

1 SB530
2 119622-1
3 By Senator Marsh
4 RFD: Governmental Affairs
5 First Read: 11-MAR-10

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8 SYNOPSIS: Under existing law, there is no provision
9 that prohibits the operation of a transient gold
10 buying business in the state.

11 This bill would provide for permit
12 requirements and record keeping that would prevent
13 the transient operation of a gold buying business.

14 This bill would also provide for criminal
15 liability for violation of the provisions herein
16 contained.

17 Amendment 621 of the Constitution of Alabama
18 of 1901, now appearing as Section 111.05 of the
19 Official Recompilation of the Constitution of
20 Alabama of 1901, as amended, prohibits a general
21 law whose purpose or effect would be to require a
22 new or increased expenditure of local funds from
23 becoming effective with regard to a local
24 governmental entity without enactment by a 2/3 vote
25 unless: it comes within one of a number of
26 specified exceptions; it is approved by the
27 affected entity; or the Legislature appropriates

1 funds, or provides a local source of revenue, to
2 the entity for the purpose.

3 The purpose or effect of this bill would be
4 to require a new or increased expenditure of local
5 funds within the meaning of the amendment. However,
6 the bill does not require approval of a local
7 governmental entity or enactment by a 2/3 vote to
8 become effective because it comes within one of the
9 specified exceptions contained in the amendment.

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11 A BILL
12 TO BE ENTITLED
13 AN ACT
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15 To provide for permit requirements and record
16 keeping that would prevent the transient operation of a gold
17 or precious item buying business; to provide that a violation
18 of this act is a Class B misdemeanor; and in connection
19 therewith would have as its purpose or effect the requirement
20 of a new or increased expenditure of local funds within the
21 meaning of Amendment 621 of the Constitution of Alabama of
22 1901, now appearing as Section 111.05 of the Official
23 Recompilation of the Constitution of Alabama of 1901, as
24 amended.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

26 Section 1. As used in this act, the following terms
27 shall have the following meanings:

1 (1) DEALER. Any person, corporation, or partnership
2 that engages in the business of purchasing precious items for
3 the purpose of reselling such items in any form. A dealer does
4 not include a manufacturer, retail merchant, or person in the
5 wholesale business.

6 (2) LOCAL LAW ENFORCEMENT AGENCY. The chief of
7 police for businesses located within the jurisdiction of a
8 municipality and the county sheriff for businesses located
9 outside the jurisdiction of a municipality.

10 (3) PERMANENT PLACE OF BUSINESS. A fixed premises
11 either owned by the dealer or leased by the dealer for at
12 least one year.

13 (4) PRECIOUS ITEM. Any of the following:

14 a. An article made in whole or in part of gold,
15 silver, or platinum.

16 b. Precious or semiprecious stones or pearls whether
17 mounted or unmounted.

18 (5) PURCHASE. The acquisition of a precious item or
19 items for a consideration of cash, goods, or another precious
20 item.

21 Section 2. (a) No dealer shall operate in the State
22 of Alabama unless he or she first obtains a permit from the
23 local law enforcement agency to engage in the business of
24 purchasing precious items.

25 (b) A dealer may only operate from the permanent
26 place of business listed on the business permit.

1 (c) The form of the permit required to engage in the
2 business of purchasing precious items shall be prescribed by
3 the Department of Revenue.

4 (d) All applicants for a permit under this act shall
5 file a written sworn application signed by the applicant, if
6 an individual; by all the partners, if a partnership; and by
7 the president, if a corporation, with the local law
8 enforcement.

9 Section 3. (a) Each dealer shall keep for six months
10 from the date of purchase of a precious item and make
11 available on request of a local law enforcement agency:

12 (1) The name, current address, date of birth, and
13 signature of the person from whom the dealer purchased the
14 item.

15 (2) A description of the person, including height,
16 weight, race, complexion, and hair color.

17 (3) A valid identification card number as outlined
18 in subsection (b).

19 (4) A list describing the items purchased from that
20 person.

21 (b) Before making a purchase, a dealer shall require
22 the person from whom he or she is purchasing to identify
23 himself or herself with a valid driver's license, a
24 non-driver's identification card, Armed Services
25 identification card, or other valid photo identification
26 sufficient to obtain the information required pursuant to
27 subsection (a).

1 (1) The method of photo identification must contain
2 a traceable serial number to be recorded by the dealer.

3 (2) A list of the acceptable forms of photo
4 identification shall be provided by each local law enforcement
5 agency.

6 (c) Each dealer, at least once each week in which he
7 or she makes a purchase, shall make out and deliver to the
8 local law enforcement agency a true, complete, and legible
9 list of all items purchased during the period since the last
10 report. The dealer shall use local law enforcement agency
11 forms to meet the requirements of this subsection if such
12 forms are issued by the local law enforcement agency. The list
13 shall include:

14 (1) The brand name and serial number, if any, of the
15 item or items purchased.

16 (2) An accurate description of each item sufficient
17 to enable the law enforcement agency to identify the item.

18 (3) The date and time when the item was received.

19 (4) The amount paid for each item.

20 (5) All information pursuant to subsection (a).

21 Section 4. Any item purchased shall be held in the
22 same shape and form as receipted for in the dealer's custody
23 for 10 calendar days after delivering the list to the local
24 law enforcement agency as required under this act.

25 (1) Payment to the seller shall be by check only,
26 made payable to a named actual intended seller.

1 (2) It is presumptive evidence of intent to violate
2 this act if the items purchased are not listed or fail to
3 agree with the description contained in the required list.

4 (3) On notification by a law enforcement agency or
5 district attorney's office that the items purchased are the
6 fruits of a crime, the dealer may not dispose of those items.

7 (4) A dealer may not purchase items from any person
8 under 18 years of age unless the person is accompanied by a
9 parent or guardian who must submit identification as required
10 under this act.

11 Section 5. Each dealer shall prominently display a
12 copy of this statute in a conspicuous place on the premises of
13 the business.

14 Section 6. A person who violates this act is guilty
15 of a Class B misdemeanor.

16 Section 7. This act does not apply to any person who
17 purchases precious items from a retail merchant, manufacturer,
18 or wholesale dealer.

19 Section 8. Although this bill would have as its
20 purpose or effect the requirement of a new or increased
21 expenditure of local funds, the bill is excluded from further
22 requirements and application under Amendment 621, now
23 appearing as Section 111.05 of the Official Recompilation of
24 the Constitution of Alabama of 1901, as amended, because the
25 bill defines a new crime or amends the definition of an
26 existing crime.

1 Section 9. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.