

# HOUSE BILL REPORT

## ESHB 1716

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### As Passed Legislature

**Title:** An act relating to the regulation of secondhand dealers.

**Brief Description:** Regulating secondhand dealers who deal with precious metal property.

**Sponsors:** House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Asay, Hurst, Klippert, Pearson and Miloscia).

### Brief History:

#### Committee Activity:

Public Safety & Emergency Preparedness: 2/15/11, 2/16/11 [DPS].

#### Floor Activity:

Passed House: 3/5/11, 85-12.

Senate Amended.

Passed Senate: 3/29/11, 45-2.

House Concurred.

Passed House: 4/13/11, 86-10.

Passed Legislature.

### Brief Summary of Engrossed Substitute Bill

- Creates a new category of secondhand dealers called "secondhand precious metal dealers" who engage in transactions involving gold, silver, and platinum.
- Requires secondhand precious metal dealers to obtain a business license.
- Requires secondhand precious metal dealers to maintain specific detailed records for transactions involving precious metals for a total of three years.
- Prohibits the removal of any precious metal property bought or received in pledge or by consignment by a secondhand precious metal dealer from the place of business or the county in which it was sold in, for a period of 30 days after the receipt of that property, except when redeemed by or returned to the owner.
- Makes it a gross misdemeanor offense, and a subsequent offense an unranked class C felony offense, to commit certain illegal transactions involving secondhand precious metals.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

- Exempts secondhand precious metal dealers, that participate in hosted home parties, from complying with the state-mandated record requirements, property holding requirements, and referencing law enforcement lists noting individuals that have been convicted of theft offenses.

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## HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

**Staff:** Yvonne Walker (786-7841).

### **Background:**

"Secondhand dealer" is defined as any person engaged, in whole or in part, in the business of purchasing, selling, trading, consignment selling, or otherwise transferring for value, secondhand property.

Record Keeping. Generally, a secondhand dealer must maintain records for each transaction for three years after the date of the transaction. The records of each transaction must include the following information:

- date of the transaction;
- signature of the person with whom the transaction is made;
- the name, date of birth, height, weight, race, address, and telephone number of the person with whom the transaction is made;
- a complete description of the property including brand name, serial number, or model name;
- type and identifying number of identification used by the person with whom the transaction is made;
- the nature of the transaction and number identifying the transaction;
- the name or identification number of the employee conducting the transaction;
- the price paid or amount loaned; and
- the store identification number or name and the address of the store.

Transcripts of the previous day's business, when requested by the police within the time-period required by the police, may be transmitted by facsimile, electronically, or by delivery of a computer disk.

Restrictions on Transfer of Property. Property bought or received in pledge or by consignment by a secondhand dealer may not be removed from the place of business within 30 days after the receipt of that property, except when redeemed by or returned to the owner. The property must be available for inspection by the police. Following notification from the police that an item of property has been reported as stolen, a secondhand dealer must place an identifying tag on the property and keep it safe. A secondhand dealer may not release that

item for 120 days without the consent of the police or an order of the court. If the police place a verbal hold on an item that has been reported as stolen, the police must give written notice confirming the hold to the secondhand dealer holding the property within 10 business days. If the police do not give written notice, the hold order will cease. The secondhand dealer must give the police written notice 20 days before the expiration of the 120-day period or the hold on the property will continue for an additional 120 days. The police may renew a hold for an additional 120-day period by giving written notice of an additional hold.

Prohibited Acts. It is a gross misdemeanor offense:

- to alter a serial number or identifying mark on a piece of personal property that has been pledged;
- to accept for pledge or secondhand purchase personal property on which the manufacturer's serial number or identifying mark has been altered;
- to make or allow a false entry or misstatement of any material matter in records required to be maintained under pawnbroker and secondhand dealer laws;
- for a secondhand dealer to accept property from anyone under 18 years of age, anyone who is under the influence of drugs or alcohol, or anyone known by the secondhand dealer to be convicted of burglary, robbery, theft, or possession of receiving stolen goods; or
- for a secondhand dealer to engage in check cashing or selling without complying with the check casher and seller laws.

