An Act

ENROLLED SENATE
BILL NO. 107

By: Ballenger of the Senate

and

Armes of the House

An Act relating to precious metal and gem dealers; amending 59 O.S. 2011, Sections 1524, 1528, 1530 and 1531, which relate to the Precious Metal and Gem Dealer Licensing Act; requiring business location; providing for proof of business location; making language gender neutral; establishing the District Court of Oklahoma County for any appeal of an administrative order; providing administrative fines; setting fine maximum amount; authorizing an inspection fee; making certain fee the same as for pawnbrokers; modifying language for fines; modifying type of record kept of transactions; deleting permanent bound book and ink entries; authorizing inspection of records by the Department of Consumer Credit; authorizing approval of additional storage locations for certain items; requiring certain notice to terminate additional storage location; requiring license number on advertisements; authorizing promulgation of administrative rules for the Precious Metal and Gem Dealer Industry Act; providing for codification; and providing an effective date.

SUBJECT: Precious metal and gem dealers

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1524, is amended to read as follows:

Section 1524. A. An application for a license pursuant to the provisions of the Precious Metal and Gem Dealer Licensing Act shall be under oath and state:

1. If the applicant is an individual, the full name and place of residence of the applicant;

2. If the applicant is a partnership, the full name and place of residence of each member of the partnership; and

3. If the applicant is a corporation, the full name and place of residence of each officer or major stockholder of the corporation.

B. The application shall state the location where the business is to be conducted and contain such additional relevant information as the Administrator may require. The Administrator shall require documentation to verify the location where the business is to be conducted or will be utilized by the applicant, including, but not limited to, a deed, bill of sale, lease, or rental agreement. The Administrator shall also require the name, contact person and telephone number of the business location if the applicant is not the owner of the business location.

C. In addition to the application provided for in subsection A of this section, every applicant shall file with the Administrator a bond satisfactory to said Administrator and in the amount of Ten Thousand Dollars ($10,000.00) for each license sought, with a surety company qualified to do business in this state as surety. The bond shall be furnished to the state for the use of the state and of any person or persons who may have a cause of action against the obligor of the bond pursuant to the provisions of the Precious Metal and Gem Dealer Licensing Act. The bond shall be conditional that the obligor will comply with the provisions of the Precious Metal and Gem Dealer Licensing Act and all rules and regulations made pursuant to the Precious Metal and Gem Dealer Licensing Act, and will pay all amounts of money that may be due to the state or any individual from the obligor during the time such bond is in effect.

D. Each applicant shall submit a full set of fingerprints and a photograph with each application for an original license. The fingerprints may be used for a national criminal history record check as defined in Section 150.9 of Title 74 of the Oklahoma Statutes.

E. Each licensee shall maintain on file with the Administrator a written appointment of a resident of this state as his or her agent for service of all judicial or other process or legal notice, unless the licensee has appointed such an agent pursuant to the provisions of another statute of this state.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 1528, is amended to read as follows:

Section 1528. A. The Administrator shall appoint an independent hearing examiner to conduct all administrative hearings involving alleged violations of the Precious Metal and Gem Dealer Licensing Act. The independent hearing examiner shall have authority to exercise all powers granted by Article II of the Administrative Procedures Act in conducting hearings. The independent hearing examiner shall have authority to recommend penalties authorized by the Precious Metal and Gem Dealer Licensing Act and issue proposed orders, with proposed findings of fact and proposed conclusions of law, to the Administrator pursuant to Article II of the Administrative Procedures Act. The Administrator shall review the proposed order and issue a final agency order in accordance with Article II of the Administrative Procedures Act. ~~A final agency order issued by the Administrator shall be appealable by all parties to the district court as provided in Article II of the Administrative Procedures Act~~ Any person aggrieved by a final agency order of the Administrator may obtain judicial review in accordance with the Oklahoma Administrative Procedures Act. The jurisdiction and venue of any such action shall be in the district court of Oklahoma County.

The costs of the hearing examiner may be assessed ~~by the hearing examiner~~ against the respondent, unless the respondent is the prevailing party.

B. The Administrator may, after notice and hearing, deny, decline to renew a license, suspend or revoke any license ~~or~~, order

a cease and desist order, impose an administrative fine in an amount not to exceed Five Thousand Dollars ($5,000.00) or impose a combination of such penalties if it is found that:

1. The applicant has been convicted of a felony or crime involving fraud, theft, receiving or possession of stolen property in the five (5) years preceding the submission of the application;

2. The licensee has failed to pay any fee or charge properly imposed by the Administrator under the authority of the Precious Metal and Gem Dealer Licensing Act;

3. The licensee or any entity or individual subject to the Precious Metal and Gem Dealer Licensing Act has violated any provision of the Precious Metal and Gem Dealer Licensing Act or any rule promulgated or order made pursuant to and within the authority of the Precious Metal and Gem Dealer Licensing Act; or

4. Any fact or condition exists which, if it had existed or had been known to exist at the time of the original application for a license, clearly would have justified the Administrator in refusing the license.

C. Any licensee may surrender any license by delivering it to the Administrator with written notice of its surrender. Such surrender shall not affect the ~~civil~~ administrative penalty or criminal liability of the licensee for acts committed prior to the surrender of the license.

D. No revocation, suspension or surrender of any license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any customer.

