

As Introduced

**129th General Assembly
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H. B. No. 530

Representative Henne

**Cosponsors: Representatives Murray, Adams, J., Huffman, Sprague, Hayes,
Foley**

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A B I L L

To amend sections 4728.01 to 4728.14, and 4728.99 and 1
to enact sections 4728.061, 4728.15, 4728.16, and 2
4728.17 of the Revised Code to make changes to the 3
licensing and records requirements, exemptions, 4
penalties, and other provisions of the Precious 5
Metal Dealers Law and to limit the amount precious 6
metal dealers may charge the true owner of stolen 7
property when restoring that property to the true 8
owner. 9

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4728.01, 4728.02, 4728.03, 4728.04, 10
4728.05, 4728.06, 4728.07, 4728.08, 4728.09, 4728.10, 4728.11, 11
4728.12, 4728.13, 4728.14, and 4728.99 be amended and sections 12
4728.061, 4728.15, 4728.16, and 4728.17 of the Revised Code be 13
enacted to read as follows: 14

Sec. 4728.01. As used in this chapter: 15

(A) "Precious metals dealer" means a person who is engaged in 16
the business of purchasing articles made of or containing gold, 17
silver, platinum, or other precious metals or jewels of any 18

description if, in any manner, including any form of 19
advertisement, signage, electronic media, including electronic 20
mail, or other solicitation of customers, the person holds 21
himself, herself, or itself out to the public as willing to 22
purchase such articles. 23

(B) "Superintendent of financial institutions" includes the 24
deputy superintendent for consumer finance as provided in section 25
1181.21 of the Revised Code. 26

(C) "Person" means any individual, firm, partnership, 27
corporation, association, or other business entity. "Person" does 28
not include a person, corporation, partnership, or other entity 29
engaged in business that is exempted under section 4728.11 of the 30
Revised Code. 31

(D) "Purchase" means the acquisition of precious metals, 32
jewels, or jewelry of any description, or both, for a 33
consideration of cash, goods, or other precious metals, jewels, or 34
jewelry. 35

(E) "Local law enforcement agency" means any of the 36
following: 37

(1) For a business located within the jurisdiction of a 38
municipal corporation, the chief or head of the police department 39
for that municipal corporation; 40

(2) For a business not located within the jurisdiction of a 41
municipal corporation, the sheriff of the county in which the 42
business is located. 43

Sec. 4728.02. (A) Except as provided in division (B) of this 44
section, no person shall act as a precious metals dealer or 45
advertise in any form to the public of the person's willingness to 46
purchase precious metals or jewels, without first having obtained 47
a license from the division of financial institutions in the 48

department of commerce. 49

(B) Notwithstanding any provision in this chapter to the 50
contrary, a person holding a license as a pawnbroker pursuant to 51
Chapter 4727. of the Revised Code may act as a precious metals 52
dealer without being separately licensed pursuant to this chapter. 53
~~Pawnbrokers are subject to all the requirements imposed upon the 54
conduct of persons holding a regular precious metals dealer's 55
license with respect to any articles that the pawnbroker purchases 56
made of or containing gold, silver, platinum, or other precious 57
metals or jewels of any description. 58~~

Sec. 4728.03. (A) As used in this section, "experience and 59
fitness in the capacity involved" means that ~~the~~ all of the 60
following are fulfilled: 61

(1) The applicant for a precious metals dealer's license has 62
had sufficient financial responsibility, reputation, and 63
experience in the business of precious metals dealer, or a related 64
business, to act as a precious metals dealer in compliance with 65
this chapter. 66

(2) The applicant for a precious metals dealer's license and 67
any stockholders, owners, managers, directors, officers, and 68
employees of the applicant have submitted to a criminal records 69
check in accordance with division (G) of this section. 70

(3) The applicant for a precious metals dealer's license has 71
done either of the following: 72

(a) Owned or leased for at least one year a fixed premises in 73
the state as a place of business; 74

(b) Signed a lease for a minimum period of one year for a 75
fixed premises in the state to be used as a place of business. 76

(B)(1) The ~~division~~ superintendent of financial institutions 77
~~in the department of commerce~~ may grant a precious metals dealer's 78

license to any person of good character, having experience and 79
fitness in the capacity involved to engage in the business of a 80
precious metals dealer, who demonstrates a net worth of at least 81
~~ten~~ one hundred thousand dollars and the ability to maintain that 82
net worth during the licensure period. The superintendent of 83
financial institutions shall compute the applicant's net worth 84
according to generally accepted accounting principles. 85

