

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 348

Short Title: Modernize Precious Metals Permitting.

(Public)

Sponsors: Senator Boseman.

Referred to: Commerce.

March 2, 2009

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE THE RECORD KEEPING OF PRECIOUS METALS
PURCHASES BY DEALERS AND TO SUBJECT ALL DEALERS IN PRECIOUS
METALS TO THE SAME LICENSING AND RECORD-KEEPING REQUIREMENTS
BY REPEALING THE "TEN PERCENT OR LESS OF PURCHASES" EXEMPTION
FROM DEALER PERMITTING AND REGULATION.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 66-164 reads as rewritten:

"§ 66-164. Definitions.

~~Unless the context clearly indicates otherwise, the following words and phrases shall have the following meanings: The following definitions apply in this Article:~~

- (1) ~~'Dealer' means a Dealer. – A person who engages in the business of purchasing purchases precious metals from the public public, other than by an exempted transaction, in the form of jewelry, flatware, silver services services, or other forms and holds himself or herself out to the public by signs, advertising advertising, or other methods as engaging in such purchases purchases, including any independent contractor purchasing precious metals under any arrangement in any department store; store, provided, however, that permanently located retail merchants shall be exempted insofar as they make Exempted transactions include (i) purchases directly from manufacturers or wholesalers of precious metals by permanently located retail merchants for their inventories. inventories Provided further, a permanently located retail merchant who is primarily engaged in the business of purchasing or acquiring jewelry, secondhand furniture, antique furniture, objects of art, artifacts, nonprecious metal collector items, antiques and other used household furnishings or fixtures for resale to the public, and who purchases precious metals, articles or items from the public only incidentally to his main business, may be exempted as provided in G.S. 66-166 if his total purchases or acquisitions of precious metals from the public constituted ten percent (10%) or less in dollar volume of the total purchases or acquisitions in dollar volume made by such merchant for all such secondhand items or articles in the 12-month period next preceding the date of application for an exemption under G.S. 66-166. Provided further that pawnbrokers as defined in G.S. 91A-3 shall be exempted insofar as they accept and (ii) pawns or pledges of items made of precious metals under the provisions of Chapter 91A of the General Statutes and made to pawnbrokers as defined in G.S. 91A-3.~~



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- 1 (2) ~~'Local law enforcement agency' means: Local law-enforcement agency. –~~
 2 ~~The term means the following, as applicable:~~
 3 a. ~~The county police force; or force, if the dealer's business is located~~
 4 ~~within a county with a police force and outside the corporate limits of~~
 5 ~~a municipality.~~
 6 b. ~~The county sheriff's office in a county with no county police force for~~
 7 ~~any business located outside the corporate limits of a municipality or~~
 8 ~~inside the corporate limits of a municipality having no municipal~~
 9 ~~police force. "Local law enforcement agency" means the municipal~~
 10 ~~police for any business located within the corporate limits of a~~
 11 ~~municipality having a police force. The municipal police force, if the~~
 12 ~~dealer's business is located within the corporate limits of a~~
 13 ~~municipality having a police force.~~
 14 c. ~~The county sheriff's office of the county in which the dealer's~~
 15 ~~business is located, if neither sub-subdivision a. nor b. of this~~
 16 ~~subdivision applies.~~
 17 (3) ~~'Precious metal' means gold, Precious metal. – Gold, silver, or platinum~~
 18 ~~platinum, as defined below, but excluding coins, medals, medallions, tokens,~~
 19 ~~numismatic items, art ingots, or art bars.~~
 20 a. ~~'Gold' is defined as any Gold. – Any~~ item or article containing ten
 21 (10) ~~karat karats~~ of gold or more which may be in combination or
 22 alloy with any other metal.
 23 b. ~~'Silver' is defined as any Silver. – Any~~ item or article containing 925
 24 parts per thousand of silver which may be in combination or alloy
 25 with any nonprecious metal or which is marked 'sterling'.
 26 c. ~~'Platinum' is defined as any Platinum. – Any~~ item or article
 27 containing 900 parts per thousand or more of platinum which may be
 28 in combination or alloy with any other metal.

29 ~~For purposes of this Article, 'precious metal' does not include coins, medals, medallions,~~
 30 ~~tokens, numismatic items, art ingots, or art bars."~~

31 **SECTION 2.** G.S. 66-166 reads as rewritten:

32 "**§ 66-166. Exemption from ~~permits.~~ permits; record keeping under an exemption.**

33 (a) Any merchant claiming an exemption from the requirements of G.S. 66-165,
 34 66-168, and 66-170 due to the percentage of his total business which constitutes precious
 35 metals purchases shall file an application therefor with the local law-enforcement agency at the
 36 same time as applications for dealers' permits are required to be filed under the provisions of
 37 this Article. The application shall be upon a form approved by the Department of Crime
 38 Control and Public Safety and shall contain as a minimum the following information: the name,
 39 home address and business address of the applicant; the name and location of the business at its
 40 permanent address; the primary nature of the business both as to purchases and sales; the total
 41 dollar volume of purchases of precious metals during the 12-month period next preceding the
 42 date of application; the total dollar volume of all secondhand goods purchased during the same
 43 period by the business; the percentage of precious metals purchases or acquisitions to total
 44 purchases or acquisitions of secondhand goods; and the date when the merchant commenced
 45 the business under which the exemption is claimed. Such application shall be filed under the
 46 same oath as is required for a precious metals dealer permit, shall be notarized, and shall be
 47 accompanied by a fee of five dollars (\$5.00), which fee shall be retained by the local
 48 law-enforcement agency as cost for administering claims for exemptions.

