

Rule #
130.00.81-002



TRANSMITTAL SHEET
PAUL RIVIERE, SECRETARY OF STATE
STATE CAPITOL
LITTLE ROCK, AR 72201

130.00.81-002
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FOR OFFICE
USE ONLY:

EFFECTIVE DATE Dec. 10, 1981 CODE NUMBER 0500.0000

NAME OF AGENCY ARKANSAS State Police
DEPARTMENT Precious Metals Division
CONTACT PERSON Captain Dwan Thompson
TELEPHONE 224-3092

STATUTORY AUTHORITY FOR PROMULGATING RULES
Act 87 of 1981 AS Amended By Act 541 of 1981

INTENDED EFFECTIVE DATE		DATE
<input type="checkbox"/> EMERGENCY	FILED WITH LEGISLATIVE COUNCIL	<u>10-27-81</u>
<input checked="" type="checkbox"/> 20 DAYS AFTER FILING	LEGAL NOTICE PUBLISHED	<u>9-17-81</u>
	FINAL DATE FOR PUBLIC COMMENT	<u>11-6-81</u>
<input type="checkbox"/> OTHER	DATE OF ADOPTION	<u>11-6-81</u>

CERTIFICATION OF AUTHORIZED OFFICER

I HEREBY CERTIFY THAT THE ATTACHED RULES WERE ADOPTED IN COMPLIANCE WITH ACT 434 OF 1967 AS AMENDED.

Dwan Thompson
SIGNATURE
Captain
TITLE
11-18-81
DATE

RULES AND REGULATIONS
FOR
DEALERS IN PRECIOUS METALS
STATE OF ARKANSAS

1. INFORMATION

Members of the public may obtain information not included in these rules and regulations, or make submissions or requests, by contacting the Director of the Arkansas State Police, or his representative designated in these rules. The address of the Arkansas State Police shall be #3 Natural Resources Drive, P. O. Box 5901, Little Rock, Arkansas, 72215.

2. DEFINITIONS.

(A) Precious Metals Dealer - Any person, firm or corporation engaged in the business of buying precious metals, whether for cash or trade, and whether or not a fixed place of business is maintained for such purposes.

(B) Precious Metals - Any form of gold, silver or platinum.

(C) Person - Any individual, partnership, corporation or association or other business entity.

(D) Silver - Sterling silver.

3. EXCEPTIONS.

This Act (§71-5401 - 71-5408) does not apply to:

(A) Transaction involving the sale or transfer of precious metals from one retail jeweler or licensed dealer under this Act to another retail jeweler or licensed dealer under this Act;

(B) Transactions involving the sale or transfer of precious metals by a wholesale jeweler to a retail jeweler or licensed dealer;

(C) Transactions involving the acquisition of precious metals as a trade-in on any item where the amount allowed as trade-in for the precious metal is less than fifty percent (50%) of the purchase price of the item purchased;

(D) Transactions involving coins regardless of whether or not such coins contain precious metals;

(E) Any financial institution which is covered by federal or state deposit insurance or any person doing business under the laws of this State.

(F) Any person doing business under the laws of this State or the United States relating to any broker-dealer, or Commodity Futures Commission Merchant or Commodity Trading advisor or agent of the same, duly registered and regulated by the Arkansas Securities Department or the United States Commodity Futures Trading Commission.

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FOR
DEALERS IN PRECIOUS METALS
STATE OF ARKANSAS

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I hereby certify that this is a true and correct copy of the rules and regulations for precious metals dealers within the State of Arkansas as promulgated by the Arkansas State Police under the authority of Act 87 of 1981 as amended by Act 541 of 1981.

Witness my hand this 27th day of October, 1981.

