Ohio Legislative Service Commission

Bill Analysis

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(As Introduced)

Reps. Henne, Murray, J. Adams, Huffman, Sprague, Hayes, Foley

BILL SUMMARY

- Expands the definition of "precious metals dealer."
- Defines "local law enforcement agency" for purposes of the Precious Metal Dealers Law to mean the chief or head of the police department of the municipal corporation in which a business is located or the sheriff of a county in which a precious metals dealer's business is located, if the business is not within the jurisdiction of a municipal corporation.
- Transfers some powers of the Division of Financial Institutions in the Department of Commerce to the Superintendent of Financial Institutions and provides that the Superintendent instead of the Division is the entity that licenses precious metals dealers.
- Prohibits persons from advertising their willingness to purchase precious metals or jewels without a precious metals dealer license.
- Removes a provision that subjects pawnbrokers to all requirements imposed on licensed precious metals dealers when the pawnbroker purchases any precious metal or jewelry.
- Modifies the qualifications for a precious metals dealer's license by increasing the amount of the required net worth or bond from $10,000 to $100,000, requiring criminal records checks, and requiring the applicant to have owned or leased a fixed business premises for at least one year or signed a lease for such premises for a minimum period of one year.
- Extends the duration of a precious metals dealer's license to up to two years.

- Provides for minimum license renewal fees and penalties for late renewals.
- Prohibits the transfer of a precious metals dealer's license.
- Prohibits the Superintendent of Financial Institutions from issuing a temporary exhibition permit to a licensee if the sole purpose of the licensee is to buy precious metals or jewels at a location other than that listed on the licensee's license or to a pawnbroker.
- Provides that the Superintendent of Financial Institutions may investigate precious metals dealers and related persons and entities at least once a year.
- Makes changes to the records requirements for precious metals dealers, provides specific form requirements, and allows licensees to keep electronic or computerized records in lieu of hard copies.
- Requires a dealer to provide certain information to a seller at the time of purchase.
- Requires a dealer to deliver within five days after the record or form was used daily reports of articles received to the local law enforcement agency if the agency does not pick them up.
- Modifies the descriptions of persons from whom a dealer may not purchase articles.
- Extends from 5 to 15 days the period for which a dealer must retain purchased articles and limits the amount a dealer may charge the true owner of stolen property when restoring that property to the true owner.
- Changes the articles and persons that are exempted from the PMDL.
- Imposes record-keeping requirements on persons exempt from licensing.
- Requires a licensee who purchases precious metals from the public to use a national type evaluation program certified, legal for trade scale.
- Requires certain sales, transfers, or hypothecations of any stock, security, membership, partnership, or other interest in a licensee to be approved by the Superintendent.
- Requires licensees to state the license number issued by the Superintendent in all advertisement, offers, and solicitations and prohibits a person not licensed under the PMDL as advertising as a precious metals dealer.

- Modifies the disciplinary actions the Superintendent may take for violations of the PMDL, and modifies the criminal penalties for violations of the PMDL.

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CONTENT AND OPERATION

Terminology

R.C. Chapter 4728., hereafter referred to as the PMDL (Precious Metals Dealers Law), regulates precious metals dealers. The bill defines or modifies the definitions of several terms used in the PMDL.

The bill redefines a "precious metals dealer" as a person who is engaged in the business of purchasing articles made of or containing gold, silver, platinum, or other precious metals or jewels of any description if, in any manner, including any form of advertisement, *signage, electronic media, including electronic mail,* or *other* solicitation of

customers, the person holds himself, herself, or itself out to the public as willing to purchase such articles (italicized language added by the bill).[1]

The bill defines "person" as any individual, firm, partnership, corporation, association, or other business entity. It excludes from the definition a person, corporation, partnership, or other entity engaged in business that is exempted under the bill from the licensure requirement for precious metals dealers. The bill defines "purchase" as the acquisition of precious metals, jewels, or jewelry of any description, or both, for a consideration of cash, goods, or other precious metals, jewels, or jewelry.[2]

