 of Act No. 328 of the Public Acts of 1931, as amended, shall not be permitted to operate as a dealer within this state for a period of 5 years after the conviction.

(6) Upon receipt of the application described in subsection (2), the local police agency shall issue a certificate of registration in accordance with this section.

(8) Not less than 10 days before a dealer changes the name or address under which the dealer does business, the dealer shall notify the local police agency of the change.

RI 6-11.1-1. License required - person defined. -- No person including a pawnbroker, shall engage in the business of buying *(PRECIOUS METALS)* from the general public for the purpose of reselling the same in any condition without first obtaining a license from the general treasurer of the state of Rhode Island, hereinafter called the treasurer.

NJ 2. A buyer of precious metals as provided for in this act shall, before buying, attempting to buy or offering to buy any precious metals, register with the police of the municipality in which he intends to conduct his business and give his name and address.

ME

§ 715. Registration forms

Registration shall be made on forms purchased by the municipality from the Secretary of State. The registrant shall provide his name, date of birth, residence and address, and the name and address of the principal place of business of his employer.

§ 716. Valid for one year

Registrations under this chapter are valid for one year from the date of registration, in the municipality of registration.

§ 718. Fee

The registration fee is \$10, payable to the municipality in which the dealer registers.

SC The form of the permit to engage in the business of purchasing precious metals shall be prescribed by the governmental entity issuing the permit and all applicants for a permit under this act, whether a person, firm or corporation, shall file a written sworn application signed by the applicant, if an individual, by all the partners if a partnership, and by the president if a corporation, with the local law enforcement agency, showing:

(a) The names of the persons managing or supervising the applicant's business in the locality; the addresses of such persons; the social security number of such persons; the capacity in which such persons will act, (that is, whether as proprietor, agent or otherwise); the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, the state of incorporation.

(b) the places in the State of South Carolina where it is proposed to carry on the applicant's business and the places where the applicant has carried on the business of purchasing precious metals within one year preceding the date of such application.

(c) A statement of the nature, character and quality of the precious metals to be purchased in the business.

(d) Such other reasonable information as to the identity or character of the persons managing or supervising the applicant's business or the method or plan of doing such business as the governmental entity issuing the permit may deem proper to fulfill the purpose of this act in the protection of the public good.

The permit issued under this act shall be valid for a period of one year from the date issued and the annual fee shall be twenty-five dollars to provide for the administrative costs of the governmental entity by whom they are issued.

MI

(2) A dealer shall apply to the local police agency for a certificate of registration, and pay a fee not to exceed \$50.00 to cover the reasonable cost of processing and issuing the certificate of registration, by disclosing the following information:

- (a) The name, address, and thumbprint of the applicant.
- (b) The name and address under which the applicant does business.
- (c) The name, address, and thumbprint of all agents or employees of the dealer. Within 24 hours after hiring a new employee, the dealer shall forward to the local police agency the name, address, and thumbprint of the new employee.

RI

6-11.1-2. Application for license - Annual fee - Minimum capital. -- Application for such license shall be in writing, under oath, and in the form prescribed by the treasurer and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a co-partnership or association, of every member thereof, and if a corporation, of each officer and director and of the principal owner or owners of the issued and outstanding capital stock thereof; also the city or town with the street and number, if any, where the business is to be conducted and, if a non-resident, of the principal place of business without the state, and such further information as the treasurer may require. The applicant at the time of making his initial application only shall pay to the treasurer the sum of fifty dollars (\$50) as a fee for investigating the application and the additional sum of fifty dollars (\$50) shall be paid annually as a license fee for a period terminating on the last day of the current calendar year; provided, that if the application is filed after June thirtieth in any year such additional sum shall be only twenty five dollars (\$25). The treasurer is authorized to promulgate rules and regulations not inconsistent herewith to provide for the effective discharge of the responsibilities granted by this chapter.

§ 717. Itinerant dealers

9

ME

A dealer with no permanent place of business in a municipality, who wishes to conduct transactions in that municipality, shall register with the town clerk before conducting any transactions in that municipality. Registration is required each time that dealer opens or reopens his business in any municipality.

SC

No dealer shall operate upon public property nor from a vehicle, flea market, hotel room or similar temporary location.

NJ

i. Obtain a bond in an amount and form prescribed by regulations of the Office of Weights and Measures. The bond shall be obtained from a surety company authorized by law to do business in this State. The bond shall run to the State for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the buyer of precious metals. No bond shall comply with the requirements of this subsection unless the bond contains a provision that it shall not be cancelled for any cause unless notice of intention to cancel is filed in the Office of Weights and Measures at least 30 days before the day upon which cancellation shall take effect. This subsection shall only apply to transient buyers.

A transient buyer of precious metals shall, in addition to the information required of a buyer of precious metals, provide the address at which he intends to do business in the municipality and shall reregister if he changes his location of doing business in the municipality or if he discontinues doing business for more than 20 days in the municipality and subsequently wants to resume doing business therein.

ME

1. Record keeping required. No dealer may conduct transactions in precious metals, precious stones or jewelry unless that dealer maintains business records as specified under this chapter.

2. Penalty. Any dealer who conducts transactions in precious metals, precious stones or jewelry in violation of subsection 1 commits a civil violation for which a forfeiture of not less than \$100 nor more than \$250 shall be adjudged.

3. Procedure. A dealer shall keep a record of any item in a transaction. Each dealer shall submit the record of each transaction to the town clerk with whom a dealer has registered under section 713.

§ 719. Record-keeping forms

Records shall be kept on forms purchased by the municipality from the Secretary of State. The dealer shall provide the date of the transaction; the name, date of birth and address of the other party to the transaction; a detailed description of the item involved, including identifying marks and characteristics; a serial number of the item, when possible; and the signature of the other party to the transaction.

SC

SECTION 5. (a) Every dealer shall mail or deliver daily reports to the local law enforcement agency within twenty-four hours from the time of purchase of precious metals, giving the name and address of the seller, the price paid for each item, the date of purchase, a description of each article purchased, the manufacturer (where known), any identifying marks on each article, the seller's social security number and the seller's driver's license number or the number on any other governmental identification card bearing a photograph of the seller; provided, however, that if the seller cannot furnish a driver's license or other identification bearing his photograph, the dealer shall then comply with the provisions of item (c) of this section.

(b) The dealer shall also record the information supplied in the daily reports along with a detailed physical description of the seller, in a bound book with consecutively numbered pages which shall be retained for three years, and which shall be open at all reasonable times to inspection by any law enforcement agency.

(c) The dealer in such goods shall also take a photograph of each group of purchased precious metals using an instant photography process when the total value of the purchase exceeds two hundred and fifty dollars. In the event any seller cannot furnish a driver's license or other identification bearing his photograph, the dealer with the consent of the seller shall photograph such seller; provided, however, that

if the seller shall refuse to allow the dealer to take his photograph then the dealer shall not purchase any precious metals from that seller. The photograph shall include the head, face and shoulders of the seller and such photographs shall be suitable for ready identification of the seller and the purchased items.

On the back of each photograph the dealer shall record the date of the purchase and the name and address of the seller and the dealer shall sign or initial it. All such photographs shall be forwarded to the local law enforcement agency attached to the daily report of the particular purchase for which it was taken.

(d) The local law enforcement agency shall not reveal a seller's identity supplied under this section, except to other law enforcement agencies and prosecuting officials or pursuant to the valid order of a court, or in the course of any criminal investigation or prosecution.

