

House Bill 4108

Sponsored by Representative NATHANSON (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes precious material secondhand dealer record keeping requirements regarding transactions involving items of precious material. Requires seven-day holding period for items of precious material acquired by precious material secondhand dealers. Provides that Act does not apply in cities and counties with more stringent regulation of precious material secondhand dealers.

Establishes penalties for failure to comply with record keeping and holding period requirements.

A BILL FOR AN ACT

1
2 Relating to precious material secondhand dealing.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. As used in sections 1 to 3 of this 2012 Act:**

5 (1) **"Item of precious material" means an item that consists of or incorporates gold in**
6 **eight karat or greater purity, silver, platinum or palladium. "Item of precious material" does**
7 **not include dental gold, unrefined metal ore, bullion or gold or silver currency.**

8 (2) **"Precious material secondhand dealer":**

9 (a) **Means a person engaged in precious material secondhand dealing; and**

10 (b) **Does not include:**

11 (A) **A pawnbroker licensed under ORS chapter 726 who engages exclusively in pledge**
12 **loans, as defined in ORS 726.010;**

13 (B) **A manufacturer of items of precious material; or**

14 (C) **A person primarily engaged in purchasing for resale newly manufactured items of**
15 **precious material. For purposes of this subparagraph, a person is primarily engaged in pur-**
16 **chasing newly manufactured items if 90 percent or more of all inventory acquisitions are of**
17 **newly manufactured items.**

18 (3) **"Precious material secondhand dealing" means soliciting, receiving, purchasing,**
19 **trading or accepting delivery of items of precious material from individuals in return for**
20 **money or other consideration.**

21 (4) **"Seller" means the other party to a transaction with a precious material secondhand**
22 **dealer.**

23 (5) **"Temporary precious material secondhand dealer" means a precious material sec-**
24 **ondhand dealer who conducts operations at one or more locations in this state for no more**
25 **than five consecutive days at any one location.**

26 (6) **"Transaction":**

27 (a) **Means a purchase, consignment, bailment, barter or trade of one or more items of**
28 **precious material by a precious material secondhand dealer from an individual who is not**
29 **engaged in the business of selling newly manufactured items of precious material.**

30 (b) **Does not include:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (A) Gifts or other transfers of property unsupported by consideration; or

2 (B) Business-to-business purchases or other transfers.

3 **SECTION 2.** (1) A precious material secondhand dealer in this state shall maintain the
4 following records with respect to each transaction conducted by the dealer:

5 (a) The full name, current telephone number and current address of the seller;

6 (b) The type and identification number of a currently valid government-issued photo
7 identification that has been issued to the seller;

8 (c) A physical description of the seller; and

9 (d) An identifying description and digital photograph of each item of precious material
10 that is the subject of the transaction.

11 (2) A precious material secondhand dealer in this state shall:

12 (a) Maintain the records described in subsection (1) of this section for a period of at least
13 one year after the date of the transaction; and

14 (b)(A) Maintain the records described in subsection (1) of this section at the location at
15 which the dealer is engaged in precious material secondhand dealing and allow inspection of
16 the records by law enforcement officers upon request made during regular business hours;
17 or

18 (B) If the dealer is a temporary precious material secondhand dealer, maintain the re-
19 cords, or electronic copies of the records, at the current location where the dealer is engaged
20 in precious material secondhand dealing and allow inspection of the records or electronic
21 copies by law enforcement officers upon request made during regular business hours.

22 (3) A precious material secondhand dealer in this state shall retain any item of precious
23 material acquired in a transaction for a period of seven days after the date of the transaction
24 before the dealer may dispose of the item. The dealer shall keep items of precious material
25 subject to retention under this subsection segregated from other items, but at the location
26 where the transaction occurred.

27 (4) Notwithstanding subsection (3) of this section, a temporary precious material sec-
28 ondhand dealer may retain items subject to retention under subsection (3) of this section at
29 a location of the dealer's choosing, but must provide an item of precious material to a re-
30 questing law enforcement officer within 24 hours of the officer's request for the item. Any
31 cost incurred in providing a law enforcement officer with a requested item under this sub-
32 section shall be borne by the dealer.

33 **SECTION 3.** (1) Sections 1 to 3 of this 2012 Act do not apply within the jurisdiction of any
34 city or county that the Department of Consumer and Business Services has identified as
35 having in effect an ordinance that imposes on precious material secondhand dealers:

36 (a) More stringent record keeping requirements for transactions; and

37 (b) Longer holding periods for items of precious material that are acquired by precious
38 material secondhand dealers through transactions.

39 (2) The department shall maintain on its website a list of cities and counties in which
40 sections 1 to 3 of this 2012 Act do not apply.

41 **SECTION 4.** (1) A person that violates the provisions of section 2 of this 2012 Act com-
42 mits a Class C violation.

43 (2) Notwithstanding subsection (1) of this section, a person that violates the provisions
44 of section 2 of this 2012 Act three or more times commits a Class A violation for each sub-
45 sequent violation.

1 **(3) Notwithstanding subsections (1) and (2) of this section, a person that violates the**
2 **provisions of section 2 of this 2012 Act six or more times is subject to a fine of not less than**
3 **\$5,000 for each subsequent violation.**

4
