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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

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

Introduced By: Representatives Carnevale, and Williams

Date Introduced: February 14, 2013

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Legislative findings. -- The general assembly finds as follows:

2 (a) Theft of public and private property containing metals such as aluminum, brass,
3 bronze, copper, iron, and steel has become more prevalent as the international demand and prices
4 for scrap metal have increased; and

5 (b) Reports from the Providence department of public works indicate that over 200
6 manhole covers are "missing" to date in 2012, and police department records show that
7 approximately one hundred ninety (190) burglaries in 2011 involved theft of copper; and

8 (c) The center for problem-oriented policing, a nationally-recognized nonprofit
9 organization funded through the department of justice, stated in a 2010 report that "stealing
10 valuable metal has become a serious concern for the police, businesses, public utilities, railroad
11 companies, and the community at large" and places a significant financial burden on
12 municipalities, utility companies, and individual property owners to replace stolen items; and

13 (d) The purchasing and selling of stolen metals poses a substantial threat to private and
14 public property, as well as a substantial and unreasonable interference to public health, public
15 safety, public peace, public comfort and public convenience; and

16 (e) It is hereby the intention of the general assembly to preserve the health, safety and
17 welfare of the citizens of the state.

18 SECTION 2. Sections 6-11.1-1, 6-11.1-2, 6-11.1-4 and 6-11.1-5 of the General Laws in

1 Chapter 6-11.1 entitled "Purchase and Sale of Precious Metals" are hereby amended to read as
2 follows:

3 **6-11.1-1. License required -- "Person" defined.** -- (a) (1) No person, including a
4 pawnbroker, consignment shop, or salvage yard operator or second hand dealer, as defined in
5 section 5-21-1, shall engage in the business of buying or receiving for the purpose of selling gold,
6 silver, platinum group metals, or precious stones, or any articles containing those items, including
7 catalytic converters other than coins purchased for their numismatic value rather than their metal
8 content, referred to in this chapter as "precious metals," from the general public for the purpose of
9 reselling the precious metals in any condition without first obtaining a license from the attorney
10 general of the state of Rhode Island, also called "the attorney general" in this chapter. The
11 attorney general shall not issue any license to a person who has not registered a permanent place
12 of business within the state for the purchase or sale of precious metals. The criteria for
13 determining a person's permanent place of business shall be formulated by the attorney general
14 immediately on or after July 1, 1981. Provided, that effective July 1, 2013, the licenses provided
15 by this chapter shall be issued by the Rhode Island department of business regulation. Also
16 effective July 1, 2013, all powers, functions, and duties of the attorney general in regard to the
17 issuance of licenses under this chapter shall be transferred to the department of business
18 regulation. Any reference in this chapter to the attorney general in regard to the issuance of
19 licenses pursuant to this chapter on and after July 1, 2013, shall be construed to mean the
20 department of business regulation.

21 (2) No person shall engage in the business of purchasing, selling, bartering or dealing in
22 junk, old metals or secondhand articles, or of receiving the same for the purpose of melting the
23 same or of converting the same into castings, unless such person shall be duly licensed by the
24 department of business regulation.

25 (b) The word "person," when used in this chapter, shall include individuals, partnerships,
26 associations, and corporations.

27 (c) This chapter shall not apply to any financial institution which is covered by federal or
28 state deposit insurance, nor to jewelry and silverware manufacturers purchasing precious metals
29 directly from trade suppliers.

30 (d) The word "catalytic converter" when used in this chapter shall be defined as an air
31 pollution abatement device that removes pollutants from motor vehicle exhaust, either by
32 oxidizing them into carbon dioxide and water or reducing them to nitrogen.

33 (e) The word "public property" when used in this chapter shall be defined as property
34 owned and maintained by a municipality, the state, the United States, or any quasi-governmental

1 entity, and shall include, but not be limited to, items associated with public streets and sidewalks,
2 as follows:

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

5 (2) Highway and street signs;

6 (3) Street light poles and fixtures;

7 (4) Guardrails for bridges, highways, and roads;

8 (5) Historical, commemorative, and memorial markers and plaques, including, but not
9 limited to, WPA (Works Progress Administration) plaques; and

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

11 ~~6-11.1-2. Application for license – Annual fee – Attorney general to promulgate rules~~
12 ~~and regulations. ---~~ **Application for license – Annual fee – department of business regulation**
13 **to promulgate rules and regulations. --**

14 (a) Applications for the license shall be in writing, under oath, and in the form prescribed
15 by the attorney general or, if on or after July 1, 2013, the department of business regulation. Said
16 application shall be filed with the department and shall contain:

17 (1) ~~the~~ The full name and the address (both of the residence and place of business) of the
18 applicant, social security number, and if the applicant is a partnership or association, of every
19 member, and if a corporation, of each officer and director and of the principal owner or owners of
20 the issued and outstanding capital stock;

21 (2) ~~also the~~ The city or town with the street and number where the business is to be
22 conducted; ,and ~~any further information that the attorney general may require.~~

23 (3) A radius map and property owner list identifying owners of property within a two-
24 hundred-foot radius of the business as appears on the most current property tax list certified by
25 the tax assessor of the appropriate municipality; and

26 (4) An application fee of one hundred dollars (\$100.00), plus the costs of advertising,
27 posting, mailing, and records checks required or requested pursuant to this chapter.

28 (b) After receipt of an application for a license, the ~~attorney general~~ department shall
29 conduct an investigation to determine whether the facts presented in the application are true. The
30 ~~attorney general~~ department may also request a record search and a report from the national
31 crime and information center (NCIC) of the federal bureau of investigation. If the application
32 discloses that the applicant has a disqualifying criminal record, or if the investigation indicates
33 that any of the facts presented in the application are not true, or if the records of the department of
34 the attorney general indicate criminal activity on the part of the person signing the application and

1 any other persons named in the application, or if the NCIC report indicates an outstanding
2 warrant for the person signing the application and any other persons named in the application,
3 then the ~~attorney general~~ department of business regulation may initiate a nationwide criminal
4 records check by the federal bureau of investigation regarding the person signing the application
5 and any other persons named in the application, in accordance with any applicable federal
6 standards regarding a criminal records check. ~~The applicant at the time of making his or her~~
7 ~~initial application only shall pay to the attorney general the sum of fifty dollars (\$50.00) as a fee~~
8 ~~for investigating the application and the additional sum of fifty dollars (\$50.00) shall be paid~~
9 ~~annually.~~

10 (c) The annual fee for license renewals shall be one hundred dollars (\$100.00), except
11 for applicants seeking to receive old metals for purposes of melting the same, or converting the
12 same into castings, for which the fee shall be five dollars (\$5.00).

13 (d) Licenses shall not be assignable or transferable to any other person or entity. The
14 ~~attorney general~~ department is authorized to promulgate rules and regulations not inconsistent
15 with this chapter to provide for the effective discharge of the responsibilities granted by this
16 chapter.

17 **6-11.1-4. Record of transactions required -- Reports to police. --** (a) Every person
18 licensed under this chapter for the purposes of purchasing, selling, bartering, or dealing in old
19 metals, shall keep a copy of the report form obtained from or under the direction of the ~~attorney~~
20 ~~general,~~ department of business regulation containing a comprehensive record of all transactions
21 concerning precious metals including catalytic converters. The comprehensive record shall be
22 hand printed legibly or typed. The record shall include the name, address, telephone number and
23 date of birth of the seller, a photocopy or digital image of the person's photo identification, the
24 license plate number of the vehicle used to transport the property, a complete and accurate
25 description of the property purchased or sold including any serial numbers or other identifying
26 marks or symbols, the price paid for the old or used metals, and the date and hour of the
27 transaction.

28 (b) All persons licensed under this chapter shall deliver or mail weekly to the chief of
29 police of the city or town in which the business is located and to the attorney general copies of all
30 report forms from the preceding seven-day period. Further, the licensee shall, upon request, send
31 any additional records created pursuant to this section to the chief of police.

32 (c) Every person licensed under this chapter shall retain a copy of the report form for a
33 period of ~~one year~~ two (2) years from the date of the sale stated on the form. Nothing in this
34 section shall be construed as to relieve any license holder of any other record retention

1 requirements required by law.

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

7 **6-11.1-5. Fourteen day holding period -- Recovery of stolen property -- Return to**
8 **rightful owner. --** (a) All persons licensed under this chapter shall retain in their possession in an
9 unaltered condition for a period of fourteen (14) days all precious metals or articles made from or
10 containing a precious metal including catalytic converters except items of bullion, including
11 coins, bars, and medallions, which do not contain serial numbers or other identifying marks, and
12 shall immediately notify the chief of the police department of the following property purchased or
13 received consisting of aluminum, brass, bronze, copper, cast iron, stainless steel, and/or wrought
14 iron:

15 (1) Statues and sculptures;

16 (2) Weather vanes;

17 (3) Downspouts;

18 (4) Handrails;

19 (5) Decorative fencing (wrought iron only);

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

22 (7) Beer kegs; and

23 (8) Public property as defined in section 6-11.1-1(e).

24 Every person licensed pursuant to this chapter shall keep for a period of three (3) days,
25 old metals not included in subsection (a) herein, purchased or received in a single transaction.

26 (b) The fourteen (14) day holding period shall commence with the date the report of its
27 acquisition was delivered to or received through the mails by the chief of police or the attorney
28 general, whichever is later. The records so received by the chief of police and the attorney general
29 shall be available for inspection only by law enforcement officers for law enforcement purposes.
30 If the chief of police has probable cause that precious metals or an article made from or
31 containing a precious metal has been stolen, he or she may give notice, in writing, to the person
32 licensed, to retain the metal or article for an additional period of fifteen (15) days, and the person
33 shall retain the property for this additional fifteen (15) day period, unless the notice is recalled, in
34 writing, within the fifteen (15) day period; within the fifteen (15) day period the chief of police,

1 or his or her designee, shall designate, in writing, an officer to secure the property alleged to be
2 stolen and the persons in possession of the property shall deliver the property to the officer upon
3 display of the officer's written designation by the chief of police or his or her designee. Upon
4 receipt of the property from the officer, the clerk or person in charge of the storage of alleged
5 stolen property for a police department shall enter into a book a description of every article of
6 property alleged to be stolen which was brought to the police department and shall attach a
7 number to each article. The clerk or person in charge of the storage of alleged stolen property
8 shall deliver the property to the owner of the property upon satisfactory proof of ownership,
9 without any cost to the owner, provided that the following steps are followed:

10 (1) A complete photographic record of the property is made;

11 (2) A signed declaration of ownership under penalty of perjury is obtained from the
12 person to whom the property is delivered;

13 (3) The person from whom the custody of the property was taken is served with written
14 notice of the claim of ownership and is given ten (10) days from the mailing of the notice to file a
15 petition in district court objecting to the delivery of the property to the person claiming
16 ownership. If a petition is filed in a timely manner, the district court shall at a hearing determine
17 by a preponderance of the evidence that the property was stolen and that the person claiming
18 ownership of the property is the true owner. The decision of the district court may only be
19 appealable by writ of certiorari to the supreme court.

20 ~~(b)~~(c) The clerk or person in charge of the storage of alleged stolen property shall not be
21 liable for damages for any official act performed in good faith in the course of carrying out the
22 provisions of this section. The photographic record of the alleged stolen property shall be allowed
23 to be introduced as evidence in any court of this state in place of the actual alleged stolen
24 property; provided that the clerk in charge of the storage of the alleged stolen property shall take
25 photographs of the property, and those photographs shall be tagged and marked and remain in his
26 possession or control.

27 (d) Items purchased or sold under this section shall have no holding period and shall be
28 exempt from this section if they are not included in subsection (a) of this section; and

29 (1) The transaction is for loads weighing five hundred (500) pounds or more in weight;
30 or

31 (2) The load is purchased from a municipality or governmental entity under contract with
32 a licensee; or

33 (3) A photo identification system for transactions is utilized. For purposes of this section
34 a photo identification system shall be defined as a system that is designed to capture digital

1 images of each transaction, including the items contained in the transaction, the vehicle used to
2 transport the items and the vehicle license plate information. The record of each image shall also
3 be designed to link to or contain the documentation required in this chapter.

4 SECTION 3. Chapter 6-11.1 of the General Laws entitled "Purchase and Sale of Precious
5 Metals" is hereby amended by adding thereto the following sections:

6 **6-11.1-3.1. Receipt of public property prohibited.** -- A licensee shall not accept any
7 public property as defined in subsection 6-11.1-1(e) unless a certificate of release from a
8 governmental entity is provided at the time of transaction. The certificate shall list the exact
9 description and quantity of items, and the location from which the items were removed, and shall
10 include the seal of the governmental entity and the signature of a duly authorized governmental
11 official. The certificate shall be kept with the items identified therein for a period of fourteen (14)
12 days. A licensee shall immediately notify the police department of any individual attempting to
13 sell public property without authorization from a governmental entity.

14 **6-11.1-15. Acquisition of public property.** -- (a) A licensee shall not accept any public
15 property as defined in subsection 6-11.1-1(e) unless a certificate of release from a governmental
16 entity is provided at the time of transaction. The certificate shall list the exact description and
17 quantity of items, and the location from which the items were removed, and shall include the seal
18 of the governmental entity and the signature of a duly authorized governmental official. The
19 certificate shall be kept with the items identified therein for a period of ten (10) days. A licensee
20 shall immediately notify the police department of any individual attempting to sell public
21 property without authorization from a governmental entity.

22 (b) A licensee in violation of the provisions of this section shall be cited by the police
23 department, be subject to a fine of up to five hundred dollars (\$500), and shall be required to
24 appear for a show cause hearing before the department of business regulation. Upon finding a
25 violation has occurred, the department shall impose a ninety (90) day suspension of license.

26 SECTION 4. This act shall take effect on July 1, 2013.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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

1 This act would prohibit the purchase of public property by precious metals dealers; would
2 require additional forms of identification and would require notice to the police upon the sale of
3 certain types of property. The act would provide that effective July 1, 2013, the authority for
4 issuing licenses under this section would be transferred to the department of business regulation.

5 This act would take effect on July 1, 2013.

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