MI

Sec. 4. (1)-A dealer shall maintain a permanent record of each transaction, on record of transaction forms provided for in subsection (6), legibly written in ink in the English language. Each record of transaction form shall be filled out in triplicate by the dealer or agent or employee of the dealer with 1 copy going to the local police agency pursuant to subsection (3), 1 copy going to the customer, and 1 copy to be retained by the dealer pursuant to subsection (5). At the time a dealer receives or purchases a precious item, the dealer or the agent or employee of the dealer shall insure that the following information is recorded accurately on a record of transaction form:

- (a) The dealer certificate of registration number.
 - (b) A general description of the precious item or precious items received or purchased, including its type of metal or precious gem. In the case of watches, the description shall contain the name of the maker and the number of both the works and the case. In the case of jewelry, all letters and marks inscribed on the jewelry shall be included in the description.
 - (c) The date of the transaction.
 - (d) The name of the person conducting the transaction.
 - (e) The name, date of birth, driver's license number or state of Michigan personal identification card number, and street and house number of the person with whom the transaction is being made, together with a legible imprint of the right thumb of the person with whom the transaction is made, or if that is not possible, then the left thumb or a finger of that person. However, the thumbprint or fingerprint shall only be required on the record of transaction form retained by the dealer. The thumbprint or fingerprint shall be made available to the local police agency only during the course of a police investigation involving a precious item or items described on the record of transaction. After a period of 1 year from the date of the record of transaction, if a police investigation concerning a precious item or items described on the record of transaction has not occurred, the dealer and local police agency shall destroy, and not keep a permanent record of, the records of transaction. A dealer who goes out of business or changes his or her business address to another local jurisdiction either within or out of this state shall transmit the records of all transactions made by the dealer within 1 year before his or her closing or moving, to the local police agency.
 - (f) The price to be paid by the dealer for the precious item or precious items.
 - (g) The form of payment made to the customer; check, money order, bank draft, or cash. If the payment is by check, money order, or bank draft, the dealer shall indicate the number of the check, money order, or bank draft.
 - (h) The customer's signature.
- (2) The record of each transaction shall be numbered consecutively, commencing with the number 1 and the calendar year.
- (3) Within 48 hours after receiving or purchasing a precious item, the dealer shall send a copy of the record of transaction form to the local police agency. The record of transaction forms received by the police agency shall not be open to inspection by the general public. Each local police agency shall be responsible for insuring the confidentiality of the record of transaction forms and insuring that the record of transaction forms are used only for the purpose for which they were received.

(5) Except as otherwise provided in this section, each record of a transaction shall be retained by the dealer for not less than 1 year after the transaction to which the record pertains.

(6) The form of the record of transaction shall have an 8-1/2 by 11 inch size and shall be as follows:

"Record of Transaction"

Dealer Certificate # _____ # _____
(Printed on the form) (Transaction number printed on the form)

(1) Description of Property - _____

(2) _____, 19____ (Date)

(3) _____ (Name of Dealer/Employee)

(4) _____, _____ 19____
(Name of Customer) (Date of Birth)

(Driver's license No./ Mich. Personal ID Number) (Street Address)

(5) _____
(Price Paid)

(6) _____
(Check no., bank draft no., money order no., or cash)

Thumbprint

(Signature of Customer)

RI

6-11.1-3. Identification of seller - Authority to sell

goods. -- A) Every person required to be licensed under this chapter shall require proof of identification of every seller from whom precious metals or an article made from or containing a precious metal is to be purchased and shall require said seller to sign a statement on a form to be approved by the treasurer stating that the seller is the legal owner of said property or is the agent of such owner authorized to sell said property, and when and where or in what manner said property was obtained.

6-11.1-4. Record of Transaction Required - Reports to

Police. -- Every person licensed under this chapter shall keep a record book obtained from or under the direction of the treasurer, containing a comprehensive record of all transactions concerning precious metals. The record shall include the name, address and telephone number of the seller or purchaser, a complete and accurate description of the property purchased or sold including any serial numbers or other identifying marks or symbols, and the date and hour of said transaction.

All persons licensed under this chapter shall deliver or mail weekly to the chief of police of the city or town in which said business is located a copy of all entries in said record book in the preceding seven (7) day period.

NJ

e. Issue to the seller and keep for his own records, for not less than 1 year, a serialized receipt for each purchase of precious metals containing the following:

- (1) The name and address of the buyer;
- (2) Date of the transaction;
- (3) The names of the precious metals purchased;
- (4) The finenesses of the precious metals purchased;
- (5) The weights of the precious metals purchased;
- (6) The prices paid for the precious metals at the standard measures of weight and fineness prescribed by the superintendent;
- (7) The name, address and signature of the seller of the precious metals.

f. Obtain proof of identity from each person who sells precious metals to him.

h. Upon request, allow the inspection of the serialized receipts or precious metals provided for in subsections e and g respectively of this section by any law enforcement officer or weights and measures official.

ME

No dealer may make any further transaction or alteration in the physical characteristics of any precious metal, precious stone or item of jewelry for a 5-day period which commences when the dealer submits the business records to the town clerk with whom he has registered under this chapter. Each dealer shall inform the town clerk of the location where the items will be held if they are removed from the municipality where the dealer has registered before the expiration of the 5-day period.

SC

SECTION 7. All precious metals purchased by a dealer shall be held at the place of business where purchased or at another suitable location in the county or municipality without being resold, melted or altered in any manner, for a period of ^{ten} ~~seven~~ days from the purchase date. If the goods are not held at the place of purchase during this ten-day period, then the location of the goods and the identification of the person in possession of these goods shall be filed with the law enforcement agency of the county or municipality within twenty-four hours after purchase. All goods required to be held under this section shall at all reasonable times be open to inspection by any law enforcement agency.

MI

Sec. 5. A precious item received by a dealer shall be retained by the dealer for 7 calendar days after it was received, without any form of alteration other than that required to make an accurate appraisal of its value.

RI

6-11.1-5. Retention of Possession of Precious Metals For Seven (7) Day Period.-- All persons licensed under this chapter shall retain in his possession in an unaltered condition for a period of seven (7) days all precious metals or articles made from or containing a precious metal. The seven (7) day holding period shall commence with the date the report of its acquisition was delivered to or received through the mails by the chief of police. Said records so received by the chief of police shall be available for inspection only by law enforcement officers for law enforcement purposes. If the chief of police has probable cause that precious metals or an article made from or containing a precious metal has been stolen, he may give notice in writing to the person licensed, to retain said metal or article for an additional period of fifteen (15) days, and said person shall retain said property for this additional fifteen (15) day period, unless said notice is recalled in writing within said fifteen (15) day period.

NJ g. Retain any precious metals in the form in which they were purchased for a period of not less than 2 business days, minimum 48 hours.

CONSTRUCTION RE LOCAL ORDINANCES

ME § 721. Construction

This chapter does not preempt a holding period of more than 5 days, which may be required by any municipal ordinance.

MI (5) This act shall not be construed to excuse a dealer from complying with the local zoning ordinance or any local ordinance regulating commercial activities. However, a local government may not pass an ordinance, or enforce an existing ordinance, that provides additional standards which must be met before the issuance of a certificate of registration.

NJ 7. This act is not intended, and nothing in this act shall be constructed, to preclude the right of any municipality to adopt and enforce ordinances or regulations more restrictive than this act or any rules or regulations promulgated thereunder.

ME

§ 713. Registration; penalty; procedure

2. Penalty. Any dealer who conducts transactions in precious metals, precious stones or jewelry in violation of subsection 1, commits a civil violation for which a forfeiture of not less than \$500 nor more than \$1,000 shall be adjudged.

§ 714. Record keeping; penalty; procedure

2. Penalty. Any dealer who conducts transactions in precious metals, precious stones or jewelry in violation of subsection 1 commits a civil violation for which a forfeiture of not less than \$100 nor more than \$250 shall be adjudged.

SC SECTION 9. Any dealer who violates the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars or imprisoned for not more than ninety days, or both. Any dealer so convicted shall be ineligible for a permit to conduct business in precious metals in the State of South Carolina for a period of two years from the date of conviction.

MI

Sec. 7. (1) A dealer or an agent or employee of a dealer who knowingly fails to make an entry of any material matter in his or her records kept as required by section 4 is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of \$1,000.00, or both.

(2) A dealer or an agent or employee of a dealer who knowingly violates subsection (1) a subsequent time is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of \$5,000.00, or both.

Sec. 8. (1) A dealer who knowingly violates section 3(7), 3(8), 4(1)(e), 4(3), 4(4), or 4(5) is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of \$1,000.00, or both.

(2) A dealer who violates section 3(7), 3(8), 4(1)(e), 4(3), 4(4), or 4(5) a subsequent time is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of \$5,000.00, or both.

Sec. 9. A dealer or an agent or employee of a dealer who does any of the following is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of \$5,000.00, or both:

- (a) Totally fails to record a transaction on a record of transaction form as required by section 4.
- (b) Knowingly falsifies the records kept as required by section 4.
- (c) Violates section 6.

Sec. 10. A dealer who violates section 3(1) or 5 is guilty of a felony, punishable by imprisonment for not more than 2 years, or a fine of \$5,000.00, or both.

RI

6-11.1-7. Penalties.-- (a) Every person who shall violate

the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500.) or imprisoned for not more than one year, or both.

(b) If the value of the property involved in a transaction which is in violation of this chapter exceeds five hundred dollars (\$500.), a person convicted of a violation shall be fined not more than two thousand dollars (\$2,000.) or imprisoned for not more than three (3) years or both.

