

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4030

03/07/2022 Authored by Gomez
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy
03/24/2022 Adoption of Report: Placed on the General Register
Read for the Second Time

1.1 A bill for an act
1.2 relating to commerce; modifying provisions governing bullion coins and bullion
1.3 products dealers; amending Minnesota Statutes 2020, sections 80G.01, subdivision
1.4 3, by adding a subdivision; 80G.02, subdivisions 1, 4; 80G.03, subdivision 2;
1.5 80G.04, subdivision 1; 80G.05, subdivision 1; 80G.06, subdivision 2; 80G.07,
1.6 subdivision 1; Minnesota Statutes 2021 Supplement, sections 80G.06, subdivision
1.7 1; 80G.11.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2020, section 80G.01, subdivision 3, is amended to read:

1.10 Subd. 3. **Dealer.** (a) Subject to the exceptions in paragraph (b), a "dealer" means any
1.11 person who buys, sells, solicits, or markets bullion products or investments in bullion
1.12 products to consumers and: conducts Minnesota transactions.

1.13 ~~(1) is incorporated, registered, domiciled, or otherwise located in this state;~~

1.14 ~~(2) has a dealer representative located in this state; or~~

1.15 ~~(3) does business with a consumer at a location in this state, or delivers or ships a bullion~~
1.16 ~~product or makes a payment to a consumer at an address in this state, unless the transaction~~
1.17 ~~occurs when the consumer is at a business location outside of this state.~~

1.18 (b) A dealer does not include any of the following persons:

1.19 (1) a person who engages only in wholesale bullion product transactions with other
1.20 persons who engage only in wholesale bullion product transactions or with dealers who buy
1.21 or sell at retail and are properly registered under this chapter;

(2) 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;

(3) a person who is properly registered pursuant to chapter 80A, or the federal Securities Exchange Act of 1934 and rules promulgated thereunder as a securities broker dealer or broker dealer agent;

(4) an auctioneer who auctions bullion products on behalf of an owner, if the auctioneer does not take title or ownership of the bullion products, or the operator of an Internet website that allows users to offer the sale of bullion products through that website, does not set the price, is not the seller of record, and does not take possession of any bullion products to be offered; or

~~(5) a person who engages only in transactions at no more than 12 trade shows per year in this state where the consumer is present and the transaction is made at the trade show;~~
~~or~~

~~(6)~~ (5) a federally or state-chartered bank, bank and trust, savings bank, savings association, or credit union or any operating subsidiary of them.

Sec. 2. Minnesota Statutes 2020, section 80G.01, is amended by adding a subdivision to read:

Subd. 5a. **Minnesota transaction.** "Minnesota transaction" means a bullion product transaction conducted:

(1) by a dealer that is incorporated, registered, domiciled, or otherwise located in Minnesota;

(2) by a dealer representative at a location in Minnesota;

(3) between a dealer and a consumer who lives in Minnesota; or

(4) between a dealer and a Minnesota consumer when the transaction involves:

(i) delivering or shipping a bullion product to an address in Minnesota;

(ii) delivering to or shipping from a precious metal depository on behalf of a Minnesota resident; or

(iii) making payment to a consumer or receiving a payment from a consumer at an address in Minnesota, unless the transaction occurs when the consumer is at a business location outside of Minnesota.