The PMDL contains numerous provisions relating to the powers and duties of the Division of Financial Institutions in the Department of Commerce or to the Superintendent of Financial Institutions. In many instances, the bill changes "division" to "superintendent." Under current law, unchanged by the bill, "superintendent of financial institutions" includes the Deputy Superintendent for Consumer Finance as provided in R.C. 1181.21.[3]

The PMDL often refers to local police departments, chiefs, and officers. The bill generally replaces these terms with "local law enforcement agency," which it defines as any of the following:[4]

(1) For a business located within the jurisdiction of a municipal corporation, the chief or head of the police department for that municipal corporation;

(2) For a business not located within the jurisdiction of a municipal corporation, the sheriff of the county in which the business is located.

Licensing of precious metals dealers

License requirement

Existing law prohibits any person except a licensed pawnbroker from acting as a precious metals dealer without a precious metals dealer's license. The bill expands the prohibition to additionally prohibit advertising in any form to the public of the person's willingness to purchase precious metals or jewels without a precious metal dealer's license. The bill eliminates a provision that subjects pawnbrokers to all the

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[1] R.C. 4728.01(A).

[2] R.C. 4728.01(C) and (D).

[3] R.C. 4728.01(B).

[4] R.C. 4728.01(E).

requirements imposed upon the conduct of persons holding a regular precious metals dealer's license with respect to any articles that the pawnbroker purchases made of or containing gold, silver, platinum, or other precious metals or jewels of any description.[5]

Licensor

The bill changes the entity that licenses precious metals dealers from the Division of Financial Institutions in the Department of Commerce to the Superintendent of Financial Institutions and makes conforming changes throughout the bill.[6]

Qualifications for license

Under existing law, an applicant for a precious metals dealer's license must be a person of good character who (1) has "experience and fitness in the capacity involved" and (2) either demonstrates a net worth of at least $10,000 and the ability to maintain that net worth during the licensure period or obtains a surety bond issued by a surety company authorized to do business in Ohio, in the amount of not less than $10,000, and in favor of any person, and of the state for the benefit of any person, injured by a violation of the licensing law and files a copy with the Division of Financial Institutions. Current law also requires a licensed dealer to maintain the required net worth for the duration of the license or to maintain the surety bond for two years after ceasing to do business in Ohio.

The bill increases the net worth or bond requirement to $100,000. The bill also expands the definition of "experience and fitness in the capacity involved" (specifically, under the bill, the capacity *to engage in the business of a precious metals dealer*). Under current law, "experience and fitness in the capacity involved" means that the applicant has had sufficient financial responsibility, reputation, and experience in the business of precious metals dealer, or a related business, to act as a precious metals dealer in compliance with the PMDL. The bill expands the definition to mean that all of the following are fulfilled: (1) the applicant meets the condition in the prior sentence, (2) the applicant and any stockholders, owners, managers, directors, officers, and employees of the applicant must have submitted to a criminal records check (which the Superintendent may request under existing law), and (3) the applicant must have either owned or leased for at least one year a fixed premises in Ohio as a place of business or signed a lease for a minimum period of one year for a fixed premises in Ohio to be used as a place of business.[7]

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[5] R.C. 4728.02.

[6] R.C. 4728.03(B)(1).

[7] R.C. 4728.03(A), (B), and (H).

The bill provides that the Superintendent may refuse to issue to or renew the license of any person who violates the bill's renewal provisions (see "**Renewal of license**," below) or a requirement of existing law, unchanged by the bill, regarding the appointment of agents for certain applicants. Under that existing law, a license may not be granted to any person who is not a resident of or the principal office of which is not located in the municipal corporation or county designated in the license, unless and until the applicant files with the Division, and the Division approves, a form appointing an agent in that municipality or county to receive judicial and other process or legal notice for the applicant.[8]

