

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 120

Representative Henne

Cosponsors: Representatives Rogers, Schaffer

A BILL

To amend sections 1321.20, 4727.04, 4728.01, 1
4728.02, 4728.03, 4728.04, 4728.05, 4728.06, 2
4728.07, 4728.08, 4728.09, 4728.10, 4728.11, 3
4728.12, 4728.13, 4728.14, and 4728.99 and to 4
enact sections 4728.061, 4728.062, 4728.16, 5
4728.17, 4728.18, and 4728.19 of the Revised 6
Code to make changes to the licensing and 7
records requirements, exemptions, penalties, and 8
other provisions of the Precious Metal Dealers 9
Law. 10

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

Section 1. That sections 1321.20, 4727.04, 4728.01, 11
4728.02, 4728.03, 4728.04, 4728.05, 4728.06, 4728.07, 4728.08, 12
4728.09, 4728.10, 4728.11, 4728.12, 4728.13, 4728.14, and 13
4728.99 be amended and sections 4728.061, 4728.062, 4728.16, 14
4728.17, 4728.18, and 4728.19 of the Revised Code be enacted to 15
read as follows: 16

Sec. 1321.20. (A) Every person licensed or registered 17
under this chapter shall pay to the superintendent of financial 18

institutions, prior to the last day of June, an annual license 19
or certificate of registration fee. On or about the fifteenth 20
day of April of each year, the superintendent shall determine 21
the license or certificate fees to be charged, pursuant to 22
sections 1321.03, 1321.05, and 1321.73 of the Revised Code. Such 23
determination shall be made by dividing the appropriation for 24
the consumer finance section of the division of financial 25
institutions for the current fiscal year by the number of 26
licenses and certificates issued as of the date of the 27
computation. In no event shall the amount of the fee exceed 28
three hundred dollars, except that the maximum fee which may be 29
charged insurance premium finance companies licensed under 30
section 1321.73 of the Revised Code shall not exceed three 31
hundred seventy-five dollars. Prior to the first day of June of 32
each year, the superintendent shall inform each person licensed 33
or registered under this chapter of the amount of the license or 34
certificate fee for the succeeding fiscal year as determined by 35
this section. 36

(B) (1) Each person licensed under Chapter 4727. of the 37
Revised Code who is subject to annual license renewal under 38
division (E) (1) of section 4727.03 of the Revised Code shall, 39
prior to the last day of June, pay to the superintendent a fee 40
equal to twice the amount of the fee determined by the 41
superintendent pursuant to division (A) of this section. 42
However, in no event shall the amount of the fee exceed three 43
hundred dollars. 44

(2) Each person licensed under Chapter 4727. of the 45
Revised Code who is subject to biennial license renewal under 46
division (E) (2) of section 4727.03 of the Revised Code shall, 47
prior to the date the license expires, pay to the superintendent 48
a fee equal to four times the amount of the fee determined by 49

the superintendent pursuant to division (A) of this section. 50
However, in no event shall the amount of the fee exceed six 51
hundred dollars. 52

(C) The fee for a license or certificate issued pursuant 53
to Chapter 4727. ~~or 4728.~~ of the Revised Code after the first 54
day of January of the year the license or certificate expires 55
shall be equal to one-half the amount determined according to 56
divisions (A) and (B) of this section ~~or in accordance with~~ 57
~~section 4728.03 of the Revised Code.~~ 58

(D) If the renewal fees billed by the superintendent 59
pursuant to divisions (A) and (B) of this section are less than 60
the estimated expenditures of the consumer finance section of 61
the division of financial institutions, as determined by the 62
superintendent, for the following fiscal year, the 63
superintendent may assess each person licensed pursuant to 64
section 1321.04 of the Revised Code at a rate sufficient to 65
equal in the aggregate the difference between the renewal fees 66
billed and the estimated expenditures. Each person shall pay the 67
assessed amount to the superintendent prior to the last day of 68
June. In no case shall the assessment exceed ten cents per each 69
one hundred dollars of interest (excluding charge-off 70
recoveries), points, loan origination charges, and credit line 71
charges collected by that person during the previous calendar 72
year. If an assessment is imposed under this division, it shall 73
not be less than two hundred fifty dollars per licensee or 74
registrant and shall not exceed thirty thousand dollars less the 75
total renewal fees paid pursuant to division (A) of this section 76
by each licensee or registrant. 77

Sec. 4727.04. (A) An application for a pawnbroker's 78
license shall state fully the name and address of the applicant 79

and of every member, partner, stockholder, or owner of an 80
applicant, and the location of the office or place of business 81
in which the business is conducted; and in the case of a 82
corporation, shall also state the date and place of its 83
incorporation, the name and address of its manager, the names 84
and addresses of its directors, the name and address of the 85
agent as provided in section 4727.03 of the Revised Code, and 86
any other information required by the superintendent of 87
financial institutions. 88

The license shall be kept posted in a conspicuous place in 89
the office where the business is transacted. No person so 90
licensed shall transact or solicit business under any other name 91
or at any location other than at the address stated in the 92
person's license. No licensee may move the licensee's business 93
location without prior notification to the superintendent of at 94
least thirty days. If the licensee moves out of the municipal 95
corporation or county in which the licensee was originally 96
licensed, the licensee shall pay an additional license fee 97
equivalent to the fee for an initial license to be distributed 98
in accordance with section 4727.03 of the Revised Code. 99

~~(B) The superintendent may issue to a pawnbroker licensed 100
under this chapter a temporary exhibition permit pursuant to 101
division (C) (1) of section 4728.04 of the Revised Code. 102~~

~~(1) A licensee who wishes to be issued a temporary permit 103
pursuant to division (C) (1) of section 4728.04 of the Revised 104
Code shall make request for such issuance by letter addressed to 105
the superintendent. The letter of request shall contain the 106
licensee's name, permanent business address, and license number. 107~~

