**A** **BILL**

TO AMEND SECTION 40‑54‑40, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO RECORDKEEPING REQUIREMENTS OF DEALERS IN PRECIOUS METALS, SO AS TO REVISE THE REQUIREMENTS TO INCLUDE DIGITAL PHOTOGRAPHS OF ACQUIRED PRECIOUS METALS AND TO REVISE REQUIREMENTS CONCERNING THE AVAILABILITY OF SUCH RECORDS, AMONG OTHER THINGS, AND TO PROVIDE PROCEDURES, RIGHTS, AND REMEDIES CONCERNING THE RETENTION AND RELEASE BY LAW ENFORCEMENT OF PRECIOUS METALS POSSESSED BY DEALERS AND BELIEVED TO BE MISAPPROPRIATED OR STOLEN.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 40‑54‑40 of the 1976 Code is amended to read:

“Section 40‑54‑40. (A)(1) Every dealer shall keep a ~~book in~~ record which must ~~be written~~ contain at the time of any purchase of precious metal or precious or semiprecious stones or gems made from the general public, whether in bulk or manufactured form, consisting of at least a digital photograph of the items, articles, or things purchased; the date of purchase~~,~~; amount of money or other property exchanged for the ~~metal, stones, or gems,~~ items, articles, or things; the name, sex, race, age, address, and driver’s license number or number from substitute identification allowed under item (2) of the person selling the items, articles, or things ~~bought,~~; and the number and nature and brand name of the items, articles, or things. Descriptions must include size, weight, patterns, or engraving or any unusual identification marks.

(2) If the seller does not have a driver’s license, some other ~~positive~~ state‑issued or federally issued identification bearing his photograph and an identifying number may be substituted including:

(a) another form of identification containing a photograph and issued by the Department of Motor Vehicles;

(b) a passport;

(c) military identification containing a photograph and issued by the United States federal government; or

(d) a South Carolina voter registration card containing a photograph pursuant to Section 7‑5‑675.

(3) If the seller cannot produce a driver’s license or other positive identification, the dealer may not buy any merchandise from him. Every dealer shall, at the time of purchase, obtain the signature of the seller as part of the recording of the transaction.

(B) The record book must be kept for three years and at all reasonable times must be open to the inspection of any court, judicial, or law enforcement officials, the Director of the Department of Consumer Affairs, or their designees.

(C) The local law enforcement agency may not reveal a seller’s identity supplied under this section except to other law enforcement agencies and prosecuting officials or pursuant to the valid order of a court or in the course of any criminal investigation or prosecution. Dealers shall maintain these records in a form accessible by electronic data transfer to a database system accessible by law enforcement and approved by the South Carolina Department of Consumer Affairs.

(D)(1) When an appropriate law enforcement official has probable cause to believe that property in the possession of a dealer is misappropriated or stolen, he shall deliver to the dealer the relevant police report or case number pertaining to the property, and the dealer shall release the property to the appropriate law enforcement agency for use in a criminal investigation or return the property to the identified innocent owner. A dealer who releases the property to law enforcement must be listed as a statutory victim on all transmitted reports and case files. If at the conclusion of the criminal investigation no identifiable innocent owner is found, the property must be returned to the dealer by the appropriate law enforcement agency.

(2) The release of the property to the custody of the appropriate law enforcement official is not considered a waiver or release of the dealer’s property rights or interest in the property. Upon completion of the criminal proceeding involving the property identified as stolen, the court additionally shall order the conveying customer to pay restitution to the dealer in the amount received by the conveying customer for the property.

(3) When law enforcement seizes property pursuant to item (1), they shall hold the seized property for ten business days before releasing it to an innocent owner. During this ten business day period, a dealer may file an action for claim and delivery of the seized property, provided it also shall serve notice of this action to the law enforcement agency. If no notice is received within this ten business day period, the law enforcement agency may release the property to an identified innocent owner. A law enforcement agency that receives notice shall hold the property during the pendency of the action.”

SECTION 2. This act takes effect upon approval by the Governor.

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