Duration of license

The bill extends the duration of a license. Under current law, a license expires on June 30 following the date of issuance. License fees are split evenly between the state and the municipal corporation in which the licensee's office is located (or the county, if the office is not in a municipal corporation), with the local government's half payable as the fees accrue. Under the bill, a license issued on or after January 1, 2012, expires on June 30 of the even-numbered year following the date of issuance. The bill requires that licenses issued or renewed after January 1, 2012, be renewed by June 30 biennially rather than annually. The bill also makes the portion of license fees due the municipal corporation or county after January 1, 2012, payable biennially by the Treasurer of State on vouchers issued by the Director of Budget and Management.[9]

Renewal of license

The bill prohibits the Superintendent from renewing the license of a dealer who does not have a place of business as required (see "**Qualifications for license**," above). The bill stipulates that the renewal fee be equivalent to the fee for an initial license (set by the Superintendent pursuant to R.C. 1321.20, which is not in the bill). A licensee who fails to renew before the license expires must either pay a penalty of $100 in addition to the regular renewal fee by August 31 of the year in which the license expires or apply for licensure as if applying for the first time. A licensee who fails to renew before the expiration date or by August 31 is prohibited from acting as a precious metals dealer until the license is renewed or a new license is issued.[10]

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[8] R.C. 4728.03(D)(2) and (6).

[9] R.C. 4728.03(C)(2) and (D).

[10] R.C. 4728.03(D)(3).

Transferability of license

The bill provides that a license is not transferable.[11]

Continuing net worth or bond requirement

Under existing law, a precious metals dealer must maintain the net worth required for a license ($10,000) for as long as the dealer holds the license or, if the dealer obtains a surety bond in lieu of demonstrating net worth, must maintain the bond for at least two years after the date on which the dealer ceases to conduct business in Ohio. The bill increases the continuing net worth requirement to $100,000.[12]

Temporary exhibition permit

Under current law, the Superintendent may issue to a licensed precious metals dealer or licensed pawnbroker a temporary exhibition permit for a term that coincides with that of the license. The permit allows the dealer or pawnbroker to engage in the business of purchasing articles made of or containing gold, silver, platinum, or other precious metals or jewels from the public at a bona fide auction, convention, exhibition, fair, or show that has as its primary purpose the display, trade, and sale of articles made of or containing precious metals or jewels. A permit is good for up to seven days for any one auction, convention, exhibition, fair, or show. The bill eliminates the Superintendent's authority to issue temporary exhibition permits to pawnbrokers and prohibits the Superintendent from issuing a permit to a precious metals dealer if the sole purpose of the dealer's application for a permit is to buy precious metals or jewels at a location other than the one listed on the dealer's license.[13]

Investigations by the Superintendent

Current law authorizes the Superintendent to investigate the business of any licensed precious metals dealer and of every person, partnership, or corporation by whom or for which any purchase is made, whether the person, partnership, or corporation acts or claims to act as principal, agent, or broker with or without authority under the PMDL. For the purpose of investigation, the Superintendent has the right of free access to the books and papers "thereof." Under the bill, the Superintendent has the authority to investigate *at least once a year* the above-described businesses and persons

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[11] R.C. 4728.03(F).

[12] R.C. 4728.03(H).

[13] R.C. 4728.04(C)(1).

and for the purpose of the investigation has the right of free access to the books and papers *of the business, person, partnership, or corporation* being investigated.[14]

Dealer's records

The Revised Code requires licensed precious metals dealers to keep records of their purchases and use books and forms approved by the Superintendent. The bill elaborates upon the requirements and authorizes licensees to use electronic, computerized, or other methods of recordkeeping if written printouts or hard copies of the required data are readily available in a form approved in advance by the Superintendent.[15]

