STATE OF NEW YORK

2218

2017-2018 Regular Sessions

IN SENATE

January 12, 2017

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to mail-in second-hand precious metals dealers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general business law is amended by adding a new article 12-C to read as follows:

ARTICLE 12-C
MAIL-IN SECOND-HAND PRECIOUS METALS DEALERS

Section 220. Definitions.
221. Application of article.
222. Registration, transaction and recordkeeping.
223. Tendering payment.
224. Inspection of records and premises.
225. Holding period.
226. Penalties.
227. Powers of the department.

§ 220. Definitions. As used in this article:

1. "Department" means the department of state.

2. "Jewelry" means a personal ornament that contains a precious metal and may contain a gemstone or gemstones.

3. "Mail-in second-hand precious metals dealer" means any person or entity that:

(a) conducts business within this state, that contracts with other persons or entities to buy precious metals or jewelry through an internet website, the United States mail or telemarketing; or

(b) conducts business within this state, that regularly engages in the business of purchasing jewelry or precious metals through the United States mail or internet based transactions.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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4. "Precious metal" means any item containing any gold, silver or platinum, or any combination thereof.

5. "Seller" means any person or entity offering precious metals or jewelry for sale, which belong solely to such person or entity and which has absolute authority to sell such goods.

6. "Transaction" means any event relating to the sale and purchase of second-hand precious metals or jewelry by a mail-in second-hand precious metals dealer.

§ 221. Application of article. This article shall not apply to:

1. any person or entity that is available to the public for walk-in sales; or

2. the purchase, consignment or trade of second-hand precious metals or jewelry between second-hand precious metals dealers.

§ 222. Registration, transaction and recordkeeping. 1. No mail-in second-hand precious metals dealer shall conduct business unless it is registered with the department pursuant to this article.

2. No mail-in second-hand precious metals dealer shall remit payment to a seller unless the seller has provided such dealer with:

(a) the seller's name, address, telephone number and electronic mail address, if available;

(b) the seller's driver's license number and issuing state, or any other government issued identification number; and

(c) A sworn statement made by the seller that the driver's license number or other government issued identification number provided by the seller is true and accurate, and that the seller is the true and lawful owner of the goods sold. Such statement shall include the following language: "I declare under the penalty of perjury that the foregoing is true and accurate."

3. For every transaction, a mail-in second-hand precious metals dealer shall retain a record of the following:

(a) A complete and accurate description of the seller's goods, including:

(i) precious metal type or, if jewelry, the type of jewelry, and

(ii) any other unique identifying marks, numbers or letters.

Such description shall be in such an electronic format as shall be determined by the secretary of state; and

(b) The date that the seller's goods were received by the mail-in second-hand precious metals dealer.

The information required by this subdivision shall be transmitted to a law enforcement agency having jurisdiction in the municipality where such dealer is situate within twenty-four hours after entering into the transaction.

4. Every mail-in second-hand precious metals dealer shall maintain, for not less than two years, all information received pursuant to subdivisions two and three of this section in a form that is easily retrievable upon the request of any law enforcement agency.

5. Upon request from a law enforcement agency, a mail-in second-hand precious metals dealer shall provide such agency with an electronic copy of all information on any seller that such dealer is required to maintain pursuant to subdivisions two and three of this section.

§ 223. Tendering payment. Every payment by a mail-in second-hand precious metals dealer resulting from the sale, purchase, consignment or trade of precious metals or jewelry shall be made to the seller by a check or money order.

§ 224. Inspection of records and premises. Every mail-in second-hand precious metals dealer shall allow a law enforcement agency to inspect

its business records, inventory and business premise during normal business hours.

§ 225. Holding period. No mail-in second-hand precious metals dealer shall sell, barter, exchange, alter, adulterate, use or in any manner dispose of goods purchased from a seller within ten calendar days of the date of payment for such goods.

§ 226. Penalties. 1. Any person acting as a mail-in second-hand precious metals dealer who is not registered as such with the department or any mail-in, second-hand precious metals dealer which violates any provision of this article shall be guilty of a class E felony and shall be prohibited from acting as a mail-in second-hand precious metals dealer for not less than one year.

2. Any seller who knowingly provides false information to a mail-in second-hand precious metals dealer and receives payment from such dealer shall be guilty of a:

(a) class E felony if the payment received is less than three hundred dollars; and

(b) class D felony if the payment received is three hundred dollars or more.

§ 227. Powers of the department. The department shall promulgate any rules and regulations necessary to implement the provisions of this article.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided that, effective immediately any actions necessary to implement the provisions of this act on its effective date are authorized and directed to be completed on or before such date.