Thompson & Jones
Attorneys
San Diego, Cal.
Comm. Exp. 6-24-83

Dwain Thompson
DWAIN THOMPSON, CAPTAIN
ARKANSAS STATE POLICE
PRECIOUS METALS DIVISION



Frank White
Governor

State of Arkansas
ARKANSAS STATE POLICE

#3 Natural Resources Drive
P.O. Box 5901

Little Rock, Arkansas
72215



Colonel T. L. Goodwin
Director
Lt. Col. George K. Moyer
Ass't. Director

November 18, 1981

The Honorable Paul Riviere
Secretary of State
State Capitol
Little Rock, Arkansas 72201

Dear Mr. Riviere:

By unanimous vote Friday, November 13, 1981, the Legislative Council approved the attached rules and regulations governing the operations of precious metals dealers in the State of Arkansas.

These rules and regulations are a result of Act 87 of 1981 as amended by Act 541 of 1981.

In keeping with proper procedure, I am submitting the attached copies to your office.

Sincerely,

T. L. Goodwin
Tommy L. Goodwin, Colonel
Director

TLG:nm

Attachment

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PAUL RIVIERE
SECRETARY OF STATE
LITTLE ROCK, ARKANSAS

4. APPLICATION FOR LICENSE.

(A) An application for a license under this Act (§71-5401 - 71-5408) shall be in the form prescribed by the Arkansas State Police. The application shall include:

(1) The full name and address, both of the residence and place of business of the applicant;

(2) The name under which the applicant intends to do business;

(3) If the applicant is a co-partnership or association, the full name and address of the residence and place of business of every member thereof, and if a corporation, of each officer and director and of the principal owner or owners of the issued and outstanding capital stock thereof.

(4) The city or town with the street and number, if any, where the business is to be conducted and, if a non-resident, of the principal place of business without the State;

(5) Such other information as the Arkansas State Police may require. A copy of the current application form to be utilized appears in the Appendix following these rules and regulations.

(B) Each application for a license under this Act (§71-5401 - 71-5408) shall be in writing and under oath. Information on the application will be subject to investigation by the Arkansas State Police and if any part of the application is found to be false or incorrect, the license may be denied.

5. LICENSE FEE.

At the time of making initial application, an applicant shall pay the sum of Fifty Dollars (\$50.00) to the Arkansas State Police as a fee for investigating the application. In addition, a fee of Fifty Dollars (\$50.00) per calendar year shall be due and payable as a license fee for a period terminating at midnight, December 31. The fee shall be reduced to Twenty-Five Dollars (\$25.00) for any portion of a calendar year after June 30.

6. LICENSE RENEWAL.

A license which is not renewed within one year after its expiration may not be renewed. The holder of an unrenovable license may obtain a new license only on compliance with all requirements for the issuance of an original license.

7. FORM OF LICENSES.

A license when issued shall be in the form prescribed by the Arkansas State Police, and shall include:

(A) The name of the licensee;

(B) The name under which the licensee is to operate; and

(C) The number and date of issuance of the license. A copy of the current license form utilized appears in the appendix following these rules and regulations.

8. REPORTING CHANGE OF ADDRESS AND NEW OFFICERS.

Written notification to the Arkansas State Police shall be made within fourteen (14) days after the change of address of the principal place of business of a licensee, the change of address of a branch office, or the change of a business name under which a licensee does business. A licensee shall within fourteen (14) days after such change, notify the Arkansas State Police, in writing, of any and all changes of address, of business name, and of changes in officers or partners.

9. LICENSE NOT ASSIGNABLE.

A license issued under this Act (§71-5401 - 71-5408 is not assignable.

10. LICENSEE RESPONSIBLE FOR CONDUCT OF EMPLOYEES.

A licensee shall at all times be legally responsible for the good conduct in the business of each employee, including his manager.

11. REVOCATION, SUSPENSION OR DENIAL OF LICENSE.

The Director of the Arkansas State Police shall designate those State Police officers who will be empowered to accept applications for license as dealers in precious metals within the State of Arkansas and shall conduct such investigations as are necessary to determine whether the applicant or licensee meets the requirements to hold a license under this Act. Those officers shall also be empowered to initiate process to deny issuance of, suspend, or revoke a license on proof:

(A) That the applicant or licensee has violated any provisions of this Act (§71-5401 - §71-5408) or of the rules and regulations promulgated under this Act;

(B) That the applicant or licensee has committed any act resulting in conviction of any felony under the laws of this State, or has been previously convicted of an offense under the laws of any other State or of the United States which offense if committed in this State would be punishable as a felony;

(C) That the applicant or licensee has made a material misstatement in the application for or renewal of a license;

(D) That the applicant or licensee has committed any act resulting in conviction of a class A misdemeanor under the laws of the State.

