

# As Introduced

130th General Assembly  
Regular Session  
2013-2014

H. B. No. 164

Representative Henne

Cosponsors: Representatives Hackett, Pelanda, McGregor, Lundy, Fedor

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## A BILL

To amend sections 4728.01 to 4728.14, and 4728.99 and 1  
to enact sections 4728.061, 4728.16, 4728.17, and 2  
4728.18 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, 4728.16, 4728.17, and 4728.18 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 contrary, a person holding a license as a pawnbroker pursuant to Chapter 4727. of the Revised Code may act as a precious metals dealer without being separately licensed pursuant to this chapter. ~~Pawnbrokers are subject to all the requirements imposed upon the conduct of persons holding a regular precious metals dealer's license with respect to any articles that the pawnbroker purchases made of or containing gold, silver, platinum, or other precious metals or jewels of any description.~~

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

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

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

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

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

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

(B)(1) The ~~division~~ superintendent of financial institutions ~~in the department of commerce~~ may grant a precious metals dealer's license to any person of good character, having experience and

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 licensee who does not have a place of business as described in division (A)(3) of this section. 143  
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(4) The fee for renewal of a license shall be equivalent to the fee for an initial license established by the superintendent pursuant to section 1321.20 of the Revised Code. Any licensee who wants to renew a license, but fails to do so on or before the date the license expires, shall reapply for licensure in the same manner, and subject to the same requirements, as for initial licensure, unless the licensee pays the superintendent, on or before the thirty-first day of August of the year the license expires, a late renewal penalty of one hundred dollars in addition to the regular renewal fee. 146  
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(5) Any licensee who fails to renew a license on or before the date the license expires, including a person who renews a license between the first day of July and the thirty-first day of August of the year the license expires, is prohibited from acting as a precious metals dealer until the license is renewed or a new license is issued under this section. 156  
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(6) The superintendent may refuse to issue or renew the license of any person who violates division (D) of this section. 162  
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(E) The division may, pursuant to Chapter 119. of the Revised Code, upon notice to the licensee and after giving the licensee reasonable opportunity to be heard, revoke or suspend any license, if the licensee or the licensee's officers, agents, or employees violate this chapter. Whenever, for any cause, the license is revoked or suspended, the division shall not issue another license to the licensee nor to the husband or wife of the licensee, nor to any copartnership or corporation of which the licensee is an officer, nor to any person employed by the licensee, until the expiration of at least one year from the date of revocation of the license. 164  
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(F) A license issued under this chapter is not transferable. 175

(G) In conducting an investigation to determine whether an 176  
applicant satisfies the requirements for licensure under this 177  
section, the superintendent may request that the superintendent of 178  
the bureau of criminal identification and investigation 179  
investigate and determine whether the bureau has procured any 180  
information pursuant to section 109.57 of the Revised Code 181  
pertaining to the applicant. 182

If the superintendent of financial institutions determines 183  
that conducting an investigation to determine whether an applicant 184  
satisfies the requirements for licensure under this section will 185  
require procuring information outside the state, then, in addition 186  
to the fee established under division (C) of this section, the 187  
superintendent may require the applicant to pay any of the actual 188  
expenses incurred by the division to conduct such an 189  
investigation, provided that the superintendent shall assess the 190  
applicant a total no greater than one thousand dollars for such 191  
expenses. The superintendent may require the applicant to pay in 192  
advance of the investigation, sufficient funds to cover the 193  
estimated cost of the actual expenses. If the superintendent 194  
requires the applicant to pay investigation expenses, the 195  
superintendent shall provide to the applicant an itemized 196  
statement of the actual expenses incurred by the division to 197  
conduct the investigation. 198

~~(G)~~(H)(1) Except as otherwise provided in division ~~(G)~~(H)(2) 199  
of this section, a precious metals dealer licensed under this 200  
section shall maintain a net worth of at least ~~ten~~ one hundred 201  
thousand dollars, computed as required under division (B)(1) of 202  
this section, for as long as the licensee holds a valid precious 203  
metals dealer's license issued pursuant to this section. 204

