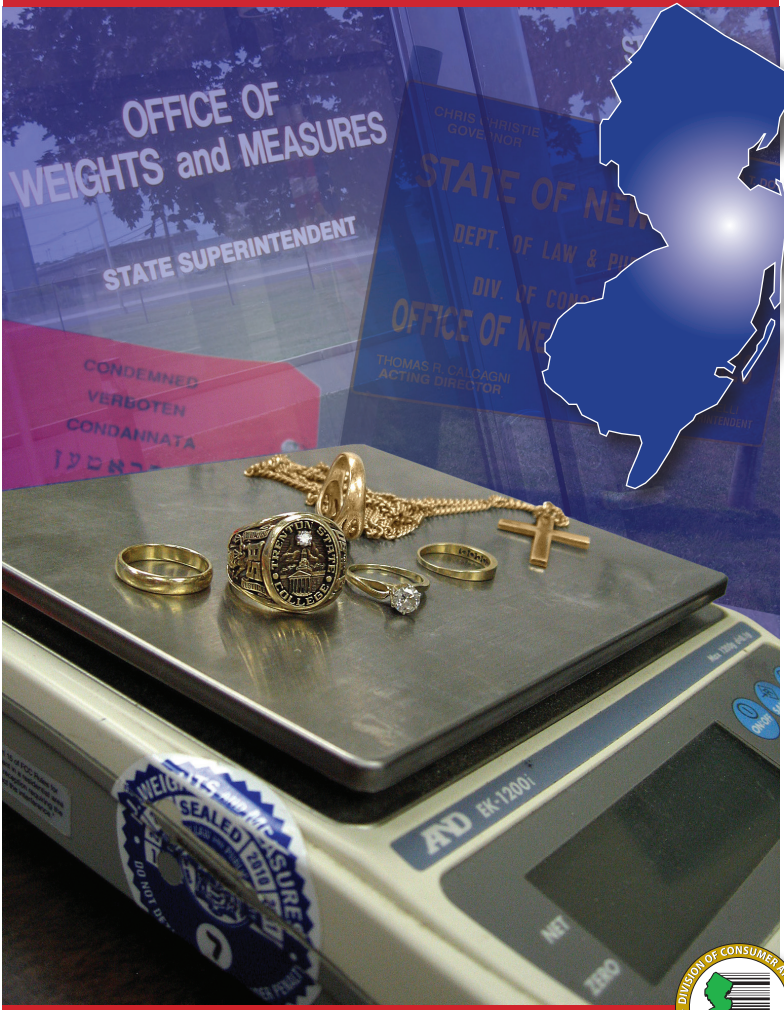
PRECIOUS METALS



NEW JERSEY DIVISION OF CONSUMER AFFAIRS

New Jersey Laws *regarding* Precious Metals

A Guide for Law Enforcement

New Jersey law *provides for the regulation of buyers of precious metals. It also provides that municipalities may promulgate ordinances or regulations which govern the sale of precious metals. Should a municipality decide to regulate precious metals buyers, the ordinances or regulations may be more restrictive than State law. However, municipal laws are in addition to, not a replacement for, State law.*

This booklet contains State law governing buyers of precious metals. Local law enforcement agencies should provide a copy of this brochure together with any municipal material to buyers of precious metals within their municipalities.

Should you have any questions, please call the Office of Weights and Measures at ***732-815-4840****.*

N.J.S.A. 51:6A-5. Definitions

For purposes of this act:

a. "Precious metals" means gold, silver, platinum, palladium and alloys thereof.

b. "His name and address" means the name of the buyer and the legal name of the business under which the buyer is doing business, together with the permanent business address.

c. "Transient buyer" means a buyer of precious metals as provided for in this act who has not been in any retail business continuously for at least 6 months at the address in the municipality where he is required to register or who intends to close out or discontinue all retail business in the municipality within 6 months.

N.J.S.A. 51:6A-1. Buyer on basis of bulk value; duties; serialized receipts; bond

Any person in the business of buying precious metals who buys, attempts to buy or offers to buy precious metals on the basis of bulk value from any person who is not in the business of selling precious metals shall:

a. Clearly and prominently display at the point of purchase:

(1) His name and address;

(2) The price being offered or paid by the buyer for precious metals expressed as price per standard measure of weight and fineness as prescribed by the Superintendent of Weights and Measures.

b. Include his name and address in all advertisements concerning such precious metals.

c. Weigh the precious metals in plain view of the seller on State certified scales with the certificate of inspection clearly and prominently displayed.

d. Test the fineness of precious metals, if any test is so performed, in plain view of the seller.

e. Issue to the seller and keep for his own records, for not less than 1 year, a serialized receipt for each purchase of precious metals containing the following:

(1) The name and address of the buyer;

(2) Date of the transaction;

(3) The names of the precious metals purchased;

(4) The finenesses of the precious metals purchased;

(5) The weights of the precious metals purchased;

(6) The prices paid for the precious metals at the standard measures of weight and fineness prescribed by the superintendent;

(7) The name, address and signature of the seller of the precious metals.

f. Obtain proof of identity from each person who sells precious metals to him.

g. Retain any precious metals in the form in which they were purchased for a period of not less than 2 business days, minimum 48 hours.

h. Upon reasonable request, allow the inspection of the serialized receipts or precious metals provided for in subsections e. and g. respectively of this section by any law enforcement officer or weights and measures official.

i. Obtain a bond in an amount and form prescribed by regulations of the Office of Weights and Measures. The bond shall be obtained from a surety company authorized by law to do business in this State. The bond shall run to the State for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the buyer of precious metals. No bond shall comply with the requirements of this subsection unless the bond contains a provision that it shall not be cancelled for any cause unless notice of intention to cancel is filed in the Office of Weights and Measures at least 30 days before the day upon which cancellation shall take effect. This subsection shall only apply to transient buyers.