NJ

Any person who violates any provision of this section is a disorderly person.

3. Any person who violates any provision of this act shall be liable to a mandatory penalty of not less than \$100.00 nor more than \$500.00 recoverable by the Superintendent of Weights and Measures pursuant to "the penalty enforcement law" (N. J. S. 2A:58-1 et seq.). An action for the recovery of a civil penalty for violation of this act shall be within the jurisdiction of and may be brought before any superior court, county district court or municipal court in the county or municipality where the offense is committed or where the defendant resides or where the defendant may be apprehended.

A summons or warrant against any foreign business entity doing business in this State shall be processed as provided by law.

4. On the violation of any of the provisions of this act within his view, a weights and measures officer may without warrant arrest the offender and conduct him before a court having jurisdiction.

REGULATION OF PURCHASES FROM MINORS, CRIMINALS

(NO PARALLEL PROVISION IN MAINE LD)

SC SECTION 6. No dealer shall purchase precious metals from a person under eighteen years of age without first obtaining the written consent of the minor's parent or legal guardian.

MI

Sec. 6. A dealer or an agent or employee of a dealer shall not:

(a) Knowingly receive or purchase a precious item from any person who is less than 18 years of age or any person known by the dealer or agent or employee of the dealer to have been convicted of theft or receipt of stolen property within the preceding 5 years, whether the person is acting in his or her own behalf or as the agent of another.

(b) Knowingly receive or purchase a precious item from a person unless that person presents a valid driver's license or a valid state of Michigan personal identification card.

RI

B) Every person required to be licensed under this chapter shall, before purchasing any precious metal or article made from or containing a precious metal shall require the seller, if a minor, to present written authorization to sell by the parent or legal guardian of said minor, which includes the relationship, address and telephone number of said parent or guardian.

PUBLIC INFORMATION: POSTING REQUIREMENTS, ETC.

(NO PARALLEL PROVISION IN MAINE LD)

SC

SECTION 4. A permit issued under this act shall be posted conspicuously in the places of business named therein.

MI

(7) Upon receipt of the certificate of registration from the local police agency, the dealer shall post it in a conspicuous place in the dealer's place of business.

RI

C) Every person required to be licensed under this chapter shall post the prices per ounce that are currently being paid for precious metals in full sight of the prospective seller and said precious metals shall be weighed in full sight of the prospective seller.

NJ

a. Clearly and prominently display at the point of purchase:

(1) His name and address;

(2) The price being offered or paid by the buyer for precious metals expressed as price per standard measure of weight and fineness as prescribed by the Superintendent of Weights and Measures.

b. Include his name and address in all advertisements concerning such precious metals.

c. Weigh the precious metals in plain view of the seller on State certified scales with the certificate of inspection clearly and prominently displayed.

d. Test the fineness of precious metals, if any test is so performed, in plain view of the seller.

MISCELLANEOUS PROVISIONS (NO PARALLELS IN MAINE LD)

WHOLESALE'S EXCLUSION (OTHER STATES: SEE ALSO, DEFINITIONS)

SC SECTION 8. The provisions of this act shall not apply to purchases of wholesale precious metals, nor shall it apply to a transaction between dealers of precious metals, where the selling dealer has already complied with the terms of this act, including the ten-day holding period.

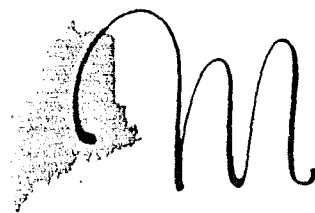
PRIVATE CIVIL ACTIONS

MI Sec. 11. A person who has a precious item stolen, embezzled, or converted from him or her may bring an action for 3 times the amount of the damages, costs of suit, and reasonable attorneys' fees against any dealer who, by himself or herself or through his or her agent or employee, received or purchased the precious item knowing it was stolen, embezzled, or converted.

RI 6-11.1-6. Persons Injured By Violations of Chapter - Dam-
ages And Costs.-- Any person who has been damaged or injured by the failure of a person required to be licensed under this chapter to comply with the provisions of this chapter, may recover the actual damages sustained. The court in its discretion, may also award punitive damages and/or the costs of suit and reasonable attorneys' fees to a prevailing plaintiff.

SEVERABILITY CLAUSE

NJ 8. If the provisions of any section, subsection, paragraph, subdivision or clause of this act shall be judged invalid by a court of competent jurisdiction, the order or judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this act and, to this end, the provisions of each section, subsection, paragraph, subdivision or clause of this act are declared to be severable.



MAINE
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LAWRENCE WARD
PRESIDENT

ROBIE M. LISCOMB
EXECUTIVE VICE PRESIDENT

KENNETH QUIRION
ADMINISTRATIVE ASSISTANT

*Affiliated with
American Retail Federation
Washington, D.C.*

Mr. William E. Saufley
Legislative Assistant
Office of Legislative Assistants
Room 421, State House
Augusta, Maine 04333

Re: Proposal to Regulate Dealers in Used Goods for
Resale, Trade or Scrap

Dear Sir:

The Maine Merchants Association, Inc. would like to offer the following comments with regard to the proposal by the Legal Affairs Subcommittee on Precious Metals Regulation to regulate dealers in used goods for resale, trade or scrap.

The Association shares the Subcommittee's concern over the incentive for theft and resale of used jewelry, collectables, antiques, etc. While the Association recognizes that problems may arise out of transactions in used goods, the Association is pleased to see that this Subcommittee is considering exemptions for trade-in or trade up programs.

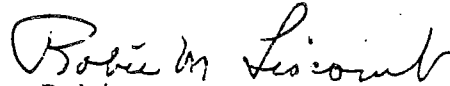
As a service to its customers, some of the Association's members allow their customers to trade-in items included within the proposed bill. It is important to note that most retailers only permit trade-ins on merchandise purchased from their own stores. Also, generally a customer can receive a trade in only if he produces a sales slip or other written evidence of the sale of the item to be traded-in and then only if a customer purchases a higher priced item. These aspects of the trade-in programs of the Association's members should drastically lessen the likelihood that trade in or trade up exemptions would permit the resale of stolen goods.

Other states in considering bills of this type have provided for trade in or trade up exemptions. I have attached to this letter copies of recently enacted bills from Michigan, Minnesota, Oklahoma and Virginia which include such exemptions within their provisions.

The registration, recordkeeping and holding period requirements of your proposed bill would create a significant administrative burden for retailers and would significantly add to the cost of their trade in programs. Thus, without exemptions for trade ins or trade ups, retailers may be unable to offer this service to its customers.

Therefore, the Association urges the adoption of the trade-in and trade-up exemptions. Please let us know if you need any information in your review of this matter.

Very truly yours,



Robie M. Liscomb

Executive Vice-President

Maine Merchants Association, Inc.

AN ACT

H.F. No. 79

CHAPTER No.

333

1

2 relating to commerce; providing for the regulation and
3 licensing of precious metal dealers; establishing
4 identification procedures and recording requirements;
5 prohibiting certain transactions; providing for
6 criminal and civil penalties; providing remedies;
7 amending Minnesota Statutes 1980, Section 609.53,
8 Subdivision 4, and by adding subdivisions; proposing
9 new law coded in Minnesota Statutes, Chapter 325F.

10

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

12 Section 1. [325F.5201] [DEFINITIONS.]

13 Subdivision 1. [TERMS.] For the purposes of sections 1 to
14 17, the following terms have the meanings given them.

15 Subd. 2. [PRECIOUS METAL DEALER.] "Precious metal dealer"
16 means any natural person, partnership, or corporation, either as
17 principal or agent, engaging in the business of buying
18 secondhand items containing precious metal, including, but not
19 limited to, jewelry, watches, eating utensils, candlesticks, and
20 religious and decorative objects.

21 Subd. 3. [PRECIOUS METALS.] "Precious metals" means
22 silver, gold, and platinum.

23 Subd. 4. [ITEM CONTAINING PRECIOUS METAL.] "Item
24 containing precious metal" means an item made in whole or in
25 part of metal and containing more than one percent by weight of
26 silver, gold or platinum.

27 Sec. 2. [325F.5202] [LICENSE.]

1 Subdivision 1. [REQUIREMENT.] Except as provided for in
 2 subdivision 2, it is unlawful for a precious metal dealer to
 3 engage in or transact any business as such without having a
 4 valid license as provided in section 3.

