

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 234

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

AN ACT

RELATING TO COMMERCE; ENACTING THE PRECIOUS METAL TRANSACTIONS  
ACT; EXPANDING THE REQUIREMENTS THAT APPLY TO CERTAIN  
COMMERCIAL TRANSACTIONS INVOLVING PRECIOUS METAL ITEMS;  
PROVIDING PENALTIES.

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":

(1) means a person engaged in the business of  
making pawn transactions involving precious metal items for the  
purpose of smelting, melting or otherwise altering the items or

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underscoring material = new  
[bracketed material] = delete

1 a person engaged in the business of purchasing precious metal  
2 items for any of those purposes; and

3 (2) does not include:

4 (a) a person engaged in the business of  
5 the manufacture and sale of industrial precious metal products;

6 (b) a person engaged in a business that  
7 acquires precious metals from non-retail suppliers or as a  
8 by-product of precision parts cleaning services, precious metal  
9 refining services or other metal recovery operations for  
10 industrial manufacturing customers;

11 (c) a person engaged in a jewelry store  
12 business or a gold or silver exchange that derives ninety  
13 percent or more of its annual gross receipts from: 1) the  
14 retail or wholesale sale of jewelry or jewelry-related  
15 products; 2) the manufacture and sale of jewelry; or 3) the  
16 repair of jewelry; or

17 (d) a person engaged in a business that  
18 derives ninety percent or more of its annual gross receipts  
19 from the purchase and sale of bullion and numismatic coins and  
20 jewelry;

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

23 C. "transaction" means purchase by a dealer or loan  
24 of money by a dealer.

25 SECTION 3. [NEW MATERIAL] WEIGHING PRECIOUS METAL.--In

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1 conducting a transaction involving a precious metal item and a  
 2 measure of the weight of that item, a dealer shall use as a  
 3 scale only one that a weights and measures officer of New  
 4 Mexico, within twelve months before the date of the  
 5 measurement, has inspected and approved for use.

6 SECTION 4. [NEW MATERIAL] PRECIOUS METAL TRANSACTION--  
 7 PATRON IDENTIFICATION--RECEIPT--RECEIPT RETENTION.--In  
 8 conducting a transaction involving a precious metal item, a  
 9 dealer shall:

10 A. require the patron involved in the transaction  
 11 to present a valid, government-issued photo identification  
 12 card;

13 B. issue to the patron a serialized receipt that  
 14 shows:

15 (1) the legal name and address of the dealer's  
 16 business;

17 (2) the name and address of the patron;

18 (3) the date of the transaction;

19 (4) the net weight of the precious metal in  
 20 the item in terms of pounds troy or avoirdupois, ounces troy or  
 21 avoirdupois, pennyweight troy or avoirdupois or kilograms or  
 22 grams; and

23 (5) the fineness of the precious metal in the  
 24 item in terms of karat for gold and sterling or coin for  
 25 silver; and

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1           C. retain for at least one year a copy of the  
2 receipt.

3           SECTION 5. [NEW MATERIAL] PRECIOUS METAL TRANSACTION--  
4 RECORD--REPORT.--Except for a direct purchase from a person who  
5 is subject to the Pawnbrokers Act, who holds a permit issued in  
6 accordance with that act and who has already reported the item  
7 in accordance with this section, for every transaction  
8 involving a precious metal item, a dealer shall:

9           A. no later than noon on the day after the  
10 transaction, accurately record the transaction on a form  
11 approved by a local law enforcement agency in the jurisdiction  
12 in which the transaction occurs;

13           B. create a record of each item transacted that  
14 includes:

15                   (1) identification and a description of the  
16 item;

17                   (2) the serial number and identifying marks of  
18 the item, if any;

19                   (3) the time and date of the transaction;

20                   (4) the name and address of the patron  
21 involved in the transaction;

22                   (5) a description, including the sex,  
23 complexion, hair color, approximate height, approximate weight  
24 and date of birth, of the patron;

25                   (6) the type of identification, as required by

1 Subsection A of Section 4 of the Precious Metal Transactions  
2 Act, that the patron presents;

3 (7) the identifying number of that  
4 identification and the state and date of issuance, if any;

5 (8) a photograph of that identification; and

6 (9) a photograph of the item, whether alone or  
7 with other items that are part of the transaction; and

8 C. deliver or mail a copy of the form and record to  
9 the local law enforcement agency within three days after the  
10 transaction.

11 SECTION 6. [NEW MATERIAL] PRECIOUS METAL TRANSACTION--  
12 ITEM TAG--ITEM HOLD--RECORD AND ITEM INSPECTION.--

13 A. A dealer shall attach a tag to every item for  
14 which a record is required by Section 5 of the Precious Metal  
15 Transactions Act. The tag shall display alphabetic or numeric  
16 symbols that match the item to the record.

17 B. A dealer who purchases a precious metal item  
18 from a seller other than a licensed pawnbroker, a second-hand  
19 store or another dealer shall, for at least fifteen days,  
20 retain the item in the form the dealer purchased it in.

21 C. A dealer shall make available for inspection by  
22 the attorney general, the local government authority of the  
23 jurisdiction in which the transaction occurs, a law enforcement  
24 agency in that jurisdiction or a sworn member of that law  
25 enforcement agency:

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

3 (2) the items required by this section to be  
4 held.

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

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

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

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

15 "57-9-1. SHORT TITLE.--~~[This act]~~ Chapter 57, Article 9  
16 NMSA 1978 may be cited as the "Used Merchandise Act"."

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

19 "57-9-2. DEFINITIONS.--As used in the Used Merchandise  
20 Act:

21 A. "store" means [~~any~~] a pawnshop, second-hand  
22 store, junkshop, automobile salvage establishment or automobile  
23 wreckage establishment or [~~any~~] a place of operation for  
24 dealing in or purchasing gold, silver or platinum, but does not  
25 include [~~any~~] a shop or establishment insofar as it:

