

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

HOUSE BILL 160

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

ENACTING THE PRECIOUS METAL BUYERS ACT; REQUIRING A PERMIT AND BOND; REQUIRING REPORTS OF ITEMS PURCHASED AND DISPOSED; PROVIDING FOR SUSPENSION OR REVOCATION OF A PERMIT; PROHIBITING CERTAIN PRACTICES; IMPOSING A PENALTY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1. SHORT TITLE.**--This act may be cited as the "Precious Metal Buyers Act".

**SECTION 2. DEFINITIONS.**--As used in the Precious Metal Buyers Act:

A. "local government" means a county or municipality;

B. "local government authority" means the agency of a local government charged with issuing precious metal buyer permits;

.190583.1

underscoring material = new  
~~[bracketed material] = delete~~

underscored material = new  
~~[bracketed material] = delete~~

1           C. "local law enforcement agency" means the chief  
2 of police, the chief's designee or the police department if  
3 applicable to a municipality, or the county sheriff, the  
4 sheriff's designee or the county sheriff's department if  
5 applicable to a county;

6           D. "place of business" means the location or  
7 premises where a precious metal buyer regularly conducts or  
8 will conduct business in New Mexico;

9           E. "precious metal" means gold, silver, platinum,  
10 palladium or rhodium; and

11           F. "precious metal buyer" means a person engaged in  
12 the business of purchasing items of precious metal for the  
13 purpose of resale, smelting, melting down or otherwise altering  
14 the items, except "precious metal buyer" does not include a  
15 pawnbroker who holds a permit pursuant to the Pawnbrokers Act  
16 or a business that derives ninety percent or more of its annual  
17 gross receipts from the retail sale of jewelry or the making  
18 and selling of jewelry.

19           **SECTION 3. PERMIT REQUIRED--APPLICATION--FEE.--**

20           A. A precious metal buyer shall obtain a precious  
21 metal buyer permit from the local government where the precious  
22 metal buyer's place of business is located. The permit shall  
23 be conspicuously displayed in the precious metal buyer's place  
24 of business and shall expire on July 1 of each year and be  
25 renewed by that date. Upon obtaining the permit, every

.190583.1

underscoring material = new  
~~[bracketed material] = delete~~

1 precious metal buyer shall register with the local law  
2 enforcement agency. A person who has been convicted of a  
3 felony shall not be eligible for a permit.

4 B. An application for an original or a renewal  
5 permit shall be submitted to the local government and shall  
6 contain all information required by the local government. A  
7 local government may impose a precious metal buyer permit fee  
8 to cover the expense of administration of the Precious Metal  
9 Buyers Act.

10 C. An application for a permit shall require the  
11 name, address, social security number and date of birth of each  
12 employee and agent of the applicant engaged in the business of  
13 purchasing precious metals. A permit holder shall notify the  
14 local government authority of any change to the list of  
15 employees or agents within fifteen days of the change.

16 SECTION 4. BOND REQUIRED.--

17 A. A person shall not engage in business as a  
18 precious metal buyer without having executed and delivered a  
19 bond to the local government where the buyer's place of  
20 business is located in the sum of ten thousand dollars  
21 (\$10,000). The bond shall be in a form approved by the local  
22 government and shall be conditioned upon the conduct of the  
23 precious metal buyer's business according to the provisions of  
24 the Precious Metal Buyers Act. The bond shall be for the  
25 benefit of each and every person damaged by a breach of any

.190583.1

underscoring material = new  
~~[bracketed material] = delete~~

1 condition set forth in the bond. A precious metal buyer shall  
2 provide the local government with a thirty-day advance notice,  
3 in writing, of the cancellation of the bond.

4 B. A precious metal buyer shall submit proof of  
5 execution and delivery of the bond to the local government with  
6 each application for an original or renewal permit.

7 SECTION 5. SUSPENSION OR REVOCATION OF PERMIT--NOTICE--  
8 HEARING.--

9 A. A local government authority may institute  
10 proceedings for the suspension or revocation of a permit issued  
11 pursuant to the Precious Metal Buyers Act upon the filing of a  
12 written complaint by a local law enforcement agency, a district  
13 attorney or the attorney general charging a precious metal  
14 buyer or the buyer's agent or employee with a violation of a  
15 provision of the Precious Metal Buyers Act.

16 B. A local government authority shall serve written  
17 notice upon the precious metal buyer that sets forth the  
18 alleged violation and the date, time and place of the hearing.  
19 The notice shall be served no more than ten days and no less  
20 than five days before the scheduled hearing. The notice shall  
21 be served personally upon the precious metal buyer or be posted  
22 in a conspicuous place in the buyer's place of business.

23 C. The precious metal buyer and any other  
24 interested person shall have the right to appear at the hearing  
25 and to produce evidence. The rules of evidence shall not

underscoring material = new  
~~[bracketed material] = delete~~

1 apply. If, after the hearing, the local government authority  
2 determines that the precious metal buyer is in violation of a  
3 provision of the Precious Metal Buyers Act, the local  
4 government authority shall issue a written order. The order  
5 may suspend the permit for a stated period of time or  
6 permanently revoke the permit. The order shall be served upon  
7 the precious metal buyer within five business days after the  
8 hearing in the manner specified in Subsection B of this  
9 section. The official serving the order may remove the permit  
10 from the premises, if appropriate, and deliver it to the local  
11 government authority.

