

ESHB 1716 - S COMM AMD

By Committee on Labor, Commerce & Consumer Protection

ADOPTED 03/29/2011

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds:

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

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

16 (3) With the growing number of precious metal transactions, there
17 is a corresponding significant increase in the number of "cash for
18 gold" type storefront businesses, including temporary, transient
19 secondhand businesses, in Washington state which may not be consistent
20 with the quality of life and personal security sought by communities
21 and neighborhoods and the state as a whole.

22 Therefore, to better protect legitimate owners, consumers, and
23 secondhand dealers, the legislature intends to establish and implement
24 stricter standards relating to transactions involving property
25 consisting of gold and other precious metals.

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

28 Unless the context clearly requires otherwise, the definitions in
29 this section apply throughout this chapter.

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

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

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

12 (4) "Pawnbroker" means every person engaged, in whole or in part,
13 in the business of loaning money on the security of pledges of personal
14 property, or deposits or conditional sales of personal property, or the
15 purchase or sale of personal property.

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

17 (6) "Secondhand dealer" means every person engaged in whole or in
18 part in the business of purchasing, selling, trading, consignment
19 selling, or otherwise transferring for value, secondhand property
20 including metal junk, melted metals, precious metals, whether or not
21 the person maintains a fixed place of business within the state.
22 Secondhand dealer also includes persons or entities conducting
23 business, more than three times per year, at flea markets or swap
24 meets(, ~~more than three times per year~~)).

25 (7) "Secondhand precious metal dealer" means any person or entity
26 engaged in whole or in part in the commercial activity or business of
27 purchasing, selling, trading, consignment selling, or otherwise
28 transferring for value, more than three times per year, secondhand
29 property that is a precious metal, whether or not the person or entity
30 maintains a permanent or fixed place of business within the state, or
31 engages in the business at flea markets or swap meets. The terms
32 "precious metal" and "secondhand property," for purposes of
33 transactions by a secondhand precious metal dealer, do not include:
34 (a) Gold, silver, or platinum coins, or other precious metal coins,
35 that are legal tender, or precious metal coins that have numismatic or
36 precious metal value, (b) gold, silver, platinum, or other precious
37 metal bullion, or (c) gold, silver, platinum, or other precious metal
38 dust, flakes, or nuggets.

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

6 ((+8)) (9) "Transaction" means a pledge, or the purchase of, or
7 consignment of, or the trade of any item of personal property by a
8 pawnbroker or a secondhand dealer from a member of the general public.

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

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

19 (a) The signature of the person with whom the transaction is made;

20 (b) The time and date of the transaction;

21 (c) The name of the person or employee or the identification number
22 of the person or employee conducting the transaction;

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

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

30 (f) The price paid;

31 (g) The type and identifying number of identification used by the
32 person with whom the transaction was made, which shall consist of a
33 valid driver's license or identification card issued by any state or
34 two pieces of identification issued by a governmental agency, one of
35 which shall be descriptive of the person identified, and a full copy of
36 both sides of each piece of identification used by the person with whom

1 the transaction was made. At all times, one piece of current
2 government issued picture identification will be required; and

3 (h) The nature of the transaction, a number identifying the
4 transaction, the store identification as designated by the applicable
5 law enforcement agency, or the name and address of the business or
6 location, including the street address, and room number if appropriate,
7 and the name of the person or employee conducting the transaction, and
8 the location of the property.

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

15 NEW SECTION. **Sec. 4.** (1) Property consisting of a precious metal
16 bought or received from an individual on consignment by any secondhand
17 precious metal dealer with a permanent place of business in the state
18 may not be removed from that place of business except consigned
19 property returned to the owner, for a total of thirty days after the
20 receipt of the property. Property shall at all times during the
21 ordinary hours of business be open to inspection to any commissioned
22 law enforcement officer of the state or any of its political
23 subdivisions.