### **Summary of Engrossed Substitute Bill:**

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

Record Keeping for Receipt of Precious Metals. Secondhand precious metal dealers must maintain records for three years after the date of each transaction involving precious metals. Each secondhand precious metal dealer must maintain wherever that business is conducted, a record that includes the following information:

- the signature of the person with whom the transaction is made;
- the time and date of the transaction;
- the name of the person or employee or the identification number of the person conducting the transaction;
- the name, date of birth, sex, height, weight, race, residential address, and telephone number of the person with whom the transaction is made;
- a complete description of the precious metal property pledged, bought, or consigned, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color of stone or stones;

- the price paid;
- the type and identifying number of identification used by the person with whom the transaction was made. The identification must consist of a valid driver's license or identification card issued by any state or two pieces of identification issued by a governmental agency. A full copy of both sides of each piece of identification used by the person with whom the transaction was made must be maintained as part of the record; and
- the nature of the transaction.

Restrictions on Transfer of Property. Property consisting of a precious metal bought or received in pledge or by consignment by a secondhand precious metal dealer, with a permanent place of business in Washington, may not be removed from the place of business for 30 days after the receipt of that property, except when redeemed by or returned to the owner. If the secondhand precious metal dealer does not have a permanent place of business in the state, the precious metal property must be stored and held within the city or county in which the property was received for a total of 30 days after the receipt of the property, except consigned property returned to the owner. All precious metal property received by a secondhand precious metal dealer must be available for inspection by the police.

Secondhand precious metal dealers do not have to comply with the storage and holding requirement if the precious metal was bought or received from a pawn shop, jeweler, secondhand dealer or secondhand precious metal dealer, who has provided a signed declaration showing the property is not stolen.

Licensed scrap processors are exempt from the provisions of the Business Regulation (chapter 19.60 RCW) statute referencing pawnbrokers and secondhand dealers.

License Requirement. All secondhand precious metal dealers doing business in Washington must obtain a business license from the local government in which the business is situated prior to operating a business.

Prohibited Acts. A secondhand precious metal dealer is guilty of a gross misdemeanor offense when he or she:

- knowingly makes, causes, or allows to be made any false entry or misstatement of any material matter in any book, writing, or record required to be maintained by a secondhand precious metal dealer relating to transactions involving secondhand precious metals;
- receives any precious metal property from any person known to the secondhand precious metal dealer as having been convicted of burglary, robbery, theft, or possession of or receiving stolen property within the past 10 years whether the person is acting in his or her own behalf or as the agent of another; or
- fails to maintain specific detailed records for transactions involving precious metals or fails to abide by the restrictions and holding requirements for secondhand precious metal property that has been bought or received by the secondhand precious metal dealer.

A secondhand precious metal dealer is guilty of an unranked class C felony offense if found guilty of committing a second or subsequent gross misdemeanor offense relating to secondhand precious metal transactions.

If a law enforcement agency has compiled and published a list of persons who have been convicted of a theft offense, than secondhand precious metal dealers must use the list for any transactions involving property. If the property involved is a precious metal then the secondhand precious metal dealer may not engage or continue with the transaction with the (theft) offender on the list.

Hosted Home Parties. A "hosted home party" means a gathering of persons at a private residence where a host or hostess has invited friends or other guests into his or her residence where individual person-to-person sales of precious metals occur. A host or hostess must be the owner, renter, or lessee of the private residence where the hosted home party takes place.

A secondhand precious metal dealer who attends a hosted home party and purchases or sells precious metals from the invited guests must issue a receipt for each item sold or purchased at the hosted home party. Every receipt must include the following: (1) the name, residential address, telephone number, and driver's license number of the person hosting the home party; (2) the name, residential address, phone number, and driver's license number of the person selling the item; (3) the name, residential address, phone number, and driver's license number of the person purchasing the item; (4) a complete description of the item being sold, including the brand name, serial number, model number or name, any initials or engraving, size, pattern, and color of stone or stones; (5) time and date of the transaction; and (6) the amount and form of any consideration paid for the item.

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

A secondhand precious metal dealer participating in a hosted home party who purchases precious metals at a hosted home party and complies with state law relating to precious metal transactions and record retention, is exempt from: (1) the record requirements mandated for all other secondhand precious metal dealers; (2) the holding requirements (before reselling) for purchases of precious metals; and (3) the requirement that mandates secondhand precious metal dealers to reference any list that has been compiled by law enforcement consisting of a list of persons who have been convicted of a theft offense.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) None.

(With concerns) The substance of the bill is fine. However, there needs to be a small tweak or amendment to the bill that makes it clear that it is the "secondhand precious metal dealer" and not the "host" or "hostess" of a hosted home party purchasing the gold.

(Opposed) None.

**Persons Testifying:** Chuck Beck.

**Persons Signed In To Testify But Not Testifying:** None.