STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

AN ACT

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS -- PURCHASE AND SALE OF PRECIOUS METALS

Introduced By: Representatives E Coderre, Palangio, San Bento, Ucci, and Cimini

Date Introduced: January 24, 2013

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Title 6 of the General Laws entitled “COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS” is hereby amended by adding thereto the following chapter:

CHAPTER 11.2
PURCHASE AND SALE OF REGULATED METALS

6-11.2-1. Short title. -- This chapter shall be known and may be cited as the "Copper Theft Prevention Act."

6-11.2-2. Definitions. -- (a) "Electronic Reporting System" means an electronic process that records, reports, processes, stores and sends data and digital images of transactions in accordance with section 6-11.2-6.

(b) The word "person(s)," when used in this chapter, shall include any individual(s), partnership(s), association(s), and corporation(s).

(c) "Public property" means property owned and maintained by a municipality, the state, the United States, or any quasi-governmental entity, and shall include, but not be limited to, items associated with public streets and sidewalks as follows:

(1) Manhole covers, or other types of utility access covers including, but not limited to, water maintenance covers;

(2) Highway and street signs;

(3) Street light poles and fixtures;
(4) Guardrails for bridges, highways, and roads;

(5) Historical, commemorative, and memorial markers and plaques; and

(6) Traffic directional and control signs and light signals.

(d) "Regulated metals property" means all ferrous and nonferrous metals, including, but
not limited to, copper, copper alloy, bronze and aluminum, not including aluminum beverage
containers.

(e) "Secondary metals recycler" means any person, firm or corporation in the state that is
engaged, from a fixed location or otherwise, in the business of paying compensation for regulated
metals that has served its original economic purposes, whether or not engaged in the business of
performing the manufacturing process by which regulated metals are converted into raw materials
products consisting of prepared grades and having an existing or potential economic value.

6-11.2-3. License required. -- (a) No person, including a secondary metals recycler,
salvage yard operator or second hand dealer, shall engage in the business of purchasing, selling,
bartering or dealing any regulated metals property or any articles containing those metals, from
the general public for the purpose of reselling or recycling the regulated metals in any condition
without first obtaining a license from the department of attorney general.

(b) This section shall not apply to the purchase of old metals from a person who is
licensed to engage in the business of purchasing, selling, bartering or dealing in junk, old metals
or secondhand articles, and who has previously recorded the contents of the load, pursuant to this
section, and such person provides a written statement affirming such record at the time of the
transaction.

6-11.2-4. Application for license – Annual fee – Department of attorney general to
promulgate rules and regulations. -- (a) The application for the license pursuant to section 6-
11.2-3 shall be in writing, under oath, and in the form prescribed by the department of attorney
general. The application shall contain the following information:

(1) Full name, including middle name, any aliases, address of residence and the business,
social security number and/or federal employer identification number of applicant and/or
principals of any applicant corporation; and

(2) The city or town, and the street address where the business is to be conducted, and
any further information that the department of attorney general may require.

(b) The applicant shall annually pay to the department of attorney general a license fee in
the sum of seventy dollars ($70.00).

(c) The licensee shall not assign or transfer to any other person or entity its license issued
pursuant to this chapter.
(d) Every licensee under this chapter shall display its license in a visible place at the
licensee’s place of business.

(e) All licenses granted under the provisions of this chapter shall expire on the first day of
January each year and no rebate shall be made from the license fee for such license for any
license term less than one year.

6-11.2-5. Identification of seller of goods. -- (a) Every person licensed under this
chapter shall require the seller of any goods or merchandise to present a valid motor vehicle
operator’s license containing his or her photograph or other such suitable identification containing
his or her photograph.

(b) The licensee shall maintain a record of the same, together with any other records
required by law.

(c) Every seller shall sign a statement, on a form to be approved by the department of
attorney general, stating that the seller is the legal owner of the property, or is the agent of the
owner authorized to sell the property.

(d) Every person required to be licensed under this chapter shall, before purchasing any
regulated metal or article made from or containing a regulated metal, require the seller, if a minor,
to be accompanied by the parent or legal guardian of the minor.

6-11.2-6. Payment. -- Payment in full made for all material purchased pursuant to this
chapter may be made by check, wire transfer, cash, or any other legal means.

6-11.2-7. Record of transactions required – Reports to police. -- (a) Every person
licensed under this chapter shall keep a copy of the report form obtained from or under the
direction of the department of attorney general, containing a comprehensive record of all
transactions concerning regulated metals. The comprehensive record shall be hand printed legibly
or typed. The licensee shall, upon request, send any records as defined in subsection (b) by hand
delivery, mail or electronic submission, whenever applicable, to the chief of police of said
requesting department.

