

# **WEST VIRGINIA LEGISLATURE**

## **2017 REGULAR SESSION**

**Introduced**

### **House Bill 2128**

BY DELEGATES FLEISCHAUER

[Introduced February 8,2017; Referred  
to the Committee on Small Business, Entrepreneurship  
and Economic Development then the Judiciary.]

1 A BILL to amend and reenact §61-3-51 of the Code of West Virginia, 1931, as amended, relating  
2 to requiring persons who are in the business of purchasing precious metals and precious  
3 gems to photograph those purchases and to transmit the photographs to law-enforcement  
4 authorities; and lessening the criminal penalty from a felony to a misdemeanor.

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

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

### **ARTICLE 3. CRIMES AGAINST PROPERTY.**

#### **§61-3-51. Precious metals and gem dealers; records; prohibited acts.**

1 (a) Each person, firm or corporation in the business of purchasing precious metals or  
2 precious gems, or both, for any purpose other than personal, family or household use, shall be  
3 subject to the provisions of this section. Each such purchaser shall secure from the seller of the  
4 precious metal or precious gem sufficient proof of lawful ownership or a sworn affidavit of  
5 ownership, the original of which shall be retained by the purchaser.

6 (b) Each such purchaser of a precious metal or precious gem shall truly and accurately  
7 list each purchase in a permanent record book clearly showing the kind, character and amount of  
8 metal or gem purchased, any special or unique quality or item of description concerning the metal  
9 or gem purchased; the date of purchase, the full name and residence address and mailing  
10 address of the seller, and any telephone number of the seller. Such record book shall be open to  
11 inspection by any law-enforcement officer in this state during normal business hours of the  
12 purchaser. If any such purchase is made within a municipality, the purchaser shall report all the  
13 information required by this section in writing to the chief of the police department of the  
14 municipality within twenty-four hours of the purchase. If any such purchase is made outside of a  
15 municipality, the purchaser shall report all the information required by this section in writing to the  
16 sheriff of the county wherein the purchase was made within twenty-four hours of the purchase.  
17 The information required by this section shall be preserved for a period of not less than three

18 years.

19 (c) Each purchaser of a precious metal or precious gem shall take digital photographs of  
 20 each item of precious metal or gem. The photographs shall be of maximum quality and sufficient  
 21 number so that a specific item of precious metal or gem is clearly distinguishable from another  
 22 item of metal or gem of similar size, type and quality. The purchaser shall, in addition to keeping  
 23 copies in his or her own files, electronically transmit the photographs to the local police  
 24 department, the sheriff of the county where the transaction occurred and the State Police within  
 25 twenty-four hours of the transaction.

26 ~~(e)~~ (d) Each such purchaser of a precious metal or precious gem shall may not, for a period  
 27 of ten calendar days after the purchase, dispose of such metal or gem, remove such metal or  
 28 gem from the state or alter in any way the form or substance of such metal or gem.

29 ~~(d)~~ (e) As used in this section, "precious metal" means any gold, silver, platinum or other  
 30 valuable metal; and "precious gem" means any diamond, pearl, emerald, ruby, sapphire or similar  
 31 precious stone.

32 ~~(e)~~ (f) Any person, firm or corporation violating any provision of this section ~~shall be~~ is  
 33 guilty of a ~~felony~~ misdemeanor and, upon conviction thereof, shall ~~be confined in the penitentiary~~  
 34 ~~not less than one nor more than two years, or, in the discretion of the court,~~ be confined in jail not  
 35 more than one year or shall be fined not less than \$100 nor more than \$5,000, or both fined and  
 36 ~~so confined. in either the penitentiary or jail, all in the discretion of the court.~~

NOTE: The purpose of this bill is to require persons who are in the business of purchasing precious metal and precious gems to photograph those purchases and to transmit the photographs to law-enforcement authorities. The bill also lessens the criminal penalty from a felony to a misdemeanor.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.

