

No. 1984-17

## AN ACT

SB 288

Regulating the purchase and sale of precious metals.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

**Section 1. Definitions.**

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Dealer in precious metals.” An individual, partnership, association, corporation or business entity, who or which purchases precious metals from the general public for resale or refining or any individual who acts as agent for such individual, partnership, association, corporation or business entity for such purchase or purchases. Excluded from this definition are financial institutions licensed under Federal or State banking laws, the purchaser of precious metals who purchases from a seller seeking a trade-in or allowance, the manufacturers of jewelry or of other items composed, in whole or in part, of gold, silver or platinum and the purchaser of precious metals for his, her or its own use or ownership and not for resale or refining.

“Gold.” Any alloy of the element gold, ten karat or of greater fineness. A karat is 1/24 part, by weight, of the alloy of the metallic element gold.

“Platinum.” Any alloy of the element platinum, 750/1000 or more parts per thousand, by weight, of pure platinum.

“Precious metals.” Items containing or being of gold, silver or platinum, including, but not limited to, jewelry and silver services, but excluding coins, ingots, bullion or photographic film or any article containing less than 5% of gold, silver or platinum by weight.

“Silver.” Any alloy of the element silver, 900/1000 or more parts per thousand, by weight, of pure silver.

“Working days.” Excludes Saturdays, Sundays and Federal or State legal holidays.

**Section 2. License required.**

(a) Dealer.—A dealer in precious metals shall obtain a license from the sheriff of each and every county in which the dealer purchases precious metals.

(b) Application form.—The application for such license shall be on a form as prescribed in regulations promulgated by the Attorney General.

(c) License fee.—The license fee shall not exceed \$50 per year as set by the Attorney General. Such fee shall be paid into the treasury of the county where the license is issued for the use of the county.

(d) Duration of license.—The license shall be for one year.

(e) Application to be public record.—Such license application shall be a public record available to the general public for inspection.

### Section 3. Records of transactions.

(a) Dealers to keep record.—Every dealer in precious metals shall keep a record of every transaction upon a form approved by the Attorney General. The record shall include as a minimum:

(1) The name, age and address of the seller which must be verified by said dealer, requiring proof of identity from the seller sufficient to insure the accuracy of the represented name and address of the seller.

(2) An accurate description of the property purchased, including any serial number or other identifying marks or symbols and the date and hour of the transaction.

(b) Record to be maintained.—Said record shall be maintained by the dealer in precious metals for a period of one year from the date of the transaction and shall be available for inspection by any law enforcement official of the Federal Government, the Commonwealth or any of its municipalities.

(c) Copy of record to district attorney.—A copy of every record of transaction shall be delivered or mailed to the district attorney of the county in which a purchase of precious metals is made by the close of the next working day after the day on which the metal was purchased.

(d) Copy of record to police department in lieu of district attorney.—The district attorney may authorize such records to be delivered or mailed to the police department of the municipality in which the precious metal was purchased in lieu of delivery or mailing to the district attorney.

(e) Time and manner of keeping records.—The Attorney General shall, by regulation, prescribe the time and manner in which such records shall be maintained, the form of identification which a dealer must require from the seller to verify the seller's name and address and the person or persons to whom such records shall be available.

### Section 4. Dealer's retention of precious metal and availability for inspection.

(a) Precious metal to be retained for five days.—Each item of precious metal purchased by a dealer in precious metals shall be retained in unaltered condition for five full working days after report of its purchase has been filed with the proper district attorney or his designee.

(b) Precious metal to be available for inspection.—Such item of precious metal shall be available for inspection, during the five working days, by law enforcement officials of the Federal Government, the Commonwealth or any of its municipalities in the course of their law enforcement duties. A search warrant shall not be required unless the inspection is made during hours other than those when the dealer in precious metals is open for business.

(c) Law enforcement officials to give notice when they believe item was stolen.—If a law enforcement official has probable cause to believe an item of precious metal has been stolen, he may give written notice to the dealer in precious metals. Upon receipt of such written notice, such dealer in precious metals shall retain the item in unaltered condition for an additional seven days, unless the law enforcement officer in writing recalls such notice.

(d) Court may order dealer to retain items.—Upon application of the district attorney, any court of proper jurisdiction, under its powers presently prescribed by law, may order the dealer in precious metals to retain such item or items of precious metal at such place and under such conditions as the court may decree.

(e) Where items to be retained.—Each item of precious metal to be retained, pursuant to this section, shall be retained within the county of purchase at the location where purchased by the dealer in precious metals, unless authorized in writing by the district attorney or his designee to be retained elsewhere.

#### Section 5. Purchases from minors.

The dealer in precious metals shall require any minor seeking to sell precious metals to produce written authority of a parent, guardian or person in loco parentis authorizing the sale of such precious metals. Such authorization shall give the name and address of authorizing person. The dealer in precious metals shall verify that such sale is authorized by inquiry of such parent, guardian or person in loco parentis. Minors shall be required to wait three full working days before receiving payment from the sale of precious metals.

#### Section 6. Posting of prices.

Prices for the purchase of precious metals shall be posted by the dealer in precious metals in compliance with rules and regulations promulgated or to be promulgated by the Department of Agriculture.

#### Section 7. Scales and weighing devices.

(a) Rules and regulations of Department of Agriculture.—Scales and other weighing or measuring devices used by dealers in precious metals shall be in accordance with rules and regulations promulgated or to be promulgated by the Department of Agriculture.

(b) Supervision and inspection of scales.—Supervision and inspection of such scales and weighing or measuring devices shall be made by the appropriate State or municipal officers as authorized by law or by the Department of Agriculture.

#### Section 8. Local ordinances.

This act shall not supersede or preclude the adoption of any municipal ordinance applicable to dealers in precious metals provided that such municipal ordinance meets the minimum requirements of this act.

#### Section 9. Inspection of licensee.

The acceptance of a license by a dealer in precious metals implies consent to inspections of his, her or its premises by law enforcement officials and officials authorized to enforce laws and regulations pertaining to weights and measures. Such inspections shall pertain to items of precious metals and to scales and weighing or measuring devices.

#### Section 10. Penalty.

(a) Unlicensed dealers.—The purchase of an item of precious metal by an unlicensed dealer in precious metals shall constitute a violation of this act and the dealer shall be guilty of a misdemeanor of the third degree.

(b) Licensed dealers.—Any licensed dealer in precious metals who violates any provisions of this act shall be guilty of a misdemeanor of the third degree.

(c) Revocation of license and ineligibility.—Any individual, partnership, association, corporation or business entity violating any provisions of this act shall, upon conviction, in addition to the penalties set forth in subsections (a) and (b) hereof, suffer immediately revocation of any existing license issued pursuant to the provisions of this act and shall be ineligible to apply for a dealer's license under this act for a period of five years thereafter.

Section 11. Severability.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and, to this end, the provisions of this act are declared to be severable.

Section 12. Application.

This act shall not be enforced until appropriate regulations are promulgated by the Attorney General and the Department of Agriculture.

Section 13. Effective date.

This act shall take effect immediately.

APPROVED—The 24th day of February, A. D. 1984.

DICK THORNBURGH