(2) In place of the demonstration of net worth required by 86
division (B)(1) of this section, an applicant may obtain a surety 87
bond issued by a surety company authorized to do business in this 88
state if all of the following conditions are met: 89

(a) A copy of the surety bond is filed with the division of 90
financial institutions in the department of commerce; 91

(b) The bond is in favor of any person, and of the state for 92
the benefit of any person, injured by any violation of this 93
chapter; 94

(c) The bond is in the amount of not less than ~~ten~~ one 95
hundred thousand dollars. 96

(3) Before granting a license under this division, the 97
~~division~~ superintendent shall determine that the applicant meets 98
the requirements of division (B)(1) or (2) of this section. 99

(C)(1) The ~~division~~ superintendent shall require an applicant 100
for a precious metals dealer's license to pay to the division a 101
nonrefundable, initial investigation fee of two hundred dollars 102
which shall be for the exclusive use of the state. The license fee 103
for a precious metals dealer's license and the renewal fee shall 104
be determined by the superintendent, provided that the fee may not 105
exceed three hundred dollars. A 106

(2) A license issued by the ~~division~~ superintendent before 107
January 1, 2012, shall expire on the ~~last~~ thirtieth day of June 108
next following the date of its issuance. A license issued by the 109

superintendent on or after January 1, 2012, shall expire on the 110
thirtieth day of June in the even-numbered year next following the 111
date of its issuance. Fifty per cent of license fees shall be for 112
the use of the state, and fifty per cent shall be paid to the 113
municipal corporation, or if outside the limits of any municipal 114
corporation, to the county in which the office of the licensee is 115
located. All portions of license fees payable to municipal 116
corporations or counties that are paid before January 1, 2012, 117
shall be paid as they accrue, by the treasurer of state, on 118
vouchers issued by the director of budget and management. All 119
portions of license fees payable to municipal corporations or 120
counties that are paid on or after January 1, 2012, shall be paid 121
biennially, by the treasurer of state, on vouchers issued by the 122
director of budget and management. 123

(D) ~~Every such~~ (1) Until December 31, 2011, every license 124
issued or renewed before January 1, 2012, shall be renewed 125
annually by the ~~last~~ thirtieth day of June according to the 126
standard renewal procedure of Chapter 4745. of the Revised Code. 127
Every license issued or renewed on or after January 1, 2012, shall 128
be renewed biennially by the thirtieth day of June in accordance 129
with the standard renewal procedure of Chapter 4745. of the 130
Revised Code. 131

(2) No license shall be granted to any person not a resident 132
of or the principal office of which is not located in the 133
municipal corporation or county designated in such license, 134
unless, and until such applicant shall, in writing and in due 135
form, to be first approved by and filed with the division, appoint 136
an agent, a resident of the state, and city or county where the 137
office is to be located, upon whom all judicial and other process, 138
or legal notice, directed to the applicant may be served; and in 139
case of the death, removal from the state, or any legal disability 140
or any disqualification of any agent, service of process or notice 141

may be made upon the superintendent. 142

(3) The superintendent shall not renew the license of a 143
licensee who does not have a place of business as described in 144
division (A)(3) of this section. 145

(4) The fee for renewal of a license shall be equivalent to 146
the fee for an initial license established by the superintendent 147
pursuant to section 1321.20 of the Revised Code. Any licensee who 148
wants to renew a license, but fails to do so on or before the date 149
the license expires, shall reapply for licensure in the same 150
manner, and subject to the same requirements, as for initial 151
licensure, unless the licensee pays the superintendent, on or 152
before the thirty-first day of August of the year the license 153
expires, a late renewal penalty of one hundred dollars in addition 154
to the regular renewal fee. 155

(5) Any licensee who fails to renew a license on or before 156
the date the license expires, including a person who renews a 157
license between the first day of July and the thirty-first day of 158
August of the year the license expires, is prohibited from acting 159
as a precious metals dealer until the license is renewed or a new 160
license is issued under this section. 161

(6) The superintendent may refuse to issue or renew the 162
license of any person who violates division (D) of this section. 163

(E) The division may, pursuant to Chapter 119. of the Revised 164
Code, upon notice to the licensee and after giving the licensee 165
reasonable opportunity to be heard, revoke or suspend any license, 166
if the licensee or the licensee's officers, agents, or employees 167
violate this chapter. Whenever, for any cause, the license is 168
revoked or suspended, the division shall not issue another license 169
to the licensee nor to the husband or wife of the licensee, nor to 170
any copartnership or corporation of which the licensee is an 171
officer, nor to any person employed by the licensee, until the 172

expiration of at least one year from the date of revocation of the license. 173
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(F) A license issued under this chapter is not transferable. 175