3.1 Sec. 3. Minnesota Statutes 2020, section 80G.02, subdivision 1, is amended to read:

3.2 Subdivision 1. **Registration required.** It is unlawful for a dealer or dealer representative
3.3 to ~~solicit, market, buy, sell, or deliver bullion products or investments in bullion products~~
3.4 ~~to a consumer~~ conduct a Minnesota transaction without being registered by the commissioner
3.5 as provided for in this chapter. A dealer must submit an application to register itself and
3.6 each of its dealer representatives within 45 days of reaching \$25,000 in the aggregate of
3.7 ~~bullion product transactions with consumers~~ Minnesota transactions between July 1 and
3.8 June 30 of any year, as determined by the transactions' sale or purchase prices. Once a dealer
3.9 is required to register itself and its dealer representatives, the dealer must thereafter renew
3.10 its registration and the registration of each of its dealer representatives in accordance with
3.11 this chapter, ~~regardless of the aggregate annual amount of transactions~~, unless the person
3.12 ceases to be a dealer. A dealer representative may not buy, sell, solicit, or market bullion
3.13 products or investments in bullion products on behalf of a dealer unless the dealer is properly
3.14 registered with the commissioner under this section.

3.15 Sec. 4. Minnesota Statutes 2020, section 80G.02, subdivision 4, is amended to read:

3.16 Subd. 4. **Notice of change in registration information.** A registered dealer must provide
3.17 the commissioner written notice of a change in the dealer's name, assumed names, doing
3.18 business as names, business addresses, including all business addresses at which it or its
3.19 dealer representatives conduct business, owners, e-mail addresses, website domain names,
3.20 or primary telephone number used by it or its dealer representatives to buy, sell, solicit, or
3.21 market to consumers bullion products or investments in bullion products no later than 30
3.22 days after the change occurs.

3.23 Sec. 5. Minnesota Statutes 2020, section 80G.03, subdivision 2, is amended to read:

3.24 Subd. 2. **Dealer responsibility for actions of dealer representatives.** The commissioner
3.25 may take action against a dealer for any violations of this chapter by its dealer representatives
3.26 ~~conducting activities~~ Minnesota transactions on behalf of or at the direction of the dealer.
3.27 The commissioner may also take action against the dealer representative.

3.28 Sec. 6. Minnesota Statutes 2020, section 80G.04, subdivision 1, is amended to read:

3.29 Subdivision 1. **Dealer registration precluded.** The commissioner must deny an
3.30 application for registration or renewal of a dealer, or revoke such registration, if the bullion
3.31 ~~coin~~ product dealer or its owners or officers have within the last ten years been convicted
3.32 in any court of any financial crime or other crime involving fraud or theft.

4.1 Sec. 7. Minnesota Statutes 2020, section 80G.05, subdivision 1, is amended to read:

4.2 Subdivision 1. **Screening process required.** Each registered dealer must establish
4.3 procedures to screen each of its owners and officers and each of its dealer representatives
4.4 prior to submitting the application to the commissioner for initial registration and at each
4.5 renewal. The results of such screenings shall be kept on file by the dealer and, if requested
4.6 by the commissioner, provided to the commissioner as part of the initial registration and all
4.7 renewal registrations.

4.8 Sec. 8. Minnesota Statutes 2021 Supplement, section 80G.06, subdivision 1, is amended
4.9 to read:

4.10 Subdivision 1. **Surety bond requirement.** (a) Every dealer shall maintain a current,
4.11 valid surety bond issued by a surety company admitted to do business in Minnesota in an
4.12 amount based on the Minnesota transactions ~~conducted with Minnesota consumers (purchases~~
4.13 ~~from and sales to consumers at retail)~~ during the 12-month period prior to registration, or
4.14 renewal, whichever is applicable.

4.15 (b) The amount of the surety bond shall be as specified in the table below:

| 4.16 Transaction Amount in Preceding | 4.16 Surety Bond Required |
|--|---------------------------|
| 4.17 12-month Period | |
| 4.18 \$0 <u>\$25,000</u> to \$200,000 | 4.18 \$25,000 |
| 4.19 \$200,000.01 to \$500,000 | 4.19 \$50,000 |
| 4.20 \$500,000.01 to \$1,000,000 | 4.20 \$100,000 |
| 4.21 \$1,000,000.01 to \$2,000,000 | 4.21 \$150,000 |
| 4.22 Over \$2,000,000 | 4.22 \$200,000 |

