

First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1188

AN ACT to amend the Indiana Code concerning trade regulation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-5-1-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: **Sec. 13. The secretary of state may adopt and enforce rules under IC 4-22-2 necessary to carry out IC 24-4-19-13(b) concerning precious metal dealer registration.**

SECTION 2. IC 24-4-13-0.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: **Sec. 0.5. (a) This chapter applies only to a jeweler that is a retail merchant that:**

(1) is located in an area zoned for commercial land use;
(2) is open to the public;
(3) primarily sells jewelry; and
(4) remitted at least ten thousand dollars (\$10,000) of Indiana gross retail and use tax during the immediately preceding calendar year as a result of retail sales of jewelry.

(b) This chapter does not apply to the following:

- (1) A precious metal dealer regulated under IC 24-4-19.
- (2) A valuable metal dealer (as defined in IC 25-37.5-1-1(b)).

(3) A pawnbroker licensed under IC 28-7-5.

SECTION 3. IC 24-4-19 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]:

Information Current as of May 2016.

Chapter 19. Precious Metal Dealers

Sec. 1. This chapter does not apply to the following:

- (1) A jeweler regulated under IC 24-4-13 concerning used jewelry sales.**
- (2) A valuable metal dealer (as defined in IC 25-37.5-1-1(b)).**
- (3) A pawnbroker licensed under IC 28-7-5.**
- (4) The purchase or resale of a mint issued coin by a person whose primary**

business is buying, selling, and trading mint issued coins.

Sec. 2. As used in this chapter, "jewelry" means personal ornaments made of gold, silver, or platinum that may or may not contain precious, semiprecious, or imitation stones.

Sec. 3. As used in this chapter, "mint issued coin" means a coin that:

- (1) is bought or sold as an investment in a rare or precious metal;**
- (2) has a collectable value greater than the face value of the coin; or**
- (3) is collectable or desirable due to the age, rarity, or condition of the coin.**

Sec. 4. As used in this chapter, "permanent place of business" means a fixed premises:

- (1) owned by a precious metal dealer; or**
- (2) leased by a precious metal dealer for a term of at least twelve (12) months;**

at which the precious metal dealer purchases or resells precious metal.

Sec. 5. As used in this chapter, "person" means an individual, a firm, an association, a limited liability company, a partnership, a joint stock association, a trust, or a corporation.

Sec. 6. (a) As used in this chapter, "precious metal" means:

- (1) used jewelry; and**
- (2) other used articles of personal property that:**
 - (A) are made of gold, silver, or platinum; and**
 - (B) were previously purchased at retail, acquired by gift,**

or obtained in some other fashion by a consumer.

(b) The term does not include:

- (1) mint issued coins;**
- (2) ingots; or**
- (3) industrial residue or byproducts that contain gold, silver, or platinum purchased**

from manufacturing firms.

Sec. 7. As used in this chapter, "precious metal dealer" means a person who engages in the business of purchasing precious metal for the purpose of reselling the precious metal in any form.

Sec. 8. As used in this chapter, "purchase" means to acquire property in exchange for cash, credit, or other valuable consideration.

Sec. 9. As used in this chapter, "seller" means a consumer or other person who sells precious metal to a precious metal dealer.



Sec. 10. As used in this chapter, "used jewelry" means jewelry previously purchased at retail, acquired by gift, or obtained in some other fashion by a consumer.

Sec. 11. A precious metal dealer who purchases or resells precious metal must comply with this chapter. However, this chapter does not apply to jewelry used by a customer as a trade-in toward the purchase of a new piece of jewelry.

Sec. 12. A precious metal dealer may engage in the business of purchasing or reselling precious metal in Indiana only at a permanent place of business owned or leased by the precious metal dealer.

Sec. 13. (a) A precious metal dealer must satisfy the registration requirements described in subsections (b) and (c) before the precious metal dealer may engage in the business of purchasing or reselling precious metal at a permanent place of business in Indiana.

(b) A precious metal dealer must submit to the secretary of state one (1) time every twelve (12) months a registration that includes the following:

(1) The name of the precious metal dealer.

(2) The addresses of all permanent places of business owned or leased by the precious metal dealer in Indiana.

(3) Any other information required by the secretary of state.

(4) A registration fee of one hundred dollars (\$100), to be deposited by the secretary of state into the electronic and enhanced access fund established by IC 4-5-10-5.

(c) A precious metal dealer must submit a registration to a law enforcement agency one (1) time every twelve (12) months for each permanent place of business owned or leased by the precious metal dealer in Indiana as follows:

(1) If the permanent place of business is located in a municipality that maintains a law enforcement agency, the registration shall be submitted to the law enforcement agency of the municipality.

(2) If the permanent place of business is not located in a municipality that maintains a law enforcement agency, the registration shall be submitted to the sheriff of the county in which the permanent place of business is located.