(G) In conducting an investigation to determine whether an applicant satisfies the requirements for licensure under this section, the superintendent may request that the superintendent of the bureau of criminal identification and investigation investigate and determine whether the bureau has procured any information pursuant to section 109.57 of the Revised Code pertaining to the applicant. 176
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If the superintendent of financial institutions determines that conducting an investigation to determine whether an applicant satisfies the requirements for licensure under this section will require procuring information outside the state, then, in addition to the fee established under division (C) of this section, the superintendent may require the applicant to pay any of the actual expenses incurred by the division to conduct such an investigation, provided that the superintendent shall assess the applicant a total no greater than one thousand dollars for such expenses. The superintendent may require the applicant to pay in advance of the investigation, sufficient funds to cover the estimated cost of the actual expenses. If the superintendent requires the applicant to pay investigation expenses, the superintendent shall provide to the applicant an itemized statement of the actual expenses incurred by the division to conduct the investigation. 183
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~~(G)~~(H)(1) Except as otherwise provided in division ~~(G)~~(H)(2) of this section, a precious metals dealer licensed under this section shall maintain a net worth of at least ~~ten~~ one hundred thousand dollars, computed as required under division (B)(1) of this section, for as long as the licensee holds a valid precious metals dealer's license issued pursuant to this section. 199
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(2) A licensee who obtains a surety bond under division 205
(B)(2) of this section is exempt from the requirement of division 206
~~(C)~~(H)(1) of this section, but shall maintain the bond for at 207
least two years after the date on which the licensee ceases to 208
conduct business in this state. 209

Sec. 4728.04. (A) The application for a license under this 210
chapter shall state fully the name and address of the person, or 211
corporation, and of every member of the firm, partnership, or 212
association, authorized to do business thereunder, the name of the 213
individual responsible for the daily operation of the business, 214
and the location of the office or place of business in which the 215
business is conducted. In the case of a corporation, the 216
application also shall state the date and place of incorporation, 217
the name and address of the corporation's manager, the names and 218
addresses of corporate directors, and the name and address of the 219
agent, as provided in section 4728.03 of the Revised Code. 220

The holder of a precious metals dealer's license shall keep 221
the license posted in a conspicuous place in the office where 222
business is transacted. No licensee shall transact or solicit 223
business under any other name or location. Not more than one 224
office or place of business shall be maintained under the same 225
license, except as provided under division (C) of this section. In 226
case of removal, the licensee shall provide written notice in 227
advance to the division of financial institutions in the 228
department of commerce of a prospective change of address of a 229
business location. Upon approval by the superintendent of 230
financial institutions, the division shall issue a new license. If 231
the new location is outside the municipal corporation or county of 232
the original licensed location, the licensee shall pay an 233
additional license fee according to section 4728.03 of the Revised 234
Code. 235

(B) A person licensed under this chapter shall post a 236
conspicuous notice in its place of business visible to all 237
patrons, in a form and at places designated by rule of the 238
division, that the licensee has no right to retain goods stolen 239
from the true owner, and that the owner may recover the goods or 240
their value from the licensee in an action at law or, if the ~~chief~~ 241
~~or head of a local police department or the chief's or head's~~ 242
representative law enforcement agency takes custody of the goods, 243
by release pursuant to section 2981.11 of the Revised Code. 244

(C)(1) The superintendent may issue to a person licensed 245
under this chapter ~~or Chapter 4727. of the Revised Code~~ a 246
temporary exhibition permit for a term that coincides with that of 247
the license of the licensee. A person issued a permit under this 248
division may engage in the business of purchasing articles made of 249
or containing gold, silver, platinum, or other precious metals or 250
jewels from the public at a bona fide auction, convention, 251
exhibition, fair, or show, the primary purpose of which is to 252
display, trade, and sell articles made of or containing precious 253
metals or jewels, for a period not to exceed seven days for any 254
one auction, convention, exhibition, fair, or show. The 255
superintendent shall not issue a permit to a licensee if the sole 256
purpose of the licensee's application is to buy precious metals or 257
jewels at a location other than that listed on the licensee's 258
license. 259

(2) The superintendent shall determine the application 260
procedures for and the form of the temporary exhibition permit 261
described in this division, provided that a temporary permit shall 262
state fully the name and permanent business address of the 263
licensee to whom it is issued. 264

(3) The holder of a temporary exhibition permit shall, when 265
participating in any auction, convention, fair, or show, 266
conspicuously display the holder's permit at the location at which 267

the holder transacts business. 268

(4) A permit holder who wishes to participate in an auction, 269
convention, exhibition, fair, or show shall, at least two weeks 270
prior to its scheduled opening, submit to the superintendent, ~~or~~ 271
and the chief or the head of the local police department law 272
enforcement agency with jurisdiction at the location of the event, 273
the holder's name, the location of the auction, convention, 274
exhibition, fair, or show, and the holder's permanent business 275
address as it appears on the holder's permit issued under division 276
(C)(2) of this section. 277

(5) All purchases of articles made of or containing gold, 278
silver, platinum, or other precious metals or jewels conducted 279
under a temporary exhibition permit are subject to sections 280
4728.06 to 4728.09, 4728.13, and 4728.99 of the Revised Code as if 281
made under a license. 282

Sec. 4728.05. (A) The superintendent of financial 283
institutions may, either personally or by a person whom the 284
superintendent appoints for the purpose, if the superintendent 285
considers it advisable, investigate at least once a year the 286
business of every person licensed as a precious metals dealer 287
under this chapter, and of every person, partnership, and 288
corporation by whom or for which any purchase is made, whether the 289
person, partnership, or corporation acts, or claims to act, as 290
principal, agent, or broker, or under, or without the authority of 291
this chapter, ~~and for.~~ For that purpose, the superintendent shall 292
have free access to the books and papers thereof of the business, 293
person, partnership, or corporation and other sources of 294
information with regard to the business of the licensee or person 295
and whether the business has been or is being transacted in 296
accordance with this chapter. The superintendent and every 297
examiner may examine, under oath or affirmation, any person whose 298

testimony may relate to any business coming within this chapter.	299
(B) In making any investigation or conducting any hearing	300
pursuant to this section, the superintendent or a person	301
designated by the superintendent, at any time, may do any of the	302
following:	303
(1) Compel by subpoena the attendance of witnesses;	304
(2) Take depositions of witnesses residing without the state	305
in the manner provided for in civil actions;	306
(3) Pay witnesses the fees and mileage provided for under	307
section 119.094 of the Revised Code;	308
(4) Administer oaths;	309
(5) Compel by order or subpoena duces tecum the production of	310
all relevant books, records, accounts, and other documents and	311
examine such books, records, accounts, and other documents.	312
(C) If a person fails to comply with a subpoena or subpoena	313
duces tecum, the superintendent may apply to the court of common	314
pleas of Franklin county for an order compelling the person to	315
comply with the subpoena or subpoena duces tecum or, for failure	316
to do so, an order holding the person in contempt of court. The	317
superintendent, in accordance with section 4728.03 of the Revised	318
Code, may suspend or revoke the license of any precious metals	319
dealer who fails to comply with this division.	320
(D) In connection with any investigation under this section,	321
the superintendent may file an action in the court of common pleas	322
of Franklin county or the court of common pleas of the county in	323
which the person who is the subject of the investigation resides	324
to obtain an injunction, a temporary restraining order, or other	325
appropriate relief, if it appears to the superintendent that the	326
person is engaging in actions or threatening to engage in actions	327
in violation of this chapter.	328

(E) If in an investigation under this section the 329
superintendent determines that a person not licensed under this 330
chapter, or an employee of that person, has been or is engaged or 331
is threatening to engage in activities for which a license is 332
required under this chapter, the superintendent may issue an order 333
to that person requiring the person to show cause why the person 334
should not be subject to licensure under this chapter. If the 335
superintendent determines, after notice and a hearing conducted in 336
accordance with Chapter 119. of the Revised Code, that a person is 337
engaged in, or is threatening to engage in activities that 338
constitute a violation of this chapter, the superintendent may 339
issue a cease and desist order that describes the person and 340
activities that are subject to the order and may impose upon the 341
person a penalty of not less than ~~one~~ five hundred nor more than 342
ten thousand dollars for a violation of this chapter. Any cease 343
and desist order and any penalty issued under this section are 344
enforceable in and may be appealed to a court of common pleas 345
pursuant to Chapter 119. of the Revised Code. 346

Sec. 4728.06. ~~Every~~ Except as provided in division (F) of 347
this section, every person licensed under this chapter shall keep 348
and use books and forms approved by the superintendent of 349
financial institutions, ~~which shall disclose,~~ to record 350
information about purchases. The forms and books shall be 351
intelligible, written in the English language, and used 352
exclusively for the purposes described in this section. 353

(A) The licensee shall record on a form approved by the 354
superintendent all of the following information at the time of 355
each purchase, ~~a:~~ 356

(1) A full and accurate description, including identifying 357
letters, features, or marks thereon, the name of the manufacturer, 358
and any serial and model numbers, of the articles purchased, with 359

the; 360

(2) The name, age address, place of residence, and date of birth of the seller; 361
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(3) A valid driver's or commercial driver's license number, military identification number, or other valid personal identification, and a short number of the seller; 363
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(4) A physical description of the person of the seller; 366

(5) The date and time of the purchase; 367

(6) The purchase price. The licensee also shall write in the book the name of the maker. The 368
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(B) The licensee shall require a seller, on a form approved by the superintendent, to sign a statement verifying that the seller is the legal owner of the article or is the agent of the legal owner authorized to sell the article to the licensee. 370
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(C)(1) The licensee shall keep the books records and forms in numerical order at all times at the licensed location, open to the inspection of the superintendent or chief of or head of the and local police department, a police officer deputed by the chief or head of police, or the chief executive officer of the political subdivision thereof law enforcement agency that has jurisdiction of the area where the business is located. Upon demand of any of these officials, the licensee shall produce and show an article thus listed and described which is any records, forms, or purchases that are in the licensee's possession. 374
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(2) The licensee shall keep all purchases at the licensee's place of business. No purchased items shall be removed from the place of business for the licensee's personal use or gain. 384
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(3) The licensee shall keep a copy of each form used for a purchase, at all times, in numerical order and shall account for all form numbers. 387
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(4) No licensee shall require a seller, when signing a form described in divisions (A) and (B) of this section, to affix the seller's signature to a blank or partially filled-out form. 390
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(D)(1) The forms described in divisions (A) and (B) of this section shall be identical and consecutively numbered, and each shall contain two or more pages. 393
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(2) One part of each form shall be detachable and, when completed, shall serve as the statement to be given by the licensee to the seller as provided in section 4728.061 of the Revised Code. The remaining part of the form shall be retained in the licensee's permanent records. The licensee shall account for all forms. 396
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(3) Each form shall contain the name under which the licensee is registered with the superintendent and the complete address of the place of business. 402
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(E) Each licensee shall preserve the licensee's books, forms, accounts, and records for at least two years after making the final entry regarding any purchase of property recorded therein. 405
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(F) Notwithstanding any other provision of this chapter, a licensee may use other methods of recording data, keeping records, and keeping books, such as electronic or computerized methods, in lieu of the methods described in this section, provided that written printouts or hard copies of the required data are readily available in a form approved, in advance, by the superintendent. 408
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Sec. 4728.061. In accordance with division (D)(2) of section 4728.06 of the Revised Code, each person licensed under this chapter shall give to a seller at the time of a purchase a statement upon which shall be legibly written in ink, printed, or typed all of the following: 414
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(A) The name and address of the purchasing licensee; 419

(B) The purchase price; 420

(C) The time and date of the purchase; 421

(D) A full and accurate description of the articles sold, 422
including any serial or model numbers or identifying marks 423
thereon. 424

The licensee shall retain a copy of the statement for two 425
years from the date of the last entry of the purchase account. 426
Each statement shall be numbered and maintained consecutively, 427
commencing with the number "one," but the licensee may maintain 428
statements in a file. 429

Sec. 4728.07. (A) Each person licensed under Chapter 4728. of 430
the Revised Code, shall, every business day, make available to the 431
chief or the head of the local police department, on forms 432
furnished by the police department, law enforcement agency a full 433
description of all articles received by the licensee on the 434
business day immediately preceding, together with the number of 435
the receipt record or form issued. 436

(B) If the local law enforcement agency does not pick up or 437
make arrangements to receive the information described in division 438
(A) of this section, the licensee shall deliver the daily reports 439
to the agency within five business days after the day the record 440
or form was issued. 441

Sec. 4728.08. No person licensed under Chapter 4728. of the 442
Revised Code shall purchase any articles from any minor, or from 443
any person known to be intoxicated or under the influence of a 444
controlled substance, from any person who is known ~~or believed~~ by 445
the licensee to be a thief, or a receiver of stolen property. 446

Sec. 4728.09. (A) A person licensed under Chapter 4728. of 447
the Revised Code shall retain in this state any articles purchased 448

by ~~him~~ the person until the expiration of ~~five~~ fifteen days after 449
the date of purchase. 450

(B) If the ~~chief or head of the local police department~~ law 451
enforcement agency to whom the licensee made available the 452
information required by this chapter has probable cause to believe 453
that the article described therein is stolen property, ~~he~~ the 454
agency shall notify the licensee in writing. Upon receipt of 455
notice, the licensee shall retain the article until the expiration 456
of thirty days after the day on which ~~he~~ the licensee is first 457
required to make available the information required by this 458
section, unless the ~~chief or the head of the local police~~ 459
~~department~~ agency notifies the licensee in writing that ~~he~~ the 460
licensee is not required to retain the article until the 461
expiration. 462

(C) If the ~~chief or the head of the local police department~~ 463
law enforcement agency determines the identity of the true owner 464
of the allegedly stolen article, that has been purchased and held 465
by a licensee, and informs the licensee of the true owner's 466
identity: 467

(1) The licensee may restore the allegedly stolen article to 468
its true owner directly. 469

(2) The true owner may reimburse the licensee for ~~the~~ an 470
amount not exceeding that which the licensee paid for the 471
~~allegedly stolen~~ article. 472

(3) The true owner may recover the article and reasonable 473
attorney fees from the licensee in an action at law. 474

(D) If it is determined that the true owner of the allegedly 475
stolen article, for whatever reason, chooses not to file a charge 476
against the person or persons responsible for the alleged theft, 477
the licensee may charge the true owner of the ~~allegedly stolen~~ 478
article ~~the~~ an amount not exceeding that which the licensee paid 479

for the ~~allegedly stolen~~ article. 480

Sec. 4728.10. (A) The superintendent of financial 481
institutions shall enforce this chapter, make all reasonable 482
effort to discover alleged violators, notify the proper 483
prosecuting officer whenever the superintendent has reasonable 484
grounds to believe that a violation has occurred, act as 485
complainant in the prosecution thereof, and aid officers to the 486
best of the superintendent's ability in prosecutions. The 487
superintendent shall employ deputies necessary to make the 488
investigations and inspections, ~~and. The superintendent,~~ pursuant 489
to Chapter 119. of the Revised Code, shall adopt reasonable rules, 490
including rules that define terms used in this chapter, for the 491
carrying out of this chapter, and otherwise perform the duties 492
imposed by this chapter. 493

(B) In order to enforce this chapter, the superintendent may 494
do all of the following: 495

(1) Issue a cease and desist order against any person the 496
superintendent reasonably suspects has violated, is currently 497
violating, or is about to violate the provisions of this chapter. 498
The superintendent may apply to a court of common pleas for an 499
order compelling a person to comply with any cease and desist 500
order or any subpoena issued by the superintendent. 501

(2) Obtain from the court of common pleas any form of 502
injunctive relief against any person that has violated, is 503
currently violating, or is reasonably suspected of being about to 504
violate the provisions of this chapter; 505

(3) Issue a subpoena to any person to compel the production 506
of any item, record, or writing, including an electronic writing; 507

(4) Issue a subpoena to compel any person to appear and 508
render testimony in regard to a violation of this chapter; 509

(5) Examine and investigate the business of any person the 510
superintendent reasonably suspects to be advertising, transacting, 511
or soliciting business as a precious metals dealer. This authority 512
includes the authority to examine and investigate the person's 513
business location and any books, records, writings, including 514
electronic writings, safes, files, or storage areas located in or 515
utilized by the business location. The superintendent may request 516
the attendance and assistance of the appropriate local law 517
enforcement agency or the state highway patrol during the 518
examination and investigation of the business. 519

Sec. 4728.11. This chapter does not apply to any of the 520
following: 521

(A) Any purchase of an article that is made of or contains 522
gold, silver, platinum, or other precious metals or jewels and 523
jewelry of any description, including watches, if both the buyer 524
and seller, or the respective agents, brokers, or other 525
intermediaries of both the buyer and seller, deal in such articles 526
or otherwise by their respective occupations, ~~or by their~~ 527
~~respective avocations as collectors, speculators, or investors,~~ 528
~~hold themselves out as having knowledge or skill peculiar to such~~ 529
~~articles or the practices involved in their purchase or sale;~~ 530

(B) ~~Licenses who obtain licenses under sections 1321.01 to~~ 531
~~1321.19 of the Revised Code or registrants who obtain certificates~~ 532
~~of registration under sections 1321.51 to 1321.60 of the Revised~~ 533
~~Code~~ Any person doing business under the laws of this state or the 534
United States relating to any broker-dealer, commodity futures 535
commission merchant, or commodity trading advisor or agent duly 536
registered and regulated by the division of securities under 537
Chapter 1707. of the Revised Code or the United States commodity 538
futures trading commission under 7 U.S.C. 1 et seq.; 539

(C) National banks, state banks, credit unions, or savings 540

and loan associations; 541

(D) The holder of a salvage motor vehicle dealer's license 542
under Chapter 4738. of the Revised Code who purchases or sells 543
precious metal which, in its original form, is a motor vehicle 544
component part, or a scrap metal processor subject to Chapter 545
4737. of the Revised Code; 546