The bill requires that the books and forms in which the dealer records purchases be intelligible, written in English, and used exclusively for the records of purchases. It also requires that the form on which specified information is recorded be approved by the Superintendent. Under existing law, the dealer must record a full and accurate description of the articles purchased, including any identifying letters or marks; the maker of the articles; and the seller's name, age, place of residence, driver's or commercial driver's license number, or other personal identification and a short physical description of the seller. With regard to any article purchased, the bill additionally requires the dealer to record identifying features as well as letters or marks; the name of the manufacturer instead of maker; any serial and model number; the date and time of purchase; and the purchase price. With regard to the seller, the bill eliminates the need to record the seller's place of residence or commercial driver's license number, but it adds to the required information the seller's address, date of birth, *valid* personal identification number (driver's license, military identification, or other number), and a physical description (not a *short* physical description).[16]

The bill mandates that the dealer require the seller, on a form approved by the Superintendent, to sign a statement verifying that the seller is the legal owner of the article or is the agent of the legal owner authorized to sell the article to the dealer.[17]

Under current law, a licensed dealer must maintain the dealer's books in numerical order and keep them open to the inspection of the Superintendent "or chief of or head of the local police department, a police officer deputied by the chief or head of police, or the chief executive officer of the political subdivision thereof." The bill

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[14] R.C. 4728.05(A).

[15] R.C. 4728.06(A) and (F).

[16] R.C. 4728.06(A).

[17] R.C. 4728.06(B).

requires that the *records and forms* (rather than books) be kept in numerical order and that they be kept open to inspection by the Superintendent *and* the law enforcement agency that has jurisdiction of the area where the business is located. Existing law allows the officials named to demand that the dealer produce for inspection any *article* listed in the records and in the dealer's possession. The bill requires instead that the dealer produce any *records, forms, or purchases* in the dealer's possession.[18]

The bill adds the following requirements and prohibitions:[19]

(1) The licensee must keep all purchases at the licensee's place of business and may not remove purchased items from the place of business for the licensee's personal use or gain.

(2) The licensee must keep a copy of each form used for a purchase, at all times, in numerical order and account for all form numbers.

(3) A licensee may not require a seller to sign a blank or partially filled-out form that is required as described above in connection with a purchase.

Each form required by the bill must include the name under which the licensee is registered with the Superintendent and the complete address of the place of business. Each form must contain two or more pages and be identical and consecutively numbered. One part of each form must be detachable; when completed, it serves as the statement given by the licensee to the seller (see "**Statement of purchase**," below). The dealer must keep the remaining part of the form in the dealer's permanent records and must account for all forms.[20]

The bill requires each licensee to preserve the licensee's books, forms, accounts, and records for at least two years after making the final entry regarding any purchase of property recorded therein.[21]

Statement of purchase

The bill requires each licensed precious metals dealer to give to a seller at the time of a purchase a statement, legibly written in ink, printed, or typed, containing the licensee's name and address, the purchase price, the time and date of the purchase, and

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[18] R.C. 4728.06(C)(1).

[19] R.C. 4728.06(C)(2), (3), and (4).

[20] R.C. 4728.06(D).

[21] R.C. 4728.06(E).

full and accurate description of the articles sold, including any serial or model numbers or identifying marks on the articles. The dealer must retain a copy of the statement for two years from the date of the last entry of the purchase account. Each statement must be numbered and maintained consecutively, commencing with the number "one," but the licensee may maintain statements in a file.[22]

Daily reports of purchases

Current law requires a dealer, every business day, to make available to the local police a description of all articles received by the licensee on the preceding business day, together with the number of the receipt issued. The bill requires the dealer to provide a *full* description and changes "receipt" to "record or form." The bill also provides that if the local law enforcement agency does not pick up or make arrangements to receive the daily reports, the dealer must deliver them to the agency within five business days after the day the record or form was issued.[23]

Prohibited purchases

Current law prohibits a licensee from purchasing any articles from any minor, any person intoxicated or under the influence of a controlled substance, any person who is known or believed by the licensee to be a thief, and any receiver of stolen property. The bill retains the prohibitions against purchasing from minors and receivers of stolen property but modifies the other prohibitions. Under the bill, a licensee may not purchase from a person *known* to be intoxicated or under the influence of a controlled substance. The bill continues to prohibit purchases from someone *known to be* a thief but not from someone the licensee *believes* to be a thief.[24]

Retention of purchased articles and restoration of stolen articles

Current law requires a licensee to retain in Ohio any articles purchased by the licensee for five days after the date of purchase. The bill increases the retention period to 15 days.[25]

Under existing law, if the police inform a licensed dealer who has purchased and held an allegedly stolen article of the identity of the article's true owner, the licensee may restore the article to its true owner directly; the true owner may reimburse the

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[22] R.C. 4728.061.

