

CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1716

Chapter 289, Laws of 2011

62nd Legislature
2011 Regular Session

SECONDHAND DEALERS--PRECIOUS METALS

EFFECTIVE DATE: 07/22/11

Passed by the House April 13, 2011
Yeas 86 Nays 10

FRANK CHOPP

Speaker of the House of Representatives

Passed by the Senate March 29, 2011
Yeas 45 Nays 2

BRAD OWEN

President of the Senate

Approved May 10, 2011, 3:32 p.m.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Barbara Baker, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE HOUSE BILL 1716** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BARBARA BAKER

Chief Clerk

FILED

May 11, 2011

**Secretary of State
State of Washington**

ENGROSSED SUBSTITUTE HOUSE BILL 1716

AS AMENDED BY THE SENATE

Passed Legislature - 2011 Regular Session

State of Washington 62nd Legislature 2011 Regular Session

By House Public Safety & Emergency Preparedness (originally sponsored by Representatives Asay, Hurst, Klippert, Pearson, and Miloscia)

READ FIRST TIME 02/17/11.

1 AN ACT Relating to the regulation of secondhand dealers; amending
2 RCW 19.60.010 and 19.60.085; adding new sections to chapter 19.60 RCW;
3 creating a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature finds:

6 (1) The market price of gold has increased significantly in recent
7 years and there has been a proliferation of secondhand dealers,
8 including temporary, transient secondhand businesses, engaging in "cash
9 for gold" type precious metal transactions. Frequently, these "cash
10 for gold" type operations are operated by persons desiring to exploit
11 unsuspecting consumers based on current market conditions;

12 (2) The increasing number of "cash for gold" type transactions in
13 communities and neighborhoods throughout Washington has been linked to
14 increased crimes involving the theft of gold and other precious metal
15 objects, including home burglaries, robberies, and other crimes,
16 resulting in depressed home values and other threats to the health,
17 safety, and welfare of Washington state residents; and

18 (3) With the growing number of precious metal transactions, there
19 is a corresponding significant increase in the number of "cash for

1 gold" type storefront businesses, including temporary, transient
2 secondhand businesses, in Washington state which may not be consistent
3 with the quality of life and personal security sought by communities
4 and neighborhoods and the state as a whole.

5 Therefore, to better protect legitimate owners, consumers, and
6 secondhand dealers, the legislature intends to establish and implement
7 stricter standards relating to transactions involving property
8 consisting of gold and other precious metals.

9 **Sec. 2.** RCW 19.60.010 and 1995 c 133 s 1 are each amended to read
10 as follows:

11 Unless the context clearly requires otherwise, the definitions in
12 this section apply throughout this chapter.

13 (1) "Melted metals" means metals derived from metal junk or
14 precious metals that have been reduced to a melted state from other
15 than ore or ingots which are produced from ore that has not previously
16 been processed.

17 (2) "Metal junk" means any metal that has previously been milled,
18 shaped, stamped, or forged and that is no longer useful in its original
19 form, except precious metals.

20 (3) "Nonmetal junk" means any nonmetal, commonly discarded item
21 that is worn out, or has outlasted its usefulness as intended in its
22 original form except nonmetal junk does not include an item made in a
23 former period which has enhanced value because of its age.

24 (4) "Pawnbroker" means every person engaged, in whole or in part,
25 in the business of loaning money on the security of pledges of personal
26 property, or deposits or conditional sales of personal property, or the
27 purchase or sale of personal property.

28 (5) "Precious metals" means gold, silver, and platinum.

29 (6) "Secondhand dealer" means every person engaged in whole or in
30 part in the business of purchasing, selling, trading, consignment
31 selling, or otherwise transferring for value, secondhand property
32 including metal junk, melted metals, precious metals, whether or not
33 the person maintains a fixed place of business within the state.
34 Secondhand dealer also includes persons or entities conducting
35 business, more than three times per year, at flea markets or swap
36 meets(~~(, more than three times per year)~~)).