(2) A licensee who obtains a surety bond under division 205  
(B)(2) of this section is exempt from the requirement of division 206

~~(G)~~(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 361

birth of the seller; 362

(3) A valid driver's ~~or commercial driver's~~ license number, 363  
military identification number, or other valid personal 364  
identification, ~~and a short~~ number of the seller; 365

(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~~ 368  
~~book the name of the maker. The~~ 369

(B) The licensee shall require a seller, on a form approved 370  
by the superintendent, to sign a statement verifying that the 371  
seller is the legal owner of the article or is the agent of the 372  
legal owner authorized to sell the article to the licensee. 373

(C)(1) The licensee shall keep the ~~books~~ records and forms in 374  
numerical order at all times at the licensed location, open to the 375  
inspection of the superintendent ~~or chief of or head of the and~~ 376  
local ~~police department,~~ a police officer ~~deputed by the chief or~~ 377  
~~head of police,~~ or the chief executive officer of the political 378  
~~subdivision thereof~~ law enforcement agency that has jurisdiction 379  
of the area where the business is located. Upon demand of any of 380  
these officials, the licensee shall produce and show ~~an article~~ 381  
~~thus listed and described which is~~ any records, forms, or 382  
purchases that are in the licensee's possession. 383

(2) The licensee shall keep all purchases at the licensee's 384  
place of business. No purchased items shall be removed from the 385  
place of business for the licensee's personal use or gain. 386

(3) The licensee shall keep a copy of each form used for a 387  
purchase, at all times, in numerical order and shall account for 388  
all form numbers. 389

(4) No licensee shall require a seller, when signing a form 390  
described in divisions (A) and (B) of this section, to affix the 391

seller's signature to a blank or partially filled-out form. 392

(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 enforcement agency to whom the licensee made available the information required by this chapter has probable cause to believe that the article described therein is stolen property, ~~he the~~ agency shall notify the licensee in writing. Upon receipt of notice, the licensee shall retain the article until the expiration of thirty days after the day on which ~~he the licensee~~ is first required to make available the information required by this section, unless the ~~chief or the head of the local police department~~ agency notifies the licensee in writing that ~~he the~~ licensee is not required to retain the article until the expiration.

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

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

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

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

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



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) ~~Licensees 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 602~~

the seller and the means of identification used to establish the seller's identity; 603  
604

(3) A physical description of the seller; 605

(4) A complete and accurate description of the purchased 606  
article, including ~~any brand names, initials~~ the name of the 607  
manufacturer, any serial and model numbers, or other any 608  
identifying letters or marks, monograms, or symbols on the article 609  
and any identifying features; 610

(5) The price paid for each article ~~and the means of payment;~~ 611

(6) A valid driver's license number, military identification 612  
number, or other valid personal identification number. 613

As used in this ~~division~~ section, "purchase" does not include 614  
obtaining title to an article that is accepted as a trade-in by a 615  
person exempt from licensing ~~under division (E) or (F) of section~~ 616  
~~4728.11 of the Revised Code~~ when the transaction involves a retail 617  
sale of an article of equal or greater value and the value of the 618  
trade-in is used as all or a portion of the purchase price, nor 619  
does "purchase" include any purchase made under the supervision of 620  
a probate court as provided under section 2113.40 of the Revised 621  
Code. 622

(B) No person ~~exempt from licensing under division (E) or (F)~~ 623  
~~of section 4728.11 of the Revised Code~~ to whom division (A) of 624  
this section applies shall purchase any article that is made of or 625  
contains gold, silver, platinum, or other precious metals or 626  
jewels and jewelry of any description, including watches, from any 627  
individual whom the person knows or has reason to believe is under 628  
eighteen years of age. 629

