

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 139**

4 (By Senator Yost)

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6 [Originating in the Committee on the Judiciary;

7 reported March 5, 2013.]

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11 A BILL to amend and reenact §61-3-51 of the Code of West Virginia,
12 1931, as amended, relating to regulation of certain purchases
13 of precious metals and gems generally; requiring purchasers to
14 comply with applicable licensing and permitting requirements;
15 exempting bullion purchases from the provisions of this
16 section; requiring sellers of precious metals and gems to
17 provide photo identification to dealers; defining terms;
18 requiring the purchasers to maintain information on precious
19 metal transactions for three years; and establishing criminal
20 penalties including business debarment.

21 *Be it enacted by the Legislature of West Virginia:*

22 That §61-3-51 of the Code of West Virginia, 1931, as amended,
23 be amended and reenacted to read as follows:

24 **ARTICLE 3. CRIMES AGAINST PROPERTY.**

1 **§61-3-51. Regulation of precious metals and gem dealers; records;**
2 **prohibited acts; criminal penalties.**

3 (a) Each person, entity, firm or corporation in the business
4 of purchasing precious metals or precious gems, or both, for any
5 purpose other than personal, family or household use or the
6 purchase of bullion for investment purposes ~~shall be~~ is subject to
7 the provisions of this section. Each such purchaser shall obtain,
8 possess and have available for inspection by law enforcement any
9 and all licenses and permits required of a person, entity, firm or
10 corporation engaged in such business in the jurisdiction in which
11 business is transacted. Each such purchaser shall secure from the
12 seller of the precious metal or precious gem government-issued
13 photo identification and sufficient proof of lawful ownership or a
14 sworn affidavit of ownership, the original of which shall be
15 retained by the purchaser.

16 (b) Each such purchaser of a precious metal or precious gem
17 shall truly and accurately list each purchase in a permanent record
18 book clearly showing the kind, character and amount of metal or gem
19 purchased, any special or unique quality or item of description
20 concerning the metal or gem purchased, the date of purchase, the
21 full name and residence address and mailing address of the seller
22 and any telephone number of the seller ~~Such~~ and a copy of the photo
23 identification. The record book shall be open to inspection by any
24 law-enforcement officer in this state during normal business hours

1 of the purchaser. ~~If any such purchase is made within a~~
2 ~~municipality, the purchaser shall report all the information~~
3 ~~required by this section in writing to the chief of the police~~
4 ~~department of the municipality within twenty-four hours of the~~
5 ~~purchase. If any such purchase is made outside of a municipality,~~
6 ~~the purchaser shall report all the information required by this~~
7 ~~section in writing to the sheriff of the county wherein the~~
8 ~~purchase was made within twenty-four hours of the purchase. The~~
9 information required by this section shall be preserved for a
10 period of ~~not less than~~ three years.

11 (c) Each such purchaser of a precious metal or precious gem
12 ~~shall~~ may not, for a period of ten calendar days after the
13 purchase, dispose of ~~such~~ the metal or gem, remove ~~such~~ the metal
14 or gem from the state or alter in any way the form or substance of
15 ~~such~~ the metal or gem.

16 (d) As used in this section, "precious metal" means any gold,
17 silver, jewelry platinum or ~~other valuable metal~~ palladium; and
18 "precious gem" means any diamond, pearl, emerald, ruby, sapphire or
19 similar precious stone.

20 (e) ~~Any person, firm or corporation violating any provision of~~
21 ~~this section shall be~~ is ~~guilty of a felony and, upon conviction~~
22 ~~thereof, shall be confined in the penitentiary not less than one~~
23 ~~nor more than two years, or, in the discretion of the court, be~~
24 ~~confined in jail not more than one year or shall be fined not less~~
25 ~~than \$100 nor more than \$5,000, or both fined and so confined in~~

1 ~~either the penitentiary or jail, all in the discretion of the~~
2 ~~court.~~ Any person, entity, firm or corporation violating the
3 provisions of this section:

4 (1) Shall for a first violation be guilty of a misdemeanor
5 and, upon conviction thereof, be confined in a regional jail for up
6 to six months or fined not more than \$5,000, or both;

7 (2) Shall for a second violation be guilty of a misdemeanor
8 and, upon conviction thereof, be confined to a regional jail for
9 not more than one year or fined not more than \$10,000, or both.

10 Any person, entity, firm or corporation convicted of a second
11 violation of this section shall be prohibited from engaging in the
12 business of buying precious metal or gems in the State of West
13 Virginia for a period of one year; and

14 (3) Shall for a third or subsequent violation be guilty of a
15 felony and, upon conviction thereof, be confined in a correctional
16 facility for not more than three years, fined not more than
17 \$25,000, or both. Any person, entity, firm or corporation
18 convicted of a third or subsequent violation of this section shall
19 be permanently prohibited from engaging in the business of buying
20 precious metals or gems in the State of West Virginia.