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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 157

01/24/2013 Authored by Hilstrom; Rosenthal; Cornish; Benson, J.; Simon and others

The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy

02/14/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Government Operations

02/28/2013 Adoption of Report: Pass as Amended and re-referred to the Committee on Judiciary Finance and Policy

1.1 A bill for an act
1.2 relating to commerce; regulating bullion coin dealers; requiring registration;
1.3 prohibiting certain conduct; providing enforcement authority and criminal
1.4 penalties; proposing coding for new law as Minnesota Statutes, chapter 80G.
1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **[80G.01] DEFINITIONS.**

1.7 Subdivision 1. **Scope.** For the purposes of this chapter, the following terms have the
1.8 meanings given in this section.

1.9 Subd. 2. **Bullion coin.** "Bullion coin" means a coin containing more than one
1.10 percent by weight of silver, gold, platinum, or other precious metal.

1.11 Subd. 3. **Bullion coin dealer.** (a) Subject to the exceptions in paragraph (b),
1.12 "bullion coin dealer" means a person who buys, sells, solicits, or markets bullion coins
1.13 or investments in bullion coins to consumers and is either incorporated, registered,
1.14 domiciled, or otherwise located in the state or who does business with a consumer
1.15 domiciled, residing, or otherwise located in the state.

1.16 (b) Bullion coin dealer does not include any of the following:

1.17 (1) a person who engages in isolated transactions, consisting of less than five bullion
1.18 coin transactions with consumers during and 12-month period;

1.19 (2) a person who engages in isolated transactions, consisting of bullion coin
1.20 transactions with consumers during any 12-month period that do not exceed \$5,000 in the
1.21 aggregate as determined by the transactions' sale prices;

1.22 (3) a person who engages only in wholesale bullion coin transactions with bullion
1.23 coin dealers who sell at retail and are properly registered under this chapter;

(4) a person who engages only in transactions at occasional garage or yard sales held at the seller's residence, farm auctions held at the seller's residence, or estate sales held at the decedent's residence; or

(5) an auctioneer who auctions coins at auction on behalf of an owner, if the auctioneer does not take title or ownership of the coins.

Subd. 4. **Coin dealer representative.** "Coin dealer representative" means a natural person acting as an employee, contractor, or agent of a bullion coin dealer and who has interactions with consumers in connection with the buying, selling, solicitation, or marketing of bullion coins or investments in bullion coins.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 6. **Person.** "Person" has the meaning given in section 325F.68, subdivision 3.

Subd. 7. **Precious metal content.** "Precious metal content" means the quantity, measured in grams, of gold, silver, platinum, or other precious metal in a coin and the percentage that the precious metal constitutes of the total weight of the coin.

Sec. 2. **[80G.02] REGISTRATION.**

Subdivision 1. **Required.** It is unlawful for a bullion coin dealer or coin dealer representative to solicit, market, buy, sell, or deliver bullion coins or investments in bullion coins to a consumer without having first registered with the commissioner as provided in this chapter.

Subd. 2. **Obligations.** A bullion coin dealer must register itself and each of its coin dealer representatives with the commissioner. A bullion coin dealer shall verify and certify in the registration of each coin dealer representative application that the representative satisfies the requirements of sections 80G.03 and 80G.04. A registration approved by the commissioner under this chapter expires one year after registration.

Subd. 3. **Application.** All applications for registration by a bullion coin dealer or coin dealer representative must be made on forms approved by the commissioner. The commissioner may determine the requirements of the application form, and other materials, if any, that must be appended to it. This determination by the commissioner is not subject to the rulemaking provisions of chapter 14, including section 14.386. At a minimum, the application must include the following, as applicable:

(1) the name and business address of the bullion coin dealer and the name and primary work location of each coin dealer representative. A bullion coin dealer who desires to carry on business in more than one location shall identify each address where business is to be conducted; and

(2) a disclosure by each officer and owner of the bullion coin dealer and each coin dealer representative of all criminal convictions by any court within the last ten years.

Subd. 4. **Notice of address change.** A bullion coin dealer must give the commissioner written notice of a change in the dealer's name, assumed name, business addresses, or ownership no later than 15 days after the change occurs. A coin dealer representative must give written notice of a change of work address or name no later than 30 days after the change occurs.

Subd. 5. **Fee.** The fee for each registration under this chapter shall be as follows:

(1) Bullion coin dealer: \$.....

(2) Coin dealer representative: \$.....

Sec. 3. **[80G.03] DISQUALIFICATION.**

The commissioner shall not accept a registration for a coin dealer representative who has, within the last 15 years, or for a bullion coin dealer whose owners or officers have, within the past 15 years:

(1) been convicted in any court of any felony;

(2) been convicted in any court of any crime involving fraud or deceit, theft, or any financial crime;

(3) been unable to truthfully certify that they have no civil judgments against them, including but not limited to conciliation court or equivalent judgments, for failure to account to a customer for money or property received from the customer; or

(4) been unable to truthfully certify that they have not entered into a settlement or other agreement with any government entity resolving concerns by the government entity that they had violated consumer protection or unfair trade practice laws.

