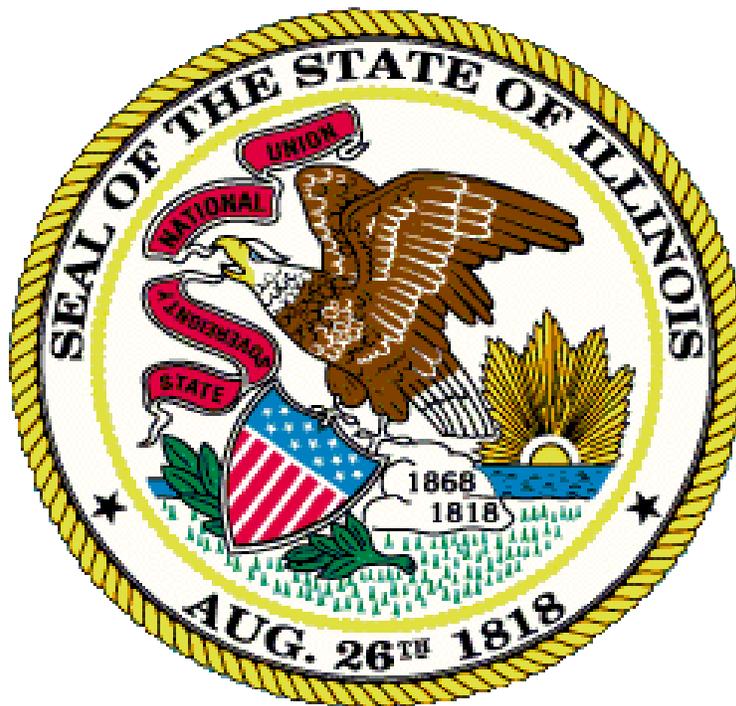


Precious Metals Purchasers Task Force Report

December 12, 2014



ABOUT THE INFORMATION IN THIS REPORT

THIS REPORT IS BASED ON THE PRECIOUS METALS PURCHASERS TASK FORCE PURSUANT TO 205 ILCS 510/20. THE TASK FORCE WAS CREATED WITH HB 3359, PUBLIC ACT 098-0068. THE PUBLIC ACT WENT INTO EFFECT JULY 15, 2013.

December 12, 2014

Illinois General Assembly
State House
Springfield, IL 62706

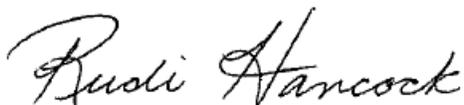
Dear Members of the General Assembly:

As required by Section 20(e) of the Pawnbroker Regulation Act, enclosed is the Precious Metal Purchasers Task Force report detailing the task force's work on the regulation of Resale Dealers in the State of Illinois with regard to the collection of sale information and timely access to that information by law enforcement. We are grateful for the opportunity to provide you with this report.

Sincerely,



Anna Moeller
State Representative, 43rd District
Precious Metal Purchasers Task Force Chair



Rudi Hancock
Assistant to the Precious Metal Purchasers Task Force
Legislative Liaison
Division of Banking
Illinois Department of Financial and Professional Regulation

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TASK FORCE MEMBERS

NAME	APPOINTED BY	POSITION
Senator Pamela Althoff	Senate Minority Leader	Member
Michael Diaz	Secretary of Illinois Department of Financial and Professional Regulation	Member
R. Allan Hamilton	Governor	Member, representing the interests of the insurance industry
Stephen Harrison	Governor	Member, association representing numismatic shops
Representative Lou Lang	Speaker of the House	Member
Ray Maxwell	Governor	Member, representing the interests of for-profit consignment shops
Anna Moeller	Governor	Chair
Senator Michael Noland	Senate President	Member
Catherine Peterson	Governor	Member, recommended by the Illinois Municipal League
Sydney Roberts	Secretary of State	Member
Ruth Schlossberg	Governor	Member, representing the interest of the general public
Kelly Swisher	Governor	Member, association representing pawnbrokers
Jeffrey Swoboda	Governor	Member, statewide organization representing Chiefs of Police
Tanya Triche	Governor	Member, statewide association exclusively representing retailers
Representative Mike Tryon	House Minority Leader	Member
Chrissy Walker	Governor	Member, representing the interests of the scrap recycling industry
Sasha Wiesen	Attorney General	Member
Tad Williams	Director of State Police	Member

1. INTRODUCTION

With the 2008 surge in gold prices, many states including Illinois, saw an increase in the proliferation of “Cash for Gold”, “We Buy Gold” and similar entities that purchase precious metals and gem stones from the public as consumers sought a quick and easy way to sell their jewelry for cash. In response, over 30 states (not including Illinois) had instituted regulations for precious metal and/or secondhand dealers. In addition, according to the *Chicago Sun-Times*, over 80 Illinois municipalities had established ordinances regulating second-hand sellers, consignment and cash for gold stores. Illinois lacked statewide regulations and reporting requirements.

There were reports of unscrupulous activity taking root in Illinois without the presence of a statewide law that would bring a uniform set of rules and regulations for the precious metal industry to follow. The *Chicago Sun-Times* reported a story about Anna Moeller, who discovered that a pendant she inherited from her mother had been stolen. Moeller recognized what she believed to be the stolen pendant being advertised for sale on e-Bay by a Cash for Gold Store in Hoffman Estates. Since Hoffman Estates did not require their resale merchants to keep a record of sellers or when the stores purchased items from the public, law enforcement was unable to ascertain information about the seller or the item in question. Moeller had no way of proving that the pendant was the one that had been taken from her home and ended up buying the pendant from the store.

Moeller approached Representative Mike Tryon to introduce legislation that would require statewide reporting requirements for cash for gold stores to track down stolen precious metals and to provide consistent regulations to deter the sale of stolen jewelry and other valuables.

2. PREVIOUS PRECIOUS METAL LEGISLATION

In previous General Assemblies, bills had been introduced to regulate the precious metals industry. These bills were not passed into law and include the following:

Pawnbroker-Precious Metal - HB 4717
Introduced by Representative Pam Roth 2/2/2012
1/8/2013 Session Sine Die

- The Pawnbroker Regulation Act was amended to include “precious metal scrapper.”
- The bill defined Precious Metal Scrapper as any business entity which offers payment for the physical delivery of gold or silver and at least 50% of whose revenue is generated by the melting down, reformation, or reselling of that gold or silver.
- HB 4717 provided that Precious Metal Scrapppers would have the same regulatory framework as Pawnbrokers.
- The bill added an offer, promise or payment amount; period of possession section: Upon physical receipt of gold or silver a precious metal scrapper may not offer, promise, or pay the seller an amount less than 60% of the gold or silver’s actual melt value, which would

be determined by the weight, purity, and spot value taken from the previous 3 business days of trading on a major stock exchange located within the United States; precious metal scrappers must maintain possession for 10 business days.

Precious Metal Purchasing Act - SB 3341
Introduced by Senator Kirk Dillard 2/7/2012
1/8/2013 Session Sine Die

- Created the Precious Metal Purchasing Act and defined precious metals as any item containing, in whole or in part, gold or silver or any alloy of gold or silver.
- A person in the business of purchasing precious metal exceeding \$250 in value shall obtain:
 - proof of ownership for the precious metal;
 - a record that contains the name, address and telephone number of the seller;
 - a description of the item;
 - date of transaction; and
 - identification of seller.
- A person who is in the business of purchasing precious metal shall:
 - not pay for the purchase of precious metal with cash;
 - record the method of payment used to purchase the precious metal; and
 - provide a copy of the record containing the name, address, telephone number of the seller, description of item, and date of transaction to appropriate law enforcement.
- Records:
 - A person shall retain a record obtained or made under the Act for one year after the date the precious metal is purchased, or if the purchase amount is over \$500, for 5 years after the date the precious metal is purchased.
- A person violating the Act shall be guilty of a petty offense and fined \$500 for each violation.
- Local law enforcement may inspect a record retained by a person under the Act and investigate an alleged violation of the Act.
- The Act exempts pawnshops licensed under the Pawnbroker Regulation Act.
- The Act also added the Temporary Buying Locations language from the Pawnbroker Regulation Act.

3. CREATION OF THE PRECIOUS METALS PURCHASERS TASK FORCE

In the 98th General Assembly, Representative Tryon introduced *HB 3359* that amended the Pawnbroker Regulation Act, which is administered by the Illinois Department of Financial and Professional Regulation. *HB 3359* if adopted would have changed the title of the Act to the Pawnbroker, Consignment Shop, Secondhand Shop, and Recyclable Metal Shop Regulation Act and provided for the Department to license and regulate consignment shops, secondhand shops, and recyclable metal shops in the same manner as pawnshops.

The introduction of the bill sparked a series of meetings between the Department, legislators, and other interested parties. The Department expressed concerns regarding staffing and funding because it would add thousands of businesses to be regulated in a section of the agency that only had one employee. Coin Dealers and an individual from a Cash for Gold store located in Springfield also voiced concerns with the proposal. Legislators had competing ideas and approaches as to how the precious metal industry should be regulated in the state. The meetings concluded with a consensus that something should be done to regulate precious metal dealers but more discussion with industry and other stakeholders was needed.

Representative Patricia Bellock amended HB 3359 on March 19, 2013 to create the Precious Metal Purchasers Task Force. The Task Force was charged with studying the various systems, technologies, and methods of operation to provide law enforcement with timely access to information relating to the sales of precious metals and jewelry. The Governor signed the bill on July 15, 2013.

The Precious Metals Purchasers Task Force met four times during the spring 2014 Legislative Session and used the Pawnbroker Regulation Act and the City of Elgin municipal ordinance as a framework to craft legislation that ultimately passed the General Assembly.

4. PAWNBROKER REGULATION ACT

The Pawnbroker Regulation Act lays out licensing, recordkeeping, insurance, daily reports to law enforcement, prohibited transactions, and hold order requirements. The Act also provides for violations. In the spring 2010 Session, the Illinois Pawnbrokers Association in an effort to create a level playing field between the Pawnbroker industry that is regulated by state and local laws and the unregulated precious metal dealer industry amended the Pawnbroker Regulation Act in *HB 4854 (Public Act 96-1038); sponsored by Representative Jack Franks and Senator Pamela Althoff*. The law provides regulations for unregistered buyers conducting business at temporary buying locations, targeting individuals that set up in a hotel/motel engaged in the business of purchasing from the public, scrap precious metals, including, but not limited to, jewelry, precious stones, semi-precious stones, coins, silver, gold, and platinum.

Key Provisions of the Pawnbroker Regulation Act:

- DFPR issues licenses to pawnshop operators, has the authority to routinely examine pawnshops, and can levy civil monetary penalties for violations of the Act.
- Pawnbrokers must maintain a record of all transactions.
- Pawnbrokers must maintain insurance coverage covering all hazards equal to at least 2 times the aggregate value for items held in pawn.
- Law enforcement has the authority to inspect the books and records of a pawnshop.
- Pawnbrokers must submit a report each day of all transactions from the preceding day before 12 o'clock noon to appropriate law enforcement. The report must be a detailed account describing the item(s) including serial or identification numbers, exact time of the transaction, and the name and residence of the person making such pawn or pledge from an acceptable form of identification pursuant to the Act.

- Pawnbrokers shall not take or receive any property from a minor who is under 18 years of age, any person appearing to be intoxicated, nor from any person known to have been convicted of theft.
- The Act provides for a 3 year record retention.
- No personal property received on deposit, pledged, or purchased by any pawnbroker shall be sold or removed from the Pawnbroker's place of business for 48 hours.
- Hold Order - law enforcement orders the pawnbroker to retain goods believed to be misappropriated.
- Section 15. Temporary buying locations; unregistered buyers
 - An unregistered buyer must register with the sheriff of the county at least 30 days prior to conducting transactions in that county.
 - An unregistered buyer must submit by 6 a.m. each day to the sheriff of the county detailed transaction records for the previous day including the purchaser, seller, and inventory information.
 - An unregistered buyer must pay a registration fee to the sheriff of the county in which it seeks to conduct business.

