

CONFERENCE COMMITTEE REPORT FORM

Austin, Texas

May 27, 2011

Date

Honorable David Dewhurst
President of the Senate

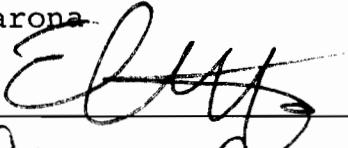
Honorable Joe Straus
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on HB 2490 have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.



Carona



Eltife



Lucio, Jr.



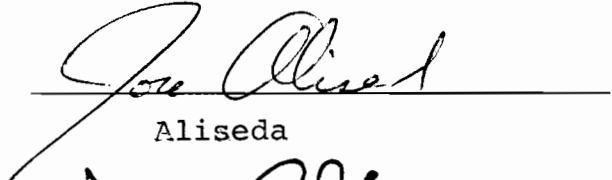
Van de Putte



On the part of the Senate
Zaffirini



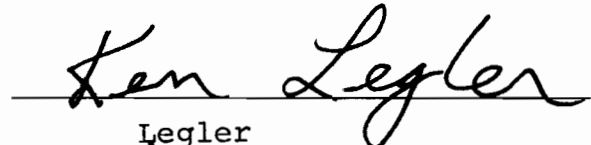
Solomons



Aliseda



Chisum



Legler



On the part of the House
Smith, Wayne

Note to Conference Committee Clerk:

Please type the names of the members of the Conference Committee under the lines provided for signature. Those members desiring to sign the report should sign each of the six copies. Attach a copy of the Conference Committee Report and a Section by Section side by side comparison to each of the six reporting forms. The original and two copies are filed in house of origin of the bill, and three copies in the other house.

CONFERENCE COMMITTEE REPORT

3rd Printing

H.B. No. 2490

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of crafted precious metal dealers;
3 providing criminal and administrative penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1956.051, Occupations Code, is amended
6 to read as follows:

7 Sec. 1956.051. DEFINITIONS. In this subchapter:

8 (1) "Commission" means the Finance Commission of
9 Texas.

10 (2) "Commissioner" means the consumer credit
11 commissioner.

12 (3) "Crafted precious metal" means jewelry,
13 silverware, an art object, or another object, made wholly or partly
14 from precious metal, other than a coin, a bar, a [ex] commemorative
15 medallion, or scrap or a broken item selling at five percent or more
16 than the scrap value of the item [made in whole or in part from
17 precious metal].

18 (4) [~~2~~] "Dealer" means a person registered to engage
19 [who engages] in the business of purchasing and selling crafted
20 precious metal, including purchases or sales made through the mail.

21 (5) [~~3~~] "Department" means the Texas Department of
22 Public Safety.

23 (6) [~~4~~] "Precious metal" means gold, silver,
24 platinum, palladium, iridium, rhodium, osmium, ruthenium, or an

1 alloy of those metals.

2 SECTION 2. Subchapter B, Chapter 1956, Occupations Code, is
3 amended by adding Section 1956.0511 to read as follows:

4 Sec. 1956.0511. ADMINISTRATION BY COMMISSION. (a)
5 Notwithstanding any other provision of this chapter, the commission
6 shall administer and enforce this subchapter, unless the context
7 clearly requires another state agency to perform a specific duty.

8 (b) To the extent of any conflict between this subchapter
9 and other provisions of this chapter, this subchapter prevails.

10 SECTION 3. Section 1956.060, Occupations Code, is amended
11 to read as follows:

12 Sec. 1956.060. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED
13 BY PERSON LICENSED UNDER TEXAS PAWNSHOP ACT. This subchapter does
14 not apply to crafted precious metal acquired by:

15 (1) a person licensed under Chapter 371, Finance Code;
16 or

17 (2) an entity affiliated with a person licensed under
18 Chapter 371, Finance Code, if the entity's recordkeeping practices
19 satisfy the requirements of that chapter.

20 SECTION 4. Subchapter B, Chapter 1956, Occupations Code, is
21 amended by adding Sections 1956.0611, 1956.0612, 1956.0613,
22 1956.0614, and 1956.0615 to read as follows:

23 Sec. 1956.0611. RULEMAKING. The commission may adopt rules
24 necessary to implement and enforce this subchapter.

25 Sec. 1956.0612. REGISTRATION AS DEALER. (a) A person may
26 not engage in the business of purchasing and selling crafted
27 precious metal unless the person is registered with the

1 commissioner as a dealer under this section.