12. REQUIREMENT OF NOTICE.

Before denying or revoking any license under this Act, the Arkansas State Police shall give notice by certified mail to the applicant or licensee of facts or conduct warranting the intended action, and advising the applicant or licensee of the right to a hearing in order to show compliance with all lawful requirements for issuance and retention of the license. Where the applicant or licensee, upon receipt of notice by certified mail from the Arkansas State Police of the intent to deny or revoke a license, and the right to a hearing before the State Police Director or his designated representative, shall fail to give written notice within twenty (20) days of request for hearing, the action of denial or revocation of the license shall become final.

13. HEARING.

Notice to the Director of the Arkansas State Police or his designated representative, by certified mail, within the time period provided in this Act (20 days), that an applicant or licensee desires a hearing shall cause the Director of the Arkansas State Police, or his designated representative, to issue an order and notice of hearing which shall state the date, time and place of the hearing, and the legal authority and jurisdiction under which a hearing is to be held, along with a brief and concise statement of the matters of fact and law involved. The order and notice of hearing shall be served on the applicant or licensee at least twenty (20) days prior to the date of the hearing by mailing a copy to the applicant or licensee by certified mail at such individual's last known address.

14. FILE NUMBERS ASSIGNED TO APPEALS.

The Director of the Arkansas State Police or his authorized representative shall assign a file number to each order and notice of hearing, and thereafter all documents pertaining to the matter shall bear that assigned number. All pleadings and motions to be filed relative to the hearing shall be in duplicate, signed, verified and dated, and filed with the Director of the Arkansas State Police or his designated representative.

15. WHO MAY APPEAR.

An applicant or licensee whose rights may be affected at a hearing before the Director of the Arkansas State Police or his designated representative shall have the right to appear personally and by counsel to introduce evidence in his, her, or its own behalf, to cross-examine witnesses and to examine any document or other evidence submitted.

16. BURDEN OF PROOF.

In any hearing held for the purpose of affording any applicant the opportunity to show his qualification to hold a license, the burden of going forward with the evidence shall be on the applicant. In hearings held for the purpose of determining whether any person's license should be revoked, the burden of going forward shall be on the complainant.

17. FINDINGS TO BE ENTERED, APPEAL TO CIRCUIT COURT.

All decisions by the Director of the Arkansas State Police or his designated representative shall be in writing and signed, and shall include findings of fact and conclusions in accordance therewith. A copy of the findings of fact and conclusions of law and the order shall be sent to each party of the hearing within two (2) days after entry of the order. Any applicant or licensee who is denied a license, or from whom a license is revoked, shall also be notified by the Director of the Arkansas State Police or his designated representative of the right to appeal to the Circuit Court under the Administrative Procedure Act (A.S.A. §5-701 - 5-714).

18. EMERGENCY ACTION - SUMMARY SUSPENSION OF LICENSE.

In any case where the Director of the Arkansas State Police shall determine that public health, safety, or welfare imperatively requires emergency action, he shall cause a notice of intent to revoke a license under this Act and the facts or conduct warranting the action to be sent, immediately, by certified mail, or delivered by a representative of the

State Police in person, to the licensee, incorporating a finding to that effect in an order of summary suspension of the license pending proceedings for revocation or other action. The order of summary suspension shall specify a hearing date, which shall be within five (5) days of the issuance of the order.

19. REPORTS - FORM.

On a form prescribed by the Arkansas State Police, every person, firm or corporation engaged in the business of buying precious metals, whether for cash or trade, shall at the time of the transaction enter each item involved in the transaction. These forms shall contain all pertinent information required by the Arkansas State Police, and may be changed by the Arkansas State Police to add or delete the requirements for other information if necessary. These forms are to be completed in ink and shall be legibly printed or typed except for the dealer and customer signatures, which shall be signed in ink. A copy of the current form to be used appears in the appendix following these rules and regulations.