E. The Commission on Consumer Credit shall prescribe by rule ~~a~~ an inspection fee, fee for each license change, duplicate license, or returned check. The inspection fee shall be the same amount as the examination fee for pawnbrokers and shall be payable at the time of license application or license renewal.

F. Any entity or individual offering to engage or engaged as a precious metal and gem dealer in this state without a license shall

be subject to ~~a civil penalty~~ an administrative fine in an amount not to exceed Five Thousand Dollars ($5,000.00).

G. The Administrator may impose ~~a civil penalty~~ an administrative fine as prescribed in ~~subsection~~ subsections B and F of this section, after notice and hearing in accordance with Article II of the Administrative Procedures Act.

H. Any administrative order or settlement agreement imposing ~~a civil penalty~~ an administrative fine pursuant to this section may be enforced in the same manner as civil judgments in this state. The Administrator may file an application to enforce an administrative order or settlement agreement ~~imposing a civil penalty~~ in the district court of Oklahoma County.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 1530, is amended to read as follows:

Section 1530. A. Every dealer shall keep a ~~permanently bound book, not loose-leaf, with pages numbered in sequence, in which there shall be legibly written at the time~~ record of any transaction with any person involving the purchasing of any used item made, or containing in whole or in part, any precious metal, or gem, the following information:

1. An account and description of the item purchased, including, if applicable, the manufacturer's name, the model, the model number, the serial number and any engraved marking;

2. The amount of money involved in the transaction;

3. The date;

4. The name, address and driver's license number of the person involved in the transaction with the dealer; if the person has no driver's license, then the date of birth and general physical description, including hair color and approximate height and weight of that person; and

5. The signature of the seller.

B. The ~~book~~ record required by this section shall be ~~a permanent record to be~~ kept ~~available for inspection at all times on the premises of the business of the licensed dealer~~ for a period of four (4) years. Such ~~book~~ record shall be made available during regular business hours for inspection by the Department of Consumer Credit and any law enforcement officer authorized by a law enforcement agency to inspect such ~~book~~ record. ~~Every entry in such book shall be made in ink and shall not in any manner be obliterated or erased.~~

C. No dealer shall be required to furnish the description of any new property purchased from manufacturers or wholesale dealers at an established place of business or of any goods purchased from any bankrupt stock. Such goods shall be accompanied by a bill of sale or other evidence of open and legitimate purchase. The bill of sale shall also be available for inspection during regular business hours.

D. No dealer shall be required to furnish a description of property purchased from another licensed dealer or to meet the holding period provided for in Section ~~11~~ 1531 of this ~~act~~ title if that dealer has met the requirements provided for in subsection A of this section and Section ~~11~~ 1531 of this ~~act~~ title upon the initial purchase of the property, provided, that each shall record the license number of the other dealer and the amount of the transaction.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 1531, is amended to read as follows:

Section 1531. A. Every dealer must keep at the business location designated in the license application, all used articles made, in whole or in part, of precious metals or gems, for inspection by any law enforcement officer and the Department of Consumer Credit at reasonable times for a period of ten (10) days or until the articles have been released by written authorization of any law enforcement officer authorized by the law enforcement agency or its designee, except as provided for in subsection C of Section ~~5~~ 1525 of this ~~act~~ title. During this period, the appearance of such articles shall not be altered in any way. A dealer is not prohibited from selling or arranging to sell such articles during

the ten-day period as long as such articles remain in his or her possession as required by this section.

B. ~~A~~ Upon approval of the Administrator, a dealer may also designate an additional location for storage of items required to be held under the provisions of ~~this act~~ the Precious Metal and Gem Dealer Industry Act. This location shall be either a vault or a bank. The address of the designated additional location shall be filed with the Administrator. The Administrator shall require documentation to verify that the additional storage location will be utilized by the dealer, including, but not limited to, a lease or rental agreement between the dealer and the owner of the additional storage location. The Administrator shall also require the name, contact person and telephone number of the additional storage location. The Administrator shall release the designated location only to law enforcement agencies. The designated additional location shall be available for inspection by the Department of Consumer Credit or any law enforcement officer of this state authorized by the law enforcement agency to inspect the same. A dealer shall provide written notice to the Administrator at least thirty (30) days prior to terminating a lease or rental agreement for an additional storage location.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1533 of Title 59, unless there is created a duplication in numbering, reads as follows:

Any advertisement in which a dealer offers to engage as a precious metal and gem dealer in the State of Oklahoma shall include the precious metal and gem dealer license number of the dealer that is issued by the Administrator for the business location at which the dealer is offering to engage as a precious metal and gem dealer.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1534 of Title 59, unless there is created a duplication in numbering, reads as follows:

The Administrator, upon approval by the Commission on Consumer Credit, may promulgate administrative rules to implement the provisions of the Precious Metal and Gem Dealer Licensing Act.

SECTION 7. This act shall become effective November 1, 2013.

Passed the Senate the 5th day of March, 2013.

Presiding Officer of the Senate

Passed the House of Representatives the 17th day of April, 2013.

Presiding Officer of the House
of Representatives

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 18th
day of April, 20 13, at 1:36 o'clock P M.
By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 24th
day of April, 20 13, at 3:02 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 24th
day of April, 20 13, at 5:00 o'clock P. M.
By: