STATE OF OKLAHOMA

2nd Session of the 53rd Legislature (2012)

SENATE BILL 1106 By: Ballenger

AS INTRODUCED

An Act relating to the Precious Metal and Gem Dealer Licensing Act; amending 59 O.S. 2011, Section 1531, which relates to time period for keeping certain goods; increasing certain time period to keep certain goods; providing procedure for written hold order by law enforcement; stating term and requirements for written hold orders; allowing extension of hold orders; providing for release of goods to law enforcement; construing effect of release under hold order; providing for certain notification for criminal proceeding; requiring hold of goods until case disposition or hold order expiration; authorizing release of hold order by law enforcement; making out-of-state dealers subject to jurisdiction and certain requirements; requiring compliance with holding period and notification of certain transactions of certain value; directing the Administrator of the Department of Consumer Credit to make certain information available to law enforcement for certain purpose; providing for unfair trade practices and criminal investigation of certain dealers; and providing an effective date.

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

SECTION 1. 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 at reasonable times for a period of ~~ten (10)~~ twenty-one (21) 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~~ twenty-one-day period as long as such articles remain in his or her possession as required by this section.

B. 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 Licensing 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 of Consumer Affairs shall release the designated location only to law enforcement agencies. The designated additional location shall be available for inspection by any law enforcement officer of this state authorized by the law enforcement agency to inspect the same.

C. Whenever a peace officer has probable cause to believe that property in possession of a licensed precious metal and gem dealer is stolen or embezzled, the peace officer of the local law

enforcement agency of the municipality or other political subdivision in which the business is located may place a written hold order on the property. The initial term of the written hold order shall not exceed thirty (30) days. However, the holding period may be extended in successive thirty-day increments upon written notification prior to the expiration of the initial holding period. If the holding period has expired and has not been extended, the hold order shall be considered expired and no longer in effect, and title shall vest in the dealer subject to any restrictions contained in the acquisition contract. The initial written hold order shall contain the following information:

1. Signature of the precious metal and gem dealer or designee;

2. Name, title and identification number of the peace officer placing the hold order;

3. Name and address of the agency to which the peace officer is attached and the offense number;

4. Complete description of the property to be held, including model number, serial number and physical description or photograph;

5. Name of agency reporting the property to be stolen or embezzled;

6. Mailing address of the licensed business where the property is held; and

7. Expiration date of the holding period.

C. While a hold order is in effect, the precious metal and gem dealer may consent to release, upon written receipt, the stolen or embezzled property to the custody of the local law enforcement agency to which the peace officer placing the hold order is attached. The consent to release the stolen or embezzled property to the custody of law enforcement is not a waiver or release of the dealer's property rights or interest in the property. Otherwise, the dealer shall not release or dispose of the property except pursuant to a court order or the expiration of the holding period including all extensions. The district attorney's office shall notify the dealer in writing in cases where criminal charges have been filed that the property may be needed as evidence. The notice shall contain the case number, the style of the case, and a description of the property. The dealer shall hold such property until receiving notice of the disposition of the case from the district attorney's office. The district attorney's office shall notify the dealer in writing within fifteen (15) days of the disposition of the case. Willful noncompliance of a precious metal and gem dealer to a written hold order shall be cause for the dealer's license to either be suspended or revoked. A hold order may be released prior to the expiration of any thirty-day holding period by written release from the agency placing the initial hold order.

D. 1. Every out-of-state precious metal or gem dealer, business or exchange who conducts business in this state in any manner including, but not limited to, soliciting, advertising or receiving any used articles from persons in this state which articles are made, in whole or part, of precious metal or gems as defined in Section 1522 of this title, and having a total value per transaction of One Hundred Dollars ($100.00) or more, shall be deemed to have voluntarily submitted to the jurisdiction of this state regarding precious metal or gem dealers requirements, and shall be required to:

a. register the business name, address and principal owner or manager with the Department of Consumer Credit,

b. comply with the laws of this state for precious metal or gem dealers including the hold period specified in subsection A of this section for all used articles made, in whole or part, of precious metals or gems, and

c. provide a detailed description and photograph to the Administrator of the Department of Consumer Credit in this state of all articles involved in each transaction conducted with a person in this state if the total value of the transaction is One Hundred Dollars ($100.00) or more.

2. The Department of Consumer Credit shall make available all descriptions and photographs received from out-of-state precious metal or gem transactions to local law enforcement and the Oklahoma State Bureau of Investigation for comparison against stolen property reports.

3. Failure of any out-of-state precious metal or gem dealer, business or exchange to comply with the provisions of this section shall be deemed a license violation, and an unfair trade practice which shall be subject to investigation and prosecution in addition to any criminal investigation and prosecution relating to stolen or embezzled property.

SECTION 2. This act shall become effective November 1, 2012.

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