N.J.S.A. 51:6A-2. Registration of buyer; transient buyer; additional requirements; violation; penalty

A buyer of precious metals as provided for in this act shall, before buying, attempting to buy or offering to buy any precious metals, register with the police of the municipality in which he intends to

conduct his business and give his name and address. A transient buyer of precious metals shall, in addition to the information required of a buyer of precious metals, provide the address at which he intends to do business in the municipality and shall reregister if he changes his location of doing business in the municipality or if he discontinues doing business for more than 20 days in the municipality and subsequently wants to resume doing business therein. Any person who violates any provision of this section is a disorderly person.

N.J.S.A. 51:6A-3. Violations; Penalty; Enforcement

Any person who violates any provision of this act shall be liable to a mandatory penalty of not less than $100.00 nor more than $500.00 recoverable by the Superintendent of Weights and Measures pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). An action for the recovery of a civil penalty for violation of this act shall be within the jurisdiction of and may be brought before the Superior Court or municipal court in the municipality where the offense is committed or where the defendant resides or where the defendant may be apprehended.

A summons or warrant against any foreign business entity doing business in this State shall be processed as provided by law.

N.J.S.A. 51:6A-4. Arrest without warrant

On the violation of any of the provisions of this act within his view, a weights and measures officer may without warrant arrest the offender and conduct him before a court having jurisdiction.

N.J.S.A. 51:6A-6. Inapplicability of act to government agencies, banks, or commodity markets

This act is not applicable to government agencies, State or Federally chartered banks or Federally regulated commodity markets.

N.J.S.A. 51:6A-7. Right of municipalities to enact more restrictive ordinances or resolutions

This act is not intended, and nothing in this act shall be construed to preclude the right of any municipality to adopt and enforce ordinances or regulations more restrictive than this act or any rules or regulations promulgated thereunder.

N.J.S.A. 51:6A-8. Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this act shall be adjudged invalid by a court of competent jurisdiction, the order or judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this act and, to this end, the provisions of each section, subsection, paragraph, subdivision or clause of this act are declared to be severable.

N.J.A.C. 13:47C-6.1 Transient buyer bond requirements

(a) A transient buyer of precious metals shall file with the State Superintendent a good and sufficient surety bond executed by a surety company authorized to transact business in the State of New Jersey in an amount of not less than $ 5,000. The bond shall run to the State for the benefit of any person injured by the wrongful act, default, fraud or misrepresentation of the transient buyer of precious metals. The bond shall be approved as to form and sufficiency by the State Superintendent, shall be given to the State Superintendent in his or her official capacity and shall be conditioned for the faithful compliance by the precious metals transient buyer with all of the provisions of N.J.S.A. 51:6A-1 et seq., and for the payment of all amounts due to sellers of precious metals during the period the bond is in force.

(b) In accordance with the provisions of N.J.S.A. 51:6A-li, the bond shall not be cancelled for any cause unless a Notice of Intention to cancel is filed at least 30 days before the requested cancellation date with the State Superintendent. The bond shall contain such a provision.

N.J.A.C. 13:47C-6.2 Notice of Intention

(a) No monies or securities shall be withdrawn from the State Superintendent unless a Notice of Intention to withdraw is given to the State Superintendent at least 30 days before such a withdrawal.

(b) After the Notice of Intention is filled with the State Superintendent, the transient buyer shall make no further purchases of precious metals in this State.

N.J.A.C. 13:47C-6.3 Claims

(a) Each customer (seller of precious metals) having a claim against a transient buyer shall file a verified claim in writing with the State Superintendent within 60 days. Failure to file within 60 days shall nullify the claim.

(b) If a customer has reduced his claim to a judgement, the judgement shall be presumptive proof of the amount due him.

(c) When the customer is the prevailing party and the surety shall not make payment of the amount decided, the State Superintendent shall bring an action at law to recover the amount necessary to satisfy the claim.

(d) The State Superintendent shall make distribution thereof to the claimants in accordance with the amounts determined to be due thereon, and if the bond is less than the total amount of awarded claims, distribution shall be made ratably to the claimants according to said amounts.

(e) Claims not filed with the bonding period or within 60 days of the determination of the bond shall not be received, acted upon or paid.

Division of Consumer Affairs

The Office of Weights and Measures, part of the **Division of Consumer Affairs,** is responsible for ensuring that all commercial weighing and measuring devices accurately measure the commodities sold to consumers.

Visit ▸ **www.NJConsumerAffairs.gov/owm.htm**
Call ▸ **732-815-4840**
Write ▸ **1261 Routes 1 & 9 South**
Avenel, New Jersey 07001

CHRIS CHRISTIE, *Governor*
PAULA T. DOW, *Attorney General*
THOMAS R. CALCAGNI, *Acting Director*
ROBERT J. CAMPANELLI, *Acting Superintendent*