12 SECTION 6. LOCAL ORDINANCES AND RULES.--

13 A. A local government shall enact ordinances and  
14 adopt rules as necessary for the equitable administration of  
15 the Precious Metal Buyers Act.

16 B. Nothing in the Precious Metal Buyers Act shall  
17 be construed to prohibit a local government from enacting  
18 additional requirements governing precious metal buyers not  
19 inconsistent with that act.

20 SECTION 7. DAILY REPORTS--DELIVERY--VIOLATIONS.--

21 A. A precious metal buyer shall each day accurately  
22 complete a report for each item of precious metal received or  
23 purchased during the preceding business day on a form approved  
24 by the local law enforcement agency. Each item received shall  
25 be listed on a separate report. The report shall include the

underscoring material = new  
~~[bracketed material] = delete~~

1 following:

2 (1) the name and a description of the item;

3 (2) a photograph of the item;

4 (3) the serial number and other identifying  
5 marks, if any;

6 (4) the date, time and type of transaction;

7 (5) the name and address of the person  
8 offering the item;

9 (6) a description of the person offering the  
10 item, including sex, complexion, hair color, approximate height  
11 and weight and date of birth; and

12 (7) the type of identification document used  
13 by the person offering the item, including the identifying  
14 number of the document and the state or other governmental  
15 entity that issued the document.

16 B. All reports required by this section shall be  
17 completed accurately and made available by noon of the day  
18 following the day of the transaction and shall be delivered or  
19 mailed to the local law enforcement agency within three days of  
20 the transaction.

21 C. A driver's license or other government-issued  
22 photo identification card shall be required of each person  
23 entering into a precious metal transaction with a precious  
24 metal buyer.

25 D. Property purchased directly from a permit holder

.190583.1

underscored material = new  
~~[bracketed material] = delete~~

1 regulated by the Precious Metal Buyers Act who has already  
2 reported the item pursuant to this section is exempt from the  
3 requirements of this section.

4 E. Persistent or frequent erroneous or incomplete  
5 entries in or delays in the submitting of the required reports  
6 shall constitute a violation of this section.

7 F. The reports required pursuant to this section,  
8 as well as every item received, shall be available for  
9 inspection by the local government authority, the district  
10 attorney and the local law enforcement agency at all reasonable  
11 times.

12 G. Each item of precious metal received or  
13 purchased by the precious metal buyer for which a report is  
14 required shall have attached to it a tag with an alphabetic or  
15 numerical identification system matching that item with its  
16 corresponding report.

17 SECTION 8. DISPOSITION OF ITEMS OF PRECIOUS METAL--  
18 WAITING PERIOD--RECORD OF ITEM.--

19 A. A precious metal buyer shall not sell, smelt,  
20 melt down, alter or otherwise dispose of an item of precious  
21 metal until at least fifteen days after the buyer has received  
22 or purchased the item.

23 B. A precious metal buyer shall keep a permanent  
24 record, fully itemized, of the disposition of all items of  
25 precious metal. The record shall include:

.190583.1

underscored material = new  
[bracketed material] = delete

1 (1) the report of the item as required  
2 pursuant to Section 7 of the Precious Metal Buyers Act, except  
3 that a photograph of an item may be destroyed one year after  
4 the purchase or receipt of the item;

5 (2) the date and place of disposition;

6 (3) the manner in which the item was disposed,  
7 whether by resale, smelting, melting, alteration or another  
8 method of disposition; and

9 (4) for resale items, the name and address of  
10 the person or business that purchased the item.

11 SECTION 9. PROHIBITED PRACTICES.--A precious metal buyer  
12 shall not:

13 A. knowingly enter into a precious metal  
14 transaction with a person under the age of eighteen years or  
15 under the influence of alcohol or any narcotic, drug, stimulant  
16 or depressant;

17 B. purchase or otherwise receive any item of  
18 property from which the manufacturer's name plate, serial  
19 number or identification mark has been obviously defaced,  
20 altered, covered or destroyed;

21 C. purchase or otherwise receive any item of  
22 precious metal that the buyer knows is not lawfully owned by  
23 the person offering it; or

24 D. require that any of the proceeds of the purchase  
25 be spent at the precious metal buyer's place of business or in

.190583.1



underscored material = new  
[bracketed material] = delete

1 any other manner directed by the precious metal buyer.

2 SECTION 10. PENALTIES.--

3 A. A precious metal buyer who violates a provision  
4 of the Precious Metal Buyers Act is guilty of a misdemeanor and  
5 shall be sentenced in accordance with the provisions of Section  
6 31-19-1 NMSA 1978.

7 B. A precious metal buyer who violates a provision  
8 of the Precious Metal Buyers Act shall be subject to having the  
9 buyer's permit revoked or suspended by the local government  
10 authority pursuant to the provisions of Section 5 of the  
11 Precious Metal Buyers Act.

12 C. Revocation or suspension of a permit does not  
13 bar prosecution of the precious metal buyer pursuant to  
14 Subsection A of this section, and criminal prosecution does not  
15 bar proceedings to revoke or suspend the buyer's permit.

16 SECTION 11. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2013.