

1 **SENATE FLOOR VERSION**

2 February 7, 2013

3 As Amended

4 SENATE BILL NO. 107

5 By: Ballenger of the Senate

6 and

7 Armes of the House

8 An Act relating to precious metal and gem dealers;  
9 amending 59 O.S. 2011, Sections 1524, 1528, 1530 and  
10 1531, which relate to the Precious Metal and Gem  
11 Dealer Licensing Act; requiring business location;  
12 providing for proof of business location;  
13 establishing the District Court of Oklahoma County  
14 for any appeal of an administrative order; providing  
15 administrative fines; setting fine maximum amount;  
16 authorizing an inspection fee; making certain fee the  
17 same as for pawnbrokers; modifying language for  
18 fines; modifying type of record kept of transactions;  
19 deleting permanent bound book and ink entries;  
20 authorizing inspection of records by the Department  
21 of Consumer Credit; authorizing approval of  
22 additional storage locations for certain items;  
23 requiring certain notice to terminate additional  
24 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.

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:

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

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

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

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

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

20 C. In addition to the application provided for in subsection A  
21 of this section, every applicant shall file with the Administrator a  
22 bond satisfactory to said Administrator and in the amount of Ten  
23 Thousand Dollars (\$10,000.00) for each license sought, with a surety  
24 company qualified to do business in this state as surety. The bond

1 shall be furnished to the state for the use of the state and of any  
2 person or persons who may have a cause of action against the obligor  
3 of the bond pursuant to the provisions of the Precious Metal and Gem  
4 Dealer Licensing Act. The bond shall be conditional that the obligor  
5 will comply with the provisions of the Precious Metal and Gem Dealer  
6 Licensing Act and all rules and regulations made pursuant to the  
7 Precious Metal and Gem Dealer Licensing Act, and will pay all  
8 amounts of money that may be due to the state or any individual from  
9 the obligor during the time such bond is in effect.

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

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

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

22 Section 1528. A. The Administrator shall appoint an  
23 independent hearing examiner to conduct all administrative hearings  
24 involving alleged violations of the Precious Metal and Gem Dealer

1 Licensing Act. The independent hearing examiner shall have  
2 authority to exercise all powers granted by Article II of the  
3 Administrative Procedures Act in conducting hearings. The  
4 independent hearing examiner shall have authority to recommend  
5 penalties authorized by the Precious Metal and Gem Dealer Licensing  
6 Act and issue proposed orders, with proposed findings of fact and  
7 proposed conclusions of law, to the Administrator pursuant to  
8 Article II of the Administrative Procedures Act. The Administrator  
9 shall review the proposed order and issue a final agency order in  
10 accordance with Article II of the Administrative Procedures Act. ~~A~~  
11 ~~final agency order issued by the Administrator shall be appealable~~  
12 ~~by all parties to the district court as provided in Article II of~~  
13 ~~the Administrative Procedures Act~~ Any person aggrieved by a final  
14 agency order of the Administrator may obtain judicial review in  
15 accordance with the Oklahoma Administrative Procedures Act. The  
16 jurisdiction and venue of any such action shall be in the district  
17 court of Oklahoma County.

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

21 B. The Administrator may, after notice and hearing, deny,  
22 decline to renew a license, suspend or revoke any license ~~or,~~ order  
23 a cease and desist order, impose an administrative fine in an amount  
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1 not to exceed Five Thousand Dollars (\$5,000.00) or impose a  
2 combination of such penalties if it is found that:

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

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

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

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

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

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

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

9 F. Any entity or individual offering to engage or engaged as a  
10 precious metal and gem dealer in this state without a license shall  
11 be subject to ~~a civil penalty~~ an administrative fine in an amount  
12 not to exceed Five Thousand Dollars (\$5,000.00).

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

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

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

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

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

10 2. The amount of money involved in the transaction;

11 3. The date;

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

17 5. The signature of the seller.

18 **B. The ~~book~~ record required by this section shall be a**  
19 **~~permanent record to be kept available for inspection at all times on~~**  
20 **~~the premises of the business of the licensed dealer~~ for a period of**  
21 **four (4) years. Such ~~book~~ record shall be made available during**  
22 **regular business hours for inspection by the Department of Consumer**  
23 **Credit and any law enforcement officer authorized by a law**  
24 **enforcement agency to inspect such ~~book~~ record. ~~Every entry in such~~**

1 ~~book shall be made in ink and shall not in any manner be obliterated~~  
2 ~~or erased.~~

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

10 D. No dealer shall be required to furnish a description of  
11 property purchased from another licensed dealer or to meet the  
12 holding period provided for in Section ~~44~~ 1531 of this ~~act~~ title if  
13 that dealer has met the requirements provided for in subsection A of  
14 this section and Section ~~44~~ 1531 of this ~~act~~ title upon the initial  
15 purchase of the property, provided, that each shall record the  
16 license number of the other dealer and the amount of the  
17 transaction.

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

20 Section 1531. A. Every dealer must keep at the business  
21 location designated in the license application, all used articles  
22 made, in whole or in part, of precious metals or gems, for  
23 inspection by any law enforcement officer and the Department of  
24 Consumer Credit at reasonable times for a period of ten (10) days or

1 until the articles have been released by written authorization of  
2 any law enforcement officer authorized by the law enforcement agency  
3 or its designee, except as provided for in subsection C of Section ~~5~~  
4 1525 of this ~~act~~ title. During this period, the appearance of such  
5 articles shall not be altered in any way. A dealer is not  
6 prohibited from selling or arranging to sell such articles during  
7 the ten-day period as long as such articles remain in his possession  
8 as required by this section.

9 B. ~~A~~ Upon approval of the Administrator, a dealer may also  
10 designate an additional location for storage of items required to be  
11 held under the provisions of ~~this act~~ the Precious Metal and Gem  
12 Dealer Industry Act. This location shall be either a vault or a  
13 bank. The address of the designated additional location shall be  
14 filed with the Administrator. The Administrator shall require  
15 documentation to verify that the additional storage location will be  
16 utilized by the dealer, including, but not limited to, a lease or  
17 rental agreement between the dealer and the owner of the additional  
18 storage location. The Administrator shall also require the name,  
19 contact person and telephone number of the additional storage  
20 location. The Administrator shall release the designated location  
21 only to law enforcement agencies. The designated additional  
22 location shall be available for inspection by the Department of  
23 Consumer Credit or any law enforcement officer of this state  
24 authorized by the law enforcement agency to inspect the same. A

1 dealer shall provide written notice to the Administrator at least  
2 thirty (30) days prior to terminating a lease or rental agreement  
3 for an additional storage location.

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

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

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

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

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

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS & COMMERCE, dated 2-7-13  
20 - DO PASS, As Amended.

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