



2013 -- S 0079 SUBSTITUTE A
===== LC00281/SUB A/2 =====
STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY
JANUARY SESSION, A.D. 2013

AN ACT

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS -COPPER
THEFT PREVENTION ACT

Introduced By: Senators Ruggerio, Goodwin, Ciccone, Pichardo, and Jabour

Date Introduced: January 16, 2013

Referred To: Senate 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. -- (a) 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.

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(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 23 promulgate rules and regulations. -- (a) The application for the license pursuant to section 6- 24 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 13 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 24 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
-COPPER THEFT PREVENTION ACT

This act would create the Copper Theft Prevention Act, which would require secondary metals recyclers to obtain a license from the attorney general's office in order to purchase certain types of ferrous and non-ferrous metals. The act would create a regulatory scheme for the issuance of a license, as well as reporting requirements of the licensees, and procedures for the penalizing of a licensee for failure to comply with the license requirements.

This act would take effect December 31, 2013.

<http://webserver.rilin.state.ri.us/BillText/BillText13/SenateText13/S0079A.pdf>

CHAPTER 6-11.1

Purchase and Sale of Precious Metals

SECTION 6-11.1-1

§ 6-11.1-1 License required – "Person" defined. – (a) No person, including a pawnbroker, consignment shop, or salvage yard operator or second-hand dealer, as defined in § 5-21-1, shall engage in the business of buying or receiving for the purpose of selling: gold, silver,

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platinum group metals, or precious stones, or any articles containing those items, including catalytic converters, other than coins purchased for their numismatic value rather than their metal content, referred to in this chapter as "precious metals", from the general public for the purpose of reselling the precious metals in any condition without first obtaining a license from the attorney general of the state of Rhode Island, also called "the attorney general" in this chapter. The attorney general shall not issue any license to a person who has not registered a permanent place of business within the state for the purchase or sale of precious metals. The criteria for determining a person's permanent place of business shall be formulated by the attorney general immediately on or after July 1, 1981.

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

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

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

History of Section.

(P.L. 1980, ch. 399, § 1; P.L. 1981, ch. 294, § 1; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2006, ch. 109, § 1; P.L. 2006, ch. 139, § 1; P.L. 2007, ch. 43, § 1; P.L. 2007, ch. 47, § 1; P.L. 2007, ch. 376, § 1; P.L. 2008, ch. 349, § 1; P.L. 2014, ch. 528, § 8.)

CHAPTER 6-11.1

Purchase and Sale of Precious Metals

SECTION 6-11.1-2

§ 6-11.1-2 Application for license – Annual fee – Attorney general to promulgate rules and regulations. – (a) Application for the license shall be in writing, under oath, and in the form prescribed by the attorney general and shall contain the name and the address (both of the residence and place of business) of the applicant, and if the applicant is a partnership or association, of every member, and if a corporation, of each officer and director and of the principal owner or owners of the issued and outstanding capital stock; also the city or town with the street and number where the business is to be conducted and any further information that the attorney general may require.

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(b) After receipt of an application for a license, the attorney general shall conduct an investigation to determine whether the facts presented in the application are true. The attorney general may also request a record search and a report from the National Crime and Information Center (NCIC) of the Federal Bureau of Investigation. If the application discloses that the applicant has a disqualifying criminal record, or if the investigation indicates that any of the facts presented in the application are not true; or if the records of the department of the attorney general indicate criminal activity on the part of the person signing the application and any other persons named in the application; or if the NCIC report indicates an outstanding warrant for the person signing the application and any other persons named in the application; then the attorney general may initiate a nationwide criminal records check that shall include fingerprints submitted to the Federal Bureau of Investigation regarding the person signing the application and any other persons named in the application. Upon the annual renewal of a license or the opening of a new branch designated in the license, the attorney general may initiate a nationwide criminal records check that shall include fingerprints submitted to the Federal Bureau of Investigation regarding the licensee and any other persons named in the license. The individual who is subject to the national records check shall be responsible for the cost of conducting such check.

(c) The applicant at the time of making his or her initial application only shall pay to the attorney general the sum of fifty dollars (\$50.00) as a fee for investigating the application and the additional sum of fifty dollars (\$50.00) shall be paid annually. The licensee shall pay an additional fifty dollars (\$50.00) annually for each branch designated in the license. Licenses shall not be assignable or transferable to any other person or entity.

History of Section.

(P.L. 1980, ch. 399, § 1; P.L. 1985, ch. 474, § 1; P.L. 1986, ch. 201, § 1; P.L. 1996, ch. 166, § 1; P.L. 1996, ch. 201, § 1; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2013, ch. 502, § 1; P.L. 2013, ch. 507, § 1; P.L. 2014, ch. 528, § 8.)

CHAPTER 6-11.1

Purchase and Sale of Precious Metals

SECTION 6-11.1-3

§ 6-11.1-3 Identification and authority of seller – Posting of prices – Weighing. – (a) Every person required to be licensed under this chapter shall require positive proof of identification with photograph, date of birth, and current address of every seller from whom

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precious metals or an article made from or containing a precious metal is to be purchased and shall require the seller to sign a statement on a form to be approved by the 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 and when and where or in what manner the property was obtained.