[23] R.C. 4728.07.

[24] R.C. 4728.08.

[25] R.C. 4728.09(A).

licensee for the amount the dealer paid for the article; the true owner may recover the article and reasonable attorney fees from the licensee in an action at law.

The bill changes the reimbursement clause by specifying that the true owner may reimburse the licensee for an amount *not exceeding that which the licensee paid for the article.* Under existing law, if the true owner chooses not to file charges against the person or persons responsible for the theft (under the bill, *alleged* theft), the licensee may charge the true owner the amount the licensee paid for the article. The bill authorizes the licensee to charge the true owner an amount *not exceeding that which the licensee paid for the article.*[26]

Superintendent's enforcement powers

The Revised Code charges the Superintendent with enforcing the PMDL and with making all reasonable effort to discover alleged violators, notifying the proper prosecuting officer whenever the Superintendent has reasonable grounds to believe that a violation has occurred, acting as complainant in the prosecution of suspected violations, and aiding officers in prosecutions. The Superintendent must adopt reasonable rules for implementing the PMDL.[27]

The bill gives the Superintendent the following specific enforcement powers:[28]

(1) To issue a cease and desist order against any person the Superintendent reasonably suspects has violated, is currently violating, or is about to violate the provisions of the PMDL and to apply to a court of common pleas for an order compelling a person to comply with any cease and desist order or any subpoena;

(2) To obtain from the court of common pleas any form of injunctive relief against any person that has violated, is currently violating, or is reasonably suspected of being about to violate the provisions of the PMDL;

(3) To issue a subpoena to any person to compel the production of any item, record, or writing, including an electronic writing;

(4) To issue a subpoena to compel any person to appear and render testimony in regard to a violation of the PMDL;

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[26] R.C. 4728.09(D).

[27] R.C. 4728.10 (division (A) in the bill).

[28] R.C. 4728.10(B).

(5) To examine and investigate the business of any person the Superintendent reasonably suspects to be advertising, transacting, or soliciting business as a precious metals dealer. This authority includes the authority to examine and investigate the person's business location and any books, records, writings, including electronic writings, safes, files, or storage areas located in or utilized by the business location. The Superintendent may request the attendance and assistance of the appropriate local law enforcement agency or the State Highway Patrol during the examination and investigation of the business.

Exclusions from regulation under the PMDL

Exempt articles and persons

The bill modifies the list of articles, persons, and institutions to which the PMDL does not apply.

Under existing law, the PMDL does not apply to "[a]ny purchase of an article that is made of or contains gold, silver, platinum, or other precious metals or jewels of any description if both the buyer and seller, or the respective agents, brokers, or other intermediaries of both the buyer and seller, deal in such articles or otherwise by their respective occupations, *or by their respective avocations as collectors, speculators, or investors, hold themselves out as having knowledge or skill peculiar to such articles or the practices involved in their purchase or sale*." The bill adds jewelry, including watches, to the above list of exempt property and eliminates the italicized language.[29]

Existing law excludes from regulation under the PMDL anyone licensed under the Small Loans Law to make loans at a single place of business or registered as a second mortgage lender or broker. The bill eliminates this exclusion and replaces it with an exclusion for any person doing business under Ohio or federal law relating to any broker-dealer, commodity futures commission merchant, or commodity trading advisor or agent duly registered and regulated by the Ohio Division of Securities under R.C. Chapter 1707. or the United States Commodity Futures Trading Commission under 7 U.S.C. 1 *et seq*.[30]

The bill retains the existing exclusions for banks, credit unions, and savings and loan associations; for licensed salvage motor vehicle dealers who purchase or sell precious metal that, in its original form, is a motor vehicle component part, or a scrap metal processor; for any purchase made under the supervision of a probate court from

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[29] R.C. 4728.11(A).