5 Subd. 2. [SCOPE.] The requirements of sections 1 to 17 do
 6 not apply to the following:

7 (1) Transactions at occasional "garage" or "yard" sales, or
 8 estate sales or farm auctions held at the decedent's residence,
 9 except that precious metal dealers must comply with the
 10 requirements of sections 4 to 11 for these transactions.

11 (2) Transactions regulated by Minnesota Statutes, Chapter
 12 80A.

13 (3) Transactions regulated by the Federal Commodity Futures
 14 Commission Act.

15 (4) Transactions involving the purchase of precious metal
 16 grindings, filings, slag, sweeps, scraps, or dust from an
 17 industrial manufacturer, dental lab, dentist, or agent thereof.

18 (5) Transactions involving the purchase of photographic
 19 film, such as lithographic and x-ray film, or silver residue or
 20 flake recovered in lithographic and x-ray film processing.

21 (6) Transactions involving coins, bullion, or ingots.

22 (7) Transactions in which the second hand item containing
 23 precious metal is exchanged for a new item containing precious
 24 metal and the value of the new item exceeds the value of the
 25 second hand item, except that a natural person, partnership or
 26 corporation who is a precious metal dealer by engaging in a
 27 transaction which is not exempted by this section must comply
 28 with the requirements of sections 4 to 11.

29 (8) Transactions between precious metal dealers if both
 30 dealers are licensed under section 3 or if the seller's business
 31 is located outside of the state and the item is shipped from
 32 outside the state to a dealer licensed under section 3.

33 (9) Transactions in which the buyer of the secondhand item
 34 containing precious metal is engaged primarily in the business
 35 of buying and selling antiques, and the items are resold in an
 36 unaltered condition except for repair, and the items are resold

1 at retail, and the buyer paid less than \$2,500 for secondhand
2 items containing precious metals purchased within any period of
3 12 consecutive months.

4 Sec. 3. [325F.5203] [LICENSE; APPLICATION; TERMS AND
5 CONDITIONS.]

6 Subdivision 1. [APPLICATION.] Any precious metal dealer
7 desiring to engage in or transact business as such in any county
8 of this state shall file an application for a license for that
9 purpose with the auditor of the county in which he desires to do
10 business. The applicant shall state his name, date of birth,
11 resident address, and locations of the proposed principal place
12 of business and branch offices within the county, and other
13 locations within the county where the applicant intends to hold
14 secondhand precious metals. If the person in charge of the
15 business or a branch office is someone other than the applicant,
16 his name, date of birth, and resident address shall be stated
17 with the location or branches indicated. If the applicant is a
18 corporation or partnership the name, date of birth and resident
19 address of each officer and general partner shall be stated.
20 Each application shall be kept by the auditor for a period of no
21 less than three years and shall be available for inspection only
22 by employees of the county auditor, the county attorney, the
23 attorney general, or by a peace officer.

24 Subd. 2. [FEE.] Each applicant shall pay to the treasurer
25 of the county a license fee in an amount determined by the board
26 of county commissioners of the county to be necessary to cover
27 the expenses of administering this licensing function.

28 Subd. 3. [BUSINESS LOCATIONS.] A precious metal dealer
29 license shall authorize the precious metal dealer to transact
30 business only at the location or locations designated in the
31 license.

32 Subd. 4. [TERM.] A precious metal dealer license shall be
33 valid for a period of one year from the date of its issuance.

34 Subd. 5. [BRANCH OFFICES.] Each branch office shall be
35 operated under the same name as the principal office.

36 Subd. 6. [POSTING OF LICENSE.] Every precious metal dealer

1 shall prominently post his license in a conspicuous location at
 2 his principal place of business and a copy of his license in a
 3 conspicuous location at each branch office.

4 Subd. 7. [POSTING OF PRICES; WEIGHING.] Every precious
 5 metal dealer shall prominently post in a conspicuous place and
 6 in letters exceeding one inch in height the minimum prices per
 7 ounce or pennyweight that are currently being paid by the dealer
 8 for precious metals and a warning notice that unless otherwise
 9 informed, the prices offered are based on the melt-down value of
 10 the precious metal, rather than the value of the item in its
 11 existing form. Precious metal items shall be weighed in plain
 12 sight of the prospective seller on scales approved by the
 13 division of weights and measures of the department of public
 14 service in accordance with Minnesota Statutes, Section 239.08.

15 Subd. 8. [PUBLIC RECORD OF LICENSES.] The county auditor
 16 shall keep a record of the licenses in a book provided for that
 17 purpose. The book shall contain the same information as
 18 required on the application for the license; provided, that the
 19 applicant's resident address and date of birth shall not be
 20 recorded. The book shall be open for public inspection.

21 Sec. 4. [32SF.5204] [IDENTIFICATION OF SELLERS.]

22 Every precious metal dealer shall require a seller of
 23 secondhand items containing precious metals to present to him at
 24 the time of the transaction an identification card of the seller
 25 containing a picture of the seller and his address.

26 Sec. 5. [32SF.5205] [RECORDS REQUIRED.]

27 Every precious metal dealer shall keep a book at his
 28 business location in which shall be clearly written in ink, in
 29 the English language, at the time of each transaction, or as
 30 close thereto as possible, the following information:

31 (1) An accurate description of every secondhand item
 32 containing precious metals bought, including the type of item,
 33 number of items, brand name of item, if any, engraving or other
 34 identifying features of the item, if any, and a description of
 35 any gems attached;

36 (2) The amount of money paid;

1 (3) The date of the transaction; and

2 (4) From the identification card containing a picture of
 3 the seller, the type of card presented and the serial number of
 4 the card, if any, and the name and address of the person selling
 5 the item. The book, as well as the item in the possession of
 6 the dealer, shall at all reasonable times be open to inspection
 7 by any police officer of the city wherein the business is
 8 located or the sheriff or any deputy sheriff of the county
 9 wherein the business is located.

10 Sec. 6. [325F.5206] [REQUIRED HOLDING PERIOD.]

11 Every precious metal dealer shall keep in his possession at
 12 his business location or other location within the licensing
 13 county from the time of the transaction or as close thereto as
 14 possible, for a period of no less than 14 days, every secondhand
 15 item containing precious metal purchased by the dealer unless
 16 the item is purchased or consigned from another dealer licensed
 17 under section 3. The item shall not be altered at the time of
 18 sale and shall remain unaltered during the required holding
 19 period.

20 Sec. 7. [325F.5207] [ADDITIONAL HOLDING PERIOD.]

21 The sheriff or his designee may by written notification
 22 require a precious metal dealer licensed in his county not to
 23 sell or alter a secondhand item containing precious metal if he
 24 has probable cause that the item is stolen. The item shall not
 25 be sold, altered, or removed from the licensed premises until
 26 authorized to be released in writing by the sheriff or his
 27 designee.

28 The chief of police or his designee may also exercise this
 29 same authority for licensed businesses, within his jurisdiction.

30 Sec. 8. [325F.5208] [TRADING.]

31 It is unlawful to trade or barter in a manner intended to
 32 avoid identification and recording of transactions under
 33 sections 4 and 5 and payment under section 10.

34 Sec. 9. [325F.5209] [CERTAIN PURCHASES PROHIBITED.]

35 It is unlawful for a precious metal dealer to purchase a
 36 secondhand item containing precious metals from a person under

1 18 years of age unless the person is accompanied by his parent
2 or guardian who is identified and whose identity is recorded in
3 accordance with sections 4 and 5.

4 Sec. 10. [325F.5210] [PAYMENT BY CHECK.]

5 Payment by a precious metal dealer for the purchase of a
6 secondhand item containing precious metal shall be made only by
7 a check, draft, or other negotiable or non-negotiable instrument
8 or order of withdrawal which is drawn against funds held by a
9 financial institution.

10 Sec. 11. [325F.5211] [GOVERNMENTAL SUBDIVISIONS MAY
11 REGULATE.]

12 The provisions of sections 1 to 17 shall not be construed
13 as prohibiting, or in any way limiting, or interfering with the
14 right of any governmental subdivision of the state to regulate
15 or license precious metal dealers within its jurisdiction in a
16 manner more restrictive than sections 1 to 17; provided, that
17 transactions described in section 2, subdivision 2, shall not be
18 regulated in a manner inconsistent with sections 1 to 17.

19 Sec. 12. [325F.5212] [CRIMINAL PENALTY.]

20 Any person who violates any provision of sections 1 to 17
21 is guilty of a felony and may be sentenced to imprisonment for
22 not more than three years or to payment of a fine of not more
23 than \$25,000, or both.