(b) The record shall include the following information:

(i) Date of transactions;

(ii) The name, address, telephone number, if available, and signature of the person from
whom the old or used metals are purchased or received, as well as a photocopy or digital image of
the person’s photo identification;

(iii) The license plate number, state of issue, make and model, of the vehicle used to
deliver the regulated metals to the secondary recycler, whenever applicable;

(iv) The price paid for the old or used metals;
(v) A description of the regulated metals, or in the alternative a digital image of the transaction, in a manner approved by the attorney general; and

(vi) Any further information that the department of attorney general may deem relevant to the specific requested transaction.

(c) Nothing in this section shall be construed as requiring additional recordkeeping for junked automobiles or automobile parts beyond what is otherwise required by law.

(d) Every person licensed under this chapter shall retain a copy of the report form for a period of two (2) years from the date of the sale stated on the form. These records are to be made available for inspection by any law enforcement agency requesting to review them. A secondary metals recycler is prohibited from releasing a customer's information without the customer's consent unless the disclosure is made in response to a request from a law enforcement agency.

6-11.2-8. Holding period for property acquired by licensee.-- (a) Every person licensed under this chapter shall keep, for a period of three (3) days, and shall immediately notify the police department of the following property purchased or received consisting of brass, bronze, copper, cast iron, stainless steel, and/or wrought iron:

(1) Statues and sculptures;

(2) Weathervanes;

(3) Downspouts;

(4) Handrails;

(5) Decorative fencing;

(6) Grave markers, sculptures, plaques and vases, the appearance of which suggest that the articles have been obtained from a cemetery; and

(7) Beer kegs.

(b) During said holding period, property shall be kept separate and distinct and shall not be disfigured or treated in any manner to alter or destroy its identity.

6-11.2-9. Acquisition of Public Property.-- (a) Every person licensed under this chapter shall not accept any public property as defined in this chapter, unless evidence of a valid contract with a government entity is provided at the time of the transaction.

(b) A licensee shall immediately notify the police department of any individual attempting to sell public property without authorization from a governmental entity.

6-11.2-10. Persons injured by violations of chapter - Damages and costs.-- Any person who has been damaged or injured by failure of a person required to be licensed under this chapter, to comply with the provisions of this chapter, may recover the actual value of the property involved in the transaction.
6-11.2-11. Penalties. -- (a) Every person who shall violate the provisions of this chapter shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars ($500), or imprisoned for not more than one year, or both.

(b) If the value of the property involved in a transaction which is in violation of this chapter exceeds two hundred fifty dollars ($250), a person convicted of a violation shall be fined not more than one thousand dollars ($1,000) or both.

(c) The department of attorney general shall have the authority to suspend the license of any person required to be licensed under this chapter as a result of violations of this chapter regulations leading to penalties under this chapter.

6-11.2-12. Rules and regulations. -- The department of attorney general is authorized to adopt and enforce any regulations deemed necessary to carry out the duties and responsibilities of this chapter. Regulations shall be adopted in accordance with the "Administrative Procedures Act", chapter 42-35.

6-11.2-13. Refusal to issue license. -- The department of attorney general shall refuse to issue a license when the department of attorney general has found that the application for the license contains a false representation of a material fact, when investigation reveals that the person applying for the license has previously been guilty of a violation of this chapter or has been a partner of a partnership, member of an association, or an officer, director or member of a corporation which has previously been guilty of a violation of this chapter.

6-11.2-14. Suspension, revocation, and nonrenewal of license. -- Upon determination by the attorney general of a valid written complaint, the attorney general may issue a final order suspending, revoking or refusing any license issued, pursuant to this chapter. Hearings conducted pursuant to this chapter shall be in accordance with the "Administrative Procedures Act" chapter 42-35.

6-11.2-15. Appeals. -- Appeals from a final order by the department of attorney general shall be made in accordance with the "Administrative Procedures Act", chapter 42-35.

6-11.2-16. Severability. -- The provisions of this chapter are severable, and if any provision hereof shall be held invalid in any circumstances, any invalidity shall not affect any other provisions or circumstances. This chapter shall be construed in all respects so as to meet any constitutional requirements. In carrying out the purposes and provisions of this chapter, all steps shall be taken which are necessary to meet constitutional requirements.

6-11.2-17. Preemption. -- The provisions of this chapter shall not preempt any ordinance or regulation adopted by any town or city in accordance with chapter 5-21.
SECTION 2. This act shall take effect December 31, 2013.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N   A C T
RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --
PURCHASE AND SALE OF PRECIOUS METALS

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1  This act would add city and town owned manhole covers, storm grates, and bridge
2  placards to the sale of protected precious metals.
3  This act would take effect upon passage.

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