~~(2) Upon receipt of a temporary exhibition permit, the 108
permit holder shall conspicuously display the permit at the 109~~

~~place where the permit holder transacts business at any auction, convention, exhibition, fair, or show.~~ 110
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~~(3) Every permit holder who wishes to participate in an auction, convention, exhibition, fair, or show, at least two weeks prior to its opening, shall notify the superintendent and the chief of police of the municipal corporation in which the event is to take place, or if the event is to take place outside of any municipal corporation, then the sheriff of the county in which the event is to take place. Such notification shall be by letter and shall include the permit holder's name, permanent business address, and permit number, and the place where the event is scheduled to be held.~~ 112
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~~(C)~~ Every licensee shall post at the main door of the licensee's place of business the hours or times when the establishment is open for business. No licensee shall collect interest and storage on any loan for any regular business day that the establishment is not open for business as posted, unless prior notice of a closing is posted on the door or the closing is occasioned by an act of God, unforeseen emergency, or other event beyond the control of the licensee. A licensee shall notify the superintendent of any change in the posted hours of operation. 122
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~~(D)~~ (C) No licensee shall fail to observe the posted hours of operation pursuant to division ~~(C)~~ (B) of this section except as authorized by that division. 132
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Sec. 4728.01. As used in this chapter: 135

(A) "Precious metals" means articles made of or containing gold, silver, platinum, or other precious metals or jewels of any description. 136
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(B) "Precious metals dealer" means a person who is engaged 139
in the business of purchasing ~~articles made of or containing~~ 140
~~gold, silver, platinum, or other precious metals or jewels of~~ 141
~~any description~~ if, in any manner, including any form of 142
advertisement, signage, electronic media, including electronic 143
mail, or other solicitation of customers, the person holds 144
himself, herself, or itself out to the public as willing to 145
purchase ~~such articles~~ precious metals. 146

~~(B)~~ (C) "Superintendent of financial institutions" 147
includes the deputy superintendent for consumer finance as 148
provided in section 1181.21 of the Revised Code. 149

(D) "Purchase" means the acquisition of precious metals 150
for a consideration of cash, goods, or other precious metals. 151

(E) "Local law enforcement agency" means either of the 152
following: 153

(1) For a business located within the jurisdiction of a 154
municipal corporation, the chief or head of the police 155
department for that municipal corporation; 156

(2) For a business not located within the jurisdiction of 157
a municipal corporation, the sheriff of the county in which the 158
business is located. 159

Sec. 4728.02. (A) Except as provided in division (B) of 160
this section, no person shall act as a precious metals dealer or 161
advertise in any form to the public of the person's willingness 162
to purchase precious metals without first having obtained a 163
license from the division of financial institutions in the 164
department of commerce. 165

(B) Notwithstanding any provision in this chapter to the 166
contrary, a person holding a license as a pawnbroker pursuant to 167

Chapter 4727. of the Revised Code may act as a precious metals 168
dealer without being separately licensed pursuant to this 169
chapter. ~~Pawnbrokers are subject to all the requirements imposed~~ 170
~~upon the conduct of persons holding a regular precious metals~~ 171
~~dealer's license with respect to any articles that the~~ 172
~~pawnbroker purchases made of or containing gold, silver,~~ 173
~~platinum, or other precious metals or jewels of any description.~~ 174

Sec. 4728.03. (A) ~~As used in this section, "experience and~~ 175
~~fitness in the capacity involved" means that the applicant for a~~ 176
~~precious metals dealer's license has had sufficient financial~~ 177
~~responsibility, reputation, and experience in the business of~~ 178
~~precious metals dealer, or a related business, to act as a~~ 179
~~precious metals dealer in compliance with this chapter.~~ 180

~~(B)(1) The division superintendent of financial~~ 181
~~institutions in the department of commerce may grant a precious~~ 182
~~metals dealer's license to any person of good character, having~~ 183
~~experience and fitness in the capacity involved, applicant for a~~ 184
~~precious metals dealer's license who satisfies all of the~~ 185
~~following requirements:~~ 186

(1) The applicant has done either of the following: 187

(a) Owned or leased for at least one year a fixed premises 188
in the state as a place of business; 189

(b) Signed a lease for a minimum period of one year for a 190
fixed premises in the state to be used as a place of business. 191

(2) The applicant submits proof that all of the following 192
persons have submitted to a criminal records check in accordance 193
with division (G) of this section: 194

(a) The applicant; 195

<u>(b) Any owner, manager, director, and officer of the applicant;</u>	196 197
<u>(c) Any agent of the applicant who will be directly engaged in the purchase of precious metals for the applicant under the precious metals dealer's license;</u>	198 199 200
<u>(d) Any stockholder of the applicant if the applicant is a corporation that is not a publicly traded corporation.</u>	201 202
<u>(3) (a) The applicant demonstrates a net worth of at least ten-fifty thousand dollars and the ability to maintain that net worth during the licensure period. The superintendent of financial institutions shall compute the applicant's net worth according to generally accepted accounting principles.</u>	203 204 205 206 207
(2) (b) <u>In place of the demonstration of net worth required by division (B) (1) (A) (3) (a) of this section, an applicant may obtain a surety bond issued by a surety company authorized to do business in this state if all of the following conditions are met:</u>	208 209 210 211 212
(a) (i) <u>A copy of the surety bond is filed with the division <u>of financial institutions in the department of commerce;</u></u>	213 214 215
(b) (ii) <u>The bond is in favor of any person, and of the state for the benefit of any person, injured by any violation of this chapter;</u>	216 217 218
(c) (iii) <u>The bond is in the amount of not less than ten-fifty thousand dollars.</u>	219 220
(3) Before granting a license under this division, the division shall determine that the applicant meets the requirements of division (B) (1) or (2) of this section.	221 222 223

~~(C)~~ (B) The ~~division superintendent~~ shall require an 224
applicant for a precious metals dealer's license to pay to the 225
division a nonrefundable, initial investigation fee of two 226
hundred dollars which shall be for the exclusive use of the 227
state. The license fee for a precious metals dealer's license 228
and the renewal fee shall be ~~determined by the superintendent,~~ 229
~~provided that the fee may not exceed three hundred dollars.~~ ~~A~~ 230

(C) A license issued by the ~~division superintendent~~ shall 231
expire on the last day of June next following the date of its 232
issuance. Fifty per cent of license fees shall be for the use of 233
the state, and fifty per cent shall be paid to the municipal 234
corporation, or if outside the limits of any municipal 235
corporation, to the county in which the office of the licensee 236
is located. All portions of license fees payable to municipal 237
corporations or counties shall be paid as they accrue, by the 238
treasurer of state, on vouchers issued by the director of budget 239
and management. 240

(D) (1) Every ~~such~~ license shall be renewed annually by the 241
last day of June according to the standard renewal procedure of 242
Chapter 4745. of the Revised Code. ~~No~~ 243

(2) No license shall be granted to any person not a 244
resident of or the principal office of which is not located in 245
the municipal corporation or county designated in such license, 246
unless, and until such applicant shall, in writing and in due 247
form, to be first approved by and filed with the division, 248
appoint an agent, a resident of the state, and city or county 249
where the office is to be located, upon whom all judicial and 250
other process, or legal notice, directed to the applicant may be 251
served; and in case of the death, removal from the state, or any 252
legal disability or any disqualification of any agent, service 253

of process or notice may be made upon the superintendent. 254

(3) The superintendent shall not renew the license of a 255
licensee who does not have a place of business as described in 256
division (A) (1) of this section. 257

(4) Any licensee who wants to renew a license, but fails 258
to do so on or before the date the license expires, shall 259
reapply for licensure in the same manner, and subject to the 260
same requirements, as for initial licensure, unless the licensee 261
pays the superintendent, on or before the thirty-first day of 262
August of the year the license expires, a late renewal penalty 263
of one hundred dollars in addition to the regular renewal fee. 264

(5) Any licensee who fails to renew a license on or before 265
the date the license expires, including a person who renews a 266
license between the first day of July and the thirty-first day 267
of August of the year the license expires, is prohibited from 268
acting as a precious metals dealer until the license is renewed 269
or a new license is issued under this section. 270

(6) The superintendent may refuse to issue or renew the 271
license of any person who violates division (D) of this section. 272

(E) The division may, pursuant to Chapter 119. of the 273
Revised Code, upon notice to the licensee and after giving the 274
licensee reasonable opportunity to be heard, revoke or suspend 275
any license, if the licensee or the licensee's officers, agents, 276
or employees violate this chapter. Whenever, for any cause, the 277
license is revoked or suspended, the division shall not issue 278
another license to the licensee nor to the husband or wife of 279
the licensee, nor to any copartnership or corporation of which 280
the licensee is an officer, nor to any person employed by the 281
licensee, until the expiration of at least one year from the 282

date of revocation of the license. 283

(F) A license issued under this chapter is not 284
transferable. 285

(G) In conducting an investigation to determine whether an 286
applicant satisfies the requirements for licensure under this 287
section, the superintendent may request that the superintendent 288
of the bureau of criminal identification and investigation 289
investigate and determine whether the bureau has procured any 290
information pursuant to section 109.57 of the Revised Code 291
pertaining to the applicant. 292

If the superintendent of financial institutions determines 293
that conducting an investigation to determine whether an 294
applicant satisfies the requirements for licensure under this 295
section will require procuring information outside the state, 296
then, in addition to the fee established under division ~~(C)~~(B) 297
of this section, the superintendent may require the applicant to 298
pay any of the actual expenses incurred by the division to 299
conduct such an investigation, provided that the superintendent 300
shall assess the applicant a total no greater than one thousand 301
dollars for such expenses. The superintendent may require the 302
applicant to pay in advance of the investigation, sufficient 303
funds to cover the estimated cost of the actual expenses. If the 304
superintendent requires the applicant to pay investigation 305
expenses, the superintendent shall provide to the applicant an 306
itemized statement of the actual expenses incurred by the 307
division to conduct the investigation. 308

~~(G)~~(H) (1) Except as otherwise provided in division ~~(G)~~(H) 309
(2) of this section a precious metals dealer licensed under this 310
section shall maintain a net worth of at least ~~ten~~fifty 311
thousand dollars, computed as required under division ~~(B)~~(1)~~(A)~~ 312

(3) of this section, for as long as the licensee holds a valid 313
precious metals dealer's license issued pursuant to this 314
section. 315

(2) A licensee who obtains a surety bond under division 316
~~(B) (2)~~ (A) (3) of this section is exempt from the requirement of 317
division ~~(G)~~ (H) (1) of this section, but shall maintain the bond 318
for at least two years after the date on which the licensee 319
ceases to conduct business in this state. 320

Sec. 4728.04. (A) The application for a license under this 321
chapter shall state fully the name and address of the person, or 322
corporation, and of every member of the firm, partnership, or 323
association, authorized to do business thereunder, the name of 324
the individual responsible for the daily operation of the 325
business, and the location of the office or place of business in 326
which the business is conducted. In the case of a corporation, 327
the application also shall state the date and place of 328
incorporation, the name and address of the corporation's 329
manager, the names and addresses of corporate directors, and the 330
name and address of the agent, as provided in section 4728.03 of 331
the Revised Code. 332

The holder of a precious metals dealer's license shall 333
keep the license posted in a conspicuous place in the office 334
where business is transacted. No licensee shall transact or 335
solicit business under any other name or location. Not more than 336
one office or place of business shall be maintained under the 337
same license, except as provided under division (C) of this 338
section. In case of removal, the licensee shall provide written 339
notice in advance to the division of financial institutions in 340
the department of commerce of a prospective change of address of 341
a business location. Upon approval by the superintendent of 342

financial institutions, the division shall issue a new license. 343
If the new location is outside the municipal corporation or 344
county of the original licensed location, the licensee shall pay 345
an additional license fee according to section 4728.03 of the 346
Revised Code. 347

(B) A person licensed under this chapter shall post a 348
conspicuous notice in its place of business visible to all 349
patrons, in a form and at places designated by rule of the 350
division, that the licensee has no right to retain goods stolen 351
from the true owner, and that the owner may recover the goods or 352
their value from the licensee in an action at law or, if the 353
~~chief or head of a local police department or the chief's or~~ 354
~~head's representative law enforcement agency~~ takes custody of 355
the goods, by release pursuant to section 2981.11 of the Revised 356
Code. 357

(C) ~~(1) The superintendent may issue to a~~ A person licensed 358
under this chapter ~~or Chapter 4727. of the Revised Code a~~ 359
~~temporary exhibition permit for a term that coincides with that~~ 360
~~of the license of the licensee. A person issued a permit under~~ 361
~~this division may~~ or a person licensed by another state to 362
engage in the business of purchasing ~~articles made of or~~ 363
~~containing gold, silver, platinum, or other precious metals or~~ 364
~~jewels~~ may engage in the business of purchasing precious metals 365
from the public at ~~a bona fide~~ an auction, convention, 366
exhibition, fair, or show, ~~the primary purpose of which is to~~ 367
~~display, trade, and sell articles made of or containing precious~~ 368
~~metals or jewels, for a period not to exceed seven days for any~~ 369
~~one~~ if the auction, convention, exhibition, fair, or show is in 370
compliance with division (D) of this section. 371

(D) (1) The superintendent may issue a temporary exhibition 372

permit to allow a person licensed under this chapter to host a 373
bona fide auction, convention, exhibition, fair, or show, the 374
primary purpose of which is to display, trade, and sell precious 375
metals, for a period not to exceed seven days. The fee for a 376
temporary exhibition permit shall be one thousand dollars. 377

(2) The superintendent shall determine the application 378
procedures for and the form of the temporary exhibition permit 379
described in this division, provided that a temporary permit 380
shall state fully the name and permanent business address of the 381
licensee to whom it is issued. 382

(3) The holder of a temporary exhibition permit shall 383
allow a person to participate in the event for which the holder 384
was issued the permit only if the person is licensed under this 385
chapter or is licensed by another state to engage in the 386
business of purchasing precious metals. All participants in the 387
event shall, when participating in the event, conspicuously 388
display the person's license. 389

(4) The holder of a temporary exhibition permit shall, 390
when ~~participating~~ hosting in any auction, convention, fair, or 391
show, conspicuously display the holder's permit at the location 392
~~at which of the holder transacts business~~ event. 393

~~(4)~~ (5) A permit holder who wishes to participate in host 394
an auction, convention, exhibition, fair, or show shall, at 395
least two weeks prior to its scheduled opening, submit to the 396
superintendent, ~~or and~~ the chief or the head of the local police- 397
~~department~~ law enforcement agency with jurisdiction at the 398
location of the event, ~~the~~ all of the following information: 399

(a) The holder's name, ~~the;~~ 400

(b) The location of the auction, convention, exhibition, 401

fair, or show, ~~and the holder's;~~ 402

(c) The names and permanent business address of each 403
precious metals dealer participating in the event as it that 404
information appears on the holder's permit participant's license 405
issued under division (C) (2) of this section chapter or by 406
another state. 407

~~(5) (6) All purchases of articles made of or containing~~ 408
~~gold, silver, platinum, or other precious metals or jewels~~ 409
conducted by a participant in an event hosted a temporary 410
exhibition permit are subject to sections 4728.06 to 4728.09, 411
4728.13, and 4728.99 of the Revised Code as if made under a 412
license. 413

(7) The holder of a temporary exhibition permit may 414
determine any fees to participate in or attend an event hosted 415
under the permit. 416

Sec. 4728.05. (A) (1) The superintendent of financial 417
institutions ~~may~~ shall examine, either personally or by a person 418
whom the superintendent appoints for the purpose, ~~if the~~ 419
~~superintendent considers it advisable, investigate~~ the business 420
of every person licensed as a precious metals dealer under this 421
chapter, ~~and~~. The superintendent or the superintendent's 422
appointee shall conduct this examination at least once during 423
the first year after the date a license is issued and at least 424
once every two years after the date of the initial examination. 425
The superintendent may examine that business more frequently if 426
the superintendent considers it advisable. 427

(2) The superintendent may, either personally or by a 428
person whom the superintendent appoints for the purpose, examine 429
the business of every person, partnership, and corporation by 430

whom or for which any purchase is made, whether the person, 431
partnership, or corporation acts, or claims to act, as 432
principal, agent, or broker, ~~or under, or without the authority~~ 433
~~of this chapter, and for that.~~ 434

(B) For the purpose of examinations under division (A) of 435
this section, the superintendent shall have free access to the 436
books and papers ~~thereof~~ of the business, person, partnership, 437
or corporation and other sources of information with regard to 438
the business of the licensee or person and whether the business 439
has been or is being transacted in accordance with this chapter. 440
The superintendent shall provide notice of an examination under 441
this section not later than twenty-four hours, but not sooner 442
than forty-eight hours, before the examination unless a person 443
who is the subject of the examination is the subject of a 444
criminal investigation by a local law enforcement agency. The 445
superintendent and every examiner may examine, under oath or 446
affirmation, any person whose testimony may relate to any 447
business coming within this chapter. 448

~~(B)~~ (C) In making any investigation-examination or 449
conducting any hearing pursuant to this section, the 450
superintendent or a person designated by the superintendent, at 451
any time, may do any of the following: 452

(1) Compel by subpoena the attendance of witnesses; 453

(2) Take depositions of witnesses residing without the 454
state in the manner provided for in civil actions; 455

(3) Pay witnesses the fees and mileage provided for under 456
section 119.094 of the Revised Code; 457

(4) Administer oaths; 458

(5) Compel by order or subpoena duces tecum the production 459

of all relevant books, records, accounts, and other documents 460
and examine such books, records, accounts, and other documents. 461

~~(C)~~ (D) If a person fails to comply with a subpoena or 462
subpoena duces tecum, the superintendent may apply to the court 463
of common pleas of Franklin county for an order compelling the 464
person to comply with the subpoena or subpoena duces tecum or, 465
for failure to do so, an order holding the person in contempt of 466
court. The superintendent, in accordance with section 4728.03 of 467
the Revised Code, may suspend or revoke the license of any 468
precious metals dealer who fails to comply with this division. 469

~~(D)~~ (E) In connection with any ~~investigation~~ examination 470
under this section, the superintendent may file an action in the 471
court of common pleas of Franklin county or the court of common 472
pleas of the county in which the person who is the subject of 473
the ~~investigation~~ examination resides to obtain an injunction, a 474
temporary restraining order, or other appropriate relief, if it 475
appears to the superintendent that the person is engaging in 476
actions or threatening to engage in actions in violation of this 477
chapter. 478

~~(E)~~ (F) If in an ~~investigation~~ examination under this 479
section the superintendent determines that a person not licensed 480
under this chapter, or an employee of that person, has been or 481
is engaged or is threatening to engage in activities for which a 482
license is required under this chapter, the superintendent may 483
issue an order to that person requiring the person to show cause 484
why the person should not be subject to licensure under this 485
chapter. If the superintendent determines, after notice and a 486
hearing conducted in accordance with Chapter 119. of the Revised 487
Code, that a person is engaged in, or is threatening to engage 488
in activities that constitute a violation of this chapter, the 489

superintendent may issue a cease and desist order that describes 490
the person and activities that are subject to the order and may 491
impose upon the person a penalty of not less than ~~one~~five 492
hundred nor more than ten thousand dollars for a violation of 493
this chapter. Any cease and desist order and any penalty issued 494
under this section are enforceable in and may be appealed to a 495
court of common pleas pursuant to Chapter 119. of the Revised 496
Code. 497

Sec. 4728.06. ~~Every~~Except as provided in division (G) of 498
this section, every person licensed under this chapter shall 499
keep and use books and forms approved by the superintendent of 500
financial institutions, which shall disclose, to record 501
information about purchases. The forms and books shall be 502
intelligible, written in the English language, and used 503
exclusively for the purpose described in this section. 504

(A) The licensee shall record all of the following 505
information at the time of each purchase, a full: 506

(1) A general and accurate description, including 507
identifying letters, features, or marks thereon, the name of the 508
manufacturer, and any serial and model numbers, of the articles 509
purchased, with the; 510

(2) The size of the articles purchased and the color of 511
any metal purchased; 512

(3) The name, age, address, place of residence, and date of 513
birth of the seller; 514

(4) A valid driver's or commercial driver's license 515
number, military identification number, social security number, 516
or other valid personal identification, and a short number of 517
the seller; 518

- (5) A physical description of the ~~person of the~~ seller; 519
- (6) The date and time of the purchase; 520
- (7) The purchase price; 521
- (8) A photograph of the article purchased. ~~The licensee~~ 522
~~also shall write in the book the name of the maker. The~~ 523
- (B) The licensee shall require a seller to present a 524
government-issued form of identification that contains a 525
photograph to verify the seller's identity. 526
- (C) The licensee shall require a seller to sign a 527
statement attesting that the seller is the legal owner of the 528
article or is the agent of the legal owner authorized to sell 529
the article to the licensee. 530
- (D) (1) The licensee shall keep the ~~books~~ records and forms 531
in numerical order at all times at the licensed location, open 532
to the inspection of the superintendent ~~or chief of or head of~~ 533
~~the~~ of financial institutions and the local police department, a 534
~~police officer~~ deputed by the chief or head of police, or the 535
~~chief executive officer of the political subdivision thereof~~law 536
enforcement agency. Upon demand of any of these officials, the 537
licensee shall produce and show ~~an article thus listed and~~ 538
~~described which is~~ any records, forms, or purchases that are in 539
the licensee's possession. 540
- (2) The licensee shall keep all purchases at the 541
licensee's place of business. No purchased items shall be 542
removed from the place of business for the licensee's personal 543
use or gain. 544
- (3) The licensee shall keep a copy of each form used for a 545
purchase, at all times, in numerical order and shall account for 546

all form numbers. 547

(4) No licensee shall require a seller, when signing a form described in divisions (A) and (C) of this section, to affix the seller's signature to a blank or partially filled-out form. 548
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(E) (1) The forms described in divisions (A) and (C) of this section shall be identical and consecutively numbered, and each shall contain two or more pages. 552
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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. 555
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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. 561
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(F) 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. 564
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(G) Notwithstanding any other provision of this chapter to the contrary, 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. 568
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Sec. 4728.061. In accordance with division (E) (2) of section 4728.06 of the Revised Code, each person licensed under 574
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this chapter shall give to a seller at the time of a purchase a 576
statement upon which shall be legibly written in ink, printed, 577
or typed all of the following: 578

(A) The name and address of the purchasing licensee; 579

(B) The purchase price; 580

(C) The time and date of the purchase; 581

(D) A general and accurate description of the articles 582
sold, including any serial or model numbers or identifying marks 583
thereon. 584

The licensee shall retain a copy of the statement for two 585
years from the date of the last entry of the purchase account. 586

Sec. 4728.062. The superintendent of financial 587
institutions shall issue a fine against a person licensed under 588
this chapter who fails to comply with section 4728.06 or 589
4728.061 of the Revised Code. The fine shall be one hundred 590
dollars for each violation, but if multiple violations arise 591
from a single transaction, the total amount of fines related to 592
that single transaction shall not exceed five hundred dollars. 593

Sec. 4728.07. Each person licensed under Chapter 4728. of 594
the Revised Code, shall, every business day, make available to 595
the chief or the head of the local police department 596
law 597
enforcement agency, on forms furnished by the police 597
department 598
local law enforcement agency, a description of all 598
articles 599
precious metals received by the licensee on the 599
business day immediately preceding, together with the number of 600
the receipt issued 601
form used to document the purchase. 601

Sec. 4728.08. No person licensed under Chapter 4728. of 602
the Revised Code shall purchase any articles from any minor, or 603

from any person known to be intoxicated or under the influence 604
of a controlled substance, or from any person who is known ~~or~~ 605
~~believed~~ by the licensee to be a thief, or a receiver of stolen 606
property. 607

Sec. 4728.09. (A) A person licensed under Chapter 4728. of 608
the Revised Code shall retain in this state any articles 609
purchased by ~~him~~ the person until the expiration of ~~five~~ fifteen 610
days after the date of purchase. This division does not apply to 611
coins or industrial residue. 612

(B) ~~If the chief or head of the~~ a local police department 613
~~to whom the licensee made available the information required by~~ 614
~~this chapter~~ law enforcement agency has probable cause to 615
believe that ~~the~~ an article described therein that was purchased 616
and is held by a licensee is stolen property, ~~he~~ the agency 617
shall notify the licensee in writing. Upon receipt of notice, 618
the licensee shall retain the article until ~~the expiration of~~ 619
~~thirty days after the day on which he is first required to make~~ 620
~~available the information required by this section, unless the~~ 621
~~chief or the head of the local police department notifies the~~ 622
~~licensee in writing that he is not required to retain the~~ 623
~~article until the expiration~~ a court of competent jurisdiction 624
determines who has the right to the possession of the article. 625

(C) ~~If the chief or the head of the local police~~ 626
~~department~~ Except as otherwise provided in division (D) of this 627
section, if the court determines the identity of the true owner 628
of the allegedly stolen article, ~~that has been purchased and~~ 629
~~held by a licensee, and informs the licensee of the true owner's~~ 630
~~identity.~~ 631

~~(1) The~~ the licensee may shall restore the allegedly 632
~~stolen~~ article to its true owner directly. 633

~~(2) The true owner may reimburse the licensee for the amount the licensee paid for the allegedly stolen article.~~ 634
635

~~(3) The true owner may recover the article and reasonable attorney fees from the licensee in an action at law.~~ 636
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(D) If ~~it is determined that~~ the true owner of the 638
allegedly stolen article, for whatever reason, chooses not to 639
file a charge against the person or persons responsible for the 640
alleged theft, the licensee may charge the true owner of the 641
~~allegedly stolen~~ article the amount the licensee paid for the 642
~~allegedly stolen~~ article. 643

Sec. 4728.10. (A) The superintendent of financial 644
institutions shall enforce this chapter, make all reasonable 645
effort to discover alleged violators, notify the proper 646
prosecuting officer whenever the superintendent has reasonable 647
grounds to believe that a violation has occurred, act as 648
complainant in the prosecution thereof, and aid officers to the 649
best of the superintendent's ability in prosecutions. The 650
superintendent shall employ deputies necessary to make the 651
investigations, examinations, and inspections, ~~and~~. The 652
superintendent, pursuant to Chapter 119. of the Revised Code, shall 653
adopt reasonable rules, including rules that define terms 654
used in this chapter, for the carrying out of this chapter, and 655
otherwise perform the duties imposed by this chapter. 656

(B) In order to enforce this chapter, the superintendent may do all of the following: 657
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(1) Issue a cease and desist order against any person the superintendent reasonably suspects has violated, is currently violating, or is about to violate the provisions of this chapter. The superintendent may apply to a court of common pleas 659
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for an order compelling a person to comply with any cease and desist order or any subpoena issued by the superintendent. 663
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(2) Obtain from the court of common pleas any form of injunctive relief against any person that has violated, is currently violating, or is reasonably suspected of being about to violate the provisions of this chapter; 665
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(3) Issue a subpoena to any person to compel the production of any item, record, or writing, including an electronic writing; 669
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(4) Issue a subpoena to compel any person to appear and render testimony in regard to a violation of this chapter; 672
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(5) Examine and investigate the business of any person the superintendent reasonably suspects to be advertising, transacting, or soliciting business as a precious metals dealer. This authority includes the authority to examine and investigate the person's business location and any books, records, writings, including electronic writings, safes, files, or storage areas located in or utilized by the business location. The superintendent may request the attendance and assistance of the appropriate local law enforcement agency or the state highway patrol during the examination and investigation of the business. 674
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Sec. 4728.11. This chapter does not apply to any of the following: 684
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~~(A) Any purchase of an article that is made of or contains gold, silver, platinum, or other precious metals or jewels of any description if both the buyer and seller, or the respective agents, brokers, or other intermediaries of both the buyer and seller, deal in such articles or otherwise by their respective occupations, or by their respective avocations as collectors,~~ 686
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~~speculators, or investors, hold themselves out as having~~ 692
~~knowledge or skill peculiar to such articles or the practices~~ 693
~~involved in their purchase or sale;~~ 694

