

# **WEST VIRGINIA LEGISLATURE**

## **2019 REGULAR SESSION**

**Introduced**

### **House Bill 2137**

BY DELEGATE FLEISCHAUER

[Introduced January 9, 2019; 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:*

### **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~~ is  
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~~ an 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~~ The record book shall be  
11 open to inspection by any law-enforcement officer in this state during normal business hours of  
12 the purchaser. If any such purchase is made within a municipality, the purchaser shall report all  
13 the information required by this section in writing to the chief of the police department of the  
14 municipality within 24 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 24 hours of the purchase. The  
17 information required by this section shall be preserved for a period of not less than three years.

18 (c) Each purchaser of a precious metal or precious gem shall take digital photographs of  
19 each item of precious metal or gem. The photographs shall be of maximum quality and sufficient

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

25 ~~(e)~~ (d) Each such purchaser of a precious metal or precious gem ~~shall~~ may not, for a period  
26 of 10 calendar days after the purchase, dispose of such metal or gem, remove such metal or gem  
27 from the state or alter in any way the form or substance of such metal or gem.

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

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