Every person, firm or corporation engaged in the business of buying precious metals, whether for cash or for trade, shall keep and maintain in an orderly fashion a comprehensive record of all transactions in precious metals by that dealer on the above-described forms. A copy of all entries in the record book required to be kept in A.S.A. §71-5404 of all transactions shall be delivered or sent by certified mail, at least weekly, to the chief law enforcement officer of the city or town or the sheriff of the county in which the business is located. All records and reports received by the chief law enforcement officer of the city or town or sheriff of the county shall be available for inspection by law enforcement officers only, for law enforcement purposes only. All entries in the record book of precious metals dealers shall be maintained for a period of at least three years following the date of the business transaction.

20. RETENTION OF GOODS - MANDATORY PERIODS.

All gold and articles containing gold received by the dealer shall be retained, in an unaltered condition, for a period of three (3) days. All other precious metals or articles containing precious metals shall be retained, in an unaltered condition, for a period of seven (7) days. The period of retention shall begin on the date that the acquisition of the precious metal is reported in writing to and received by the chief law enforcement officer of the city or town or sheriff of the county. If the chief law enforcement officer of the city or town or sheriff of the county or the Arkansas State Police have probable or reasonable cause to believe that precious metals or an article made from or containing a precious metal has been stolen, he may give notice in writing to the licensee to retain said precious metal or article for an additional fifteen (15) days, and the licensee shall retain said property for the additional fifteen (15)-day period unless such notice is revoked in writing within the fifteen (15)-day period.

21. NOTIFICATION TO POLICE OF ALTERED GOODS.

Any article which normally carries a serial number or other means of identification which shall have said serial number or other means of identification removed, mutilated, defaced, altered or destroyed shall immediately be reported in writing by the dealer to the chief of police, sheriff of the county or one of their representatives. If any article appears to have been a result of a "melt down" of a former article containing a precious metal, the buyer must first inquire as to what was the source of the item before the "melt down" and must in writing notify the Arkansas State Police and obtain permission from said Department in writing before consummating any agreement.

22. INSPECTION OF RECORDS AND GOODS.

All records pertaining to transactions in precious metals, and all goods defined as precious metals under this Act shall be immediately available during regular working hours for inspection by any Arkansas or federal law enforcement officer.

23. LICENSE DISPLAY.

Every person, firm or corporation engaged in the business of buying precious metals, whether for cash or trade, shall keep the license as a dealer in precious metals conspicuously displayed in plain view of customers at all times in the place of business.

24. POSTING OF CURRENT PRICES.

Every person required to be licensed under this Act shall post the prices per ounce that are currently being paid for precious metals in full sight of the prospective seller and said precious metals shall be weighed in full sight of the prospective seller.

25. MINOR CUSTOMERS.

Every person required to be licensed under this Act shall, before purchasing any precious metal or article made from or containing a precious metal, require the seller, if a minor, to present written authorization to sell by the parent or legal guardian of said minor, which includes the relationship, address and telephone number of said parent or guardian. The written authorization shall be included in the record which is maintained by the dealer pursuant to A.S.A. 71-1502.

26. PENALTIES FOR VIOLATIONS.

(A) Every person who shall violate the provisions of this Act and be found guilty shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than one (1) year or both such fine and imprisonment.

(B) If the value of the property involved in the transaction which is in violation of this Act exceeds Five Hundred Dollars (\$500.00), a person convicted of a violation of this Act shall be fined not more than Two Thousand Dollars (\$2,000.00) or imprisoned for not more than three (3) years or both such fine and imprisonment.