~~(B) Licensees who obtain licenses under sections 1321.01~~ 695
~~to 1321.19 of the Revised Code or registrants who obtain~~ 696
~~certificates of registration under sections 1321.51 to 1321.60~~ 697
~~of the Revised Code~~Any person doing business under the laws of 698
this state or the United States relating to any broker-dealer, 699
commodity futures commission merchant, or commodity trading 700
advisor or agent duly registered and regulated by the division 701
of securities under Chapter 1707. of the Revised Code or the 702
United States commodity futures trading commission under 7 703
U.S.C. 1 et seq.; 704

(C) National banks, state banks, credit unions, or savings 705
and loan associations; 706

(D) The holder of a salvage motor vehicle dealer's license 707
under Chapter 4738. of the Revised Code who purchases or sells 708
precious metal which, in its original form, is a motor vehicle 709
component part, or a scrap metal processor subject to Chapter 710
4737. of the Revised Code; 711

~~(E) Any purchase of silverware or an article of jewelry~~ 712
~~made of or containing gold, silver, platinum, or other precious~~ 713
~~metals or jewels that is made by a person who complies with all~~ 714
~~of the following:~~ 715

~~(1) The person is engaged in the business of selling, at~~ 716
~~retail, articles of jewelry and silverware;~~ 717

~~(2) The person holds a valid vendor's license issued under~~ 718
~~section 5739.17 of the Revised Code;~~ 719

~~(3) The person maintains a fixed place of business in this~~ 720

~~state at which the person regularly exhibits articles of jewelry and silverware that are for sale at retail.~~ 721
Any transactions 722
involving the sale or transfer of precious metals by a wholesale 723
jeweler to a retail jeweler or licensed dealer; 724

~~(4) The person establishes to the satisfaction of the superintendent of financial institutions or the chief or head of the local police department, upon their request, that the person's purchases of silverware and articles of jewelry that are made of or contain gold, silver, platinum, or other precious metals or jewels are incidental to the person's primary business as described in division (E) (1) of this section. Such purchases are "incidental" if:~~ 725
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~~(a) In the case of a person who has been in business for less than one year, the average monthly value of the person's purchases of jewelry from the public represents less than twenty five per cent of the person's total inventory of articles of jewelry held for sale at retail to the public, as computed under section 5711.15 of the Revised Code;~~ 733
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~~(b) In the case of a person who has been in business for at least one year, the total value of the person's purchases of jewelry from the public represents less than twenty five per cent of the person's total retail sales of articles of jewelry to the public during the immediately preceding year;~~ 739
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~~(c) The purchases are of items described in division (F) of this section.~~ 744
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~~(F) Any purchase of coins, hallmark bars, registered ingots, and other items as numismatic objects, and not for their content of precious metals.~~ 746
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~~(G) Any purchase made under the supervision of a probate~~ 749

court from the estate of a decedent as provided under section 750
2113.40 of the Revised Code. 751

~~(H) Except as specified in division (B) of section 4728.02~~ 752
~~of the Revised Code, any (G) Any person licensed under Chapter~~ 753
4727. of the Revised Code. 754

(H) Any upgrade or trade-in of jewelry, including watches, 755
by a customer to a retail jeweler. 756

Sec. 4728.12. (A) (1) A person exempt from licensing under 757
~~division (E) or (F) of section 4728.11 of the Revised Code,~~ 758
who in the ordinary course of the person's business obtains 759
ownership by purchase of ~~articles made of or containing gold,~~ 760
~~silver, platinum, or other precious metals or jewels~~ of any 761
description from the public, shall maintain at each business 762
location for at least the twelve months immediately succeeding 763
any such transaction a record that shall include the following: 764

~~(1) (a)~~ The date and time of the ~~transaction~~ purchase; 765

~~(2) (b)~~ The name and residential, address, and date of 766
birth of the seller ~~and the means of identification used to~~ 767
~~establish the seller's identity;~~ 768

~~(3) (c)~~ A physical description of the seller; 769

~~(4) (d)~~ A complete and accurate description of the 770
purchased article, including any brand names, initials ~~the name~~ 771
of the manufacturer, any serial and model numbers, or other any 772
identifying letters or marks, monograms, or symbols on the 773
article and any identifying features; 774

~~(5) (e)~~ The price paid for each article and the means of 775
payment; 776

(f) A valid driver's license number, military 777

identification number, social security number, or other valid 778
personal identification number; 779

(g) The size of the article purchased and the color of any 780
metal purchased; 781

(h) A photograph of the article purchased. 782

(2) For purposes of division (A) (8) of this section, the 783
person shall require a seller to present a government issued 784
form of identification that contains a photograph to verify the 785
seller's identity. 786

~~As~~ (3) Notwithstanding the definition of "purchase" in 787
section 4728.01 of the Revised Code, as used in this 788
~~division~~ section, "purchase" does not include obtaining title to 789
an article that is accepted as a trade-in by a person exempt 790
from licensing ~~under division (E) or (F) of section 4728.11 of~~ 791
~~the Revised Code~~ when the transaction involves a retail sale of 792
an article of equal or greater value and the value of the trade- 793
in is used as all or a portion of the purchase price, nor does 794
"purchase" include any purchase made under the supervision of a 795
probate court as provided under section 2113.40 of the Revised 796
Code. 797

(B) No person ~~exempt from licensing under division (E) or~~ 798
~~(F) of section 4728.11 of the Revised Code to whom division (A)~~ 799
of this section applies shall purchase any article that is made 800
~~of or contains gold, silver, platinum, or other precious metals~~ 801
~~or jewels of any description from any individual whom the person~~ 802
knows or has reason to believe is under eighteen years of age. 803