2 (b) To register as a dealer, a person must provide to the
3 commissioner, on or before December 31 preceding each calendar year
4 in which the person seeks to act as a dealer:

5 (1) a list of each location in this state at which the
6 person will conduct business as a dealer; and

7 (2) a processing fee for each location included on the
8 list furnished under Subdivision (1).

9 (c) The commissioner shall prescribe the processing fee in
10 an amount necessary to cover the costs of administering this
11 section.

12 (d) After the December 31 deadline, a dealer may amend the
13 registration required under Subsection (a) to reflect any change in
14 the information provided by the registration.

15 (e) The commissioner shall make available to the public a
16 list of dealers registered under this section.

17 (f) The commissioner may prescribe the registration form.

18 (g) A reference to a registration in another subchapter of
19 this chapter does not apply to a person to the extent the person is
20 registered under this subchapter.

21 Sec. 1956.0613. INVESTIGATION BY COMMISSIONER. The
22 commissioner shall:

23 (1) monitor the operations of a dealer to ensure
24 compliance with this chapter; and

25 (2) receive and investigate complaints against a
26 dealer or a person acting as a dealer.

27 Sec. 1956.0614. REVOCATION OF REGISTRATION. (a) The

1 commissioner may revoke the registration of a dealer if the
2 commissioner concludes that the dealer has violated this chapter.
3 The commissioner shall recite the basis of the decision in an order
4 revoking the registration.

5 (b) If the commissioner proposes to revoke a registration,
6 the dealer is entitled to a hearing before the commissioner or a
7 hearings officer, who shall propose a decision to the commissioner.
8 The commissioner or hearings officer shall prescribe the time and
9 place of the hearing. The hearing is governed by Chapter 2001,
10 Government Code.

11 (c) A dealer aggrieved by a ruling, order, or decision of
12 the commissioner is entitled to appeal to a district court in the
13 county in which the hearing was held. An appeal under this
14 subsection is governed by Chapter 2001, Government Code.

15 Sec. 1956.0615. ADMINISTRATIVE PENALTY. The commissioner
16 may assess an administrative penalty not to exceed \$500 against a
17 person for each knowing and wilful violation of this chapter.

18 SECTION 5. Section 1956.063(c), Occupations Code, is
19 amended to read as follows:

20 (c) For each transaction regulated by this subchapter, the
21 [The] dealer shall submit a [the] report on a preprinted and
22 prenumbered form prescribed by the commissioner [~~district attorney~~
23 ~~or person performing the duties of district attorney of the county~~
24 ~~in which the transaction occurs]. The form must include the~~
25 following:

- 26 (1) the date of the transaction;
27 (2) a description of the crafted precious metal

1 purchased by the dealer;

2 (3) the name and physical address of the dealer; and

3 (4) the name, physical description, and physical
4 address of the seller or transferor.

5 SECTION 6. Section 1956.064, Occupations Code, is amended
6 by amending Subsection (b) and adding Subsection (c) to read as
7 follows:

8 (b) A peace officer who has reasonable suspicion to believe
9 that an item of crafted precious metal in the possession of a dealer
10 is stolen may place the item on hold for a period not to exceed 60
11 days by issuing to the dealer a written notice that:

12 (1) specifically identifies the item alleged to be
13 stolen and subject to the hold; and

14 (2) informs the dealer of the requirements of
15 Subsection (c).

16 (c) On receiving the notice, the dealer may not melt,
17 deface, alter, or dispose of the identified crafted precious metal
18 until the hold is released in writing by a peace officer of this
19 state or a court order. [A dealer who retains information under
20 Subsection (a)(2) shall make that information available for
21 inspection by any peace officer.]

22 SECTION 7. Section 1956.067(a), Occupations Code, is
23 amended to read as follows:

24 (a) A dealer who conducts business at a temporary location
25 for a period of less than one year [~~90 days~~] may not engage in the
26 business of buying precious metal or used items made of precious
27 metal unless, within a 12-month period at least 30 days before the

1 date on which each purchase is made, the dealer [~~person~~] has filed:

2 (1) a registration statement with the department;
3 [~~and~~]

4 (2) a copy of the registration statement and a copy of
5 the dealer's certificate of registration issued under this
6 subchapter with the local law enforcement agency of:

7 (A) the municipality in which the temporary
8 location is located; or

9 (B) if the temporary location is not located in a
10 municipality, the county in which the temporary location is
11 located; and

12 (3) a copy of the dealer's certificate of registration
13 issued under this subchapter with the county and, if applicable,
14 the municipality in which the temporary location is located.