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

33 (3) Subsections (1) and (2) of this section do not apply when the
34 property consisting of a precious metal was bought or received from a
35 pawn shop, jeweler, secondhand dealer, or secondhand precious metal
36 dealer who must provide a signed declaration showing the property is
37 not stolen. The declaration may be included as part of the

1 transactional record required under this subsection, or on a receipt
2 for the transaction. The declaration must state substantially the
3 following: "I, the undersigned, affirm under penalty of law that the
4 property that is subject to this transaction is not to the best of my
5 knowledge stolen property."

6 NEW SECTION. **Sec. 5.** If the applicable chief of police or the
7 county's chief law enforcement officer has compiled and published a
8 list of persons who have been convicted of any crime involving theft,
9 then a secondhand precious metal dealer shall utilize such a list for
10 any transaction involving property other than property consisting of a
11 precious metal as required by the applicable chief of police or the
12 county's chief law enforcement officer.

13 NEW SECTION. **Sec. 6.** No secondhand precious metal dealer doing
14 business in this state may operate a business without first obtaining
15 a business license from the local government in which the business is
16 situated.

17 NEW SECTION. **Sec. 7.** (1) It is a gross misdemeanor for:

18 (a) A secondhand precious metal dealer to knowingly make, cause, or
19 allow to be made any false entry or misstatement of any material matter
20 in any book, record, or writing required to be kept under sections 3
21 through 6 and 9 of this act involving property consisting of precious
22 metal;

23 (b) A secondhand precious metal dealer to receive any precious
24 metal property from any person known to the secondhand precious metal
25 dealer as having been convicted of burglary, robbery, theft, or
26 possession of or receiving stolen property within the past ten years
27 whether the person is acting in his or her own behalf or as the agent
28 of another; or

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

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

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

3 The provisions of this chapter do not apply to transactions
4 conducted by the following:

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

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

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

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

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

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

21 (3) A secondhand precious metal dealer who attends a hosted home
22 party and purchases or sells precious metals from the invited guests
23 must issue a receipt for each item sold or purchased at the hosted home
24 party.

25 (4) The secondhand precious metal dealer must include on every
26 receipt the following: (a) The name, residential address, telephone
27 number, and driver's license number of the person hosting the home
28 party; (b) The name, residential address, telephone number, and
29 driver's license number of the person selling the item; (c) the name,
30 residential address, telephone number, and driver's license number of
31 the person purchasing the item; (d) a complete description of the item
32 being sold, including the brand name, serial number, model number or
33 name, any initials or engraving, size, pattern, and color of stone or
34 stones; (e) time and date of the transaction; and (f) the amount and
35 form of any consideration paid for the item.

36 (5) The secondhand precious metal dealer must make four copies of
37 each transaction receipt: One for the seller, one for the host or

1 hostess, one for the purchaser, and one for local authorities, if they
2 should ask. The secondhand precious metal dealer and the host shall
3 maintain copies of all transaction receipts and records for three years
4 following the date of the precious metal transaction.

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

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

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10 On page 1, line 1 of the title, after "dealers;" strike the
11 remainder of the title and insert "amending RCW 19.60.010 and
12 19.60.085; adding new sections to chapter 19.60 RCW; creating a new
13 section; and prescribing penalties."

EFFECT: (1) Amends the terms "precious metal" and "secondhand
property" to exclude those that deal with precious metal coins,
bullion, dust, flakes, or nuggets.

(2) The persons mentioned above (coin dealers, bullion dealers,
nugget dealers) would not have to abide by the:

(a) Reporting requirements of the bill that require dealers to
record specifics about precious metal sellers;

(b) Provisions of the bill requiring the precious metal property to
remain in the state, in storage, for 30 days;

(c) Requirement to obtain a secondhand precious metal business
license from the local government in which the business is situated
prior to operating a business;

(d) Requirement to reference any law enforcement list that has been
compiled and published of persons who have been convicted of a theft
offense.

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