~~(E) Any purchase of silverware or an article of jewelry made 547
of or containing gold, silver, platinum, or other precious metals 548
or jewels that is made by a person who complies with all of the 549
following: 550~~

~~(1) The person is engaged in the business of selling, at 551
retail, articles of jewelry and silverware; 552~~

~~(2) The person holds a valid vendor's license issued under 553
section 5739.17 of the Revised Code; 554~~

~~(3) The person maintains a fixed place of business in this 555
state at which the person regularly exhibits articles of jewelry 556
and silverware that are for sale at retail Any transactions 557
involving the sale or transfer of gold, silver, platinum, or other 558
precious metals or jewels and jewelry of any description, 559
including watches, by a wholesale jeweler to a retail jeweler or 560
licensed dealer; 561~~

~~(4) The person establishes to the satisfaction of the 562
superintendent of financial institutions or the chief or head of 563
the local police department, upon their request, that the person's 564
purchases of silverware and articles of jewelry that are made of 565
or contain gold, silver, platinum, or other precious metals or 566
jewels are incidental to the person's primary business as 567
described in division (E)(1) of this section. Such purchases are 568
"incidental" if: 569~~

~~(a) In the case of a person who has been in business for less 570
than one year, the average monthly value of the person's purchases 571~~

~~of jewelry from the public represents less than twenty five per 572
cent of the person's total inventory of articles of jewelry held 573
for sale at retail to the public, as computed under section 574
5711.15 of the Revised Code; 575~~

~~(b) In the case of a person who has been in business for at 576
least one year, the total value of the person's purchases of 577
jewelry from the public represents less than twenty five per cent 578
of the person's total retail sales of articles of jewelry to the 579
public during the immediately preceding year; 580~~

~~(c) The purchases are of items described in division (F) of 581
this section. 582~~

~~(F) Any purchase of coins, hallmark bars, registered ingots, 583
and other items as numismatic objects, and not for their content 584
of precious metals. 585~~

~~(G) Any purchase made under the supervision of a probate 586
court from the estate of a decedent as provided under section 587
2113.40 of the Revised Code; 588~~

~~(H)(G) Except as specified in division (B) of section 4728.02 589
of the Revised Code, any person licensed under Chapter 4727. of 590
the Revised Code. 591~~

Sec. 4728.12. (A) A person exempt from licensing under 592
~~division (E) or (F) of section 4728.11 of the Revised Code, and 593~~
who in the ordinary course of the person's business obtains 594
ownership by purchase of articles made of or containing gold, 595
silver, platinum, or other precious metals or jewels and jewelry 596
of any description, including watches, from the public, shall 597
maintain at each business location for at least the twelve months 598
immediately succeeding any such transaction a record that shall 599
include the following: 600

(1) The date and time of the ~~transaction~~ purchase; 601

(2) The name ~~and residential~~, address, and date of birth of the seller ~~and the means of identification used to establish the seller's identity~~;

(3) A physical description of the seller;

(4) A complete and accurate description of the purchased article, including ~~any brand names, initials~~ the name of the manufacturer, any serial and model numbers, ~~or other any~~ identifying letters or marks, monograms, or symbols on the article and any identifying features;

(5) The price paid for each article ~~and the means of payment~~;

(6) A valid driver's license number, military identification number, or other valid personal identification number.

As used in this ~~division~~ section, "purchase" does not include obtaining title to an article that is accepted as a trade-in by a person exempt from licensing ~~under division (E) or (F) of section 4728.11 of the Revised Code~~ when the transaction involves a retail sale of an article of equal or greater value and the value of the trade-in is used as all or a portion of the purchase price, nor does "purchase" include any purchase made under the supervision of a probate court as provided under section 2113.40 of the Revised Code.

(B) No person ~~exempt from licensing under division (E) or (F) of section 4728.11 of the Revised Code~~ to whom division (A) of this section applies shall purchase any article that is made of or contains gold, silver, platinum, or other precious metals or jewels and jewelry of any description, including watches, from any individual whom the person knows or has reason to believe is under eighteen years of age.