4.23 Sec. 9. Minnesota Statutes 2020, section 80G.06, subdivision 2, is amended to read:

4.24 Subd. 2. **Action on bond permitted.** A consumer involved in a Minnesota transaction
4.25 who is injured in money or property by a dealer's or dealer representative's failure to provide
4.26 ~~bullion products that the consumer has paid for or failure to remit money or goods owed to~~
4.27 ~~the consumer in connection with the consumer's sale of bullion products~~ comply with this
4.28 chapter may file a claim with the surety and if the claim is not paid, is authorized to bring
4.29 an action based on the bond and recover against the surety. The commissioner or attorney
4.30 general may also file a claim and bring an action on the bond and recover against the surety
4.31 on behalf of a consumer so injured.

5.1 Sec. 10. Minnesota Statutes 2020, section 80G.07, subdivision 1, is amended to read:

5.2 Subdivision 1. **Sales practices.** ~~Ne~~ When conducting a Minnesota transaction, a dealer
5.3 or dealer representative shall must not:

5.4 (1) prior to a transaction regarding bullion products, or concurrent with the delivery
5.5 thereof, fail to provide to the consumer an invoice, which, in a clear and conspicuous manner,
5.6 discloses the dealer's registration number, the Department of Commerce's e-mail address
5.7 and telephone number, the sale or purchase price, the quantity of the bullion products, and
5.8 specifically identifies and describes the bullion products, as well as their precious metal
5.9 content, but only if it differs from the precious metal content specified by a government
5.10 mint issuing the product and struck on the product, or if the product is not issued by a
5.11 government mint;

5.12 (2) fail to investigate any consumer complaint and retain records of all consumer
5.13 complaints, the results of its investigations, and the dealer's response and resolution of the
5.14 complaint;

5.15 (3) fail to deliver by common carrier bullion products to a consumer within the time
5.16 agreed upon with the consumer or, if no such agreement exists, within 30 days after the
5.17 consumer has paid for the bullion products;

5.18 (4) fail to pay a consumer for purchased bullion products within the time agreed upon
5.19 with the consumer or, if no such agreement exists, within 30 days after the consumer has
5.20 provided the bullion products;

5.21 (5) misrepresent the delivery date of bullion products or payment for bullion products,
5.22 or the dealer or representative's professional qualifications, affiliations, or registration;

5.23 (6) misrepresent any material aspect of a bullion product, including its performance,
5.24 efficacy, nature, investment value, central characteristics, liquidity, earnings potential, or
5.25 profitability;

5.26 (7) misrepresent the manner in which any bullion products a consumer provides will be
5.27 stored or otherwise handled once received;

5.28 (8) renegotiate the terms of a sale or purchase after receiving a consumer's payment or
5.29 bullion products without first obtaining the consumer's agreement to renegotiate and offering
5.30 the consumer the option to have the payment fully refunded or the entirety of the bullion
5.31 products returned;

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

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

(11) violate a subpoena or order of the commissioner or a court;

(12) make any communication to a potential buyer or seller of bullion products that misrepresents the relationship, if any, between the dealer or dealer representative and any government agency or mint;

(13) improperly withhold, misappropriate, or convert any money or properties received in the course of buying, selling, soliciting, or marketing bullion products or investments in bullion products to consumers;

(14) misrepresent the terms of an actual or proposed purchase or sale of bullion products or investment in bullion products to a consumer; or

(15) violate any other federal, state, or local law or rule related to selling, purchasing, soliciting, or marketing of bullion products, investments in bullion products, or precious metals, or any federal, state, or local law related to fraudulent, coercive, or dishonest practices, or federal, state, or local law related to taxation or labor standards.

Sec. 11. Minnesota Statutes 2021 Supplement, section 80G.11, is amended to read:

80G.11 NOTIFICATION TO COMMISSIONER.

A registered dealer must notify the commissioner of any dealer representative termination within ten days of the termination if the termination is based in whole or in part on a violation of this chapter.