5. ELGIN ORDINANCE

Key provisions of the Elgin Ordinance:

- Defines resale dealer as any individual, firm, corporation or partnership engaged in the business of operating a business for profit which buys, sells, possesses on consignment for sale or trades jewelry, stamps, coins, audio-video equipment or any precious metals which may have been previously owned by a consumer.
 - The term "resale dealer" shall include, but not be limited to, businesses commonly known as swap shop operators, stamp dealers, coin dealers and jewelers that purchase and resell items from persons other than dealers and suppliers and engage in disassembling, melting and otherwise altering jewelry. The term "resale dealer" shall not include pawnbrokers.
- The city licenses resale dealers.
- The ordinance exempts garage sales; sales conducted by governmental; civic, patriotic, fraternal, educational, religious or benevolent organizations; automobile dealers; used parts dealers and automotive parts recyclers; consumer shows or exhibitions of collectibles; auctioneers; pawnbrokers; recyclable metal dealers; recyclable materials and used bookstores.
- Prohibit resale dealers from purchasing or accepting any goods if:
 - the seller is less than 18 years of age;
 - the seller is intoxicated;
 - the seller fails to present at least one form of identification;
 - the article to be purchased had an original manufacturer's serial number at the time it was new, but no longer legibly exhibits such number; and
 - the seller is known to be a thief or convicted of theft, burglary, robbery or possession of stolen property.

- Every resale dealer shall report/upload to LeadsOnline (a nationwide database used to identify stolen goods) all transactions including a detailed description, digital photograph, image of seller, date/time of transaction, and signed statement that the seller is 18 and legal owner of an item/(s).
- Law enforcement can examine anything on the premises dealing with purchase or sale of used property.
- Prohibit a resale dealer from exposing for sale, selling, trading, bartering, melting, crushing, destroying, or disposing of any individually identifiable article within 10 days or 3 days of any non-identifiable article after the date of purchasing or receiving the article.
- Prohibit resale dealers from removing identifying marks on goods.
- Resale Dealers are required to install, operate and maintain a video camera surveillance system.
- There is a fine of \$500 for each offense, if convicted of an offense under the ordinance.

6. RESALE DEALERS ACT- SB 1778 (P.A. 98-1096)

The task force heard from several stakeholder representatives including the Elgin Police Department, a representative from the Chicago / Illinois Jewelers' Association, and engaged in robust discussions to produce a bill that regulates Resale Dealers in the state.

The task force also studied the Indiana, Washington and Florida state statutes regulating precious metal dealers. The task force agreed on Florida's definition of precious metals and added Washington State's language exempting consumer shows or exhibitions of collectibles other than a show or convention that offers to buy secondhand jewelry from attendees.

The Resale Dealers Act was sponsored by Senator Pamela Althoff and Representative Anna Moeller. SB 1778 was signed by the Governor on August 26, 2014 and goes into effect January 1, 2015.

SB 1778 creates the Resale Dealers Act to:

- regulate individuals and firms engaged in a business which buys, sells, possesses on consignment for sale or trades jewelry, stamps, electronic equipment or any precious metals that have been previously owned by a consumer;
- exempt garage sales; sales conducted by governmental, civic, patriotic, fraternal, educational, religious, or benevolent organizations; automobile dealers, used parts dealers, and automotive parts recyclers; consumer shows or exhibitions; auctioneers; pawnbrokers; recyclable metal and coin dealers from regulation under the Act;
- require resale dealers to keep a record book and account for all goods purchased, the amount of money and value of the goods, the time of sale, and the name and address of the person selling such items;