(C) ~~Within sixty days after opening a new business location,~~ any Any person ~~exempt from licensing under division (E) or (F) of section 4728.11 of the Revised Code~~ to whom division (A) of this

~~section applies shall notify in writing the chief or head of the~~ 633
~~police department having local law enforcement agency having~~ 634
jurisdiction in the place where the business is located of the 635
location of the records the person maintains pursuant to division 636
(A) of this section. These records shall be available during 637
normal business hours for inspection by the superintendent of 638
financial institutions or the superintendent's designee, or by the 639
~~chief or head of the local police department or the chief's or~~ 640
~~head's designee law enforcement agency.~~ 641

Sec. 4728.13. (A) No person, ~~firm, partnership, corporation,~~ 642
~~or association licensed under this chapter,~~ and no agent, officer, 643
or employee thereof, shall violate this chapter. ~~The division~~ 644

(B) The superintendent of financial institutions upon a may 645
do any of the following: 646

(1) Upon the criminal conviction shall of a licensee or any 647
employee, manager, officer, director, shareholder, member, or 648
partner of a licensee for a violation of this chapter, suspend the 649
license of the licensee without a prior hearing to protect the 650
public interest and subsequently revoke any the license 651
~~theretofore issued to the person, firm, partnership, corporation,~~ 652
~~or association. The in accordance with the provisions of Chapter~~ 653
119. of the Revised Code. 654

(2) Upon the criminal conviction of a licensee or any 655
employee, manager, officer, director, shareholder, member, or 656
partner of the licensee for the violation of any provision of 657
Title XXIX of the Revised Code or under federal law for theft, 658
receiving stolen property, or money laundering, suspend the 659
license of the licensee without a prior hearing to protect the 660
public interest and subsequently revoke the license of the 661
licensee in accordance with the provisions of Chapter 119. of the 662
Revised Code; 663

(3) Upon the criminal conviction of a licensee for the violation of any provision of Title XXIX of the Revised Code or under federal law for a violation other than theft, receiving stolen property, or money laundering, assess a penalty against the licensee or revoke or suspend the license of the licensee in accordance with the provisions of Chapter 119. of the Revised Code. 664
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(C) The division ~~also~~ of financial institutions may revoke or suspend the license of any licensee in accordance with division (E) of section 4728.03 of the Revised Code upon a criminal conviction of the licensee for any felony offense or crime involving moral turpitude. 671
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~~(B)~~(D) No person shall obstruct or refuse to permit any investigation conducted under this chapter by the superintendent of financial institutions, a person acting on behalf of an agency or a political subdivision of this state, or a law enforcement officer. All articles purchased by a person licensed under this chapter shall be made promptly available for inspection by these officials. 676
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~~(C)~~(E) In any proceeding or action brought under this chapter, the burden of proving an exemption from a requirement of this chapter falls on the person claiming the benefit of the exemption. 683
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Sec. 4728.14. Any person who is injured by the failure of a person who is engaged in the business of purchasing articles that are made of or contain gold, silver, platinum, or other precious metals or jewels and jewelry of any description, including watches, to comply with this chapter may commence a civil action to recover compensatory damages from such person. In any action under this section, the court may award punitive damages or reasonable attorney's fees to a prevailing plaintiff. 687
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Sec. 4728.15. Any precious metals dealer who purchases 695
precious metals from the public shall have and use a national type 696
evaluation program certified, legal for trade scale, which shall 697
be inspected and certified annually by the auditor of the county 698
in which the person's business is located in accordance with 699
section 319.55 of the Revised Code. 700

Sec. 4728.16. (A) Every sale, transfer, or hypothecation of 701
any stock, security, membership, partnership, or other equitable, 702
beneficial, or ownership interest in a person licensed as a 703
precious metals dealer, in an amount representing a ten per cent 704
or greater equitable, membership, partnership, beneficial, or 705
other ownership interest in the licensee, must be approved in 706
writing by the superintendent of financial institutions prior to 707
the sale, transfer, or hypothecation of the interest in the 708
licensee. 709

(B) Every person acquiring or receiving an interest as 710
described in division (A) of this section is subject to the 711
licensing requirements of this chapter as if the person were a new 712
and separate license applicant. 713

Sec. 4728.17. (A) A person licensed as a precious metals 714
dealer under this chapter shall state the license number issued by 715
the superintendent of financial institutions in all 716
advertisements, offers, and solicitations. 717

(B) No person not licensed under this chapter may advertise 718
as a precious metals dealer. 719

Sec. 4728.99. (A) Whoever violates ~~Chapter 4728.~~ sections 720
4728.03 to 4728.17 of the Revised Code is guilty of a misdemeanor 721
of the ~~first~~ third degree on a first offense and a ~~felony~~ 722
misdemeanor of the ~~fifth~~ second degree on each subsequent offense. 723

(B) Whoever violates section 4728.02 of the Revised Code is 724
guilty of a felony of the fifth degree. 725

Section 2. That existing sections 4728.01, 4728.02, 4728.03, 726
4728.04, 4728.05, 4728.06, 4728.07, 4728.08, 4728.09, 4728.10, 727
4728.11, 4728.12, 4728.13, 4728.14, and 4728.99 of the Revised 728
Code are hereby repealed. 729