(C) ~~Within sixty days after opening a new business~~ 804
~~location, any~~ Any person exempt from licensing under division 805
~~(E) or (F) of section 4728.11 of the Revised Code to whom~~ 806

division (A) of this section applies shall notify in writing the 807
chief or head of the police department having local jurisdiction 808
in the place where the business is located law enforcement 809
agency of the location of the records the person maintains 810
pursuant to division (A) of this section. These records shall be 811
available during normal business hours for inspection by the 812
superintendent of financial institutions or the superintendent's 813
designee, or by the ~~chief or head of the local police department~~ 814
~~or the chief's or head's designee~~ law enforcement agency. 815

Sec. 4728.13. (A) No person, ~~firm, partnership,~~ 816
~~corporation, or association~~ licensed under this chapter, and no 817
agent, officer, or employee thereof, shall violate this chapter. 818
~~The division~~ 819

(B) The superintendent of financial institutions upon a 820
may do any of the following: 821

(1) Upon the criminal conviction shall of a licensee; any 822
employee, manager, officer, director, member, or partner of a 823
licensee; or shareholder, if the licensee is not a publicly 824
traded corporation, for a violation of this chapter, suspend the 825
license of the licensee without a prior hearing to protect the 826
public interest and subsequently revoke any the license 827
~~theretofore issued to the person, firm, partnership,~~ 828
~~corporation, or association. The~~ in accordance with Chapter 119. 829
of the Revised Code; 830

(2) Upon the criminal conviction of a licensee; any 831
employee, manager, officer, director, member, or partner of the 832
licensee; or shareholder, if the licensee is not a publicly 833
traded corporation, for the violation of any provision of Title 834
XXIX of the Revised Code or under federal law for theft, 835
receiving stolen property, or money laundering, suspend the 836

license of the licensee without a prior hearing to protect the 837
public interest and subsequently revoke the license of the 838
licensee in accordance with Chapter 119. of the Revised Code; 839

(3) Upon the criminal conviction of a licensee for the 840
violation of any provision of Title XXIX of the Revised Code or 841
under federal law for a violation other than theft, receiving 842
stolen property, or money laundering, assess a penalty against 843
the licensee or revoke or suspend the license of the licensee in 844
accordance with Chapter 119. of the Revised Code. 845

(C) The division also of financial institutions may revoke 846
or suspend the license of any licensee in accordance with 847
division (E) of section 4728.03 of the Revised Code upon a 848
criminal conviction of the licensee for any felony offense or 849
crime involving moral turpitude. 850

~~(B)~~ (D) No person shall obstruct or refuse to permit any 851
examination or investigation conducted under this chapter by the 852
superintendent of financial institutions, a person acting on 853
behalf of an agency or a political subdivision of this state, or 854
a law enforcement officer. All articles purchased by a person 855
licensed under this chapter shall be made promptly available for 856
inspection by these officials. 857

~~(C)~~ (E) In any proceeding or action brought under this 858
chapter, the burden of proving an exemption from a requirement 859
of this chapter falls on the person claiming the benefit of the 860
exemption. 861

Sec. 4728.14. Any person who is injured by the failure of 862
a person who is engaged in the business of purchasing ~~articles~~ 863
~~that are made of or contain gold, silver, platinum, or other~~ 864
precious metals ~~or jewels of any description~~ to comply with this 865

chapter may commence a civil action to recover compensatory 866
damages from such person. In any action under this section, the 867
court may award punitive damages or reasonable attorney's fees 868
to a prevailing plaintiff. 869

Sec. 4728.16. (A) Every sale, transfer, or hypothecation 870
of any stock, security, membership, partnership, or other 871
equitable, beneficial, or ownership interest in a person 872
licensed as a precious metals dealer, in an amount representing 873
a ten per cent or greater equitable, membership, partnership, 874
beneficial, or other ownership interest in the licensee, must be 875
approved in writing by the superintendent of financial 876
institutions prior to the sale, transfer, or hypothecation of 877
the interest in the licensee. 878

(B) Every person acquiring or receiving an interest as 879
described in division (A) of this section is subject to the 880
licensing requirements of this chapter as if the person were a 881
new and separate license applicant. 882

Sec. 4728.17. (A) A person licensed as a precious metals 883
dealer under this chapter shall state the license number issued 884
by the superintendent of financial institutions in all 885
advertisements, offers, and solicitations. 886

(B) No person not licensed under this chapter may 887
advertise as a precious metals dealer. 888

Sec. 4728.18. Any precious metals dealer who purchases 889
precious metals from the public shall have and use a national 890
type evaluation program certified, legal for trade scale, which 891
shall be inspected and certified annually by the auditor of the 892
county in which the person's business is located in accordance 893
with section 319.55 of the Revised Code. 894

Sec. 4728.19. (A) Except as provided in division (B) of this section, any records or information required to be generated by a person under this chapter are confidential and not public records under section 149.43 of the Revised Code. 895
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(B) Records or information required to be generated by a person under this chapter shall be disclosed, discovered, or introduced into evidence only as follows: 899
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(1) To a law enforcement agency; 902

(2) In connection with criminal proceedings; 903

(3) In any action taken or litigation by or against the superintendent of financial institutions in connection with the powers, duties, and obligations imposed upon the superintendent by this chapter. 904
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Sec. 4728.99. (A) Whoever recklessly violates Chapter 4728-sections 4728.04, 4728.07, 4728.08, 4728.09, 4728.12, 4728.13, 4728.16, 4728.17, 4728.18, or 4728.19 of the Revised Code is guilty of a misdemeanor of the first-third degree on a first offense and a felony-misdemeanor of the fifth-second degree on each subsequent offense. 908
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(B) Whoever recklessly violates section 4728.02 of the Revised Code is guilty of a misdemeanor of the third degree. 914
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Section 2. That existing sections 1321.20, 4727.04, 4728.01, 4728.02, 4728.03, 4728.04, 4728.05, 4728.06, 4728.07, 4728.08, 4728.09, 4728.10, 4728.11, 4728.12, 4728.13, 4728.14, and 4728.99 of the Revised Code are hereby repealed. 916
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