

As Introduced

131st General Assembly

Regular Session

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H. B. No. 161

Representatives Henne, Craig

Cosponsors: Representatives Rezabek, Schaffer, DeVitis, Lepore-Hagan, Rogers

A BILL

To amend sections 4728.01, 4728.02, 4728.03, 1
4728.04, 4728.05, 4728.06, 4728.07, 4728.08, 2
4728.09, 4728.10, 4728.11, 4728.12, 4728.13, 3
4728.14, and 4728.99 and to enact sections 4
4728.061, 4728.16, 4728.17, and 4728.18 of the 5
Revised Code to make changes to the licensing 6
and records requirements, exemptions, penalties, 7
and other provisions of the Precious Metal 8
Dealers Law and to limit the amount precious 9
metal dealers may charge the true owner of 10
stolen property when restoring that property to 11
the true owner. 12

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4728.01, 4728.02, 4728.03, 13
4728.04, 4728.05, 4728.06, 4728.07, 4728.08, 4728.09, 4728.10, 14
4728.11, 4728.12, 4728.13, 4728.14, and 4728.99 be amended and 15
sections 4728.061, 4728.16, 4728.17, and 4728.18 of the Revised 16
Code be enacted to read as follows: 17

Sec. 4728.01. As used in this chapter: 18

(A) "Precious metals dealer" means 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.

(B) "Superintendent of financial institutions" includes
the deputy superintendent for consumer finance as provided in
section 1181.21 of the Revised Code.

(C) "Person" means any individual, firm, partnership,
corporation, association, or other business entity. "Person"
does not include a person, corporation, partnership, or other
entity engaged in business that is exempted under section
4728.11 of the Revised Code.

(D) "Purchase" means 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.

(E) "Local law enforcement agency" means either of the
following:

(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.

Sec. 4728.02. (A) Except as provided in division (B) of

this section, no person shall act as a precious metals dealer or 48
advertise in any form to the public of the person's willingness 49
to purchase precious metals or jewels without first having 50
obtained a license from the division of financial institutions 51
in the department of commerce. 52

(B) Notwithstanding any provision in this chapter to the 53
contrary, a person holding a license as a pawnbroker pursuant to 54
Chapter 4727. of the Revised Code may act as a precious metals 55
dealer without being separately licensed pursuant to this 56
chapter. ~~Pawnbrokers are subject to all the requirements imposed~~ 57
~~upon the conduct of persons holding a regular precious metals~~ 58
~~dealer's license with respect to any articles that the~~ 59
~~pawnbroker purchases made of or containing gold, silver,~~ 60
~~platinum, or other precious metals or jewels of any description.~~ 61

Sec. 4728.03. (A) As used in this section, "experience and 62
fitness in the capacity involved" means that ~~the~~ all of the 63
following are fulfilled: 64

(1) The applicant for a precious metals dealer's license 65
has had sufficient financial responsibility, reputation, and 66
experience in the business of precious metals dealer, or a 67
related business, to act as a precious metals dealer in 68
compliance with this chapter. 69

(2) The applicant for a precious metals dealer's license 70
and any stockholders, owners, managers, directors, officers, and 71
employees of the applicant have submitted to a criminal records 72
check in accordance with division (G) of this section. 73

(3) The applicant for a precious metals dealer's license 74
has done either of the following: 75

(a) Owned or leased for at least one year a fixed premises 76

in the state as a place of business; 77

(b) Signed a lease for a minimum period of one year for a 78
fixed premises in the state to be used as a place of business. 79

(B) (1) The ~~division superintendent~~ of financial 80
institutions ~~in the department of commerce~~ may grant a precious 81
metals dealer's license to any person of good character, having 82
experience and fitness in the capacity involved to engage in the 83
business of a precious metals dealer, who demonstrates a net 84
worth of at least ~~ten~~ one hundred thousand dollars and the 85
ability to maintain that net worth during the licensure period. 86
The superintendent of financial institutions shall compute the 87
applicant's net worth according to generally accepted accounting 88
principles. 89

(2) In place of the demonstration of net worth required by 90
division (B) (1) of this section, an applicant may obtain a 91
surety bond issued by a surety company authorized to do business 92
in this state if all of the following conditions are met: 93

(a) A copy of the surety bond is filed with the division 94
of financial institutions in the department of commerce; 95

(b) The bond is in favor of any person, and of the state 96
for the benefit of any person, injured by any violation of this 97
chapter; 98

(c) The bond is in the amount of not less than ~~ten~~ one 99
hundred thousand dollars. 100

(3) Before granting a license under this division, the 101
~~division superintendent~~ shall determine that the applicant meets 102
the requirements of division (B) (1) or (2) of this section. 103

(C) (1) The ~~division superintendent~~ shall require an 104

applicant for a precious metals dealer's license to pay to the
division a nonrefundable, initial investigation fee of two
hundred dollars which shall be for the exclusive use of the
state. The license fee for a precious metals dealer's license
and the renewal fee shall be determined by the superintendent,
provided that the fee may not exceed three hundred dollars. A-

(2) A license issued by the division-superintendent prior
to January 1, 2016, shall expire on the last-thirtieth day of
June next following the date of its issuance. A license issued
by the superintendent on or after January 1, 2016, shall expire
on the thirtieth day of June in the even-numbered year next
following the date of its issuance. Fifty per cent of license
fees shall be for the use of the state, and fifty per cent shall
be paid to the municipal corporation, or if outside the limits
of any municipal corporation, to the county in which the office
of the licensee is located. All portions of license fees payable
to municipal corporations or counties that are paid before
January 1, 2016, shall be paid as they accrue, by the treasurer
of state, on vouchers issued by the director of budget and
management. All portions of license fees payable to municipal
corporations or counties that are paid on or after January 1,
2016, shall be paid biennially, by the treasurer of state, on
vouchers issued by the director of budget and management.

(D) ~~Every such~~ (1) Until December 31, 2015, every license
issued or renewed before January 1, 2016, shall be renewed
annually by the last-thirtieth day of June according to the
standard renewal procedure of Chapter 4745. of the Revised Code.
Every license issued or renewed on or after January 1, 2016,
shall be renewed biennially by the thirtieth day of June in
accordance with the standard renewal procedure of Chapter 4745.
of the Revised Code.

(2) No license shall be granted to any person not a
resident of or the principal office of which is not located in
the municipal corporation or county designated in such license,
unless, and until such applicant shall, in writing and in due
form, to be first approved by and filed with the division,
appoint an agent, a resident of the state, and city or county
where the office is to be located, upon whom all judicial and
other process, or legal notice, directed to the applicant may be
served; and in case of the death, removal from the state, or any
legal disability or any disqualification of any agent, service
of process or notice may be made upon the superintendent.

(3) The superintendent shall not renew the license of a
licensee who does not have a place of business as described in
division (A) (3) of this section.

(4) The fee for renewal of a license shall be equivalent
to the fee for an initial license established by the
superintendent pursuant to section 1321.20 of the Revised Code.
Any licensee who wants to renew a license, but fails to do so on
or before the date the license expires, shall reapply for
licensure in the same manner, and subject to the same
requirements, as for initial licensure, unless the licensee pays
the superintendent, on or before the thirty-first day of August
of the year the license expires, a late renewal penalty of one
hundred dollars in addition to the regular renewal fee.

(5) Any licensee who fails to renew a license on or before
the date the license expires, including a person who renews a
license between the first day of July and the thirty-first day
of August of the year the license expires, is prohibited from
acting as a precious metals dealer until the license is renewed
or a new license is issued under this section.

(6) The superintendent may refuse to issue or renew the 166
license of any person who violates division (D) of this section. 167

(E) The division may, pursuant to Chapter 119. of the 168
Revised Code, upon notice to the licensee and after giving the 169
licensee reasonable opportunity to be heard, revoke or suspend 170
any license, if the licensee or the licensee's officers, agents, 171
or employees violate this chapter. Whenever, for any cause, the 172
license is revoked or suspended, the division shall not issue 173
another license to the licensee nor to the husband or wife of 174
the licensee, nor to any copartnership or corporation of which 175
the licensee is an officer, nor to any person employed by the 176
licensee, until the expiration of at least one year from the 177
date of revocation of the license. 178

(F) A license issued under this chapter is not 179
transferable. 180

(G) In conducting an investigation to determine whether an 181
applicant satisfies the requirements for licensure under this 182
section, the superintendent may request that the superintendent 183
of the bureau of criminal identification and investigation 184
investigate and determine whether the bureau has procured any 185
information pursuant to section 109.57 of the Revised Code 186
pertaining to the applicant. 187

If the superintendent of financial institutions determines 188
that conducting an investigation to determine whether an 189
applicant satisfies the requirements for licensure under this 190
section will require procuring information outside the state, 191
then, in addition to the fee established under division (C) of 192
this section, the superintendent may require the applicant to 193
pay any of the actual expenses incurred by the division to 194
conduct such an investigation, provided that the superintendent 195

shall assess the applicant a total no greater than one thousand
dollars for such expenses. The superintendent may require the
applicant to pay in advance of the investigation, sufficient
funds to cover the estimated cost of the actual expenses. If the
superintendent requires the applicant to pay investigation
expenses, the superintendent shall provide to the applicant an
itemized statement of the actual expenses incurred by the
division to conduct the investigation.

~~(G)~~ (H) (1) Except as otherwise provided in division ~~(G)~~ (H)
(2) of this section a precious metals dealer licensed under this
section shall maintain a net worth of at least ~~ten~~ one hundred
thousand dollars, computed as required under division (B) (1) of
this section, for as long as the licensee holds a valid precious
metals dealer's license issued pursuant to this section.

(2) A licensee who obtains a surety bond under division
(B) (2) of this section is exempt from the requirement of
division ~~(G)~~ (H) (1) of this section, but shall maintain the bond
for at least two years after the date on which the licensee
ceases to conduct business in this state.

Sec. 4728.04. (A) The application for a license under this
chapter shall state fully the name and address of the person, or
corporation, and of every member of the firm, partnership, or
association, authorized to do business thereunder, the name of
the individual responsible for the daily operation of the
business, and the location of the office or place of business in
which the business is conducted. In the case of a corporation,
the application also shall state the date and place of
incorporation, the name and address of the corporation's
manager, the names and addresses of corporate directors, and the
name and address of the agent, as provided in section 4728.03 of

the Revised Code. 226

The holder of a precious metals dealer's license shall 227
keep the license posted in a conspicuous place in the office 228
where business is transacted. No licensee shall transact or 229
solicit business under any other name or location. Not more than 230
one office or place of business shall be maintained under the 231
same license, except as provided under division (C) of this 232
section. In case of removal, the licensee shall provide written 233
notice in advance to the division of financial institutions in 234
the department of commerce of a prospective change of address of 235
a business location. Upon approval by the superintendent of 236
financial institutions, the division shall issue a new license. 237
If the new location is outside the municipal corporation or 238
county of the original licensed location, the licensee shall pay 239
an additional license fee according to section 4728.03 of the 240
Revised Code. 241

(B) A person licensed under this chapter shall post a 242
conspicuous notice in its place of business visible to all 243
patrons, in a form and at places designated by rule of the 244
division, that the licensee has no right to retain goods stolen 245
from the true owner, and that the owner may recover the goods or 246
their value from the licensee in an action at law or, if the 247
~~chief or head of a local police department or the chief's or~~ 248
~~head's representative law enforcement agency~~ takes custody of 249
the goods, by release pursuant to section 2981.11 of the Revised 250
Code. 251

(C) (1) The superintendent may issue to a person licensed 252
under this chapter ~~or Chapter 4727. of the Revised Code a~~ 253
temporary exhibition permit for a term that coincides with that 254
of the license of the licensee. A person issued a permit under 255

this division may engage in the business of purchasing articles 256
made of or containing gold, silver, platinum, or other precious 257
metals or jewels from the public at a bona fide auction, 258
convention, exhibition, fair, or show, the primary purpose of 259
which is to display, trade, and sell articles made of or 260
containing precious metals or jewels, for a period not to exceed 261
seven days for any one auction, convention, exhibition, fair, or 262
show. The superintendent shall not issue a permit to a licensee 263
if the sole purpose of the licensee's application is to buy 264
precious metals or jewels at a location other than that listed 265
on the licensee's license. 266

(2) The superintendent shall determine the application 267
procedures for and the form of the temporary exhibition permit 268
described in this division, provided that a temporary permit 269
shall state fully the name and permanent business address of the 270
licensee to whom it is issued. 271

(3) The holder of a temporary exhibition permit shall, 272
when participating in any auction, convention, fair, or show, 273
conspicuously display the holder's permit at the location at 274
which the holder transacts business. 275

(4) A permit holder who wishes to participate in an 276
auction, convention, exhibition, fair, or show shall, at least 277
two weeks prior to its scheduled opening, submit to the 278
superintendent, ~~or and the chief or the head of the local police~~ 279
~~department law enforcement agency~~ with jurisdiction at the 280
location of the event, the holder's name, the location of the 281
auction, convention, exhibition, fair, or show, and the holder's 282
permanent business address as it appears on the holder's permit 283
issued under division (C) (2) of this section. 284

(5) All purchases of articles made of or containing gold, 285

silver, platinum, or other precious metals or jewels conducted 286
under a temporary exhibition permit are subject to sections 287
4728.06 to 4728.09, 4728.13, and 4728.99 of the Revised Code as 288
if made under a license. 289

Sec. 4728.05. (A) The superintendent of financial 290
institutions may, either personally or by a person whom the 291
superintendent appoints for the purpose, if the superintendent 292
considers it advisable, investigate at least once a year the 293
business of every person licensed as a precious metals dealer 294
under this chapter, and of every person, partnership, and 295
corporation by whom or for which any purchase is made, whether 296
the person, partnership, or corporation acts, or claims to act, 297
as principal, agent, or broker, or under, or without the 298
authority of this chapter, ~~and for~~. For that purpose, the 299
superintendent shall have free access to the books and papers 300
~~thereof of the business, person, partnership, or corporation and~~ 301
other sources of information with regard to the business of the 302
licensee or person and whether the business has been or is being 303
transacted in accordance with this chapter. The superintendent 304
and every examiner may examine, under oath or affirmation, any 305
person whose testimony may relate to any business coming within 306
this chapter. 307

(B) In making any investigation or conducting any hearing 308
pursuant to this section, the superintendent or a person 309
designated by the superintendent, at any time, may do any of the 310
following: 311

(1) Compel by subpoena the attendance of witnesses; 312

(2) Take depositions of witnesses residing without the 313
state in the manner provided for in civil actions; 314

(3) Pay witnesses the fees and mileage provided for under 315
section 119.094 of the Revised Code; 316

(4) Administer oaths; 317

(5) Compel by order or subpoena duces tecum the production 318
of all relevant books, records, accounts, and other documents 319
and examine such books, records, accounts, and other documents. 320

(C) If a person fails to comply with a subpoena or 321
subpoena duces tecum, the superintendent may apply to the court 322
of common pleas of Franklin county for an order compelling the 323
person to comply with the subpoena or subpoena duces tecum or, 324
for failure to do so, an order holding the person in contempt of 325
court. The superintendent, in accordance with section 4728.03 of 326
the Revised Code, may suspend or revoke the license of any 327
precious metals dealer who fails to comply with this division. 328

(D) In connection with any investigation under this 329
section, the superintendent may file an action in the court of 330
common pleas of Franklin county or the court of common pleas of 331
the county in which the person who is the subject of the 332
investigation resides to obtain an injunction, a temporary 333
restraining order, or other appropriate relief, if it appears to 334
the superintendent that the person is engaging in actions or 335
threatening to engage in actions in violation of this chapter. 336

(E) If in an investigation under this section the 337
superintendent determines that a person not licensed under this 338
chapter, or an employee of that person, has been or is engaged 339
or is threatening to engage in activities for which a license is 340
required under this chapter, the superintendent may issue an 341
order to that person requiring the person to show cause why the 342
person should not be subject to licensure under this chapter. If 343

the superintendent determines, after notice and a hearing 344
conducted in accordance with Chapter 119. of the Revised Code, 345
that a person is engaged in, or is threatening to engage in 346
activities that constitute a violation of this chapter, the 347
superintendent may issue a cease and desist order that describes 348
the person and activities that are subject to the order and may 349
impose upon the person a penalty of not less than ~~one~~ five 350
hundred nor more than ten thousand dollars for a violation of 351
this chapter. Any cease and desist order and any penalty issued 352
under this section are enforceable in and may be appealed to a 353
court of common pleas pursuant to Chapter 119. of the Revised 354
Code. 355

Sec. 4728.06. ~~Every~~ Except as provided in division (F) of 356
this section, every person licensed under this chapter shall 357
keep and use books and forms approved by the superintendent of 358
financial institutions, which shall disclose, to record 359
information about purchases. The forms and books shall be 360
intelligible, written in the English language, and used 361
exclusively for the purposes described in this section. 362

(A) The licensee shall record all of the following 363
information at the time of each purchase, ~~a~~ : 364

(1) A full and accurate description, including identifying 365
letters, features, or marks thereon, the name of the 366
manufacturer, and any serial and model numbers, of the articles 367
purchased, with the ~~;~~ 368

(2) The name, age, address, place of residence, and date of 369
birth of the seller; 370

(3) A valid driver's or commercial driver's license 371
number, military identification number, or other valid personal 372

identification, ~~and a short~~ number of the seller; 373

(4) A physical description of the ~~person of the seller;~~ 374

(5) The date and time of the purchase; 375

(6) The purchase price. ~~The licensee also shall write in-~~ 376
~~the book the name of the maker. The~~ 377

(B) The licensee shall require a seller to sign a 378
statement verifying that the seller is the legal owner of the 379
article or is the agent of the legal owner authorized to sell 380
the article to the licensee. 381

(C) (1) The licensee shall keep the ~~books~~ records and forms 382
in numerical order at all times at the licensed location, open 383
to the inspection of the superintendent of financial 384
institutions ~~or chief of or head of the and local police-~~ 385
~~department, a police officer deputed by the chief or head of~~ 386
~~police, or the chief executive officer of the political-~~ 387
~~subdivision thereof~~ law enforcement agency that has jurisdiction 388
of the area where the business is located. Upon demand of any of 389
these officials, the licensee shall produce and show ~~an article-~~ 390
~~thus listed and described which is~~ any records, forms, or 391
purchases that are in the licensee's possession. 392

(2) The licensee shall keep all purchases at the 393
licensee's place of business. No purchased items shall be 394
removed from the place of business for the licensee's personal 395
use or gain. 396

(3) The licensee shall keep a copy of each form used for a 397
purchase, at all times, in numerical order and shall account for 398
all form numbers. 399

(4) No licensee shall require a seller, when signing a 400

form described in divisions (A) and (B) of this section, to 401
affix the seller's signature to a blank or partially filled-out 402
form. 403

(D) (1) The forms described in divisions (A) and (B) of 404
this section shall be identical and consecutively numbered, and 405
each shall contain two or more pages. 406

(2) One part of each form shall be detachable and, when 407
completed, shall serve as the statement to be given by the 408
licensee to the seller as provided in section 4728.061 of the 409
Revised Code. The remaining part of the form shall be retained 410
in the licensee's permanent records. The licensee shall account 411
for all forms. 412

(3) Each form shall contain the name under which the 413
licensee is registered with the superintendent and the complete 414
address of the place of business. 415

(E) Each licensee shall preserve the licensee's books, 416
forms, accounts, and records for at least two years after making 417
the final entry regarding any purchase of property recorded 418
therein. 419

(F) Notwithstanding any other provision of this chapter, a 420
licensee may use other methods of recording data, keeping 421
records, and keeping books, such as electronic or computerized 422
methods, in lieu of the methods described in this section, 423
provided that written printouts or hard copies of the required 424
data are readily available. 425

Sec. 4728.061. In accordance with division (D) (2) of 426
section 4728.06 of the Revised Code, each person licensed under 427
this chapter shall give to a seller at the time of a purchase a 428
statement upon which shall be legibly written in ink, printed, 429

or typed all of the following:

(A) The name and address of the purchasing licensee;

(B) The purchase price;

(C) The time and date of the purchase;

(D) A full and accurate description of the articles sold,
including any serial or model numbers or identifying marks
thereon.

The licensee shall retain a copy of the statement for two
years from the date of the last entry of the purchase account.
Each statement shall be numbered and maintained consecutively,
commencing with the number "one," but the licensee may maintain
statements in a file.

Sec. 4728.07. (A) Each person licensed under Chapter 4728.
of the Revised Code, shall, every business day, make available
to the chief or the head of the local police department, on
forms furnished by the police department, law enforcement agency
a full description of all articles received by the licensee on
the business day immediately preceding, together with the number
of the receipt-record or form issued.

(B) If the local law enforcement agency does not pick up
or make arrangements to receive the information described in
division (A) of this section, the licensee shall deliver the
daily reports to the agency within five business days after the
day the record or form was issued.

Sec. 4728.08. No person licensed under Chapter 4728. of
the Revised Code shall purchase any articles from any minor, or
from any person known to be intoxicated or under the influence
of a controlled substance, from any person who is known or

~~believed~~ by the licensee to be a thief, or a receiver of stolen
property. 458 459

Sec. 4728.09. (A) A person licensed under Chapter 4728. of 460
the Revised Code shall retain in this state any articles 461
purchased by ~~him~~ the person until the expiration of ~~five~~ fifteen 462
days after the date of purchase. 463

(B) If the ~~chief or head of the local police department~~ 464
law enforcement agency to whom the licensee made available the 465
information required by this chapter has probable cause to 466
believe that the article described therein is stolen property, 467
~~he~~ the agency shall notify the licensee in writing. Upon receipt 468
of notice, the licensee shall retain the article until the 469
expiration of thirty days after the day on which ~~he~~ the licensee 470
is first required to make available the information required by 471
this section, unless the ~~chief or the head of the local police~~ 472
~~department~~ local law enforcement agency notifies the licensee in 473
writing that ~~he~~ the licensee is not required to retain the 474
article until the expiration. 475

(C) If the ~~chief or the head of the local police~~ 476
~~department~~ law enforcement agency determines the identity of the 477
true owner of the allegedly stolen article, that has been 478
purchased and held by a licensee, and informs the licensee of 479
the true owner's identity: 480

(1) The licensee may restore the ~~allegedly stolen~~ article 481
to its true owner directly. 482

(2) The true owner may reimburse the licensee for ~~the an~~ 483
amount not exceeding that which the licensee paid for the 484
~~allegedly stolen~~ article. 485

(3) The true owner may recover the article and reasonable 486

attorney fees from the licensee in an action at law.

(D) If it is determined that the true owner of the allegedly stolen article, for whatever reason, chooses not to file a charge against the person or persons responsible for the alleged theft, the licensee may charge the true owner of the ~~allegedly stolen article~~ the an amount not exceeding that which the licensee paid for the ~~allegedly stolen article~~.

Sec. 4728.10. (A) The superintendent of financial institutions shall enforce this chapter, make all reasonable effort to discover alleged violators, notify the proper prosecuting officer whenever the superintendent has reasonable grounds to believe that a violation has occurred, act as complainant in the prosecution thereof, and aid officers to the best of the superintendent's ability in prosecutions. The superintendent shall employ deputies necessary to make the investigations and inspections, ~~and~~. The superintendent, pursuant to Chapter 119. of the Revised Code, shall adopt reasonable rules, including rules that define terms used in this chapter, for the carrying out of this chapter, and otherwise perform the duties imposed by this chapter.

(B) In order to enforce this chapter, the superintendent may do all of the following:

(1) 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 this chapter. The superintendent may apply to a court of common pleas for an order compelling a person to comply with any cease and desist order or any subpoena issued by the superintendent.

(2) Obtain from the court of common pleas any form of

injunctive relief against any person that has violated, is 516
currently violating, or is reasonably suspected of being about 517
to violate the provisions of this chapter; 518

(3) Issue a subpoena to any person to compel the 519
production of any item, record, or writing, including an 520
electronic writing; 521

(4) Issue a subpoena to compel any person to appear and 522
render testimony in regard to a violation of this chapter; 523

(5) Examine and investigate the business of any person the 524
superintendent reasonably suspects to be advertising, 525
transacting, or soliciting business as a precious metals dealer. 526
This authority includes the authority to examine and investigate 527
the person's business location and any books, records, writings, 528
including electronic writings, safes, files, or storage areas 529
located in or utilized by the business location. The 530
superintendent may request the attendance and assistance of the 531
appropriate local law enforcement agency or the state highway 532
patrol during the examination and investigation of the business. 533

Sec. 4728.11. This chapter does not apply to any of the 534
following: 535

(A) Any purchase of an article that is made of or contains 536
gold, silver, platinum, or other precious metals or jewels and 537
jewelry of any description, including watches, if both the buyer 538
and seller, or the respective agents, brokers, or other 539
intermediaries of both the buyer and seller, deal in such 540
articles or otherwise by their respective occupations, ~~or by~~ 541
~~their respective avocations as collectors, speculators, or~~ 542
~~investors, hold themselves out as having knowledge or skill~~ 543
~~peculiar to such articles or the practices involved in their~~ 544

~~purchase or sale;~~ 545

~~(B) Licensees who obtain licenses under sections 1321.01-~~ 546
~~to 1321.19 of the Revised Code or registrants who obtain~~ 547
~~certificates of registration under sections 1321.51 to 1321.60-~~ 548
~~of the Revised Code. Any person doing business under the laws of~~ 549
~~this state or the United States relating to any broker-dealer,~~ 550
~~commodity futures commission merchant, or commodity trading~~ 551
~~advisor or agent duly registered and regulated by the division~~ 552
~~of securities under Chapter 1707. of the Revised Code or the~~ 553
~~United States commodity futures trading commission under 7~~ 554
~~U.S.C. 1 et seq.;~~ 555

(C) National banks, state banks, credit unions, or savings 556
and loan associations; 557

(D) The holder of a salvage motor vehicle dealer's license 558
under Chapter 4738. of the Revised Code who purchases or sells 559
precious metal which, in its original form, is a motor vehicle 560
component part, or a scrap metal processor subject to Chapter 561
4737. of the Revised Code; 562

~~(E) Any purchase of silverware or an article of jewelry-~~ 563
~~made of or containing gold, silver, platinum, or other precious-~~ 564
~~metals or jewels that is made by a person who complies with all-~~ 565
~~of the following:~~ 566

~~(1) The person is engaged in the business of selling, at~~ 567
~~retail, articles of jewelry and silverware;~~ 568

~~(2) The person holds a valid vendor's license issued under~~ 569
~~section 5739.17 of the Revised Code;~~ 570

~~(3) The person maintains a fixed place of business in this~~ 571
~~state at which the person regularly exhibits articles of jewelry-~~ 572
~~and silverware that are for sale at retail. Any transactions~~ 573

involving the sale or transfer of gold, silver, platinum, or 574
other precious metals or jewels and jewelry of any description, 575
including watches, by a wholesale jeweler to a retail jeweler or 576
licensed dealer; 577

~~(4) The person establishes to the satisfaction of the~~ 578
~~superintendent of financial institutions or the chief or head of~~ 579
~~the local police department, upon their request, that the~~ 580
~~person's purchases of silverware and articles of jewelry that~~ 581
~~are made of or contain gold, silver, platinum, or other precious~~ 582
~~metals or jewels are incidental to the person's primary business~~ 583
~~as described in division (E) (1) of this section. Such purchases~~ 584
~~are "incidental" if:~~ 585

~~(a) In the case of a person who has been in business for~~ 586
~~less than one year, the average monthly value of the person's~~ 587
~~purchases of jewelry from the public represents less than~~ 588
~~twenty five per cent of the person's total inventory of articles~~ 589
~~of jewelry held for sale at retail to the public, as computed~~ 590
~~under section 5711.15 of the Revised Code;~~ 591

~~(b) In the case of a person who has been in business for~~ 592
~~at least one year, the total value of the person's purchases of~~ 593
~~jewelry from the public represents less than twenty five per~~ 594
~~cent of the person's total retail sales of articles of jewelry~~ 595
~~to the public during the immediately preceding year;~~ 596

~~(c) The purchases are of items described in division (F)~~ 597
~~of this section.~~ 598

~~(F) Any purchase of coins, hallmark bars, registered~~ 599
~~ingots, and other items as numismatic objects, and not for their~~ 600
~~content of precious metals.~~ 601

~~(G) Any purchase made under the supervision of a probate~~ 602

court from the estate of a decedent as provided under section 603
2113.40 of the Revised Code. 604

~~(H)~~ (G) Except as specified in division (B) of section 605
4728.02 of the Revised Code, any person licensed under Chapter 606
4727. of the Revised Code. 607

Sec. 4728.12. (A) A person exempt from licensing under 608
~~division (E) or (F) of~~ section 4728.11 of the Revised Code, and 609
who in the ordinary course of the person's business obtains 610
ownership by purchase of articles made of or containing gold, 611
silver, platinum, or other precious metals or jewels and jewelry 612
of any description, including watches, from the public, shall 613
maintain at each business location for at least the twelve 614
months immediately succeeding any such transaction a record that 615
shall include the following: 616

(1) The date and time of the ~~transaction~~ purchase; 617

(2) The name ~~and residential,~~ address, and date of birth 618
of the seller ~~and the means of identification used to establish~~ 619
~~the seller's identity;~~ 620

(3) A physical description of the seller; 621

(4) A complete and accurate description of the purchased 622
article, including ~~any brand names, initials~~ the name of the 623
manufacturer, any serial and model numbers, ~~or other any~~ 624
identifying letters or marks, monograms, or symbols on the 625
article and any identifying features; 626

(5) The price paid for each article ~~and the means of~~ 627
payment; 628

(6) A valid driver's license number, military 629
identification number, or other valid personal identification 630

number.

As used in this ~~division~~ section, "purchase" does not include obtaining title to an article that is accepted as a trade-in by a person exempt from licensing ~~under division (E) or (F) of section 4728.11 of the Revised Code~~ 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, nor does "purchase" include any purchase made under the supervision of a probate court as provided under section 2113.40 of the Revised Code.

(B) No person ~~exempt from licensing under division (E) or (F) of section 4728.11 of the Revised Code~~ to whom division (A) of this section applies shall purchase any article that is made of or contains gold, silver, platinum, or other precious metals or jewels and jewelry of any description, including watches, from any individual whom the person knows or has reason to believe is under eighteen years of age.

(C) ~~Within sixty days after opening a new business location, any~~ Any person exempt from licensing under division (E) or (F) of section 4728.11 of the Revised Code to whom division (A) of this section applies shall notify in writing the ~~chief or head of the police department having local law enforcement agency having~~ jurisdiction in the place where the business is located of the location of the records the person maintains pursuant to division (A) of this section. These records shall be available during normal business hours for inspection by the superintendent of financial institutions or the superintendent's designee, or by the ~~chief or head of the local police department or the chief's or head's designee~~ law enforcement agency.

Sec. 4728.13. (A) No person, ~~firm, partnership,~~ 661
~~corporation, or association~~ licensed under this chapter, and no 662
agent, officer, or employee thereof, shall violate this chapter. 663
~~The division~~ 664

(B) The superintendent of financial institutions ~~upon a~~ 665
may do any of the following: 666

(1) Upon the criminal conviction ~~shall of~~ a licensee or 667
any employee, manager, officer, director, shareholder, member, 668
or partner of a licensee for a violation of this chapter, 669
suspend the license of the licensee without a prior hearing to 670
protect the public interest and subsequently revoke any the 671
license theretofore issued to the person, firm, partnership, 672
corporation, or association. The in accordance with the 673
provisions of Chapter 119. of the Revised Code. 674

(2) Upon the criminal conviction of a licensee or any 675
employee, manager, officer, director, shareholder, member, or 676
partner of the licensee for the violation of any provision of 677
Title XXIX of the Revised Code or under federal law for theft, 678
receiving stolen property, or money laundering, suspend the 679
license of the licensee without a prior hearing to protect the 680
public interest and subsequently revoke the license of the 681
licensee in accordance with the provisions of Chapter 119. of 682
the Revised Code; 683

(3) Upon the criminal conviction of a licensee for the 684
violation of any provision of Title XXIX of the Revised Code or 685
under federal law for a violation other than theft, receiving 686
stolen property, or money laundering, assess a penalty against 687
the licensee or revoke or suspend the license of the licensee in 688
accordance with the provisions of Chapter 119. of the Revised 689
Code. 690

(C) The division also of financial institutions may revoke 691
or suspend the license of any licensee in accordance with 692
division (E) of section 4728.03 of the Revised Code upon a 693
criminal conviction of the licensee for any felony offense or 694
crime involving moral turpitude. 695

~~(B)~~ (D) No person shall obstruct or refuse to permit any 696
investigation conducted under this chapter by the superintendent 697
of financial institutions, a person acting on behalf of an 698
agency or a political subdivision of this state, or a law 699
enforcement officer. All articles purchased by a person licensed 700
under this chapter shall be made promptly available for 701
inspection by these officials. 702

~~(C)~~ (E) In any proceeding or action brought under this 703
chapter, the burden of proving an exemption from a requirement 704
of this chapter falls on the person claiming the benefit of the 705
exemption. 706

Sec. 4728.14. Any person who is injured by the failure of 707
a person who is engaged in the business of purchasing articles 708
that are made of or contain gold, silver, platinum, or other 709
precious metals or jewels and jewelry of any description, 710
including watches, to comply with this chapter may commence a 711
civil action to recover compensatory damages from such person. 712
In any action under this section, the court may award punitive 713
damages or reasonable attorney's fees to a prevailing plaintiff. 714

Sec. 4728.16. (A) Every sale, transfer, or hypothecation 715
of any stock, security, membership, partnership, or other 716
equitable, beneficial, or ownership interest in a person 717
licensed as a precious metals dealer, in an amount representing 718
a ten per cent or greater equitable, membership, partnership, 719
beneficial, or other ownership interest in the licensee, must be 720

approved in writing by the superintendent of financial 721
institutions prior to the sale, transfer, or hypothecation of 722
the interest in the licensee. 723

(B) Every person acquiring or receiving an interest as 724
described in division (A) of this section is subject to the 725
licensing requirements of this chapter as if the person were a 726
new and separate license applicant. 727

Sec. 4728.17. (A) A person licensed as a precious metals 728
dealer under this chapter shall state the license number issued 729
by the superintendent of financial institutions in all 730
advertisements, offers, and solicitations. 731

(B) No person not licensed under this chapter may 732
advertise as a precious metals dealer. 733

Sec. 4728.18. Any precious metals dealer who purchases 734
precious metals from the public shall have and use a national 735
type evaluation program certified, legal for trade scale, which 736
shall be inspected and certified annually by the auditor of the 737
county in which the person's business is located in accordance 738
with section 319.55 of the Revised Code. 739

Sec. 4728.99. (A) Whoever recklessly violates Chapter 740
~~4728.~~sections 4728.03 to 4728.14 or sections 4728.16 to 4728.18 741
of the Revised Code is guilty of a misdemeanor of the ~~first~~ 742
~~third~~ degree on a first offense and a ~~felony~~ misdemeanor of the 743
~~fifth~~ ~~second~~ degree on each subsequent offense. 744

(B) Whoever recklessly violates section 4728.02 of the 745
Revised Code is guilty of a felony of the fifth degree. 746

Section 2. That existing sections 4728.01, 4728.02, 747
4728.03, 4728.04, 4728.05, 4728.06, 4728.07, 4728.08, 4728.09, 748
4728.10, 4728.11, 4728.12, 4728.13, 4728.14, and 4728.99 of the 749

Revised Code are hereby repealed.

750