24 Sec. 13. [325F.5213] [CIVIL PENALTY.]

25 The attorney general or any county attorney may institute a
26 civil action in the name of the state in the district court to
27 revoke, deny or suspend for a period of time the license on the
28 ground that the licensee has violated a provision of sections 1
29 to 17. For this purpose, the attorney general or county
30 attorney shall be invested with the additional powers contained
31 in Minnesota Statutes, Section 8.31. It is no defense to the
32 action that the state has adequate remedies at law.

33 Sec. 14. Minnesota Statutes 1980, Section 609.53, is
34 amended by adding a subdivision to read:

35 Subd. 1a. Any precious metal dealer as defined in section
36 1, subdivision 2, or any person employed by a precious metal

1 dealer as defined in section 1, subdivision 2, who receives,
2 possesses, transfers, buys or conceals any stolen property or
3 property obtained by robbery, knowing the same to be stolen or
4 obtained by robbery, may be sentenced as follows:

5 (1) If the value of the property received, bought or
6 concealed is \$150 or more, to imprisonment for not more than ten
7 years or to payment of a fine of not more than \$50,000, or both;

8 (2) If the value of the property received, bought or
9 concealed is less than \$150, to imprisonment for not more than
10 three years or to payment of a fine of not more than \$25,000, or
11 both.

12 Sec. 15. Minnesota Statutes 1980, Section 609.53, is
13 amended by adding a subdivision to read:

14 Subd. 2a. Any precious metal dealer as defined in section
15 1, subdivision 2, or any person employed by a precious metal
16 dealer as defined in section 1, subdivision 2, who receives,
17 possesses, transfers, buys or conceals any stolen property or
18 property obtained by robbery, having reason to believe the same
19 to be stolen or obtained by robbery, may be sentenced to
20 imprisonment for not more than three years or to payment of a
21 fine of not more than \$25,000, or both.

22 Sec. 16. Minnesota Statutes 1980, Section 609.53, is
23 amended by adding a subdivision to read:

24 Subd. 3a. Any precious metal dealer as defined in section
25 1, subdivision 2, or any person employed by a precious metal
26 dealer as defined in section 1, subdivision 2, convicted of a
27 second or subsequent violation under section 15 within a period
28 of one year may be sentenced as provided in section 14, clause
29 (1).

30 Sec. 17. Minnesota Statutes 1980, Section 609.53,
31 Subdivision 4, is amended to read:

32 Subd. 4. Any person who has been injured by a violation of
33 subdivision 1 or sections 14 to 16 may bring an action for three
34 times the amount of actual damages, if any, sustained by the
35 plaintiff or \$1,500, whichever is greater, the costs of suit and
36 reasonable attorney's fees.

1 Sec. 18. [EFFECTIVE DATE.]

2 Sections 1 to 17 are effective 60 days after final

3 enactment.

Date Submitted
May 20, 1981

Oklahoma
CONFERENCE COMMITTEE REPORT

Mr. Speaker
and
Mr. President:

HB 1305

RECEIVED AUG 13 1981

We, your Conference Committee to whom was referred Engrossed House Bill No. 1305
and Engrossed Senate Amendments thereto, by CRAIGHEAD, BROWN and HARRIS OF THE HOUSE
and KILPATRICK, COMBS of the SENATE

entitled:

(PROFESSIONS AND OCCUPATIONS - LICENSING OF
PRECIOUS METAL AND GEM DEALERS -
EMERGENCY)

Assess
Subcommittee
6/1/81 opened 7/1/81

beg leave to report that we have had the same under consideration and herewith return the same with the
following recommendation:
Add the following coauthors: ATKINSON of the HOUSE and MCCUNE of the
SENATE.

1. That the House concur in Engrossed Senate Amendments 1 and 2.
2. That the Senate recede from Engrossed Senate Amendment 3.
3. That the following Conference Committee Amendments be adopted:
 - a. Page 1, Section 2, line 24 after the word "Code" adding "and any licensed pawnbroker, and jewelers whose principal business is the sale of items purchased directly from the original manufacturer, wholesaler or their authorized representative and who in the regular course of such business, accept trade-in of items defined in this act as precious metals or gems, so long as the item or items to be traded are not greater in value than the item or items to be purchased. For purposes of this exception, retail jewelers may not buy used precious metals or gems for cash consideration only."
 - b. Page 7, Section 11, line 1, after the word "days" and before the word "except" insert the words "or until the articles have been released by written authorization of any law enforcement officer authorized by the law enforcement agency or its designee"
 - c. Page 7, line 15 by inserting a new SECTION 12 and renumbering the following sections:

SECTION 12. Upon receiving a reported theft of precious metals, all law enforcement agencies shall transmit such reports to the Oklahoma State Bureau of Investigation. The reporting law enforcement agencies shall include any municipality, city, or town or county law enforcement agencies."

Continued on page 2

FOR THE HOUSE

David Craighead
CRAIGHEAD
Box B. Atkinson
ATKINSON
James Brown
BROWN

HOUSE ACTION

Date _____

Respectfully submitted,

FOR THE SENATE

Stan Kilpatrick
Kilpatrick
Paul Combs
COMBS
McCune
MC CUNE

SENATE ACTION

Date _____

CONFERENCE COMMITTEE REPORT on HB 1305

Page 2

May 20, 1981

d. Page 1, line 8 that the title be restored as follows:

AN ACT RELATING TO PROFESSIONS AND OCCUPATIONS; REQUIRING THE
LICENSING OF PRECIOUS METAL AND GEM DEALERS; PROVIDING SHORT TITLE;
DEFINING TERMS; MAKING CERTAIN REQUIREMENTS FOR APPLYING FOR LICENSE;
MAKING BONDING AND SEPARATE LICENSING PROVISIONS; PROVIDING PROCEDURES
FOR GRANTING OR DENYING A LICENSE; PROVIDING FOR LICENSE FEES AND
EXPIRATION DATE; PROHIBITING ADDITIONAL LICENSE REQUIREMENTS OR FEES;
PROVIDING PROCEDURES FOR REVOCATION, SUSPENSION OR DENIAL OF A
LICENSE; PROVIDING PENALTIES FOR VIOLATION OF ACT; REQUIRING KEEPING
OF CERTAIN RECORDS; PROVIDING TIME PERIOD AND PROCEDURES FOR LICENSEE
TO KEEP CERTAIN GOODS; REQUIRING SUBMISSION OF CERTAIN REPORTS TO
STATE BUREAU OF INVESTIGATION; DIRECTING CODIFICATION; PROVIDING
OPERATIVE DATE; AND DECLARING AN EMERGENCY.

1 ENGROSSED SENATE AMENDMENTS
2 TO
3 ENGROSSED HOUSE BILL NO. 1305

By: CRAIGHEAD, BROWN and
HARRIS of the HOUSE

and

KILPATRICK of the SENATE

(PROFESSIONS AND OCCUPATIONS - LICENSING OF
PRECIOUS METAL AND GEM DEALERS -

EMERGENCY)

12 AUTHOR: Add the following Senate Author: COMBS

13 AMENDMENT NO. 1. Page 1, Section 2, line 21, after the word "the"
14 and before the word "course" strike the word
"primary" and insert the word

"regular"

16 AMENDMENT NO. 2. Page 6, Section 11, line 35 1/2, after the word
17 "of" strike the word and figure "three (3)"
and insert the word and figure

"ten (10)"

19 AMENDMENT NO. 3. Page 7, Section 11, line 1, after the word "days"
20 and before the word "except" insert the words

"or until the articles have been inspected by
a law enforcement officer, whichever is the lesser,"

22 - Passed the Senate the 5th day of May, 1981.

26 _____
President of the Senate

28 Passed the House of Representatives the ____ day of _____,
29 1981.

32 _____
33 Speaker of the House of
Representatives

Correctly engrossed:

1 ENGROSSED HOUSE
2 BILL NO. 1305

BY: CRAIGHEAD, BROWN and
HARRIS of the HOUSE

3 and

4 KILPATRICK of the SENATE

5
6
7
8 (PROFESSIONS AND OCCUPATIONS - LICENSING OF
9 PRECIOUS METAL AND GEM DEALERS -

10 EMERGENCY)
11
12
13

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. This act shall be known and may be cited as the
16 "Precious Metal and Gem Dealer Licensing Act".