49 The application for exemption, if granted, shall be valid for a period of 12 months.
 50 Thereafter, if the applicant seeks an exemption for the ensuing year he shall file an application
 51 for exemption 30 days before the expiration of the prior exemption.

1 If in any calendar month the percentage of precious metals purchased by an exempted
2 merchant exceeds ten percent (10%) of his total purchases, he shall file notice thereof with the
3 local law-enforcement agency.

4 (b) Every merchant to whom an exemption has been issued pursuant to subsection (a)
5 of this section shall maintain a record of each precious metals purchase that includes a
6 description of the specific item or items purchased and the date of the transaction. Each record
7 entry shall be made at the time of the transaction. These records shall be kept either (i) in a
8 book or (ii) electronically.

9 The records kept by merchants to whom an exemption has been issued pursuant to
10 subsection (a) of this section shall be open at all reasonable times to inspection on the premises
11 by law-enforcement agencies. If the merchant maintains a record book rather than electronic
12 records, the book shall not be destroyed until two years after the last recorded transaction in the
13 book. If the merchant maintains electronic records, a record entry shall not be deleted until two
14 years after a transaction and the merchant shall provide a hard copy of the records upon the
15 request of a law-enforcement agency.

16 (c) Local law-enforcement shall not issue an exemption under subsection (a) of this
17 section after September 30, 2009. Exemptions issued by local law-enforcement under
18 subsection (a) of this section on or before September 30, 2009, shall remain in effect until 12
19 months after the date of issuance."

20 **SECTION 3.** G.S. 66-166 is repealed.

21 **SECTION 4.** G.S. 66-169 reads as rewritten:

22 "**§ 66-169. Records to be kept.**

23 Every dealer to whom a permit has been issued pursuant to G.S. 66-165 shall maintain a
24 tightly bound book or books (not loose leaf), with pages numbered in sequence, in which shall
25 be recorded, at the time of any purchase of precious metal, a serially numbered account and
26 description of the specific items purchased, including, if applicable, serially numbered records
27 of each and every precious metals transaction. Each serially numbered record shall be made at
28 the time of the transaction and shall contain a description of the transaction. A valid description
29 shall include each of the following applicable and available items of information: the
30 manufacturer's name, the model, the model number, the serial number, and any engraved
31 numbers or initials found on the items, items; the date of the transaction, transaction; and the
32 name, sex, race, residence, telephone number and driver's license number, if any, number of the
33 person selling the items purchased. Both the dealer and the seller shall sign the record entry
34 purchased; and the signature of both the dealer and the seller. In the event the seller cannot
35 furnish his driver's license, photographic identification in the form of a drivers license,
36 State-issued identification card, passport, or military identification card bearing his photograph,
37 card, the dealer shall require two forms of positive identification.

38 The serially numbered records required by this section shall be kept either (i) in a
39 paginated, bound book or set of books with pages numbered in sequence or (ii) in an electronic
40 database that prevents record deletion and tracks all modifications to records and that provides
41 for electronic signatures.

42 The record book records shall be open at all reasonable times to inspection on the premises
43 by law-enforcement agencies agencies, and an individual record shall not be destroyed retained
44 for at least two years after a transaction. If a dealer maintains a record book rather than an
45 electronic database, the book shall be retained until at least two years following the last
46 transaction which the record book reflects. recorded transaction. A copy of each serially
47 numbered record book entry shall be filed within 48 hours of the transaction in the office of the
48 local law-enforcement agency. Mailing the required copy to the local law-enforcement agency
49 within 48 hours of the transaction shall constitute compliance with this section. If a dealer
50 maintains an electronic database, these records may be electronically reported to the local
51 law-enforcement agency by transmission over a computer network, including the Internet, or by

1 facsimile machine in a manner authorized by the local law-enforcement agency. Regardless of
2 whether the local law-enforcement agency allows electronic reporting, a dealer shall provide a
3 hard copy of records upon the request of a law-enforcement agency.

4 The files of local law-enforcement agencies which contain such copies of ~~record book~~
5 ~~entries records~~ shall not be subject to inspection and examination as authorized by G.S. 132-6.
6 Any public official or employee who shall knowingly and willfully permit any person to have
7 access to or custody or possession of any portion of such files, unless the person is one
8 specifically authorized by the local law-enforcement agency to have access ~~thereto~~ for purposes
9 of law-enforcement investigation or civil or criminal proceedings, shall be guilty of a Class 3
10 misdemeanor and upon conviction shall only be ~~fin~~ fined, in the discretion of the ~~court~~ court,
11 ~~but not in excess of up to~~ five hundred dollars (\$500.00).

12 ~~Every merchant to whom an exemption has been issued pursuant to G.S. 66-166 shall~~
13 ~~maintain a book in which shall be recorded, at the time of any purchase of precious metal, a~~
14 ~~description of the specific items purchased and the date of the transaction. This book shall be~~
15 ~~open at all reasonable times to inspection on the premises by law enforcement agencies and~~
16 ~~shall not be destroyed until two years following the last transaction which the record book~~
17 ~~reflects."~~

18 **SECTION 5.** Section 1 of this act becomes effective October 1, 2009. Section 3 of
19 this act becomes effective October 1, 2012. The remainder of this act is effective when it
20 becomes law.