

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 198

**51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014**

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO TRADE PRACTICES; 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. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Precious Metal Buyers Act".

SECTION 2. [NEW MATERIAL] 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;

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 or trading items of precious metal  
13 for the purpose of resale, smelting, melting down or otherwise  
14 altering the items, except "precious metal buyer" does not  
15 include a pawnbroker who holds a permit pursuant to the  
16 Pawnbrokers Act.

17           SECTION 3. [NEW MATERIAL] PERMIT REQUIRED--APPLICATION--  
18 FEE.--

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

.194849.2

underscored material = new  
[bracketed material] = delete

1 enforcement agency.

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

8 C. An application for a permit shall require the  
9 name, address, social security number and date of birth of each  
10 precious metal buyer. A permit holder shall notify the local  
11 government authority of any change to the list of agents within  
12 fifteen days of the change.

13 SECTION 4. [NEW MATERIAL] BOND REQUIRED.--

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

.194849.2

underscored material = new  
[bracketed material] = delete

1 writing, of the cancellation of the bond.

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

6 SECTION 5. [NEW MATERIAL] SUSPENSION OR REVOCATION OF  
7 PERMIT--NOTICE--HEARING.--

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

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

24 C. The precious metal buyer and any other  
25 interested person shall have the right to appear at the hearing

.194849.2

underscored material = new  
[bracketed material] = delete

1 and to produce evidence. The rules of evidence shall not  
2 apply. If, after the hearing, the local government authority  
3 determines that the precious metal buyer is in violation of a  
4 provision of the Precious Metal Buyers Act, the local  
5 government authority shall issue a written order. The order  
6 may suspend the permit for a stated period of time or  
7 permanently revoke the permit. The order shall be served upon  
8 the precious metal buyer within five business days after the  
9 hearing in the manner specified in Subsection B of this  
10 section. The official serving the order may remove the permit  
11 from the premises, if appropriate, and deliver it to the local  
12 government authority.

13 SECTION 6. [NEW MATERIAL] DAILY REPORTS--DELIVERY--  
14 RECEIPTS.--

15 A. Except as provided in Subsection B of this  
16 section, an owner of a place of business shall keep a record in  
17 which the owner shall note the time of each transaction, a  
18 description of the goods purchased, the name and address of the  
19 person selling the goods and the date and hour that the goods  
20 were received and shall retain all gold, silver and platinum  
21 items in the form in which they were purchased in the owner's  
22 possession for a period of not less than fifteen days.

23 B. For purchases of gold or silver coins, an owner  
24 of a place of business shall keep a record in which the owner  
25 shall note the time of each transaction, a description of the

.194849.2

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

1 goods purchased, the name and address of the person selling the  
2 goods and the date and hour that the goods were received and  
3 shall retain all gold or silver coins in the form in which they  
4 were purchased in the owner's possession for a period of not  
5 less than five days.

6 C. The owner of a place of business shall issue a  
7 serial number receipt for each purchase or statement of  
8 appraisal of gold, silver or platinum, which receipt shall  
9 contain:

10 (1) the legal name and address of the store or  
11 appraiser;

12 (2) the name and address of the seller,  
13 including a copy of a federal or state government-issued  
14 identification card;

15 (3) the date of the transaction;

16 (4) the net weight in terms of pounds troy or  
17 avoirdupois, ounces troy or avoirdupois, pennyweight troy or  
18 avoirdupois or kilograms or grams; and

19 (5) the fineness of the precious metal in  
20 terms of karat for gold and sterling or coin for silver.

21 D. The owner of a place of business shall retain  
22 copies of each receipt or statement of appraisal for not less  
23 than one year.

24 E. Property purchased directly from a permit holder  
25 regulated by the Precious Metal Buyers Act who has already

.194849.2

underscoring material = new  
[bracketed material] = delete

1 reported the item pursuant to this section is exempt from the  
2 requirements of this section.

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

8 G. Each item of precious metal received or  
9 purchased by the precious metal buyer for which a report is  
10 required, except gold or silver coins, shall be stored with the  
11 item's transaction record for not less than fifteen days. Each  
12 gold or silver coin received or purchased by the precious metal  
13 buyer for which a report is required shall be stored with the  
14 coin's transaction record for not less than five days.

15 SECTION 7. [NEW MATERIAL] DISPOSITION OF ITEMS OF  
16 PRECIOUS METAL--WAITING PERIOD--RECORD OF ITEM.--

17 A. Except as provided in Subsection B of this  
18 section, a precious metal buyer shall not remove from the state  
19 or sell, smelt, melt down, alter or otherwise dispose of an  
20 item of precious metal until at least fifteen days after the  
21 buyer has received or purchased the coin.

22 B. For purchases of gold or silver coins, a  
23 precious metal buyer shall not remove from the state or sell,  
24 smelt, melt down, alter or otherwise dispose of a gold or  
25 silver coin until at least five days after the buyer has

underscored material = new  
[bracketed material] = delete

1 received or purchased the coin.

2 SECTION 8. [NEW MATERIAL] PROHIBITED PRACTICES.--A

3 precious metal buyer shall not:

4 A. knowingly enter into a precious metal  
5 transaction with a person under the age of eighteen years or  
6 under the influence of alcohol or any narcotic, drug, stimulant  
7 or depressant;

8 B. purchase or otherwise receive any item of  
9 property from which the manufacturer's name plate, serial  
10 number or identification mark has been obviously defaced,  
11 altered, covered or destroyed;

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

15 D. require that any of the proceeds of the purchase  
16 be spent at the precious metal buyer's place of business or in  
17 any other manner directed by the precious metal buyer.

18 SECTION 9. [NEW MATERIAL] PENALTIES.--

19 A. A precious metal buyer who violates a provision  
20 of the Precious Metal Buyers Act is guilty of a misdemeanor and  
21 shall be sentenced in accordance with the provisions of Section  
22 31-19-1 NMSA 1978.

23 B. A precious metal buyer who violates a provision  
24 of the Precious Metal Buyers Act shall be subject to having the  
25 buyer's permit revoked or suspended by the local government

.194849.2



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

1 authority pursuant to the provisions of Section 5 of the  
2 Precious Metal Buyers Act.

3 C. Revocation or suspension of a permit does not  
4 bar prosecution of the precious metal buyer pursuant to  
5 Subsection A of this section, and criminal prosecution does not  
6 bar proceedings to revoke or suspend the precious metal buyer's  
7 permit.

8 SECTION 10. EFFECTIVE DATE.--The effective date of the  
9 provisions of this act is July 1, 2014.