- require resale dealers to keep a record of identification to be shown by each person selling any goods;
- require resale dealers to maintain transaction records for 3 years;
- require resale dealers to deliver to the appropriate law enforcement official (either the police chief or the sheriff) a copy of the record book on each day before the hour of 12:00 p.m.;
- prohibit resale dealers from purchasing or accepting any goods if:
 - the seller is less than 18 years of age;
 - the seller fails to present the appropriate form of identification;
 - the article to be purchased had an original manufacturer's serial number at the time it was new, but no longer legibly exhibits such number;
- prohibit resale dealers from removing identifying marks on goods;
- provide that the records of resale dealers are subject to inspection during regular business hours by the police chief or sheriff for compliance purposes only on an annual basis or more frequently if needed;
- prohibit a resale dealer from exposing for sale, selling, trading, bartering, melting, crushing, destroying, or disposing of any individually identifiable article within 10 days or 3 days of any non-identifiable article after the date of purchasing or receiving the article;
- authorize law enforcement officials to issue a hold order ordering the resale dealer to retain physical possession of the goods;
- establish penalties for violations of the recordkeeping requirements, daily reporting requirements, prohibited purchases or inspection of records -- a petty offense (\$750 fine) shall be imposed for the first or second offense, a Class B misdemeanor for a third offense and a Class A misdemeanor for a fourth or subsequent offense;
- establish penalties for removing identifying marks, violating the holding period or violating the hold order -- a petty offense (\$750 fine) shall be imposed for the first or second offense, a Class A misdemeanor for a third offense and a Class 4 felony for a fourth or subsequent offense;
- require local law enforcement officials to enforce the provisions of the Act and allow counties and municipalities to regulate resale dealers; and
- repeal Section 15 of the Pawnbroker Regulation Act, which addresses temporary buying locations and unregistered buyers (individuals that set up in hotels to purchase precious metals from the public). Unregistered buyers are covered under the Resale Dealers Act.

7. TASK FORCE RECOMMENDATIONS

With the passage of the Resale Dealers Act, the task force concluded its work and believes the Act is sufficient to address industry and consumer concerns. However, the task force recommended the following for future consideration by the General Assembly.

The Resale Dealers Act does not require resale dealers to utilize the LeadsOnline database (or any online database) for the recording of items purchased by the public.

7.1 LeadsOnline

The database has been useful in recovering stolen items and prosecuting burglary and theft cases. Only the City of Elgin, Chicago, Aurora, Rockford, and a few smaller towns in Illinois have utilized the database.

Challenges:

- There would be a cost to municipalities to retain LeadsOnline. The city of Elgin pays \$10,000 annually with half the cost recouped from licensing fees from approximately 30 shops. There was a concern that not every municipality could afford LeadsOnline.
- The Illinois Pawnbrokers Association stated that they would not support a 3rd party database citing the following issues with LeadsOnline:
 - Searches are allowed by name, zip codes, or other criteria which could potentially lead to profiling and misuse.
 - Control of information is outside the state of Illinois, it goes to a 3rd party that can sell/distribute financial information however it chooses.
 - Sharing of information with 3rd parties – the law requires pawnbrokers to report to law enforcement and if pawnbrokers report to anyone else they are held liable (LeadsOnline would be the 3rd party).
The Pawnbrokers asked whether or not the state would indemnify them against any lawsuit generated by giving personal data to the 3rd party-LeadsOnline.
 - The Association believes pawnshops are a financial institution and the use of the 3rd party database would violate federal regulations (Gramm-Leach-Bliley Act).

7.2 Statewide Database

The task force discussed the California online database that the state maintains and controls. Chair Moeller recommended having the State Police or law enforcement look into moving toward some type of statewide online database to make it easier for law enforcement to share information for the regulation of Resale Dealers. The Illinois Pawnbrokers Association did not have an issue with a database controlled through the State of Illinois and the state distributing information to law enforcement.

Challenges:

- Cost - generating a revenue stream for the database
- Would the State Police house and maintain the database?

Consideration:

- Whereas not every municipality can afford LeadsOnline a state run database could be made available to everyone.

The Resale Dealers Act exempts Coin Dealers.

7.3 Regulating the Purchase of Coins by Resale Dealers

The Numismatic Dealers asked to be exempt from the Act because they operate on a different model. The task force agreed to the exemption.

Challenges of Numismatic Dealers if they were to be included:

- Numismatic Dealers work on small margins
- The holding time is detrimental to the business
- Privacy is important to customers because of the items (e.g. silver coins, 10 ounces of gold, something that has been inherited)
- Items are hard to identify (no serial numbers on gold)