

2013 -- H 5162 SUBSTITUTE A AS AMENDED

=====
LC00353/SUB A
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

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:

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

3 CHAPTER 11.2

4 PURCHASE AND SALE OF REGULATED METALS

5 **6-11.2-1. Short title.** -- This chapter shall be known and may be cited as the "Copper
6 Theft Prevention Act."

7 **6-11.2-2. Definitions.** -- (a) "Electronic Reporting System" means an electronic process
8 that records, reports, processes, stores and sends data and digital images of transactions in
9 accordance with section 6-11.2-6.

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

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

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

17 (2) Highway and street signs;

18 (3) Street light poles and fixtures;

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

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

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

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

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

12 **6-11.2-3. License required. --** (a) No person, including a secondary metals recycler,
13 salvage yard operator or second hand dealer, shall engage in the business of purchasing, selling,
14 bartering or dealing any regulated metals property or any articles containing those metals, from
15 the general public for the purpose of reselling or recycling the regulated metals in any condition
16 without first obtaining a license from the department of attorney general.

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

22 **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
25 general. The application shall contain the following information:

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

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

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

33 (c) The licensee shall not assign or transfer to any other person or entity its license issued
34 pursuant to this chapter.

1 (d) Every licensee under this chapter shall display its license in a visible place at the
2 licensee's place of business.

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

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

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

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

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

18 **6-11.2-6. Payment. --** Payment in full made for all material purchased pursuant to this
19 chapter may be made by check, wire transfer, cash, or any other legal means.

20 **6-11.2-7. Record of transactions required – Reports to police. --** (a) Every person
21 licensed under this chapter shall keep a copy of the report form obtained from or under the
22 direction of the department of attorney general, containing a comprehensive record of all
23 transactions concerning regulated metals. The comprehensive record shall be hand printed legibly
24 or typed. The licensee shall, upon request, send any records as defined in subsection (b) by hand
25 delivery, mail or electronic submission, whenever applicable, to the chief of police of said
26 requesting department.

27 (b) The record shall include the following information:

28 (i) Date of transactions;

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

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

34 (iv) The price paid for the old or used metals;

1 (v) A description of the regulated metals, or in the alternative a digital image of the
2 transaction, in a manner approved by the attorney general; and

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

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

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

12 **6-11.2-8. Holding period for property acquired by licensee.--** (a) Every person
13 licensed under this chapter shall keep, for a period of three (3) days, and shall immediately notify
14 the police department of the following property purchased or received consisting of brass, bronze,
15 copper, cast iron, stainless steel, and/or wrought iron:

16 (1) Statues and sculptures;

17 (2) Weathervanes;

18 (3) Downspouts;

19 (4) Handrails;

20 (5) Decorative fencing;

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

23 (7) Beer kegs.

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

26 **6-11.2-9. Acquisition of Public Property. --** (a) Every person licensed under this chapter
27 shall not accept any public property as defined in this chapter, unless evidence of a valid contract
28 with a government entity is provided at the time of the transaction.

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

31 **6-11.2-10. Persons injured by violations of chapter - Damages and costs.--** Any
32 person who has been damaged or injured by failure of a person required to be licensed under this
33 chapter, to comply with the provisions of this chapter, may recover the actual value of the
34 property involved in the transaction.

1 **6-11.2-11. Penalties.** -- (a) Every person who shall violate the provisions of this chapter
2 shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500), or
3 imprisoned for not more than one year, or both.

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

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

10 **6-11.2-12. Rules and regulations.** -- The department of attorney general is authorized to
11 adopt and enforce any regulations deemed necessary to carry out the duties and responsibilities of
12 this chapter. Regulations shall be adopted in accordance with the "Administrative Procedures
13 Act", chapter 42-35.

14 **6-11.2-13. Refusal to issue license.** -- The department of attorney general shall refuse to
15 issue a license when the department of attorney general has found that the application for the
16 license contains a false representation of a material fact, when investigation reveals that the
17 person applying for the license has previously been guilty of a violation of this chapter or has
18 been a partner of a partnership, member of an association, or an officer, director or member of a
19 corporation which has previously been guilty of a violation of this chapter.

20 **6-11.2-14. Suspension, revocation, and nonrenewal of license.** -- Upon determination
21 by the attorney general of a valid written complaint, the attorney general may issue a final order
22 suspending, revoking or refusing any license issued, pursuant to this chapter. Hearings conducted
23 pursuant to this chapter shall be in accordance with the "Administrative Procedures Act" chapter
24 42-35.

25 **6-11.2-15. Appeals.** -- Appeals from a final order by the department of attorney general
26 shall be made in accordance with the "Administrative Procedures Act", chapter 42-35.

27 **6-11.2-16. Severability.** -- The provisions of this chapter are severable, and if any
28 provision hereof shall be held invalid in any circumstances, any invalidity shall not affect any
29 other provisions or circumstances. This chapter shall be construed in all respects so as to meet
30 any constitutional requirements. In carrying out the purposes and provisions of this chapter, all
31 steps shall be taken which are necessary to meet constitutional requirements.

32
33 **6-11.2-17. Preemption.**-- The provisions of this chapter shall not preempt any ordinance
34 or regulation adopted by any town or city in accordance with chapter 5-21.

1 SECTION 2. This act shall take effect December 31, 2013.

=====
LC00353/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

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

- 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.

=====
LC00353/SUB A
=====