17 SECTION 2. As used in this act:

18 1. "Administrator" means the Administrator of the Department of
19 Consumer Credit;

20 2. "Dealer" means any person, partnership, sole proprietorship,
21 corporation or association which, in the ^{regular} primary course of business,
22 takes, receives, pays for or transfers used precious metals or gems
23 excluding any Supervised Financial Institution as defined by the
24 Consumer Credit Code;

25 3. "Employee" means any person working for a dealer, whether or
26 not the person is in the direct employment of the dealer or works
27 fulltime or parttime, who handles used precious metals or gems for
28 the dealer. Employee shall not mean a person employed by a bank,
29 armored car company or other business entity acting in the sole
30 capacity of bailee-for-hire relationship with a dealer;

31 4. "Gem" means any precious or semiprecious stone or item
32 containing a precious or semiprecious stone customarily used in
33 jewelry or ornamentation;

34 5. "Precious metal" means platinum, gold or silver, but shall
35 not mean any ingot or bar manufactured by a commercial mint nor shall
36 it mean any or all coins; and

Chairman, Committee on Engrossed and Enrolled Bills
Currency Engrossers.

Correctly Engrossed:
Chairman, Committee on Engrossed and Enrolled Bills

1 6. "Used" means previously sold or traded.

2 SECTION 3. No person, unless exempt by this act, shall operate
3 as a dealer or employee as defined in this act without first
4 obtaining a license from the Administrator specifically authorizing
5 the person to act in such capacity.

6 SECTION 4. A. Applications for a license under the provisions
7 of this act shall be under oath and shall state the full name and
8 place of residence of the applicant.

9 1. If the applicant is a partnership, the full name and place of
10 residence of each member thereof shall be stated.

11 2. If the applicant is a corporation, the full name and place of
12 residence of each officer or major stockholder thereof shall be
13 stated.

14 B. The application shall give the location from which the
15 business is to be conducted, and shall contain such additional
16 relevant information as the Administrator may require.

17 C. Each dealer, at the time of filing application, shall file
18 with the Administrator a bond satisfactory to him and in the amount
19 of Ten Thousand Dollars (\$10,000.00) for each license with a surety
20 company qualified to do business in this state. The bond shall run
21 to the state for the use of the state and of any person or persons
22 who may have cause of action against the obligor of the bond under
23 the provisions of this act. Such bond shall be conditioned that the
24 obligor will comply with the provisions of this act and all rules and
25 regulations made pursuant to this act and will pay all amounts of
26 money that may be due to the state or any individual from the obligor
27 under the provisions of this act during the time such bond is in
28 effect.

29 D. Each applicant for a license shall submit a full set of
30 fingerprints and a photograph with each application, whether an
31 original license or renewal.

32 E. Each licensee shall maintain on file with the Administrator a
33 written appointment of a resident of this state as his agent for
34 service of all judicial or other process or legal notice, unless the
35 licensee has appointed an agent pursuant to another statute of this
36

1 state. In case of noncompliance, such service may be made on the
2 Administrator.

3 SECTION 5. A. Upon the filing of an application, bond and the
4 payment of an annual license fee of Fifty Dollars (\$50.00) and a one-
5 time investigation fee of Fifty Dollars (\$50.00) by a dealer, the
6 Administrator shall conduct an investigation of the applicant prior
7 to issuance of a dealer license.

8 B. Upon the filing of an application and payment of a Twenty-
9 five Dollar (\$25.00) fee by an employee of a licensed dealer, the
10 Administrator shall conduct an investigation of the applicant prior
11 to issuance of an employee license.

12 C. Upon renewal of a license for either a dealer or an employee
13 the Administrator may conduct an investigation at his discretion or
14 at the request of a district attorney for any county in which the
15 applicant has a permanent place of business.

16 D. If the Administrator finds that the financial responsibility
17 experience and character of the dealer are such as to warrant belief
18 that the business will be operated lawfully and fairly, within the
19 purposes of this act, the dealer shall be issued a license. Any
20 person engaged as a dealer or employee on the operative date of this
21 act shall have thirty (30) days from the operative date of this act
22 to apply for a license.

23 E. A separate license shall be required for each location, place
24 or premises used by a dealer for the conducting of business pursuant
25 to the provisions of this act and each license shall designate the
26 location, place, or premises to which it applies. The business of
27 the dealer shall not be conducted in any place other than that
28 designated by the license. The license shall not be transferable.

29 F. If the Administrator does not find facts sufficient to
30 warrant issuance of a license, he shall notify the applicant. If
31 within thirty (30) days of such notification the applicant requests
32 hearing on the application, a hearing shall be held within sixty (6
33 days after the day of the request. In the event of the denial of a
34 license, the investigation fee shall be retained by the
35
36

Correctly Engrossed;

Chairman, Committee on Engrossed and Enrolled Bills

1 Administrator, but the annual license fee shall be returned to the
2 applicant.

3 G. The Administrator shall grant or deny an application for
4 license within sixty (60) days from the day of filing or from the
5 last day of a hearing as provided in subsection F of this section,
6 unless the period is extended by written agreement between the
7 applicant and the Administrator.

8 H. The Administrator may issue more than one license to any one
9 person upon compliance with the provisions of this act as to each
10 license. When a dealer wishes to move his business to another
11 location, he shall give thirty (30) days' written notice to the
12 Administrator, who shall amend the license accordingly.

13 SECTION 6. A. Each year, every dealer, on or before each
14 December 1, shall pay the Administrator Fifty Dollars (\$50.00) for
15 each license held by him as the annual fee for the succeeding
16 calendar year. If not renewed, expiration shall occur on December 31
17 of the year in which the annual fee has been paid.

18 B. Each year, every employee, on or before December 1, shall pay
19 the Administrator Twenty-five Dollars (\$25.00) for the license held
20 by him as the annual fee for the succeeding calendar year. If not
21 renewed, expiration shall occur on December 31 of the year in which
22 the annual fee has been paid.

23 SECTION 7. No additional licensing requirement or license fee
24 shall be required by any municipal corporation of this state. This
25 act shall not annul or supersede any existing municipal ordinances,
26 nor prevent the enactment of such ordinances, unless such ordinances
27 specifically conflict with the provisions of this act or regulations
28 issued by the Administrator pursuant to the provisions of this act.

29 SECTION 8. A. The Administrator may, after notice and hearing
30 deny, suspend or revoke any license if it is found that:

31 1. The applicant has been convicted of a felony or crime
32 involving fraud, theft, receiving or possession of stolen property
33 the five (5) years preceding the submission of the application;

34 2. The licensee has failed to pay any fee or charge properly
35 imposed by the Administrator under the authority of this act;
36

1 3. The licensee has violated any provision of this act or any
2 regulation or order made pursuant to and within the authority of this
3 act; or

4 4. Any fact or condition exists which, if it had existed or had
5 been known to exist at the time of the original application for a
6 license, clearly would have justified the Administrator in refusing
7 the license.

8 B. The hearing for denial, suspension or revocation of a license
9 shall be held upon twenty (20) days' notice in writing, setting forth
10 the time and place thereof and a concise statement of the facts
11 alleged to warrant the hearing. After the hearing, the Administrator
12 shall prepare a written order setting forth the effective date of the
13 order accompanied by findings of fact and a copy shall be delivered
14 to the applicant or licensee. Such order, findings and the evidence
15 considered by the Administrator shall be maintained as a part of the
16 permanent public records of the Administrator.

17 C. Any licensee may surrender any license by delivering it to
18 the Administrator with written notice of its surrender. Such
19 surrender shall not affect the civil or criminal liability of the
20 licensee for acts committed prior to the surrender of the license.

21 D. No revocation, suspension or surrender of any license shall
22 impair or affect the obligation of any preexisting lawful contract
23 between the licensee and any customer.

24 SECTION 9. Willful violation of any of the provisions of this
25 act shall be a misdemeanor upon first conviction punishable by not
26 more than thirty (30) days in the county jail or by a fine not to
27 exceed Five Hundred Dollars (\$500.00) or both. Subsequent
28 convictions of a willful violation of this act shall be a felony
29 punishable by not more than three (3) years in a state penitentiary.