1 (7) "Secondhand precious metal dealer" means any person or entity
2 engaged in whole or in part in the commercial activity or business of
3 purchasing, selling, trading, consignment selling, or otherwise
4 transferring for value, more than three times per year, secondhand
5 property that is a precious metal, whether or not the person or entity
6 maintains a permanent or fixed place of business within the state, or
7 engages in the business at flea markets or swap meets. The terms
8 "precious metal" and "secondhand property," for purposes of
9 transactions by a secondhand precious metal dealer, do not include:
10 (a) Gold, silver, or platinum coins, or other precious metal coins,
11 that are legal tender, or precious metal coins that have numismatic or
12 precious metal value, (b) gold, silver, platinum, or other precious
13 metal bullion, or (c) gold, silver, platinum, or other precious metal
14 dust, flakes, or nuggets.

15 (8) "Secondhand property" means any item of personal property
16 offered for sale which is not new, including metals in any form, except
17 postage stamps, coins that are legal tender, bullion in the form of
18 fabricated hallmarked bars, used books, and clothing of a resale value
19 of seventy-five dollars or less, except furs.

20 (~~(+8)~~) (9) "Transaction" means a pledge, or the purchase of, or
21 consignment of, or the trade of any item of personal property by a
22 pawnbroker or a secondhand dealer from a member of the general public.

23 (~~(+9)~~) (10) "Loan period" means the period of time from the date
24 the loan is made until the date the loan is paid off, the loan is in
25 default, or the loan is refinanced and new loan documents are issued,
26 including all grace or extension periods.

27 NEW SECTION. Sec. 3. (1) For any transaction involving property
28 consisting of a precious metal bought or received from an individual,
29 every secondhand precious metal dealer doing business in this state
30 shall maintain wherever that business is conducted a record in which
31 shall be legibly written in the English language, at the time of each
32 transaction, the following information:

- 33 (a) The signature of the person with whom the transaction is made;
34 (b) The time and date of the transaction;
35 (c) The name of the person or employee or the identification number
36 of the person or employee conducting the transaction;

1 (d) The name, date of birth, sex, height, weight, race, and
2 residential address and telephone number of the person with whom the
3 transaction is made;

4 (e) A complete description of the precious metal property pledged,
5 bought, or consigned, including the brand name, serial number, model
6 number or name, any initials or engraving, size, pattern, and color of
7 stone or stones;

8 (f) The price paid;

9 (g) The type and identifying number of identification used by the
10 person with whom the transaction was made, which shall consist of a
11 valid driver's license or identification card issued by any state or
12 two pieces of identification issued by a governmental agency, one of
13 which shall be descriptive of the person identified, and a full copy of
14 both sides of each piece of identification used by the person with whom
15 the transaction was made. At all times, one piece of current
16 government issued picture identification will be required; and

17 (h) The nature of the transaction, a number identifying the
18 transaction, the store identification as designated by the applicable
19 law enforcement agency, or the name and address of the business or
20 location, including the street address, and room number if appropriate,
21 and the name of the person or employee conducting the transaction, and
22 the location of the property.

23 (2) The records required in subsection (1) of this section shall at
24 all times during the ordinary hours of business, or at reasonable times
25 if ordinary hours of business are not kept, be open to the inspection
26 by any commissioned law enforcement officer of the state or any of its
27 political subdivisions, and shall be maintained wherever that business
28 is conducted for three years following the date of the transaction.

29 NEW SECTION. **Sec. 4.** (1) Property consisting of a precious metal
30 bought or received from an individual on consignment by any secondhand
31 precious metal dealer with a permanent place of business in the state
32 may not be removed from that place of business except consigned
33 property returned to the owner, for a total of thirty days after the
34 receipt of the property. Property shall at all times during the
35 ordinary hours of business be open to inspection to any commissioned
36 law enforcement officer of the state or any of its political
37 subdivisions.

1 (2) Property consisting of a precious metal bought or received from
2 an individual on consignment by any secondhand precious metal dealer
3 without a permanent place of business in the state must be stored and
4 held within the city or county in which the property was received,
5 except consigned property returned to the owner, for a total of thirty
6 days after receipt of the property. The property shall be available
7 within the appropriate jurisdiction for inspection at reasonable times
8 by any commissioned law enforcement officer of the state or any of its
9 political subdivisions.

10 (3) Subsections (1) and (2) of this section do not apply when the
11 property consisting of a precious metal was bought or received from a
12 pawn shop, jeweler, secondhand dealer, or secondhand precious metal
13 dealer who must provide a signed declaration showing the property is
14 not stolen. The declaration may be included as part of the
15 transactional record required under this subsection, or on a receipt
16 for the transaction. The declaration must state substantially the
17 following: "I, the undersigned, affirm under penalty of law that the
18 property that is subject to this transaction is not to the best of my
19 knowledge stolen property."

