

## Code Language for Precious Metals Permits

This language and section is from the South Carolina Code of Laws.

### **Title 40. Professions and occupations** **Chapter 54. Dealers in precious metals**

#### **SECTION 40-54-10. Definitions. [SC ST SEC 40-54-10]**

As used in this chapter:

- (1) "Dealer" means any person, corporation, or partnership who buys precious metal or precious or semiprecious stones or gems from the general public, whether in bulk or in manufactured form, with an intent to obtain a monetary profit for himself or for a principal.
- (2) "Precious metal" means any article made in whole or in part of gold, silver, or platinum.
- (3) "Precious or semiprecious stone or gem" means any stone or gem that is rare or costly or any stone or gem that is of lower value than those classified as precious.

These are identified as follows:

- Precious gemstones include rubies, emeralds, sapphires, and diamonds.
- Semiprecious gemstones include the following:

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|--------------------------|--------------------------|-----------------------------|
| 1. » Agate Stone         | 24. » Fluorite Stone     | 47. » Peridot Stone         |
| 2. » Amazonite Stone     | 25. » Garnet Stone       | 48. » Prasiolite Stone      |
| 3. » Amber Stone         | 26. » Goshenite Stone    | 49. » Pyrite Stone          |
| 4. » Amethyst Stone      | 27. » Heliodor Stone     | 50. » Quartz Stone          |
| 5. » Ametrine Stone      | 28. » Hematite Stone     | 51. » Rubellite Stone       |
| 6. » Andalusite Stone    | 29. » Hemimorphite Stone | 52. » Rutilite Stone        |
| 7. » Apatite Stone       | 30. » Indicolite Stone   | 53. » Scapolite Stone       |
| 8. » Aquamarine Stone    | 31. » Iolite Stone       | 54. » Serpentine Stone      |
| 9. » Aventurine Stone    | 32. » Jade Stone         | 55. » Sillimanite Stone     |
| 10. » Azurite Stone      | 33. » Jasper Stone       | 56. » Sodalite Stone        |
| 11. » Beryl Stone        | 34. » Kunzite Stone      | 57. » Spectrolite Stone     |
| 12. » Chalcedony Stone   | 35. » Labradorite Stone  | 58. » Sphalerite Stone      |
| 13. » Charoite Stone     | 36. » Lapis Lazuli Stone | 59. » Sphene Stone          |
| 14. » Chrysoberyl Stone  | 37. » Malachite Stone    | 60. » Spodumene Stone       |
| 15. » Chrysocolla Stone  | 38. » Moissanite Stone   | 61. » Sugilite (Hemi) Stone |
| 16. » Chrysoprase Stone  | 39. » Moonstone Stone    | 62. » Sunstone Stone        |
| 17. » Cinnabar Stone     | 40. » Morganite Stone    | 63. » Topaz Stone           |
| 18. » Citrine Stone      | 41. » Nephrite Stone     | 64. » Tigers Eye Stone      |
| 19. » Cornelian Stone    | 42. » Obsidian Stone     | 65. » Tourmaline Stone      |
| 20. » Desert Glass Stone | 43. » Onyx Stone         | 66. » Turquoise Stone       |

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|----------------------------|-----------------------|---------------------|
| 21. » Diopside Stone       | 44. » Opal Stone      | 67. » Unakite Stone |
| 22. » Druzy Quartz Stone   | 45. » Pearl Stone     | 68. » Zircon Stone  |
| 23. » Druzy Titanium Stone | 46. » Pectolite Stone |                     |

- (4) "Local law enforcement agency" means the chief of police for businesses located within the corporate limits of a municipality and the county law enforcement agency for businesses located outside the corporate limits of a municipality.
- (5) "Permanent place of business" means a fixed premises either owned by the dealer or leased by him. One year's lease is a presumption of permanency.
- (6) "Places proposed to do business" means the counties or municipalities in which the dealer intends to purchase precious metals or precious or semiprecious stones or gems or both precious metals and precious or semiprecious stones or gems.
- (7) "Purchase" means the acquisition of precious metal or precious or semiprecious stones or gems or both precious metal and precious or semiprecious stones or gems for a consideration of cash, goods, or other precious metals or precious or semiprecious stones or gems or both precious metals and precious or semiprecious stones or gems. Trade-ins are covered by the provisions of this chapter unless the item traded was purchased directly from the dealer allowing the trade.

**SECTION 40-54-20.** Permit required; form; contents of application; investigation; issuance; term; fee; denial, suspension or revocation. [SC ST SEC 40-54-20]

No dealer as defined herein shall operate in the State of South Carolina unless he first obtains a permit to engage in the business of purchasing precious metals from the local law enforcement agency and operates only from a permanent place of business. No dealer shall operate upon public property nor from a vehicle, flea market, hotel room or similar temporary location.

The form of the permit to engage in the business of purchasing precious metals shall be prescribed by the State Law Enforcement Division and all applicants for a permit under this chapter, whether a person, firm or corporation, shall file a written sworn application signed by the applicant if an individual, by all the partners if a partnership, and by the president if a corporation, with the local law enforcement agency showing:

- (a) The names of the persons managing, supervising or conducting the applicant's business in any places proposed to carry on business; the addresses of such persons; the driver's license number of such persons; the capacity in which such persons will act, that is, whether as proprietor, agent or otherwise; the name and address of the person, firm or corporation for whose account the business will be carried on, if any; and if a corporation, the state of incorporation.

- (b) The permanent places of business and other places in the State of South Carolina where it is proposed to carry on the applicant's business and the places where the applicant has carried on the business of purchasing precious metals within one year preceding the date of such application.
- (c) Such other reasonable information as to the identity of the persons managing, supervising or conducting the applicant's business as the local law enforcement agency may deem proper to fulfill the purposes of this chapter.
- (d) A statement of the nature, character and quality of the precious metals to be purchased in the business.

