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2 88th General Assembly
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4

As Engrossed: S3/22/11

A Bill

SENATE BILL 779

5 By: Senator B. Sample
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING PAWNBROKERS,
9 PRECIOUS METAL DEALER LICENSING, AND THE PURCHASE OF
10 GOLD, SILVER, AND OTHER PRECIOUS METALS; AND FOR
11 OTHER PURPOSES.
12
13

Subtitle

14 TO AMEND THE LAW CONCERNING PAWNBROKERS,
15 PRECIOUS METAL DEALER LICENSING, AND THE
16 PURCHASE OF GOLD, SILVER, AND OTHER
17 PRECIOUS METALS.
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21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
22

23 *SECTION 1. Arkansas Code § 17-23-101 is amended to read as follows:*
24 *17-23-101. Definitions.*

25 *As used in this chapter, ~~unless the context otherwise requires:~~*

26 *(1)(A) "Dealer" means a person, corporation, partnership, or*
27 *other entity that engages in the business of purchasing precious metals or*
28 *precious items, or both, for the purpose of reselling the items in any form.*

29 *(B) "Dealer" does not include a person, corporation,*
30 *partnership, or other entity engaged in a business that is exempted under §*
31 *17-23-102;*

32 *(2) "Permanent place of business" means a fixed premises either*
33 *owned by the dealer or leased by the dealer for a period of at least one (1)*
34 *year;*

35 ~~*(1)(3) "Person" means any individual, partnership, corporation,*~~
36 ~~*association, or other business entity; and*~~



1 (4) "Precious items" means precious or semiprecious stones or
2 pearls whether mounted or unmounted;

3 (5) "Precious metals" means an article made in whole or in part
4 of gold, silver, platinum, or a combination of gold, silver, or platinum;

5 (6) "Purchase" means the acquisition of a precious metal or a
6 precious item, or both, for a consideration of cash, goods, or other precious
7 metals or precious items; and

8 ~~(2)~~(7) "Silver" means sterling silver.

9
10 SECTION 2. Arkansas Code § 17-23-102 is amended to read as follows:
11 17-23-102. Exemptions.

12 The provisions of this chapter shall not apply to the following:

13 (1) Transactions involving the sale or transfer of precious
14 metals from one (1) retail jeweler or licensed dealer under this chapter to
15 another retail jeweler or licensed dealer under this chapter;

16 (2) Transactions involving the sale or transfer of precious
17 metals by a wholesale jeweler to a retail jeweler or licensed dealer;

18 ~~(3) Transactions involving the acquisition of precious metals as~~
19 ~~a trade-in on any item where the amount allowed as trade-in for the precious~~
20 ~~metal is less than fifty percent (50%) of the purchase price of the item~~
21 ~~purchased;~~

22 ~~(4)~~(3) Transactions involving coins regardless of whether or not
23 such coins contain precious metals;

24 ~~(5)~~(4) Any financial institution, which is covered by federal or
25 state deposit insurance, ~~or any person doing business under the laws of this~~
26 ~~state;~~

27 ~~(6)~~(5) Any person doing business under the laws of this state or
28 the United States relating to any broker-dealer, or commodity futures
29 commission merchant, or commodity trading advisor or agent duly registered
30 and regulated by the State Securities Department or the United States
31 Commodity Futures Trading Commission; or

32 ~~(7)~~(6) Pawn brokers.

33
34 SECTION 3. Arkansas Code § 17-23-201 is amended to read as follows:
35 17-23-201. License Registration required.

36 No A person shall not engage in the business of ~~buying gold, silver,~~

~~platinum group metals, or any article containing them, hereinafter referred to as "precious metals", purchasing precious metals or precious items from the general public for the purpose of reselling the precious metals or precious items in any condition without first registering with the local law enforcement agency in the jurisdiction in which business or the seller is located obtaining a license from the Department of Arkansas State Police as provided for in this subchapter.~~

SECTION 4. Arkansas Code § 17-23-202 is amended to read as follows:

~~17-23-202. Application Registration - Bond - Fee - Waiting period - Rules and regulations.~~

~~(a)(1) Registering with local law enforcement Applications for license shall be in writing, under oath, and in the form prescribed by the local law enforcement agency at least twenty-four hours prior to conducting business in that jurisdiction Department of Arkansas State Police.~~

~~(2) They shall contain The registration shall include:~~

~~(1)(A)(i) 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; and The name of the registrant.~~

~~(ii) If the registrant is a partnership or association, the name of each member of the partnership or association.~~

~~(iii) If the registrant is a corporation, the name of each officer and director and of the principal owner or owners of the issued and outstanding capital stock in the corporation;~~

~~(B) The residence and business address for each person listed under subdivision (a)(2)(A) of this section;~~

~~(2)(C)(i) The city or town with the street and number, if any, where the business is to be conducted and, if a nonresident, of the principal place of business without the state and such further information as the department may require;~~

~~(D) A statement that the registrant has:~~

~~(i) A bona fide established place of business used primarily for the purchase of precious metals and precious items; and~~

~~(ii) A telephone number listed in the name of the~~

1 business; and

2 (E) The name, address, and telephone number of the person
3 designated to receive legal process in the event of the commencement of any
4 legal action in any court against the registrant.

5 (F) A nonresident applicant shall provide the principal
6 place of business without the state and such further information as the
7 department may require for the administration of its duties under this
8 chapter.