15 SECTION 8. Section 1956.069(a), Occupations Code, is
16 amended to read as follows:

17 (a) A person [~~dealer~~] commits an offense if the person
18 [~~dealer~~]:

19 (1) fails to make or permit inspection of a report as
20 required by Section 1956.062 or 1956.063;

21 (2) violates [~~disposes of crafted precious metal or~~
22 ~~fails to make a record available for inspection by a peace officer~~
23 ~~as required by~~] Section 1956.0612 or 1956.064;

24 (3) fails to obtain or retain a statement as required
25 by Section 1956.066;

26 (4) fails to file a registration statement as required
27 by Section 1956.067; or

1 (5) purchases an object in violation of Section
2 1956.068.

3 SECTION 9. The change in law made by this Act applies only
4 to an offense committed on or after the effective date of this Act.
5 An offense committed before the effective date of this Act is
6 governed by the law in effect on the date the offense was committed,
7 and the former law is continued in effect for that purpose. For
8 purposes of this section, an offense was committed before the
9 effective date of this Act if any element of the offense occurred
10 before that date.

11 SECTION 10. Not later than December 1, 2011, the Finance
12 Commission of Texas shall adopt rules to implement Subchapter B,
13 Chapter 1956, Occupations Code, as amended by this Act.

14 SECTION 11. (a) Except as provided by Subsection (b) of
15 this section, this Act takes effect September 1, 2011.

16 (b) Section 1956.0612, Occupations Code, as added by this
17 Act, and Sections 1956.067(a) and 1956.069(a), Occupations Code, as
18 amended by this Act, take effect January 1, 2012.

House Bill 2490
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

SECTION 1. Amends Section 1956.001(8), Occupations Code.

No equivalent provision.

Same as Senate version.

SECTION 2. Amends Section 1956.051, Occupations Code, by amending Subdivisions (1) and (2) and adding Subdivisions (1-a) and (3-a). Defines "commissioner" and "finance commission." Redefines "crafted precious metal" to mean jewelry, silverware, an art object, or another object, made wholly or partly from precious metal, other than a coin, a bar, a commemorative medallion, or scrap or a broken item selling at *not more than five percent more* than the scrap value of the item. Redefines "dealer" to mean a person *licensed* to engage in the business of purchasing and selling crafted precious metal.

SECTION 1. Amends Section 1956.051, Occupations Code by amending Subdivision (1) and adding Subdivision (1-a) to define "commissioner."

SECTION 1. Amends Section 1956.051, Occupations Code, Definitions. Defines "commission" instead of "finance commission"; defines "commissioner"; redefines "crafted precious metal" to mean jewelry, silverware, an art object, or another object, made wholly or partly from precious metal, other than a coin, a bar, a commemorative medallion, or scrap or a broken item selling at *five percent or more* than the scrap value of the item; and redefines "dealer" to mean a person *registered* to engage in the business of purchasing and selling crafted precious metal, *including purchases or sales made through the mail*.

SECTION 3. Adds Section 1956.0511, Occupations Code, Administration by Finance Commission. Requires the finance commission, notwithstanding any other provision of this chapter, to administer and enforce this subchapter, unless the context clearly requires another state agency to perform a specific duty. Provides, to the extent of any conflict between this subchapter and other provisions of this chapter, that this subchapter prevails.

No equivalent provision.

SECTION 2. Substantially the same as House version.

SECTION 4. Amends Section 1956.060, Occupations Code, Exception: Crafted Precious Metal Acquired by Person Licensed Under Texas Pawnshop Act. Makes this subchapter inapplicable to crafted precious metal acquired by *an employee* of a person licensed under Chapter 371, Finance Code, in addition to the licensed person.

No equivalent provision.

SECTION 3. Amends Section 1956.060, Occupations Code. Makes this subchapter inapplicable to *an entity affiliated with* a person licensed under Chapter 371, Finance Code, in addition to the licensed person, *if the entity's recordkeeping practices satisfy the requirements of that chapter*.