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

(c) Every person required to be licensed under this chapter shall post the prices per ounce that are currently being paid for precious metals in full sight of the prospective seller and the precious metals shall be weighed in full sight of the prospective seller.

History of Section.

(P.L. 1980, ch. 399, § 1; P.L. 1981, ch. 294, § 1; P.L. 1996, ch. 166, § 1; P.L. 1996, ch. 201, § 1; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2014, ch. 528, § 8.)

CHAPTER 6-11.1

Purchase and Sale of Precious Metals

SECTION 6-11.1-4

§ 6-11.1-4 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 attorney general, containing a comprehensive record of all transactions concerning precious metals including catalytic converters. The comprehensive record shall be hand printed legibly or typed. The record shall include the name, address, telephone number and date of birth of the seller; a complete and accurate description of the property purchased or sold including any serial numbers or other identifying marks or symbols; and the date and hour of the transaction.

(b) All persons licensed under this chapter shall deliver or mail weekly to the chief of police of the city or town in which the business is located and electronically submit to the attorney general, in a manner specified by the attorney general, all report forms from the preceding seven-day (7) period.

(c) Every person licensed under this chapter shall retain a copy of the report form for a period of one year from the date of the sale stated on the form.

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History of Section.

(P.L. 1980, ch. 399, § 1; P.L. 1993, ch. 368, § 1; P.L. 1996, ch. 166, § 1; P.L. 1996, ch. 201, § 1; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2008, ch. 349, § 1; P.L. 2013, ch. 502, § 1; P.L. 2013, ch. 507, § 1; P.L. 2014, ch. 528, § 8.)

CHAPTER 6-11.1

Purchase and Sale of Precious Metals

SECTION 6-11.1-5

§ 6-11.1-5 Fourteen-day holding period – Recovery of stolen property – Return to rightful owner. – (a) All persons licensed under this chapter shall retain in their possession in an unaltered condition for a period of fourteen (14) days all precious metals or articles made from or containing a precious metal including catalytic converters except items of bullion, including coins, bars, and medallions, that do not contain serial numbers or other identifying marks. The fourteen-day (14) holding period shall commence with the date the report of its acquisition was delivered to or received by the chief of police or the attorney general, whichever is later. The records so received by the chief of police and the attorney general shall be available for inspection only by law enforcement officers for law enforcement purposes. If the chief of police has probable cause that precious metals or an article made from or containing a precious metal has been stolen, he or she may give notice, in writing, to the person licensed, to retain the metal or article for an additional period of fifteen (15) days, and the person shall retain the property for this additional fifteen-day (15) period, unless the notice is recalled, in writing, within the fifteen-day (15) period. Within the fifteen-day (15) period the chief of police, or his or her designee, shall designate, in writing, an officer to secure the property alleged to be stolen and the persons in possession of the property shall deliver the property to the officer upon display of the officer's written designation by the chief of police or his or her designee. Upon receipt of the property from the officer, the clerk or person in charge of the storage of alleged stolen property for a police department shall enter into a book a description of every article of property alleged to be stolen that was brought to the police department and shall attach a number to each article. The clerk or person in charge of the storage of alleged stolen property shall deliver the property to the owner of the property upon satisfactory proof of ownership, without any cost to the owner, provided that the following steps are followed:

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

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

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

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

History of Section.

(P.L. 1980, ch. 399, § 1; P.L. 1981, ch. 294, § 1; P.L. 1982, ch. 381, § 1; P.L. 1984, ch. 44, § 1; P.L. 1986, ch. 201, § 1; P.L. 1993, ch. 368, § 1; P.L. 1996, ch. 166, § 1; P.L. 1996, ch. 201, § 1; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2007, ch. 43, § 1; P.L. 2007, ch. 47, § 1; P.L. 2008, ch. 349, § 1; P.L. 2013, ch. 502, § 1; P.L. 2013, ch. 507, § 1; P.L. 2014, ch. 528, § 8.)

CHAPTER 6-11.1

Purchase and Sale of Precious Metals

SECTION 6-11.1-6

§ 6-11.1-6 Persons injured by violations of chapter – Damages and costs. – Any person who has been damaged or injured by the failure of a person required to be licensed under this chapter to comply with the provisions of this chapter may recover the actual damages sustained. The court, in its discretion may also award punitive damages and/or the costs of suit and reasonable attorneys' fees to a prevailing plaintiff.

History of Section.

(P.L. 1980, ch. 399, § 1; P.L. 2014, ch. 528, § 8.)

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CHAPTER 6-11.1

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SECTION 6-11.1-7

§ 6-11.1-7 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 that is in violation of this chapter exceeds five hundred dollars (\$500), a person convicted of a violation shall be fined not more than two thousand dollars (\$2,000) or imprisoned for not more than three (3) years or both.

(c) The 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 or attorney general regulations leading to penalties under this chapter.

History of Section.