30 SECTION 10. A. Every dealer shall keep a permanently bound
31 book, not loose-leaf, with pages numbered in sequence, in which there
32 shall be legibly written at the time of any transaction with any
33 person involving the purchasing of any used item made, or containing
34 in whole or in part, any precious metal, or gem, the following
35 information:
36

Chairman, Committee on Engrossed and Printed Bills
Concurrence Engrossed

1 1. An account and description of the item purchased, including,
2 if applicable, the manufacturer's name, the model, the model number,
3 the serial number and any engraved marking;
4 2. The amount of money involved in the transaction;
5 3. The date;
6 4. The name, address and driver's license number of the person
7 involved in the transaction with the dealer; if the person has no
8 driver's license, then the date of birth and general physical
9 description, including hair color and approximate height and weight
10 of that person; and
11 5. The signature of the seller.
12 B. The book required by this section shall be a permanent record
13 to be kept available for inspection at all times on the premises of
14 the business of the licensed dealer. Such book shall be made
15 available during regular business hours for inspection by any law
16 enforcement officer authorized by a law enforcement agency to inspect
17 such book. Every entry in such book shall be made in ink and shall
18 not in any manner be obliterated or erased.
19 C. No dealer shall be required to furnish the description of any
20 new property purchased from manufacturers or wholesale dealers at an
21 established place of business or of any goods purchased from any
22 bankrupt stock. Such goods shall be accompanied by a bill of sale or
23 other evidence of open and legitimate purchase. The bill of sale
24 shall also be available for inspection during regular business hours.
25 D. No dealer shall be required to furnish a description of
26 property purchased from another licensed dealer or to meet the
27 holding period provided for in Section 11 of this act if that dealer
28 has met the requirements provided for in subsection A of this section
29 and Section 11 of this act upon the initial purchase of the property,
30 provided, that each shall record the license number of the other
31 dealer and the amount of the transaction.
32 SECTION 11. A. Every dealer must keep at the business location
33 designated in the license application, all used articles made, in
34 whole or in part, of precious metals or gems, for inspection by any
35 law enforcement officer at reasonable times for a period of three (3)
36

1 days except as provided for in subsection C of Section 5 of this act.
2 During this period, the appearance of such articles shall not be
3 altered in any way. A dealer is not prohibited from selling or
4 arranging to sell such articles during the ten-day period as long as
5 such articles remain in his possession as required by this section.

6 B. A dealer may also designate an additional location for
7 storage of items required to be held under the provisions of this
8 act. This location shall be either a vault or a bank. The address
9 of the designated additional location shall be filed with the
10 Administrator. The Administrator shall release the designated
11 location only to law enforcement agencies. The designated additional
12 location shall be available for inspection by any law enforcement
13 officer of this state authorized by the law enforcement agency to
14 inspect the same.

15 SECTION 12. Sections 1 through 11 of this act shall be codified
16 in the Oklahoma Statutes as Sections 1521 through 1531 of Title 59,
17 unless there is created a duplication in numbering.

18 SECTION 13. This act shall become operative July 1, 1981.

19 SECTION 14. It being immediately necessary for the preservation
20 of the public peace, health and safety, an emergency is hereby
21 declared to exist, by reason whereof this act shall take effect and
22 be in full force from and after its passage and approval.

23 Passed the House of Representatives the 24th day of March, 1981.
24

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36
Chairman, Committee on Engrossed and Enrolled Bills

Speaker of the House of
Representatives

Passed the Senate the ____ day of ____, 1981.

President of the Senate

§ 54-859.2. Continuation and composition of State Board of Sanitarian Examiners; appointment and terms of members. — The State Board of Sanitarian Examiners is hereby continued. The Board shall consist of eight members: the State Health Commissioner or his duly authorized representative; the State Health Department Director of Environmental Health; a local health director; four registered sanitarians; and a citizen member. The terms of Board members shall be five years. (1970, c. 771; 1981, c. 447.)

Cross reference. — As to appointments, regulatory boards, see § 54-1.18:1.
removals, and limitation of terms of members of The 1981 amendment rewrote the section.

CHAPTER 23.2.

DEALERS IN PRECIOUS METALS.

Sec.	Sec.
54-859.15. Definitions.	54-859.23. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required.
54-859.16. Records to be kept; copy furnished to local authorities; inspection of records.	54-859.24. Exemptions from chapter.
54-859.17. Credentials required from seller.	54-859.25. Penalties; first and subsequent offenses.
54-859.18. Prohibited purchases.	54-859.26. Local ordinances.
54-859.19. Dealer to retain purchases.	54-859.27. Coins exempt.
54-859.20. Record of disposition.	
54-859.21. Bond or letter of credit required of dealers when permit obtained.	
54-859.22. Private action on bond or letter of credit.	

§ 54-859.15. Definitions. — For the purposes of this chapter, the following definitions shall apply:

1. "Coin" means any piece of gold, silver or other metal fashioned into a prescribed shape, weight and degree of fineness, stamped by authority of a government with certain marks and devices, and having a certain fixed value as money.

2. "Dealer" means any person, firm, partnership, or corporation engaged in the business of (i) purchasing secondhand precious metals or gems; (ii) removing in any manner precious metals or gems from manufactured articles not then owned by such person, firm, partnership, or corporation; or (iii) buying, acquiring, or selling precious metals or gems removed from such manufactured articles. "Dealer" shall mean all employers and principals on whose behalf a purchase is made, and any employee or agent who makes any such purchase for or on behalf of his employer or principal.

This definition shall not be construed so as to include persons engaged in the following:

a. Purchases of precious metals or gems directly from other dealers, manufacturers, or wholesalers for retail or wholesale inventories, provided the selling dealer has complied with the provisions of this chapter.

b. Purchases of precious metals or gems from a duly qualified fiduciary who is disposing of the assets of the estate being administered by such fiduciary in the administration of an estate.

c. Acceptance by a retail merchant of trade-in merchandise previously sold by such retail merchant to the person presenting that merchandise for trade-in.

d. Repairing, restoring or designing jewelry by a retail merchant, if such activities are within his normal course of business.

e. Purchases of precious metals or gems by industrial refiners and manufacturers, insofar as such purchases are made directly from retail merchants,

wholesalers, dealers, or by mail Virginia.

f. Persons regularly engaged in nonprecious scrap metals which metals recoverable as a by-product.

3. "Gems" means any item customarily used in jewelry.

4. "Precious metals" means any part of gold, silver, platinum, or

§ 54-859.16. Records to be kept inspection of records. — A. Every dealer shall maintain an accurate and legible record of each such purchase shall be twenty-four months. These records shall include:

1. A complete description of all items sold. The description shall include identifying marks or monogram, carat of any gem, and the price.

2. The date and time of receipt.

3. The name, address, age, sex, birth date, and signature of the seller.

B. The information required by each bill of sale for all precious metals or gems shall be mailed or delivered to the chief law-enforcement officer of the jurisdiction in which the purchase was made.

C. Every dealer shall admit to the local chief law-enforcement officer upon request the location in which the dealer is located, and shall permit the officer to examine all records required by law to be maintained in a record which is believed to be accurate. (1981, c. 581.)

§ 54-859.17. Credentials required from seller. — Every dealer who purchases precious metals or gems from a seller by requiring an identification photograph of the seller thereof for identification. (1981, c. 581.)

§ 54-859.18. Prohibited purchases. — A. No dealer shall purchase precious metals or gems from a seller if the dealer believes or has reason to believe that the seller has written and directed such purchase.

B. No dealer shall purchase precious metals or gems from a seller if the dealer believes or has reason to believe that the seller has written and directed such purchase.

§ 54-859.19. Dealer to retain records. — A. Every dealer shall maintain a record of each purchase of precious metals or gems from the date on which a copy of the record is made by the chief law-enforcement officer of the jurisdiction in which the purchase was made, until the expiration of this period, the dealer shall retain the record in whole or in part.

B. If a dealer performs the purchase, the dealer shall retain the metals or

wholesalers, dealers, or by mail originating outside the Commonwealth of Virginia.

f. Persons regularly engaged in the business of purchasing and processing nonprecious scrap metals which incidentally may contain traces of precious metals recoverable as a by-product.

3. "Gems" means any item containing precious or semiprecious stones customarily used in jewelry.

4. "Precious metals" means any item except coins composed in whole or in part of gold, silver, platinum, or platinum alloys. (1981, c. 581.)

