

Hall of the House of Representatives
88th General Assembly - Regular Session, 2011
Amendment Form

Subtitle of House Bill No. 1841

TO AMEND THE LAW CONCERNING PAWNBROKERS, PRECIOUS METAL DEALER
LICENSING, AND THE PURCHASE OF GOLD, SILVER, AND OTHER PRECIOUS
METALS.

Amendment No. 1 to House Bill No. 1841

Amend House Bill No. 1841 as originally introduced:

Delete everything after the enacting clause and substitute:

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

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

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

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

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

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

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

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

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

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

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

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



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

~~(2)(1) Transactions involving the sale or transfer of precious metals by a wholesale jeweler to a retail jeweler or licensed dealer;~~

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

~~(4)(2) Transactions involving coins regardless of whether or not such coins contain precious metals;~~

~~(5)(3) Any financial institution, which is covered by federal or state deposit insurance, or any person doing business under the laws of this state;~~

~~(6)(4) Any person doing business under the laws of this state or the United States relating to any broker-dealer, or commodity futures commission merchant, or commodity trading advisor or agent duly registered and regulated by the State Securities Department or the United States Commodity Futures Trading Commission; or~~

~~(7)(5) Pawn brokers.~~

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

~~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) A dealer shall register with local law enforcement Applications for license shall be in writing, under oath, and in on 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 business; and~~

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

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

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

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

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

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

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

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

~~(1) Require proof Proof of identification of every seller from whom precious metals or an article made from or containing a precious metal items is in the form of a valid driver's license, identification card, Armed~~

~~Services identification card, or other valid photo identification to be purchased for an amount in excess of fifty dollars (\$50.00);~~

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

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

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

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

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

(a) Every person ~~registered licensed~~ under this chapter shall keep a record book ~~obtained from or under the direction of the Department of Arkansas State Police~~ containing a comprehensive record of all transactions concerning precious metals or precious items ~~involving an amount in excess of fifty dollars (\$50.00).~~

(b) The record shall include:

(1) The name, address, and telephone number of the seller;
(2) The date of birth of the seller;
(3) The signature of the seller;
(4) A description of the seller, including height, weight, race, complexion, and hair color;

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

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

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

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

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

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

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

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

~~(4) The period of retention shall begin on the date that the acquisition of the precious metal is reported in writing to the chief law enforcement officer of the city or town or sheriff of the county.~~

(b)(1) If the chief law enforcement officer of the city or town or sheriff of the county or the prosecuting attorney has probable cause to believe that precious metals or ~~an article made from or containing a precious metal~~ items ~~has have~~ been stolen, he or she may give notice ~~in writing~~ to the licensee registrant to retain the precious metal or ~~article~~ precious item for a specific period of time ~~an additional period of fifteen (15) days.~~ The licensee shall retain the property for the additional fifteen-day period unless the notice is revoked in writing within the fifteen-day period."

The Amendment was read _____
By: Representative Vines
JSE/JSE - 03/21/11 04:59
JSE318

Chief Clerk