A registration submitted to a law enforcement agency under this subsection must include the name of the precious metal dealer, the address of the permanent place of business, any other information required by the law enforcement agency, and a registration fee of fifty dollars (\$50). However, if a precious metals dealer registers more than one (1) permanent place of business with the same law enforcement agency, the precious metal dealer must pay a registration fee of fifty dollars (\$50) to register all the permanent places of business with the law enforcement agency.

Sec. 14. (a) If a precious metal dealer purchases precious metal from a seller, the precious metal dealer shall:

(1) verify the identity of the seller by use of a government issued photographic identification;

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- (2) make a copy of the seller's government issued photographic identification; and
- (3) take a photograph of the precious metal.

(b) A precious metal dealer shall retain a copy of the:

- (1) government issued photographic identification; and
- (2) photograph;

described in subsection (a) as required in section 15(e) of this chapter.

Sec. 15. (a) A precious metal dealer shall keep and use in the precious metal dealer's business the books, accounts, and records necessary to determine whether the precious metal dealer is complying with this chapter.

(b) A precious metal dealer shall preserve the books, accounts, and records, including cards used in the card system, for at least two (2) years after making the final entry on any purchase recorded.

(c) The precious metal dealer shall keep the books and records so that the business of purchasing precious metal for resale may be readily separated and distinguished from any other business in which the precious metal dealer is engaged.

(d) If a precious metal dealer, in the conduct of the business, purchases precious metal from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller verifying the accuracy of the information in the bill of sale. All bills of sale must be in duplicate and must list the following separate items:

(1) The date of sale.

(2) The:

(A) name;

(B) address;

(C) date of birth; and

(D) driver's license number or Social Security number;

of the seller from whom the precious metal was purchased.

(3) The amount of consideration paid for the precious metal.

(4) The:

(A) name of the precious metal dealer; and

(B) address of the permanent place of business where the purchase occurred.

(5) A description of each article of precious metal sold. However, if multiple articles of precious metal of a similar nature are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any unique identifying marks, numbers, names, letters, or special features.

(6) The type of government issued photographic identification used to verify the identity of the seller under section 14 of this chapter, together with the name of the governmental agency that issued the photographic identification and the identification number present on the government issued photographic identification.



(e) If a precious metal dealer purchases precious metal, the precious metal dealer shall retain as part of the books, accounts, and records kept by the precious metal dealer under this section:

- (1) the original copy of the bill of sale described in subsection (d); and**
- (2) the:**

- (A) copy of the seller's government issued photographic identification; and**
- (B) photograph of the precious metal;**

obtained by the precious metal dealer as required under section 14 of this chapter. The second copy of the bill of sale shall be delivered to the seller by the precious metal dealer at the time of sale.

(f) The heading on all bill of sale forms must be in boldface type.

Sec. 16. (a) Each day a precious metal dealer purchases precious metal at a permanent place of business, the precious metal dealer shall report the information described in section 15(d) of this chapter concerning the precious metal to a law enforcement agency as follows:

(1) If the permanent place of business is located in a municipality that maintains a law enforcement agency, the report required under this section shall be made to the law enforcement agency of the municipality.

(2) If the permanent place of business is not located in a municipality that maintains a law enforcement agency, the report required under this section shall be made to the sheriff of the county in which the permanent place of business is located.

(b) The information reported to a law enforcement agency under subsection (a) shall be submitted in an electronic format if requested by the law enforcement agency.

Sec. 17. (a) A precious metal dealer shall make the records and information under section 15 of this chapter available for examination upon the request of a law enforcement agency (as defined in IC 10-13-3-10).

(b) The law enforcement agency under subsection (a) shall determine if:

- (1) the records are sufficient; and**
- (2) the precious metal dealer has made the information reasonably available.**

Sec. 18. A precious metal dealer may not purchase precious metal:

- (1) from an individual less than eighteen (18) years of age; or**
- (2) that the precious metal dealer believes or should have reason to believe is stolen property acquired as a result of a crime.**

Sec. 19. (a) A precious metal dealer shall hold each article of precious metal purchased by the precious metal dealer for at least ten (10) calendar days after the date the precious metal dealer purchases the precious metal:

- (1) at the precious metal dealer's permanent place of business where the purchase occurred; and**
- (2) separate from other precious metal.**

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(b) During the ten (10) calendar days that the precious metal dealer must hold precious metal under subsection (a), the precious metal dealer:

- (1) may not change the form of the precious metal; and
- (2) shall allow a law enforcement officer to inspect the precious metal.

Sec. 20. (a) Records and information generated by a precious metal dealer in the course of business are confidential under IC 5-14-3-4.

(b) A law enforcement officer (as defined in IC 3-6-6-36(a)) may obtain or receive records and information described in subsection (a) relating to the purchase of precious metal for use in investigating crime.

(c) Law enforcement officials may disclose the name and address of the precious metal dealer to an adverse claimant in the case of a dispute over ownership of property in possession of the precious metal dealer.

Sec. 21. A person who knowingly or intentionally violates this chapter commits a Class A misdemeanor.

SECTION 4. IC 24-7-5-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: **Sec. 12. (a) A lessor may contract for and receive a fee for accepting rental payments by telephone in connection with a rental purchase agreement, if all of the following conditions are met:**

(1) The fee is assessed only upon request by the lessee for the underlying payment by telephone service.

(2) The payment by telephone service is not established in advance, under the rental purchase agreement or otherwise, as the expected method for making rental payments under the rental purchase agreement.

(3) The fee does not exceed one dollar and fifty cents (\$1.50).

(4) The lessee retains the right to make rental payments by payment methods in connection with which no additional fee would be assessed or incurred (including in-person payments and payments by mail) as a result of such alternative payment methods.

(5) The fee is contracted for and disclosed by the lessor in the rental purchase agreement.

(6) The lessor posts a sign at each store location disclosing to existing and prospective lessees:

- (A) the amount of the fee;
- (B) the lessee's right and option to make rental payments by alternative payment methods and not be assessed or incur an additional fee; and
- (C) the alternative payment methods offered by the lessor in connection with which no additional fee would be assessed or incurred.

(7) The lessor's books and records provide an audit trail sufficient to allow the department and its examiners to confirm the lessee's compliance with the conditions listed in subdivisions (1) through (6).

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(b) A fee may not be charged under this section unless there is interaction between a live employee or representative of the lessor and the lessee.

SECTION 5. IC 24-7-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1. A lessee who fails to make timely rental payments has the right to reinstate the original rental purchase agreement **under the original terms of the agreement** without losing any rights or options previously acquired under the rental purchase agreement **and without additional charges or penalties, except charges or penalties authorized under section 2 of this chapter**, if:

(1) subsequent to having failed to make a timely rental payment, the lessee promptly surrenders the property to the lessor if requested by the lessor; **not later than seven (7) days after the date the lessor requests the property be surrendered**; and

(2) not more than sixty (60) **one hundred twenty (120)** days elapse after **the date** the lessee returns **surrenders** the property.

SECTION 6. IC 25-37.5-1-1, AS AMENDED BY P.L.158-2009, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JANUARY 1, 2014]: Sec. 1. (a) When used in this chapter, "valuable metal" means any product made of metal that readily may be resold. The term:

(1) includes metal bossies and small component motor vehicle parts; The term **and**

(2) does not include **the following**:

(A) A beverage can.

(B) Used jewelry regulated under IC 24-4-13.

(C) Precious metal regulated under IC 24-4-19.

(b) As used in this chapter, "valuable metal dealer" means any individual, firm, corporation, limited liability company, or partnership engaged in the business of purchasing and reselling valuable metal either at a permanently established place of business or in connection with a business of an itinerant nature, including junk shops, junk yards, junk stores, auto wreckers, scrap metal dealers or processors, salvage yards, collectors of or dealers in junk, and junk cars or trucks. The term includes a core buyer. The term does not include a person who purchases a vehicle and obtains title to the vehicle.

(c) As used in this chapter, "purchase" means acquiring a valuable metal product for a consideration, but does not include purchases between scrap metal processing facilities (as defined in IC 8-23-1-36).

SECTION 7. IC 28-7-5-16, AS AMENDED BY P.L.27-2012, SECTION 97, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 16. (a) The licensee shall keep and use in the licensee's business such books, accounts, and records as will enable the department to determine whether the licensee is complying with this chapter and with the rules adopted by the department under this chapter. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business transacted in Indiana may be readily separated and distinguished from the business of the licensee transacted elsewhere and from any other business in which

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the licensee may be engaged. To determine whether the licensee is complying with this chapter and with rules adopted by the department under this chapter, the department may examine the books, accounts, and records required to be kept by the licensee under this subsection. If the department examines the books, accounts, and records of the licensee under this subsection, the licensee

shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this subsection is delinquent.

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

(1) Date of bill of sale.

(2) Amount of consideration.

(3) Name of pawnbroker.

(4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.

(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(c) If a pawnbroker, in the conduct of the business, purchases an article from a seller on the condition of selling the property back at a stipulated price, the transaction shall be evidenced by a bill of sale properly signed by the seller. All such bills of sale must be in duplicate and recite the information in subsection (b) and must also contain the following information:

(1) Date of resale.

(2) Amount of resale.

(d) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(e) If a pawnbroker, in the conduct of the business, purchases precious metal (as defined in IC 24-4-19-6) from a seller, the pawnbroker shall, for at least ten (10) calendar days after the date the pawnbroker purchases the precious metal, retain the precious metal:

(1) at the pawnbroker's permanent place of business where the pawnbroker purchased the precious metal; and



(2) separate from other precious metal.

(e) **(f)** Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables. Each licensee shall maintain a separate record of transactions subject to subsection (c).

(f) **(g)** If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

- (1) discontinue receiving one (1) or more services from the person; or
- (2) otherwise cease conducting business with the person.

SECTION 8. IC 35-51-24-1, AS AMENDED BY HEA 1376-2013, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2014]: Sec. 1. The following statutes define crimes in IC 24:

<http://www.in.gov/legislative/bills/2013/HE/HE1188.1.html>