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HOUSE BILL 234

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Patricio Ruiloba

AN ACT

RELATING TO COMMERCE; ENACTING THE PRECIOUS METAL TRANSACTIONS ACT; EXPANDING THE REQUIREMENTS THAT APPLY TO COMMERCIAL TRANSACTIONS INVOLVING PRECIOUS METAL ITEMS; PROVIDING PENALTIES; REPEALING SECTIONS OF THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Precious Metal Transactions Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the Precious Metal Transactions Act:

A. "dealer" means an owner or employee of a commercial establishment that conducts transactions involving precious metal items;

B. "precious metal" means gold, silver or platinum;

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1 and

2 C. "transaction" means a purchase, sale, appraisal
3 or loan.

4 SECTION 3. [NEW MATERIAL] WEIGHING PRECIOUS METAL.--In
5 conducting a transaction involving a precious metal item, a
6 dealer weighing the item shall use as a scale only one that a
7 weights and measures officer of New Mexico, within twelve
8 months before the date of the measurement, has inspected and
9 approved for use.

10 SECTION 4. [NEW MATERIAL] PRECIOUS METAL TRANSACTION--
11 PATRON IDENTIFICATION--RECEIPT--RECEIPT RETENTION.--

12 A. For each purchase or appraisal of a precious
13 metal item by a dealer, the dealer shall require the patron
14 involved in the transaction to present a valid, government-
15 issued photo identification card.

16 B. For each purchase or appraisal of a precious
17 metal item by a dealer, the dealer shall issue to the patron
18 involved in the transaction a serialized receipt or statement
19 of appraisal, as appropriate, that shows:

- 20 (1) the legal name and address of the
21 commercial establishment;
- 22 (2) if the transaction is a purchase, the name
23 and address of the seller;
- 24 (3) the date of the transaction;
- 25 (4) the net weight in terms of pounds troy or

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1 avoirdupois, ounces troy or avoirdupois, pennyweight troy or
2 avoirdupois or kilograms or grams; and

3 (5) the fineness of the precious metal in
4 terms of karat for gold and sterling or coin for silver.

5 C. A dealer shall retain for at least one year a
6 copy of every receipt and statement of appraisal that
7 Subsection B of this section requires the dealer to issue.

8 SECTION 5. [NEW MATERIAL] RECORD--REPORT.--

9 A. Except for a direct purchase from a permit
10 holder regulated by the Pawnbrokers Act who has already
11 reported the item in accordance with this section, a dealer
12 shall accurately record each transaction involving a precious
13 metal item that occurs at the dealer's commercial
14 establishment:

15 (1) on a form approved by a local law
16 enforcement agency in the jurisdiction in which the transaction
17 occurred; and

18 (2) no later than noon on the day after the
19 transaction.

20 B. The dealer shall complete a form for each item
21 transacted. The record shall include:

22 (1) identification and a description of the
23 item;

24 (2) the serial number and identifying marks of
25 the item, if any;

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- 1 (3) the time and date of the transaction;
2 (4) the name and address of the patron
3 involved in the transaction;
4 (5) a description, including the sex,
5 complexion, hair color, approximate height, approximate weight
6 and date of birth, of the patron;
7 (6) the type of identification, as required by
8 Subsection A of Section 4 of the Precious Metal Transactions
9 Act, that the patron presented; and
10 (7) the identifying number of that
11 identification and the state and date of issuance, if any.

12 C. A dealer shall deliver or mail the record
13 required by this section to the local law enforcement agency
14 within three days after the transaction.

15 SECTION 6. [NEW MATERIAL] ITEM TAG--ITEM HOLD--RECORD AND
16 ITEM INSPECTION.--

17 A. A precious metal dealer shall attach a tag to
18 every item for which a record is required by Section 5 of the
19 Precious Metal Transactions Act. The tag shall display
20 alphabetic or numeric symbols that match the item to the record
21 to which it corresponds.

22 B. A dealer who purchases a precious metal item
23 from a seller other than a licensed pawnbroker, a second-hand
24 store or another dealer shall, for at least fifteen days,
25 retain the precious metal in the form that the dealer purchased

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1 it.

2 C. A dealer shall make available for inspection by
3 the local government authority, the attorney general, a local
4 law enforcement agency in the jurisdiction in which the
5 transaction occurred or a sworn member of the law enforcement
6 agency:

7 (1) the record required by Section 5 of the
8 Precious Metal Transactions Act; and

9 (2) the items required by this section to be
10 held.

11 SECTION 7. [NEW MATERIAL] PENALTY.--

12 A. A person who violates the Precious Metal
13 Transactions Act is guilty of a misdemeanor and shall be
14 sentenced in accordance with Section 31-19-1 NMSA 1978.

15 B. Upon a person's second or subsequent conviction
16 for a violation of the Precious Metal Transactions Act, the
17 person is guilty of a fourth degree felony and shall be
18 sentenced in accordance with Section 31-18-15 NMSA 1978.

19 SECTION 8. Section 57-9-1 NMSA 1978 (being Laws 1967,
20 Chapter 155, Section 1) is amended to read:

21 "57-9-1. SHORT TITLE.--~~[This act]~~ Chapter 57, Article 9
22 NMSA 1978 may be cited as the "Used Merchandise Act"."

23 SECTION 9. Section 57-9-2 NMSA 1978 (being Laws 1967,
24 Chapter 155, Section 2, as amended) is amended to read:

25 "57-9-2. DEFINITIONS.--As used in the Used Merchandise

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1 Act:

2 A. "store" means [~~any~~] a pawnshop, second-hand
3 store, junkshop, automobile salvage establishment or automobile
4 wreckage establishment [~~or any place of operation for dealing~~
5 ~~in or purchasing gold, silver or platinum, but~~]; "store" does
6 not include [~~any~~] a shop or establishment insofar as it
7 purchases or deals in paper products or used beverage
8 containers [~~other than those made of gold, silver or platinum~~];
9 and

10 B. "identification" means a valid New Mexico
11 driver's license, a federal social security card, a valid armed
12 forces identification card, a federal census number, a valid
13 medicare identification card, a valid passport or any valid
14 juvenile identification card issued by a municipality of this
15 state."

16 SECTION 10. Section 57-9-3.2 NMSA 1978 (being Laws 1981,
17 Chapter 323, Section 4) is amended to read:

18 "57-9-3.2. RECORDS.--An owner of a store shall [~~A.~~] keep
19 a record [~~in which he shall note~~] noting, for each of the
20 store's transactions, the date and time of [~~each~~] the
21 transaction, a description of the goods purchased and the name
22 and address of the person selling the goods [~~and the date and~~
23 ~~hour the goods were received; and~~

24 B. ~~retain all gold, silver and platinum in the form~~
25 ~~in which purchased in his possession for a period of not less~~

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~~[bracketed material]~~ = delete

1 ~~than five days]."~~

2 SECTION 11. REPEAL.--Sections 57-9-3.1 and 57-9-3.3 NMSA
3 1978 (being Laws 1981, Chapter 323, Sections 3 and 5) are
4 repealed.

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