House Bill 2490
Conference Committee Report
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

SECTION 5. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Sections 1956.0611, 1956.0612, 1956.0613, 1956.0614, and 1956.0615 to read as follows:

SECTION 2. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Sections 1956.0611 through 1956.0615 to read as follows:

SECTION 4. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Sections 1956.0611, 1956.0612, 1956.0613, 1956.0614, and 1956.0615 to read as follows:

Sec. 1956.0611. ***Dealer's License Required.*** Prohibits a person from engaging in the business of purchasing and selling crafted precious metal unless the person ***holds a dealer's license issued under this subchapter.***

Sec. 1956.0611. ***Registration as a Dealer.*** (a) Prohibits a person from engaging in the business of purchasing and selling crafted precious metal unless the ***person is registered with the commissioner as a dealer under this section.***
(b) Requires a person, in order to register as a dealer, to provide to the commissioner, on or before December 31 preceding each calendar year in which the person seeks to act as a dealer a list of each location in this state at which the person will conduct business as a dealer and a processing fee for each location included on that list.
(c) Requires the commissioner to prescribe the processing fee in an amount necessary to cover the costs of administering this section.
(d) Authorizes a dealer, after the December 31 to amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.
(e) Requires the commissioner to make available to the public a list of dealers registered under this section.
(f) Authorizes the commissioner to prescribe the registration form.
(g) Makes a reference to a registration in another subchapter of this chapter inapplicable to a person to the extent the person is registered under this subchapter.

Sec. 1956.0612. Same as Senate version.

No equivalent provision.

Sec. 1956.0612. Investigation by Commissioner. Requires the

Sec. 1956.0613. Same as Senate version.

House Bill 2490
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HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

commissioner to monitor the operations of a dealer to ensure compliance with this chapter and receive and investigate complaints against a dealer or a person acting as a dealer.

No equivalent provision.

Sec. 1956.0613. Revocation of Registration. (a) Authorizes the commissioner to revoke the registration of a dealer if the commissioner concludes that the dealer has violated this chapter and requires the commissioner to recite the basis of the decision in an order revoking the registration.
(b) Entitles the dealer, if the commissioner proposes to revoke a registration, to a hearing before the commissioner or a hearings officer, who shall propose a decision to the commissioner. Requires the commissioner or hearings officer to prescribe the time and place of the hearing, which is governed by Chapter 2001, Government Code.
(c) Entitles a dealer aggrieved by a ruling, order, or decision of the commissioner to appeal to a district court in the county in which the hearing was held and provides that such an appeal is governed by Chapter 2001, Government Code.

Sec. 1956.0614. Same as Senate version.

No equivalent provision.

Sec. 1956.0615. Administrative Penalty. Authorizes commissioner to assess an administrative penalty not to exceed \$500 against a person for each knowing and willful violation of this chapter.

Sec. 1956.0615. Same as Senate version.

Sec. 1956.0612. Eligibility.

No equivalent provision.

Same as Senate version.

Sec. 1956.0613. License Application; Fee.

No equivalent provision.

Same as Senate version.

Sec. 1956.0614. Approval; Issuance of License

No equivalent provision.

Same as Senate version.

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SENATE VERSION (IE)

CONFERENCE

(Unless otherwise indicated, all SECTIONS below are from FA1)

Sec. 1956.0615. Rulemaking. (a) Authorizes the finance commission to adopt rules to enforce this subchapter.

No equivalent provision.

Sec. 1956.0611. Substantially the same as House version.

(b) Requires the finance commission to establish fees under this subchapter, including an annual fee to be paid by a license holder, in amounts reasonable and necessary to cover the costs of administering the commission's programs and activities under this subchapter.

No equivalent provision.

Same as Senate version.

SECTION 6. Amends Section 1956.062, Occupations Code.

No equivalent provision.

Same as Senate version.

SECTION 7. Amends Section 1956.063(c), Occupations Code. Requires a dealer, for each transaction regulated by this subchapter, to submit a report on a preprinted and prenumbered form prescribed by the *finance commission*, and requires the form to include the date of the transaction; a description of the crafted precious metal purchased by the dealer; the name and physical address of the dealer; the name, physical description, and physical address of the seller; and *a copy of the document described by Section 1956.062(c)*.

No equivalent provision.

SECTION 5. Substantially the same as House version, except specifies a preprinted and prenumbered form prescribed by the *commissioner*, requires the form to include the name, physical description, and physical address of the *seller or transferor*, and omits the requirement for a copy of the specified document.

SECTION 8. Adds Section 1956.0631, Occupations Code, Payment for Crafted Precious Metal Purchased.

No equivalent provision.

Same as Senate version.

SECTION 9. Section 1956.064, Occupations Code, is amended as follows:

No equivalent provision.

SECTION 6. Same as House version, except as follows:

(a)

No equivalent provision.

Same as Senate version.

(b) Authorizes a peace officer who has reasonable suspicion

No equivalent provision.

(b) Same as House version, except limits such officer's

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HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

to believe that an item of crafted precious metal in the possession of a dealer is stolen to place the item on hold by issuing to the dealer a written notice that specifically identifies the item alleged to be stolen and subject to the hold and informs the dealer of the requirements of Subsection (c).

