

ACT 282

H.B. NO. 2348-82

A Bill for an Act Relating to Metal and Gem Dealers.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Findings and purpose. The legislature finds that it is difficult to recover stolen jewelry due to the opportunities for disposition of such items through certain businesses. Usually the business does not even know the items were stolen. Accordingly, the legislature deems it necessary to provide an opportunity, through prompt action, for recovery of such items. Though other items are stolen, the legislature finds that jewelry, precious metals, and similar items are easily concealed through alteration, so as to make them unrecognizable and, therefore, unrecoverable. The legislature is aware that this measure will have some unavoidable adverse impacts on businesses required to comply with the provisions of this new chapter. However, consistent with the well established rule that the victim of a theft retains a right to the stolen item, it was found that such right would be and has been rendered useless by the easy availability of seemingly legitimate means to dispose of

such items. Despite the fact that recovery of a stolen item is an inherent business risk, it is not the intention of this legislation to interfere in those situations where one is, at best, a casual purchaser or seller of such items. Accordingly, the legislature has attempted to focus on what has been found to be the major problems in the recovery of stolen items.

SECTION 2. The Hawaii Revised Statutes is amended by adding a new chapter to be appropriately designated and to read as follows:

“CHAPTER METAL AND GEM DEALERS

§ -1 **Definitions.** As used in this chapter, unless the context otherwise requires:

“Precious or semiprecious metal” means any of the less common and more valuable metals, including but not limited to gold, silver, platinum, and alloys thereof, without regard to their fineness, but excludes bullion and bullion type coins and bars.

“Precious or semiprecious gem” means any of the less common and more valuable stones, pearls, including but not limited to amethyst, diamond, emerald, jade, opal, ruby, sapphire, topaz, turquoise, and zircon, whether natural or synthetic, cut or polished.

“Dealer” means any person, firm, partnership, corporation, or other entity who engages in a business which includes the buying of previously owned precious or semiprecious metals or precious or semiprecious gems.

§ -2 **Record of transactions.** Every dealer, or the agent, employee, or representative of the dealer shall, immediately upon receipt of any precious or semiprecious metals or precious or semiprecious gems, record the following information, on a form prescribed by the chief of police in each county:

- (1) The name and address of the dealer;
- (2) The name, residence address, date of birth, and the age of the person from whom the precious or semiprecious metals or precious or semiprecious gems were received;
- (3) The date and time the precious or semiprecious metals or semiprecious gems are received by the dealer;
- (4) The signature of the person from whom the precious or semiprecious metals or precious or semiprecious gems were received;
- (5) The Hawaii drivers license number, or if the person does not possess a Hawaii drivers licence, the number of and description of any identification which bears a photograph of the person from whom the precious or semiprecious metals or precious or semiprecious gems were received;
- (6) A complete and accurate description of all precious or semiprecious metals and all precious and semiprecious gems received, including all markings, names, initials, and inscriptions; and
- (7) A reasonable estimate of the fineness and weights of the precious and semiprecious metals and precious and semiprecious gems received.
- (8) The price paid by the dealer for each item.

The copies of all completed forms required by this section shall be surrendered, upon request, to the chief of police of each county, or to his authorized representative.

§ **-3 Transactions by minors prohibited.** A dealer shall not receive or purchase any precious or semiprecious metals or precious or semiprecious gems from any person under the age of eighteen.

§ **-4 Minimum retention of items.** No dealer, his agents, employees, or representatives shall alter, melt, deface, break apart or dispose of or change the character or integrity of the precious or semiprecious metals or precious or semiprecious gems received or purchased for a period of ten working days after the purchase or possession by the dealer, whichever comes later and all precious and semiprecious metals and all precious or semiprecious gems received by the dealer, his agents, employees or representatives shall be retained by the dealer in the county where received or purchased or for a period of ten working days after the purchase or possession by the dealer, whichever comes later.

§ **-5. Inspections.** The chief of police of each county or his authorized representative may immediately inspect, during normal business hours or whenever the dealer or his agents or employees are otherwise present, any records required by this chapter and any items described in such records that the police reasonably believe are stolen goods.

§ **-6. Applicability.** Any dealer when transacting in precious or semiprecious metals or precious or semiprecious gems and which is otherwise licensed shall comply with the provisions of this chapter as a condition of its license except as to those statutory conditions of its license which are more restrictive.

§ **-7. Penalties.** Any dealer, or any agent, employee, or representative of a dealer who knowingly violates any of the provisions of sections -2, -3, -4, or who refuses to allow the inspection provided for in section -5, and any person who offers or records information which is required under section -2 that the person knows or has reason to know is false, shall be guilty of a misdemeanor. Any dealer, or any agent, employee or representative of a dealer who is convicted for a second violation of any provision of this chapter, shall in addition to the foregoing penalty, be permanently prohibited from engaging in the business of buying or selling of precious or semiprecious metals or precious or semiprecious gems.

§ **-8. Severability.** If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are severable."

SECTION 3. This Act shall take effect upon its approval.

(Approved June 18, 1982.)