[30] R.C. 4728.11(B).

the estate of a decedent; and for licensed pawnbrokers see **COMMENT**).[31] The bill adds an exclusion for any transactions involving the sale or transfer of gold, silver, platinum, or other precious metals or jewels and jewelry of any description, including watches, by a wholesale jeweler to a retail jeweler or licensed dealer.[32]

The bill eliminates the following exclusions:

(1) Any purchase of silverware or an article of jewelry made of or containing gold, silver, platinum, or other precious metals or jewels that is made by a person who is engaged in the business of selling, at retail, articles of jewelry and silverware, holds a valid vendor's license issued under R.C. 5739.17 of the Sales Tax Law, maintains a fixed place of business in Ohio where the person regularly exhibits articles of jewelry and silverware that are for sale at retail, and establishes to the satisfaction of the Superintendent or local police chief, upon their request, that the person's purchases of silverware and articles of jewelry that are made of or contain precious metals or jewels are incidental to the person's primary business.[33]

(2) Any purchase of coins, hallmark bars, registered ingots, and other items as numismatic objects, and not for their content of precious metals.[34]

Obligations of persons exempt from licensing

Existing law requires that persons who are exempt from licensing under the incidental-sales and numismatics exemptions (see "**Exempt articles and persons**," above) and who in the ordinary course of business obtain ownership by purchase of articles made of or containing gold, silver, platinum, or other precious metals or jewels of any description from the public maintain certain records at each business location for at least 12 months immediately succeeding any such transaction. The bill applies the record-keeping requirement to all persons exempt from licensing and adds that it applies to purchases of jewelry, including watches.[35]

The records must include the following information:[36]

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[31] R.C. 4728.11(C), (D), (F), and (G) (as designated in the bill).

[32] R.C. 4728.11(E)(3).

[33] R.C. 4728.11(E).

[34] R.C. 4728.11(F).

[35] R.C. 4728.12(A).

[36] R.C. 4728.12(A).

(1) The date and time of the transaction (changed to *purchase* by the bill);

(2) The name and residential address of the seller and the means of identification used to establish the seller's identity (changed by the bill to *name, address and date of birth of the seller*);

(3) A physical description of the seller;

(4) A complete and accurate description of the article, including any brand names, initials, serial numbers, or other identifying marks, monograms, or symbols on the article (changed by the bill to *A complete and accurate description of the purchased article, including the name of the manufacturer, any serial and model numbers, any identifying letters or marks, and any identifying features*);

(5) The price paid for each article and the means of payment (*means of payment* is stricken by the bill);

(6) *A valid driver's license number, military identification number, or other valid personal identification number* (added by the bill).

Under existing law, the definition of "purchase" in the foregoing provisions does not include obtaining title to an article that is accepted as a trade-in by a person exempt from licensing under the incidental-sales and numismatics exemptions (see "**Exempt articles and persons**," above) when the transaction involves a retail sale of an article of equal or greater value and the value of the trade-in is used as all or a portion of the purchase price. The bill states that the definition does not apply to anyone exempt from licensing involved in a transaction of that type.[37]

Existing law prohibits a person who is exempt from licensing under the incidental-sales and numismatics exemptions from purchasing any article that is made of or contains gold, silver, platinum, or other precious metals or jewels of any description from any individual whom the person knows or has reason to believe is under 18 years of age. The bill applies the prohibition to anyone who is exempt from licensing and includes in the prohibition any jewelry, including watches.[38]

Under current law, a person exempt from licensing under the incidental-sales or numismatics exemption must give written notice to the local police department of the

[37] R.C. 4728.12(A).