20 NEW SECTION. **Sec. 5.** If the applicable chief of police or the
21 county's chief law enforcement officer has compiled and published a
22 list of persons who have been convicted of any crime involving theft,
23 then a secondhand precious metal dealer shall utilize such a list for
24 any transaction involving property other than property consisting of a
25 precious metal as required by the applicable chief of police or the
26 county's chief law enforcement officer.

27 NEW SECTION. **Sec. 6.** No secondhand precious metal dealer doing
28 business in this state may operate a business without first obtaining
29 a business license from the local government in which the business is
30 situated.

31 NEW SECTION. **Sec. 7.** (1) It is a gross misdemeanor for:
32 (a) A secondhand precious metal dealer to knowingly make, cause, or
33 allow to be made any false entry or misstatement of any material matter
34 in any book, record, or writing required to be kept under sections 3

1 through 6 and 9 of this act involving property consisting of precious
2 metal;

3 (b) A secondhand precious metal dealer to receive any precious
4 metal property from any person known to the secondhand precious metal
5 dealer as having been convicted of burglary, robbery, theft, or
6 possession of or receiving stolen property within the past ten years
7 whether the person is acting in his or her own behalf or as the agent
8 of another; or

9 (c) A secondhand precious metal dealer to knowingly violate any
10 other provision relating to precious metals under sections 3 through 6
11 and 9 of this act.

12 (2) It is a class C felony for a secondhand precious metal dealer
13 to commit a second or subsequent violation of subsection (1) of this
14 section involving property consisting of a precious metal.

15 **Sec. 8.** RCW 19.60.085 and 2000 c 171 s 56 are each amended to read
16 as follows:

17 The provisions of this chapter do not apply to transactions
18 conducted by the following:

19 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;

20 (2) Vehicle wreckers (~~(or)~~), hulk haulers, and scrap processors
21 licensed under chapter 46.79 or 46.80 RCW;

22 (3) Persons giving an allowance for the trade-in or exchange of
23 secondhand property on the purchase of other merchandise of the same
24 kind of greater value; and

25 (4) Persons in the business of buying or selling empty food and
26 beverage containers or metal or nonmetal junk, in compliance with
27 chapter 19.290 RCW.

28 NEW SECTION. **Sec. 9.** (1) For purposes of this section, "hosted
29 home party" means a gathering of persons at a private residence where
30 a host or hostess has invited friends or other guests into his or her
31 residence where individual person-to-person sales of precious metals
32 occur.

33 (2) A host or hostess must be the owner, renter, or lessee of the
34 private residence where the hosted home party takes place.

35 (3) A secondhand precious metal dealer who attends a hosted home

1 party and purchases or sells precious metals from the invited guests
2 must issue a receipt for each item sold or purchased at the hosted home
3 party.

4 (4) The secondhand precious metal dealer must include on every
5 receipt the following: (a) The name, residential address, telephone
6 number, and driver's license number of the person hosting the home
7 party; (b) The name, residential address, telephone number, and
8 driver's license number of the person selling the item; (c) the name,
9 residential address, telephone number, and driver's license number of
10 the person purchasing the item; (d) a complete description of the item
11 being sold, including the brand name, serial number, model number or
12 name, any initials or engraving, size, pattern, and color of stone or
13 stones; (e) time and date of the transaction; and (f) the amount and
14 form of any consideration paid for the item.

15 (5) The secondhand precious metal dealer must make four copies of
16 each transaction receipt: One for the seller, one for the host or
17 hostess, one for the purchaser, and one for local authorities, if they
18 should ask. The secondhand precious metal dealer and the host shall
19 maintain copies of all transaction receipts and records for three years
20 following the date of the precious metal transaction.

21 (6) A secondhand precious metal dealer of a hosted home party who
22 purchases precious metals at a hosted home party and complies with this
23 section is otherwise exempt from sections 3, 4, and 5 of this act.

24 NEW SECTION. **Sec. 10.** Sections 3 through 7 and 9 of this act are
25 each added to chapter 19.60 RCW.

Passed by the House April 13, 2011.

Passed by the Senate March 29, 2011.

Approved by the Governor May 10, 2011.

Filed in Office of Secretary of State May 11, 2011.