§ 54-859.16. Records to be kept; copy furnished to local authorities; inspection of records. — A. Every dealer shall keep at his place of business an accurate and legible record of each purchase of precious metals or gems. The record of each such purchase shall be retained by the dealer for not less than twenty-four months. These records shall set forth the following:

1. A complete description of all precious metals or gems purchased from each seller. The description shall include all names, initials, serial numbers or other identifying marks or monograms on each item purchased, the true weight or carat of any gem, and the price paid for each item;

2. The date and time of receiving the items purchased; and

3. The name, address, age, sex, race, driver's license number or social security number, and signature of the seller.

B. The information required by paragraph A of § 54-859.16 shall appear on each bill of sale for all precious metals and gems purchased by a dealer, and a copy shall be mailed or delivered within twenty-four hours of the time of purchase to the chief law-enforcement officer of the locality in which the purchase was made.

C. Every dealer shall admit to his premises during regular business hours the local chief law-enforcement officer, or his sworn designee, of the jurisdiction in which the dealer is located, or any law-enforcement official of the State or federal governments, and shall permit such law-enforcement officer to examine all records required by this chapter, and to examine any article listed in a record which is believed by the officer or official to be missing or stolen. (1981, c. 581.)

§ 54-859.17. Credentials required from seller. — No dealer shall purchase precious metals or gems without first ascertaining the identity of the seller by requiring an identification issued by a governmental agency with a photograph of the seller thereon, and at least one other corroborating means of identification. (1981, c. 581.)

§ 54-859.18. Prohibited purchases. — A. No dealer shall purchase precious metals or gems from any seller who is under the age of eighteen.

B. No dealer shall purchase precious metals or gems from any seller who the dealer believes or has reason to believe is not the owner of such items, unless the seller has written and duly authenticated authorization from the owner permitting and directing such sale. (1981, c. 581.)

§ 54-859.19. Dealer to retain purchases. — A. The dealer shall retain all precious metals or gems purchased for a minimum of ten calendar days from the date on which a copy of the bill of sale is received by the chief law-enforcement officer of the locality in which the purchase is made. Until the expiration of this period, the dealer shall not sell, alter, or dispose of a purchased item in whole or in part, or remove it from the county, city, or town in which the purchase was made.

B. If a dealer performs the service of removing precious metals or gems, he shall retain the metals or gems removed and the article from which the

removal was made for a period of ten calendar days after receiving such article and precious metals or gems. (1981, c. 581.))

§ 54-859.20. Record of disposition. — Each dealer shall keep and maintain for at least twenty-four months an accurate and legible record of the name and address of the person, firm, or corporation to which he sells any precious metal or gem in its original form after the waiting period required by § 54-859.19. This record shall also show the name and address of the seller from whom the dealer purchased such item. (1981, c. 581.)

§ 54-859.21. Bond or letter of credit required of dealers when permit obtained. — A. Every dealer shall secure a permit as required by § 54-859.23, and each dealer at the time of obtaining such permit shall enter into a recognizance to the Commonwealth of Virginia secured by a corporate surety authorized to do business in this Commonwealth, in the penal sum of ten thousand dollars, conditioned upon due observance of the terms of this chapter. In lieu of a bond, a dealer may cause to be issued by a bank authorized to do business in the Commonwealth of Virginia a letter of credit in favor of the Commonwealth in the sum of ten thousand dollars.

B. If any county, city, or town has an ordinance in force which regulates the purchase and sale of precious metals and gems pursuant to § 54-859.26, such bond or letter of credit shall be executed in favor of the local governing body.

C. A single bond upon an employer or principal may be written or a single letter of credit issued to cover all employees and all transactions occurring at a single location. (1981, c. 581.)

§ 54-859.22. Private action on bond or letter of credit. — If any person shall be aggrieved by the misconduct of any dealer who has violated the provisions of this chapter, he may maintain an action for recovery in any court of proper jurisdiction against such dealer and his surety, provided that recovery against the surety shall be only for that amount of the judgment, if any, which is unsatisfied by the dealer. (1981, c. 581.)

§ 54-859.23. Permit required; method of obtaining permit; no convictions of certain crimes; approval of weighing devices; renewal; permanent location required. — A. Effective July one, nineteen hundred eighty-one, no person shall engage in the activities of a dealer as defined in § 54-859.15 without first obtaining a permit from the chief law-enforcement officer of each county, city, or town in which he proposes to engage in business.

B. To obtain a permit, the dealer shall file with the proper chief of police an application form which shall include the dealer's full name, any aliases, address, age, sex, and fingerprints; the name, address, and telephone number of the applicant's employer, if any; and the location of the dealer's place of business. Upon filing this application and the payment of a two hundred dollar application fee, the dealer shall be issued a permit by the chief law-enforcement officer or his designee, provided that the applicant has not been convicted of a felony or crime of moral turpitude within seven years prior to the date of application. The permit shall be denied if the applicant has been denied a permit or has had a permit revoked under any ordinance similar in substance to the provisions of this chapter.

C. Before a permit may be issued, the dealer must have all weighing devices used in his business inspected and approved by local or State weights and measures officials and present written evidence of such approval to the proper chief law-enforcement officer.

D. This permit shall be valid for one year from the date issued and may be renewed in the same manner as such permit was initially obtained with an annual permit fee of two hundred dollars. No permit shall be transferable.

E. If the business of the dealer is conducted on Saturdays, Sundays, and recognized holidays, the proper chief law-enforcement officer shall be notified of the business. The business of a dealer shall be conducted at a permanent location specified in the application.

§ 54-859.24. Exemptions from the purchase tax on the sale of a county, city or town, or implementation of any one or more of the provisions of § 54-859.18, for particular nonprofit organizations. The purchase of exhibits sponsored by nonprofit organizations for exhibition is nonprofit in nature and is exempt from the purchase tax on the sale of casual purchases and trades made by a person.

§ 54-859.25. Penalties; first a convicted of violating any of the p Class 2 misdemeanor for the first offense he shall be guilty of a Cl

B. Upon the first conviction by provision of this chapter, the ch permit to engage in business as a full year from the date the convic mandatory upon a second convict

Cross reference. — As to penalties for Class 1 and Class 2 misdemeanors, see § 18.2.1

§ 54-859.26. Local ordinance
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§ 54-859.27. Coins exempt. —
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C
DEPARTMENT
OCCUPAT

Sec.

54-861. (Repealed.)

54-864 to 54-867. [Repealed.]

54-872 to 54-872.5. [Repealed.]

§ 54-861: Repealed by Acts 19

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E. If the business of the dealer is not operated without interruption, with Saturdays, Sundays, and recognized holidays excepted, the dealer shall notify the proper chief law-enforcement officer of all closings and reopenings of such business. The business of a dealer shall be conducted only from the fixed and permanent location specified in his application for a permit. (1981, c. 581.)

§ 54-859.24. Exemptions from chapter. — The chief law-enforcement officer of a county, city or town, or his designee, may waive by written notice implementation of any one or more of the provisions of this chapter, except § 54-859.18, for particular numismatic, gem, or antique exhibitions or craft shows sponsored by nonprofit organizations, provided that the purpose of the exhibitions is nonprofit in nature, notwithstanding the fact that there may be casual purchases and trades made at such exhibitions. (1981, c. 581.)

§ 54-859.25. Penalties; first and subsequent offenses. — A. Any person convicted of violating any of the provisions of this chapter shall be guilty of a Class 2 misdemeanor for the first offense. Upon conviction of any subsequent offense he shall be guilty of a Class 1 misdemeanor.

B. Upon the first conviction by any court of a dealer for violation of any provision of this chapter, the chief law-enforcement officer may revoke his permit to engage in business as a dealer under this chapter for a period of one full year from the date the conviction becomes final. Such revocation shall be mandatory upon a second conviction. (1981, c. 581.)

Cross reference. — As to penalties for Class 1 and Class 2 misdemeanors, see § 18.2-11.

§ 54-859.26. Local ordinances. — Nothing in this chapter shall prevent any county, city, or town in this Commonwealth from enacting an ordinance regulating dealers in precious metals and gems which parallels this chapter, or which imposes terms, conditions, and fees that are stricter, more comprehensive, or larger than the terms, conditions, and fees imposed by this chapter. In any event, the terms, conditions, and fees imposed by this chapter shall constitute minimum requirements in any local ordinance. Any fee in excess of the one specified in § 54-859.23 shall be reasonably related to the cost of enforcement of such local ordinance. (1981, c. 581.)

§ 54-859.27. Coins exempt. — Neither the provisions of this chapter nor of any local ordinance shall apply to the sale or purchase of coins. (1981, c. 581.)

CHAPTER 24.

DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION.

Sec.

54-861. [Repealed.]

54-864 to 54-867. [Repealed.]

54-872 to 54-872.5. [Repealed.]

§ 54-861: Repealed by Acts 1979, c. 408.