(c) Prohibits the dealer, on receiving the notice, from melting, defacing, altering, or disposing of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order.

SECTION 10. Amends Section 1956.067(a), Occupations Code, prohibiting a dealer who conducts a business at a temporary location for a period of less than one year from engaging in the business of buying precious metal or certain other activities unless the dealer has filed within a certain time a copy of the dealer's *license* issued under this subchapter with the local law enforcement agency and a copy of the dealer's *license* issued under this subchapter with the county and, if applicable, the municipality in which the temporary location is located.

SECTION 11. Amends Section 1956.069(a), Occupations Code. Provides that a person commits an offense if the person violates *Section 1956.0611 (Dealer's License Required)*, *1956.0631 (Payment for Crafted Precious Metal Purchased)*, or 1956.064 (Required Retention of Crafted Precious Metal), Occupations Code, in addition to other violations.

SECTION 12. The change in law made by this Act applies only to an offense committed on or after the effective date of

authority to place the item on hold to placing that item on hold *for a period not to exceed 60 days*.

(c) Same as House version.

SECTION 7. Same as House version, except requires the dealer to have filed with the local law enforcement agency, the county, and, if applicable, the municipality in which the temporary location is located a copy of the dealer's *certificate of registration* under this subchapter.

SECTION 8. Amends Section 1956.069(a), Occupations Code. Provides that a person commits an offense if the person violates *Section 1956.0612 (Registration as a Dealer)* or 1956.064 (Required Retention of Crafted Precious Metal), Occupations Code, in addition to other violations.

SECTION 9. Same as House version.

No equivalent provision.

No equivalent provision.

No equivalent provision.

No equivalent provision.

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Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)
(Unless otherwise indicated, all SECTIONS below are from FA1)

CONFERENCE

this Act. An offense committed before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

SECTION 13. Requires the Finance Commission of Texas shall adopt rules not later than December 1, 2011, to implement Subchapter B, Chapter 1956, Occupations Code, as amended by this bill.

SECTION 14. Provides that the bill takes effect September 1, 2011, except as provided by Subsection (b) of this section. Provides that ***Section 1956.0611 (Dealer's License Required)***, Occupations Code, as added by the bill, and Sections 1956.067(a) and 1956.069(a), Occupations Code, as amended by the bill, take effect January 1, 2012.

SECTION 3. Requires the consumer credit commission shall prescribe the forms and fees necessary not later than November 1, 2011, to implement Subchapter B, Chapter 1956, Occupations Code, as amended by this bill.

SECTION 4. Same as House version, except provides that Section 1956.0611, Occupations Code, takes effect December 1, 2011 and does not provide for Sections 1956.067(a) and 1956.069(a).

SECTION 10. Same as House version.

SECTION 11. Substantially the same as House version, except that the exception in Subsection (b) applies to ***Section 1956.0612 (Registration as a Dealer)*** as added by the bill, and Sections 1956.067(a) and 1956.069(a), Occupations Code, as amended by the bill.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 27, 2011

TO: Honorable David Dewhurst, Lieutenant Governor, Senate
Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S O'Brien, Director, Legislative Budget Board

IN RE: HB2490 by Solomons (Relating to the regulation of crafted precious metal dealers; providing criminal and administrative penalties.), **Conference Committee Report**

No fiscal implication to the State is anticipated.

Local Government Impact

No fiscal implication to units of local government is anticipated.

Source Agencies: 466 Office of Consumer Credit Commissioner, 450 Department of Savings and Mortgage Lending, 451 Department of Banking

LBB Staff: JOB, SD, RAN, AG, SZ

Certification of Compliance with Rule 13, Section 6(b), House Rules of Procedure

Rule 13, Section 6(b), House Rules of Procedure, requires that a copy of a conference committee report signed by a majority of each committee of the conference must be furnished to each member of the committee in person or if unable to deliver in person by placing a copy in the member's newspaper mailbox at least one hour before the report is furnished to each member of the house under Section 10(a) of this rule. The paper copies of the report submitted to the chief clerk under Section 10(b) of this rule must contain a certificate that the requirement of this subsection has been satisfied, and that certificate must be attached to the printed copy of the report furnished to each member under Section 10(d) of this rule. Failure to comply with this subsection is not a sustainable point of order under this rule.

I certify that a copy of the conference committee report on H. B. 2490 was furnished to each member of the conference committee in compliance with Rule 13, Section 6(b), House Rules of Procedure, before submission of the paper copies of the report to the chief clerk under Section 10(b), Rule 13, House Rules of Procedure.



(name)

05/27/11

(date)