[38] R.C. 4728.12(B).

location of the records required within 60 days after opening a new business location. The bill eliminates the 60-day time period.[39]

Scales

The bill requires any precious metals dealer who purchases precious metals from the public to have and use a national type evaluation program certified, legal for trade scale, which must be inspected and certified annually by the auditor, as the county sealer of weights and measures, of the county in which the person's business is located.[40]

Transfer of interest in business

Under the bill, every sale, transfer, or hypothecation of any stock, security, membership, partnership, or other equitable, beneficial, or ownership interest in a person licensed as a precious metals dealer, in an amount representing a 10% or greater equitable, membership, partnership, beneficial, or other ownership interest in the licensee, must be approved in writing by the Superintendent prior to the sale, transfer, or hypothecation. Every person acquiring or receiving such an interest is subject to the licensing requirements of the PMDL as if the person were a new and separate license applicant.[41]

Advertising

The bill requires a person licensed as a precious metals dealer to state the license number issued by the Superintendent in all advertisements, offers, and solicitations and prohibits a person who is not licensed from advertising as a precious metals dealer.[42]

Remedies

Civil actions

A person who is injured by the failure of someone engaged in the business of purchasing articles that are made of or contain gold, silver, platinum, or other precious metals or jewels of any description to comply with the PMDL may commence a civil

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[39] R.C. 4728.12(C).

[40] R.C. 4728.15.

[41] R.C. 4728.16.

[42] R.C. 4728.17.

action to recover compensatory damages. The bill adds jewelry, including watches, to the articles that the violator may be in the business of purchasing.[43]

License suspension and revocation

Existing law prohibits any "person, firm, partnership, corporation, or association" and any "agent, officer, or employee thereof" from violating the PMDL. The bill applies the prohibition to any person licensed under the PMDL and any agent, officer, or employee thereof.[44]

Under current law, the Division of Financial Institutions must revoke the license of a licensee upon a criminal conviction. The bill replaces Division with Superintendent, eliminates the mandatory revocation, and authorizes the Superintendent to do any of the following:[45]

(1) Upon the criminal conviction of a licensee or any employee, manager, officer, director, shareholder, member, or partner of a licensee for a violation of the PMDL, suspend the license of the licensee without a prior hearing to protect the public interest and subsequently revoke the license in accordance with the provisions of R.C. Chapter 119. (the Administrative Procedure Act).

(2) Upon the criminal conviction of a licensee or any employee, manager, officer, director, shareholder, member, or partner of the licensee for the violation of any provision of R.C. Title XXIX (the Criminal Law) or under federal law for theft, receiving stolen property, or money laundering, suspend the license of the licensee without a prior hearing to protect the public interest and subsequently revoke the license of the licensee in accordance with the provisions of the Administrative Procedure Act;

(3) Upon the criminal conviction of a licensee for the violation of any provision of Title XXIX or under federal law for a violation other than theft, receiving stolen property, or money laundering, assess a penalty against the licensee or revoke or suspend the license of the licensee in accordance with the provisions of the Administrative Procedure Act.

Criminal penalties

Existing law penalizes any violation of the PMDL as a misdemeanor of the first degree on a first offense and a felony of the fifth degree on each subsequent offense.

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[43] R.C. 4728.14.

[44] R.C. 4728.13(A).

[45] R.C. 4728.13(B).

Under the bill, a violation of the prohibition against acting as a precious metals dealer or advertising one's willingness to purchase precious metals or jewels without first getting a license is a felony of the fifth degree. Any other violation of the PMDL is a third degree misdemeanor on a first offense and a second degree misdemeanor on each subsequent offense.[46]

COMMENT

Continuing law (designated R.C. 4728.11(G) in the bill) exempts licensed pawnbrokers from regulation under the PMDL *except as specified in R.C. 4728.02(B).* The bill amends R.C. 4728.02(B) to eliminate the exception.

HISTORY

ACTION	DATE
Introduced	05-01-12

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[46] R.C. 4728.99.