(P.L. 1980, ch. 399, § 1; P.L. 1981, ch. 294, § 1; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2014, ch. 528, § 8.)

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SECTION 6-11.1-8

§ 6-11.1-8 Rules and regulations. – The attorney general is authorized to promulgate, adopt, and enforce any and all rules and regulations deemed necessary to carry out the duties and responsibilities of this chapter. Rules and regulations shall be adopted in accordance with the Administrative Procedure Act, chapter 35 of title 42.

History of Section.

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(P.L. 1985, ch. 475, § 2; P.L. 2004, ch. 595, art. 26, § 1.)

CHAPTER 6-11.1

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SECTION 6-11.1-9

§ 6-11.1-9 Refusal to issue license. – The attorney general shall refuse to issue a license when the 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 or director of a corporation that has previously been guilty of a violation of this chapter; or has a disqualifying criminal record as defined in § 6-11.1-13. The attorney general may, in his or her discretion, issue a license if the disqualifying criminal record is more than ten (10) years old.

History of Section.

(P.L. 1985, ch. 474, § 2; P.L. 1986, ch. 201, § 1; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2014, ch. 528, § 8.)

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SECTION 6-11.1-10

§ 6-11.1-10 Suspension, revocation, and nonrenewal of license. – The attorney general, upon his or her own motion or upon receipt of a signed, written complaint alleging violations of this chapter or of the rules and regulations promulgated pursuant to this chapter, may, after a hearing, suspend, revoke, or refuse to renew any license issued pursuant to this chapter.

History of Section.

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(P.L. 1985, ch. 474, § 2; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2014, ch. 528, § 8.)

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SECTION 6-11.1-11

§ 6-11.1-11 Hearings. – Hearings conducted pursuant to this chapter shall be in accordance with the Administrative Procedures Act, chapter 35 of title 42.

History of Section.

(P.L. 1985, ch. 474, § 2.)

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Purchase and Sale of Precious Metals

SECTION 6-11.1-12

§ 6-11.1-12 Appeals. – Appeals from a decision by the attorney general shall be made to the sixth division district court in Providence. Appeals from the decision of the sixth division district court shall be to the supreme court in accordance with the Administrative Procedures Act, chapter 35 of title 42, as amended.

History of Section.

(P.L. 1985, ch. 474, § 2; P.L. 2004, ch. 595, art. 26, § 1.)

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SECTION 6-11.1-13

§ 6-11.1-13 Disqualifying criminal records – Employees or agents of licensee. – A licensee convicted in a court of this state, a court of another state, or in a federal court, of a felony charge of forgery; embezzlement; obtaining money under false pretenses; bribery; larceny; extortion; conspiracy to defraud; receiving stolen goods; burglary; breaking and entering; or any similar offense or offenses; or tax evasion associated with the conduct of business under a license issued pursuant to this chapter; shall forfeit his or her license. Prior to forfeiture of the license, the licensee may request a hearing on the forfeiture. The attorney general, when so requested, shall hold a hearing. No licensee shall employ or engage any person as an employee or agent while engaging in the business of trading in precious metals who has been convicted of any of the offenses as they are described in this section and which shall be deemed to be a disqualifying criminal record.

History of Section.

(P.L. 1985, ch. 474, § 2; P.L. 1986, ch. 201, § 1; P.L. 1987, ch. 32, § 1; P.L. 2004, ch. 595, art. 26, § 1; P.L. 2014, ch. 528, § 8.)

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SECTION 6-11.1-14

§ 6-11.1-14 Severability. – If any provision or phrase of this chapter or application of this chapter to any person or circumstances is held invalid, the invalidity shall not affect other provisions or phrases or applications of this chapter that can be given effect without the invalid

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provision or phrase or application, and to this end the provisions and phrases of this chapter are severable.

History of Section.

(P.L. 1981, ch. 294, § 2; G.L. 1956, § 6-11.1-8; as redesignated by P.L. 1985, ch. 474, § 1.)

<http://webserver.rilin.state.ri.us/Statutes/TITLE6/6-11.1/INDEX.HTM>

CHAPTER 6-11.2

Purchase and Sale of Regulated Metals

SECTION 6-11.2-1

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

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

CHAPTER 6-11.2

Purchase and Sale of Regulated Metals

SECTION 6-11.2-2

§ 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 § 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:

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(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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-3

§ 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.

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History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-4

§ 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 § 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-5

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-6



§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-7

§ 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

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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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

CHAPTER 6-11.2

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SECTION 6-11.2-8

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-9

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

Purchase and Sale of Regulated Metals

SECTION 6-11.2-10

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-11

§ 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.

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(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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

CHAPTER 6-11.2

Purchase and Sale of Regulated Metals

SECTION 6-11.2-12

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-13

§ 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

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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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

CHAPTER 6-11.2

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SECTION 6-11.2-14

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-15

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-16

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

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SECTION 6-11.2-17

§ 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.

History of Section.

(P.L. 2013, ch. 189, § 1; P.L. 2013, ch. 239, § 1.)

<http://webserver.rilin.state.ri.us/Statutes/TITLE6/6-11.2/INDEX.HTM>