9 ~~(b) If the applicant does not have a permanent business address in the~~
10 ~~state, evidenced by a lease or rental agreement or proof of ownership of the~~
11 ~~business, the applicant, as a condition of obtaining a license, shall furnish~~
12 ~~a surety bond issued by a surety company authorized to do business in~~
13 ~~Arkansas in a minimum amount of one hundred thousand dollars (\$100,000) in~~
14 ~~favor of the State of Arkansas. The proceeds of the bond shall be available~~
15 ~~to assure compliance with all provisions of this chapter, and the payment of~~
16 ~~any and all taxes due the State of Arkansas or any political subdivision of~~
17 ~~the state as the result of the business for which the applicant is seeking a~~
18 ~~license. They shall also be available to satisfy any judgment which may be~~
19 ~~rendered against the licensee as a result of the operation of the business~~
20 ~~licensed under this chapter.~~

21 ~~(c) At the time of making his or her initial application, the~~
22 ~~applicant shall pay to the department the sum of twenty five dollars (\$25.00)~~
23 ~~as a fee for investigating the application, and the additional sum of twenty-~~
24 ~~five dollars (\$25.00) shall be paid for an initial license fee for a period~~
25 ~~terminating on the last day of the current calendar year. Thereafter, the~~
26 ~~annual renewal license fee shall be twelve dollars and fifty cents (\$12.50).~~
27 ~~If the application for an initial license is filed after June 30 in any year,~~
28 ~~the license fee for the remainder of the year shall be only twelve dollars~~
29 ~~and fifty cents (\$12.50).~~

30 ~~(d) No initial license shall be issued until the expiration of a~~
31 ~~period of at least thirty (30) days after the date on which the application~~
32 ~~therefor is filed with the department.~~

33 ~~(e) The department is authorized to promulgate rules and regulations~~
34 ~~not inconsistent herewith to provide for the effective discharge of the~~
35 ~~responsibilities granted by this chapter.~~

36

1 SECTION 5. Arkansas Code § 17-23-203 is amended to read as follows:
2 17-23-203. Seller identification.

3 ~~(a) Every person~~ A dealer required to register ~~be licensed~~ under this
4 chapter shall require the following from each seller of precious metals or
5 precious items:

6 (1) ~~Require proof~~ Proof of identification ~~of every seller from~~
7 ~~whom precious metals or an article made from or containing a precious metal~~
8 ~~items is~~ in the form of a valid driver's license, identification card, Armed
9 Services identification card, or other valid photo identification if the item
10 is to be purchased for an amount in excess of fifty dollars (\$50.00);

11 (2) ~~Require the seller to sign a~~ A signed statement ~~on a form to~~
12 ~~be approved by the Department of Arkansas State Police~~ stating that the
13 seller is the legal owner of the property or is the agent of the owner
14 authorized to sell the property, and when and where or in what manner the
15 property was obtained; and

16 (3) ~~Require the seller to place a~~ A legible print of his or her
17 right thumb as an identifying mark on a the form ~~to be approved by the~~
18 ~~department; and~~

19 ~~(4)(b)(1) Before purchasing any precious metal or article made~~
20 ~~from or containing a precious metal for a price in excess of fifty dollars~~
21 ~~(\$50.00), require the seller, if a minor, to present written authorization to~~
22 ~~sell by the parent or legal guardian of the minor, which includes the~~
23 ~~relationship, address, and telephone number of the parent or guardian~~ A
24 dealer shall not purchase precious metals or precious items from a person
25 under eighteen (18) years of age unless the person is accompanied by a parent
26 or guardian who provides identification that establishes that relationship.

27 (3) Both the person under eighteen (18) years of age and the
28 parent or guardian shall submit the identification required under subdivision
29 (a)(1) of this section, and records of the identification of both shall be
30 maintained as provided under § 17-23-206.

31
32 SECTION 6. Arkansas Code § 17-23-206 is amended to read as follows:
33 17-23-206. Records.

34 (a) Every person registered ~~licensed~~ under this chapter shall keep a
35 record book ~~obtained from or under the direction of the Department of~~
36 ~~Arkansas State Police~~ containing a comprehensive record of all transactions

1 concerning precious metals or precious items involving an amount in excess of
2 fifty dollars (\$50.00).

3 (b) The record shall include:

4 (1) ~~the~~ The name, address, and telephone number of the seller;

5 (2) The date of birth of the seller;

6 (3) The signature of the seller;

7 (4) A description of the seller, including height, weight, race,
8 complexion, and hair color;

9 (5) The driver's license, identification card, or other photo
10 identification number provided under § 17-23-203(a)(1) and the jurisdiction
11 of issuance; and

12 (6) a A complete and accurate description of the property
13 purchased, including any serial numbers or other identifying marks or symbols
14 and the date and hour of the transaction.

15 (c) All persons ~~licensed~~ registered under this chapter shall at least
16 weekly deliver or mail to the chief law enforcement officer of the city or
17 town or the sheriff of the county in which the business is located a written
18 or electronic copy of all entries in the record required to be kept by
19 subsections (a) and (b) of this section during the preceding seven-day
20 period.

21 (d) All records and reports received by the chief law enforcement
22 officer of the city or town or sheriff of the county shall be available for
23 inspection only by law enforcement officers for law enforcement purposes.
24

25 SECTION 7. Arkansas Code § 17-23-207 is amended to read as follows:

26 17-23-207. Holding periods.

27 (a)~~(1)~~ All persons ~~licensed~~ registered under this chapter shall retain
28 possession of precious metals or ~~articles containing precious metals,~~
29 precious items in an unaltered condition, ~~for the period specified in this~~
30 ~~section~~ fifteen (15) business days after delivering the list to the chief law
31 enforcement officer of the city or town or sheriff of the county as required
32 under § 17-23-206.

33 ~~(2) All gold and articles containing gold shall be retained in~~
34 ~~possession for a period of three (3) days.~~

35 ~~(3) All other precious metals or articles containing other~~
36 ~~precious metals shall be retained for a period of seven (7) days.~~

