

A-Engrossed
House Bill 4108

Ordered by the House February 14
Including House Amendments dated February 14

Sponsored by Representative NATHANSON; Representative OLSON (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Establishes precious *[material]* **metal** secondhand dealer record keeping requirements regarding transactions involving items of precious *[material]* **metal**. Requires seven-day holding period for items of precious *[material]* **metal** acquired by precious *[material]* **metal** secondhand dealers. Provides that Act does not apply in cities and counties with **substantially equivalent or** more stringent regulation of precious *[material]* **metal** secondhand dealers.

Establishes penalties for failure to comply with record keeping and holding period requirements.

A BILL FOR AN ACT

1
2 Relating to precious material secondhand dealing.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 4 of this 2012 Act:**

5 (1) **"Item of precious metal" means an item that consists of or incorporates gold in eight**
6 **karat or greater purity, silver, platinum or palladium. "Item of precious metal" does not in-**
7 **clude dental gold, unrefined metal ore, an electronic product, any part of a mechanical sys-**
8 **tem on a motor vehicle, gold or silver coins or bullion in any form.**

9 (2) **"Precious metal secondhand dealer":**

10 (a) **Means a person engaged in precious metal secondhand dealing; and**

11 (b) **Does not include:**

12 (A) **A pawnbroker licensed under ORS chapter 726 who engages exclusively in pledge**
13 **loans, as defined in ORS 726.010;**

14 (B) **A manufacturer of items of precious metal;**

15 (C) **A person engaged in commercial or industrial scrap metal recycling operations;**

16 (D) **A person primarily engaged in business through the Internet;**

17 (E) **A motor vehicle dealer holding a certificate issued under ORS 822.020 or a motor**
18 **vehicle dismantler holding a certificate issued under ORS 822.110; or**

19 (F) **A person primarily engaged in purchasing for resale newly manufactured items of**
20 **precious metal. For purposes of this subparagraph, a person is primarily engaged in pur-**
21 **chasing newly manufactured items of precious metal if the person's inventory of items of**
22 **precious metal for resale consists exclusively of:**

23 (i) **Newly manufactured items of precious metal acquired from a manufacturer; or**

24 (ii) **Items described in sub-subparagraph (i) of this subparagraph and used items of pre-**
25 **precious metal acquired for trade-in value as part of retail sales of newly manufactured items**
26 **of precious metal by the person.**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (3) “Precious metal secondhand dealing” means soliciting, receiving, purchasing, trading
2 or accepting delivery of items of precious metal from individuals in return for money or
3 other consideration.

4 (4) “Seller” means the other party to a transaction with a precious metal secondhand
5 dealer.

6 (5) “Temporary precious metal secondhand dealer” means a precious metal secondhand
7 dealer who conducts operations at one or more locations in this state for no more than five
8 consecutive days at any one location.

9 (6) “Transaction”:

10 (a) Means a purchase, consignment, bailment, barter or trade of one or more items of
11 precious metal by a precious metal secondhand dealer from an individual who is not engaged
12 in the business of selling newly manufactured items of precious metal.

13 (b) Does not include:

14 (A) Gifts or other transfers of property unsupported by consideration; or

15 (B) Business-to-business purchases or other transfers.

16 SECTION 2. (1) A precious metal secondhand dealer in this state shall maintain the fol-
17 lowing records with respect to each transaction conducted by the dealer:

18 (a) The full name, date of birth, current telephone number, current address and signa-
19 ture of the seller;

20 (b) The type and identification number of a currently valid government-issued photo
21 identification that has been issued to the seller;

22 (c) A physical description of the seller; and

23 (d) An identifying description or a digital photograph of each item of precious metal that
24 is the subject of the transaction.

25 (2) A precious metal secondhand dealer in this state shall:

26 (a) Maintain the records described in subsection (1) of this section for a period of at least
27 one year after the date of the transaction; and

28 (b)(A) Maintain the records described in subsection (1) of this section at the location at
29 which the dealer is engaged in precious metal secondhand dealing and allow inspection of the
30 records by law enforcement officers upon request made during regular business hours; or

31 (B) If the dealer is a temporary precious metal secondhand dealer, maintain the records,
32 or electronic copies of the records, at the current location where the dealer is engaged in
33 precious metal secondhand dealing and allow inspection of the records or electronic copies
34 by law enforcement officers upon request made during regular business hours.

35 (3) A precious metal secondhand dealer shall provide copies of records described in sub-
36 section (1) of this section if requested by law enforcement officers.

37 (4) A precious metal secondhand dealer in this state shall retain any item of precious
38 metal acquired in a transaction for a period of seven days after the date of the transaction
39 before the dealer may dispose of the item. The dealer shall keep items of precious metal
40 subject to retention under this subsection segregated from other items, but at the location
41 where the transaction occurred. The dealer shall allow inspection of items of precious metal
42 subject to retention under this subsection if requested by law enforcement officers.

43 (5) Notwithstanding subsection (4) of this section, a temporary precious metal second-
44 hand dealer may retain items subject to retention under subsection (4) of this section at a
45 location of the dealer’s choosing in this state, but must provide an item of precious metal

1 to a requesting law enforcement officer within 24 hours of the officer's request for the item.
2 Any cost incurred in providing a law enforcement officer with a requested item under this
3 subsection shall be borne by the dealer.

4 **SECTION 3.** (1) Sections 1 to 4 of this 2012 Act do not apply within the jurisdiction of any
5 city or county that the Secretary of State has identified as having in effect an ordinance that
6 imposes on precious metal secondhand dealers:

7 (a) Substantially equivalent or more stringent record keeping requirements for trans-
8 actions; and

9 (b) Equal or longer holding periods for items of precious metal that are acquired by
10 precious metal secondhand dealers through transactions.

11 (2) The secretary shall maintain on the secretary's website a list of cities and counties
12 in which sections 1 to 4 of this 2012 Act do not apply.

13 (3) Each city or county that has an ordinance in effect that the city or county determines
14 is as described in subsection (1) of this section shall notify the secretary in writing and shall
15 include a copy of the ordinance or an electronic link to the ordinance. If the city or county
16 amends or repeals the ordinance, the city or county shall notify the secretary of the
17 amendment or repeal and, in the case of an amendment, the city or county determination
18 of whether the ordinance as amended still is as described in subsection (1) of this section.

19 **SECTION 4.** A city or county in this state may not require a precious metal secondhand
20 dealer in this state who is also a pawnbroker licensed under ORS chapter 726 to provide a
21 photograph of an item of precious metal acquired through a transaction.

22 **SECTION 5.** (1) A person that violates the provisions of section 2 of this 2012 Act com-
23 mits a Class C violation.

24 (2) Notwithstanding subsection (1) of this section, a person that violates the provisions
25 of section 2 of this 2012 Act three or more times commits a Class A violation for each sub-
26 sequent violation.

27 (3) Notwithstanding subsections (1) and (2) of this section, a person that violates the
28 provisions of section 2 of this 2012 Act six or more times is subject to a fine of not less than
29 \$5,000 for each subsequent violation.

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