Upon receipt of such application for a permit, the local law enforcement agency shall cause an investigation of such person's business and personal background to be made. Such investigation shall be limited to information pertinent to the purpose of this chapter. If, as a result of the investigation, the background is found to be unsatisfactory, the permit shall be denied. The permit shall be denied or issued within thirty days from the date of application.

Upon the issuance of the permit, the local law enforcement agency shall notify the State Law Enforcement Division of the locations where the permit holder proposes to carry on his business. The permit issued under this chapter shall be valid for a period of one year from the date issued and the annual fee shall be fifty dollars to provide for the administrative costs. If the dealer intends to operate from more than one location within the State, then separate permits shall be issued for each place of business; provided, however, only one annual fee shall be collected.

The permits under this chapter shall be in addition to and not in lieu of other business licenses.

A permit may be denied, suspended or revoked at any time if the local law enforcement agency discovers that the information on the application is inaccurate or the dealer or applicant does not comply with the requirements of this act.

The permit holder shall notify, within ten days, the local law enforcement agency if any substantive changes occur in the permanent place of business in the persons managing, supervising or conducting the applicant's business, or in the places the permit holder intends to do business.

**SECTION 40-54-30.** Permit to be posted. [SC ST SEC 40-54-30]

A permit issued under this chapter shall be posted conspicuously at all places of business named therein.

**SECTION 40-54-40.** Dealer to keep records of certain purchases; identification of seller required; seller's identity not to be publicized. [SC ST SEC 40-54-40]

Every dealer shall keep a book in which must be written at the time of any purchase of precious metal or precious or semiprecious stones or gems made from the general public, whether in bulk or manufactured form, the date of purchase, amount of money or other property exchanged for the metal, stones, or gems, the name, sex, race, age, address, and driver's license number of the person selling the items, articles, or things bought, and the number and nature and brand name of the items, articles, or things. Descriptions must include size, weight, patterns, or engraving or any unusual identification marks. If the seller does not have a driver's license, some other positive identification bearing his photograph and an identifying number may be substituted. If the seller cannot produce a driver's license or other positive identification, the dealer may not buy any merchandise from him. Every dealer shall, at the time of purchase, obtain the signature of the seller as part of the recording of the transaction.

The record book must be kept for three years and at all reasonable times must be open to the inspection of any judicial or law enforcement officials or their designees.

The local law enforcement agency may not reveal a seller's identity supplied under this section except to other law enforcement agencies and prosecuting officials or pursuant to the valid order of a court or in the course of any criminal investigation or prosecution.

**SECTION 40-54-50.** Purchases from minors; retention period of precious metals purchased; goods subject to inspection. [SC ST SEC 40-54-50]

- (A) No dealer may purchase any precious metal from a minor unless accompanied by his parent or guardian with appropriate identification.
- (B) All precious metals purchased by a dealer shall be held by the dealer at his permanent place of business or at another suitable location in the State of South Carolina without being resold, melted or altered in any manner, for a period of seven days from the purchase date. All goods required to be held under this section shall at all reasonable times be open to inspection by any law enforcement agency.

**SECTION 40-54-60.** Permit required for possession of certain equipment. [SC ST SEC 40-54-60]

Possession of equipment which has been used, or is being used for the melting, crushing or altering of the precious metals is unlawful unless possessed by a dealer with a valid permit as provided in § 40-54-20.

**SECTION 40-54-70.** Civil liability of dealer to owner for knowingly purchasing stolen metal; reimbursement to dealer by owner under certain conditions. [SC ST SEC 40-54-70]

Any dealer buying precious metal with knowledge that the metal has been stolen shall be liable to the lawful owner of such metal in an amount triple the fair market value of the stolen

items, computed at the time of the theft, and shall be liable for a reasonable attorney's fee as the court in its discretion may award. This shall be a civil remedy and in addition to any other remedies provided by the law. Provided, any dealer, having purchased precious metal in compliance with the provisions of this chapter, such metal subsequently being shown to have been stolen by a member of the immediate family of the rightful owner, may demand reimbursement from the owner equal to the amount paid for the metal before returning the metal to the owner.

**SECTION 40-54-80.** Penalties. [SC ST SEC 40-54-80]

Any dealer violating the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction, for a first offense, shall be fined not more than five hundred dollars or imprisoned not more than ninety days, or both. A second offense conviction shall be punishable by a fine of not more than two thousand dollars or imprisonment not more than one year, or both. A third or subsequent offense conviction shall be punishable by a fine of not more than five thousand dollars or imprisonment not more than three years, or both. A dealer convicted of a second offense shall be ineligible for a permit to conduct business in precious metals in this State for at least two years and a dealer convicted of a third or subsequent offense shall not be eligible for a permit for a least five years.

**SECTION 40-54-90.** Chapter preempts local ordinances regulating business of purchasing precious metals. [SC ST SEC 40-54-90]

The provisions of this chapter shall regulate the business of purchasing precious metals in this State and shall preempt any ordinances passed by political subdivisions purporting to regulate such business.

**SECTION 40-54-100.** Exempt transactions. [SC ST SEC 40-54-100]

This chapter shall not apply to the following specific transactions:

- (1) a transaction between dealers of precious metals where the selling dealer has already complied with the seven day holding period, nor shall they apply to transactions between coin dealers and coin collectors occurring at regularly scheduled numismatic conventions.
- (2) the purchase of manufactured items bought directly from the manufacturer or his authorized representatives.
- (3) the purchase of bulk precious metals brought directly from the commodity exchanges, banks, dealers or licensed brokers.

