HOUSE OF REPRESENTATIVES - FLOOR VERSION

STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 430 By: Brinkley of the Senate

and

Roberts (Sean) of the House

COMMITTEE SUBSTITUTE

An Act relating to the Precious Metal and Gem Dealer Licensing Act; amending 59 O.S. 2011, Sections 1530, as amended by Section 3, Chapter 153, O.S.L. 2013, and 1531, as amended by Section 4, Chapter 153, O.S.L. 2013 (59 O.S. Supp. 2014, Sections 1530 and 1531), which relate to records and hold periods; clarifying required description of items in transaction; providing for violation; increasing hold period; establishing procedures for law enforcement hold orders on stolen or embezzled items; requiring certain information to be on hold order; providing certain notice; providing penalty for noncompliance by dealer; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1530, as amended by Section 3, Chapter 153, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1530), is amended to read as follows:

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

Section 1530. A. Every dealer shall keep a record of any transaction with any person involving the purchasing of any used item made, or containing in whole or in part, any precious metal~~,~~ or gem~~, the~~. The following information shall be recorded for precious metals or gems:

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

2. The amount of money involved in the transaction;

3. The date;

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

5. The signature of the seller.

For purposes of describing the item or items in the transaction pursuant to paragraph 1 of this subsection, it shall be a violation for the dealer to state only the number of grams and type of precious metal or type of gem as a description. The description shall clearly and accurately describe each item containing any precious metals or gems presented to the dealer for purposes of the transaction.

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B. The record required by this section shall be kept for a period of four (4) years. Such record shall be made available during regular business hours for inspection by the Department of Consumer Credit and any law enforcement officer authorized by a law enforcement agency to inspect such record.

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

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

SECTION 2. AMENDATORY 59 O.S. 2011, Section 1531, as amended by Section 4, Chapter 153, O.S.L. 2013 (59 O.S. Supp. 2014, 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

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made, in whole or in part, of precious metals or gems, for inspection by any law enforcement officer and the Department of Consumer Credit at reasonable times for a period of ten (10) days or until the articles have been released by written authorization of any law enforcement officer authorized by the law enforcement agency or its designee, except as provided for in subsection C of Section 1525 of this title. During this period, the appearance of such articles shall not be altered in any way. A dealer is not prohibited from selling or arranging to sell such articles during the ten-day period as long as such articles remain in his or her possession as required by this section.

B. Whenever a peace officer has probable cause to believe that property in possession of a licensed dealer is stolen or embezzled, the peace officer of the local law enforcement agency of the municipality or other political subdivision in which the dealer 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 a sale contract. The initial written hold order shall contain the following information:

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1. Signature of the 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 transaction number;

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

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

7. Expiration date of the holding period.

C. While a hold order is in effect, the 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

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

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

SECTION 3. This act shall become effective November 1, 2015.

COMMITTEE REPORT BY: COMMITTEE ON CRIMINAL JUSTICE AND CORRECTIONS, dated 04/02/2015 - DO PASS, As Amended.

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