(C) ~~Within sixty days after opening a new business location,~~ 630  
~~any~~ Any person ~~exempt from licensing under division (E) or (F) of~~ 631  
~~section 4728.11 of the Revised Code~~ to whom division (A) of this 632  
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 664

violation of any provision of Title XXIX of the Revised Code or 665  
under federal law for a violation other than theft, receiving 666  
stolen property, or money laundering, assess a penalty against the 667  
licensee or revoke or suspend the license of the licensee in 668  
accordance with the provisions of Chapter 119. of the Revised 669  
Code. 670

(C) The division ~~also~~ of financial institutions may revoke or 671  
suspend the license of any licensee in accordance with division 672  
(E) of section 4728.03 of the Revised Code upon a criminal 673  
conviction of the licensee for any felony offense or crime 674  
involving moral turpitude. 675

~~(B)~~(D) No person shall obstruct or refuse to permit any 676  
investigation conducted under this chapter by the superintendent 677  
of financial institutions, a person acting on behalf of an agency 678  
or a political subdivision of this state, or a law enforcement 679  
officer. All articles purchased by a person licensed under this 680  
chapter shall be made promptly available for inspection by these 681  
officials. 682

~~(C)~~(E) In any proceeding or action brought under this 683  
chapter, the burden of proving an exemption from a requirement of 684  
this chapter falls on the person claiming the benefit of the 685  
exemption. 686

**Sec. 4728.14.** Any person who is injured by the failure of a 687  
person who is engaged in the business of purchasing articles that 688  
are made of or contain gold, silver, platinum, or other precious 689  
metals or jewels and jewelry of any description, including 690  
watches, to comply with this chapter may commence a civil action 691  
to recover compensatory damages from such person. In any action 692  
under this section, the court may award punitive damages or 693  
reasonable attorney's fees to a prevailing plaintiff. 694

Sec. 4728.16. (A) Every sale, transfer, or hypothecation of 695  
any stock, security, membership, partnership, or other equitable, 696  
beneficial, or ownership interest in a person licensed as a 697  
precious metals dealer, in an amount representing a ten per cent 698  
or greater equitable, membership, partnership, beneficial, or 699  
other ownership interest in the licensee, must be approved in 700  
writing by the superintendent of financial institutions prior to 701  
the sale, transfer, or hypothecation of the interest in the 702  
licensee. 703

(B) Every person acquiring or receiving an interest as 704  
described in division (A) of this section is subject to the 705  
licensing requirements of this chapter as if the person were a new 706  
and separate license applicant. 707

Sec. 4728.17. (A) A person licensed as a precious metals 708  
dealer under this chapter shall state the license number issued by 709  
the superintendent of financial institutions in all 710  
advertisements, offers, and solicitations. 711

(B) No person not licensed under this chapter may advertise 712  
as a precious metals dealer. 713

Sec. 4728.18. Any precious metals dealer who purchases 714  
precious metals from the public shall have and use a national type 715  
evaluation program certified, legal for trade scale, which shall 716  
be inspected and certified annually by the auditor of the county 717  
in which the person's business is located in accordance with 718  
section 319.55 of the Revised Code. 719

Sec. 4728.99. (A) Whoever violates ~~Chapter 4728.~~ sections 720  
4728.03 to 4728.14 or sections 4728.16 to 4728.18 of the Revised 721  
Code is guilty of a misdemeanor of the ~~first~~ third degree on a 722  
first offense and a ~~felony~~ misdemeanor of the ~~fifth~~ second degree 723



on each subsequent offense. 724

(B) Whoever violates section 4728.02 of the Revised Code is 725  
guilty of a felony of the fifth degree. 726

**Section 2.** That existing sections 4728.01, 4728.02, 4728.03, 727  
4728.04, 4728.05, 4728.06, 4728.07, 4728.08, 4728.09, 4728.10, 728  
4728.11, 4728.12, 4728.13, 4728.14, and 4728.99 of the Revised 729  
Code are hereby repealed. 730