APPLICATION FOR SECONDHAND DEALER LICENSE

A. LICENSING AUTHORITY INFORMATION: (TO BE COMPLETED BY LICENSING AGENCY ONLY)

LICENSING AGENCY: _____ SUBSTATION IF APPLICABLE _____ DATE: _____
ADDRESS: _____ NUMBER _____ STREET _____ CITY _____ ZIP CODE _____
LICENSING OFFICIAL: _____ NAME _____ TITLE _____ PHONE: (____) _____

THE FOLLOWING SECTIONS TO BE COMPLETED BY THE APPLICANT(S)

B. BUSINESS INFORMATION:

1. BUSINESS NAME: _____ PHONE: (____) _____
BUSINESS ADDRESS: _____ NUMBER _____ STREET _____ CITY _____ ZIP CODE _____
2. IS THE BUSINESS A PAWNSHOP? (CHECK) YES _____ NO _____
3. BUSINESS OWNERSHIP: _____ INDIVIDUAL _____ PARTNERSHIP _____ CORPORATION _____
4. FIRM OR CORPORATION NAME: _____ PHONE: (____) _____
FIRM OR CORPORATION ADDRESS: _____ NUMBER _____ STREET _____ CITY _____ STATE _____ ZIP CODE _____

C. BUSINESS OWNER(S): (NAME OF INDIVIDUAL OWNER, PARTNERS, CORPORATE OFFICERS, AND SHAREHOLDERS APPLYING FOR LICENSE)

Table with 4 columns: NAME, HOME ADDRESS, TITLE, TELEPHONE. Includes a row for additional sheets: ATTACH ADDITIONAL SHEET IF NECESSARY. CHECK CIRCLE IF ADDITIONAL SHEET IS USED. O

D. MULTIPLE RELATED BUSINESS(ES):

Table with 3 columns: BUSINESS NAME, ADDRESS, BUSINESS PHONE. Includes a row for additional sheets: ATTACH ADDITIONAL SHEET IF NECESSARY. CHECK CIRCLE IF ADDITIONAL SHEET IS USED. O

E. ADDITIONAL INFORMATION:

1. HAVE ANY PARTIES TO THIS APPLICATION EVER BEEN CONVICTED OF AN ATTEMPT TO RECEIVE STOLEN PROPERTY OR ANY OTHER OFFENSE INVOLVING STOLEN PROPERTY? (CHECK) YES _____ NO _____. IF ANSWER IS YES, GIVE NAME, DATE, AND DETAILS.

ATTACH ADDITIONAL SHEET IF NECESSARY. CHECK CIRCLE IF ADDITIONAL SHEET IS USED. O

HAS ANY PARTY TO THIS APPLICATION EVER BEEN CONVICTED OF A FELONY? YES _____ NO _____ (CIRCLE ONE)

2. DO ANY OF THE PARTIES TO THIS APPLICATION HAVE A FINANCIAL INTEREST IN A PAWNSHOP, SECONDHAND DEALERSHIP, JEWELRY OUTLET, COINSHOP, OR METAL SMELTING/REFINERY OPERATION OTHER THAN THOSE LISTED IN SECTION D. ABOVE? (CHECK) YES _____ NO _____

IF ANSWER IS YES, PLEASE PROVIDE THE FOLLOWING INFORMATION:

APPLICANT'S NAME: _____ BUSINESS PHONE: (____) _____
BUSINESS NAME: _____ BUSINESS ADDRESS: _____ NUMBER _____ STREET _____ CITY _____ STATE _____ ZIP CODE _____

APPLICANT'S NAME: _____ BUSINESS PHONE: (____) _____
BUSINESS NAME: _____ BUSINESS ADDRESS: _____ NUMBER _____ STREET _____ CITY _____ STATE _____ ZIP CODE _____

ATTACH ADDITIONAL SHEET IF NECESSARY. CHECK CIRCLE IF ADDITIONAL SHEET IS USED. O

CERTIFICATION:

"As the person responsible for completing the application for the business, I certify that information on this application is true and complete to the best of my knowledge."

SIGNATURE OF APPLICANT (In Ink)

NOTARIZATION:

STATE OF ARKANSAS
COUNTY OF _____

On the _____ day of _____, 1980, before me came _____ to me known to be the individual described in and who executed the foregoing instrument and acknowledged that he executed the same.

NOTARY PUBLIC