Sec. 4. **[80G.04] SCREENING PROCESS.**

Subdivision 1. **Required.** A bullion coin dealer must establish procedures to screen each of its owners and officers and each coin dealer representative before submitting to the commissioner the application for initial registration and at renewal. The results of the screenings must be provided to the commissioner as part of the initial registration and all renewal registrations.

Subd. 2. **Initial screening.** The screening process for initial registration must be done before the time of hiring and registration. The process must include a national criminal history record search and a judgment search and county criminal history search for all counties where the applicant has resided within the immediately preceding five years, to determine whether the applicant is eligible to be registered under this chapter.

Each bullion coin dealer shall use a vendor that is a member of the National Association of Professional Background Screeners, or an equivalent vendor, to conduct the background screening process on its owners and officers and coin dealer representatives.

Subd. 3. **Renewal screening.** The screening process for the renewal of a coin dealer representative's registration must include a national criminal history record search and a judgment search and county criminal history search for all counties where the individual has resided since satisfactorily completing the last screening process conducted pursuant to this chapter. Screening for renewal of coin dealer representative registrations must take place no more than 60 days before the registration expiration or renewal date.

Sec. 5. **[80G.05] BOND REQUIREMENT.**

Subdivision 1. **Surety bond requirement.** Every bullion coin dealer shall maintain a current, valid surety bond issued by a surety company admitted to do business in Minnesota in an amount no less than the transactions (purchases from and sales to consumers at retail) during the 12-month period prior to registration. In no event shall the surety bond required under this subdivision be more than \$200,000.

Subd. 2. **Action on bond permitted.** A consumer injured in money or property by a bullion coin dealer's or coin dealer representative's failure to provide bullion coins that the consumer has paid for or failure to remit money or goods owed to the consumer in connection with the consumer's sale of bullion coins may file a claim with the surety and, if the claim is not paid, is authorized to bring an action based on the bond and recover against the surety. The commissioner or attorney general may also file a claim and bring an action on the bond and recover against the surety on behalf of a consumer so injured.

Sec. 6. **[80G.06] DISCLOSURE.**

Before the sale of any bullion coins, a bullion coin dealer must disclose to the consumer in a clear and conspicuous manner the sale price and precious metal content of the bullion coins involved in the transaction.

Sec. 7. **[80G.07] PROHIBITED CONDUCT.**

A bullion coin dealer or coin dealer representative shall not:

(1) fail to deliver bullion coins to a consumer within the time agreed upon with the consumer or, if no such agreement exists, within 30 days after the consumer has paid for the coins;

(2) fail to pay a seller for purchased bullion coins within the time agreed upon with the consumer or, if no such agreement exists, within 30 days after the consumer has provided the coins;

(3) fail to provide an invoice at the time of the transaction describing the nature of the bullion coins involved in the transaction, the quantity of bullion coins involved in the transaction, and the bullion coins' sale price and precious metal content;

(4) misrepresent the value of the bullion coins, the delivery date of coins or payment for coins, or the dealer or representative's professional qualifications, affiliations, or registration;

(5) misrepresent the manner in which any coins a consumer provides will be stored or otherwise handled once received;

(6) renegotiate the terms of a sale after receiving a consumer's payment or coins without first offering the consumer the option to have the payment fully refunded or the entirety of the coins returned;

(7) fail to respond within three business days to a consumer inquiry about the delivery status of coins that the consumer has paid for but not yet received or the status of payment for coins that the consumer has already provided;

(8) telephone or solicit a consumer, or sell or provide the consumer's name to any other bullion coin dealer or coin dealer representative, after the consumer requests not to be contacted; or

(9) violate any other Minnesota rule or law.

Sec. 8. **[80G.08] ENFORCEMENT.**

Subdivision 1. **Commissioner's authority.** The commissioner has all authority provided under section 45.027 to ensure compliance with this chapter, including but not limited to the authority to deny, suspend, or revoke the registration of any bullion coin dealer or coin dealer representative for a violation of this chapter or other Minnesota law. Appeal from a denial, suspension, or revocation of registration must be made according to chapter 14.

Subd. 2. **Violation as consumer fraud.** A violation of this chapter is a violation of section 325F.69, subdivision 1, and the provisions of section 8.31 apply.

Sec. 9. **[80G.09] CRIMINAL PENALTY.**

A person who conducts business as a bullion coin dealer or as a coin dealer representative without having first registered with the commissioner, or who carries on the

6.1 business after the revocation, suspension, or expiration of a registration, or who violates
6.2 section 80G.07, clause (1) or (2), is guilty of a misdemeanor.

6.3 Sec. 10. **[80G.10] OTHER ACTION.**

6.4 Nothing in this chapter precludes an action under chapter 80A.