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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

Introduced By: Representatives Martin, Ucci, Craven, O'Brien, and O'Neill

Date Introduced: February 14, 2013

Referred To: House Corporations

(Attorney General)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 6-11.1-1, 6-11.1-2, 6-11.1-4 and 6-11.1-5 of the General Laws in
2 Chapter 6-11.1 entitled "Purchase and Sale of Precious Metals" are hereby amended to read as
3 follows:

4 **6-11.1-1. License required -- "Person" defined.** -- (a) No person, including a
5 pawnbroker, consignment shop, or salvage yard operator or second hand dealer, as defined in
6 section 5-21-1, shall engage in the business of buying or receiving for the purpose of selling gold,
7 silver, platinum group metals, or precious stones, or any articles containing those items, including
8 catalytic converters other than coins purchased for their numismatic value rather than their metal
9 content, referred to in this chapter as "precious metals," from the general public for the purpose of
10 reselling the precious metals in any condition without first obtaining a license from the attorney
11 general of the state of Rhode Island, also called "the attorney general" in this chapter. The
12 attorney general shall not issue any license to a person who has not registered a permanent place
13 of business, in an area zoned for commercial use as determined by the municipality in which the
14 permanent place of business is located, within the state for the purchase or sale of precious
15 metals. The criteria for determining a person's permanent place of business shall be formulated by
16 the attorney general immediately on or after July 1, 1981.

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

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

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

7 **6-11.1-2. Application for license -- Annual fee -- Attorney general to promulgate**
8 **rules and regulations.** – (a) Application for the license shall be in writing, under oath, and in the
9 form prescribed by the attorney general and shall contain the name and the address (both of the
10 residence and place of business) of the applicant, and if the applicant is a partnership or
11 association, of every member, and if a corporation, of each officer and director and of the
12 principal owner or owners of the issued and outstanding capital stock; also the city or town with
13 the street and number where the business is to be conducted, and any further information that the
14 attorney general may require.

15 (b) After receipt of an application for a license, the attorney general shall conduct an
16 investigation to determine whether the facts presented in the application are true. The attorney
17 general may also request a record search and a report from the national crime and information
18 center (NCIC) of the federal bureau of investigation. If the application discloses that the applicant
19 has a disqualifying criminal record, or if the investigation indicates that any of the facts presented
20 in the application are not true, or if the records of the department of the attorney general indicate
21 criminal activity on the part of the person signing the application and any other persons named in
22 the application, or if the NCIC report indicates an outstanding warrant for the person signing the
23 application and any other persons named in the application, then the attorney general may initiate
24 a nationwide criminal records check that shall include fingerprints submitted to ~~by~~ the federal
25 bureau of investigation regarding the person signing the application and any other persons named
26 in the application, ~~in accordance with any applicable federal standards regarding a criminal~~
27 ~~records check.~~ Upon the annual renewal of a license or the opening of a new branch designated in
28 the license, the attorney general may initiate a nationwide criminal records check that shall
29 include fingerprints submitted to the federal bureau of investigation regarding the licensee and
30 any other persons named in the license. The individual who is subject to the national records
31 check shall be responsible for the cost of conducting such check.

32 (c) The applicant at the time of making his or her initial application only shall pay to the
33 attorney general the sum of fifty dollars (\$50.00) as a fee for investigating the application and the
34 additional sum of fifty dollars (\$50.00) shall be paid annually. The licensee shall pay an

1 [additional fifty dollars \(\\$50.00\) annually for each branch designated in the license.](#) Licenses shall
2 not be assignable or transferable to any other person or entity. ~~The attorney general is authorized~~
3 ~~to promulgate rules and regulations not inconsistent with this chapter to provide for the effective~~
4 ~~discharge of the responsibilities granted by this chapter.~~

5 **6-11.1-4. Record of transactions required -- Reports to police. --** (a) Every person
6 licensed under this chapter shall keep a copy of the report form obtained from or under the
7 direction of the attorney general, containing a comprehensive record of all transactions
8 concerning precious metals including catalytic converters. The comprehensive record shall be
9 hand printed legibly or typed. The record shall include the name, address, telephone number and
10 date of birth of the seller, a complete and accurate description of the property purchased or sold
11 including any serial numbers or other identifying marks or symbols, and the date and hour of the
12 transaction.

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

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

19 **6-11.1-5. Fourteen day holding period -- Recovery of stolen property -- Return to**
20 **rightful owner. --** (a) All persons licensed under this chapter shall retain in their possession in an
21 unaltered condition for a period of fourteen (14) days all precious metals or articles made from or
22 containing a precious metal including catalytic converters except items of bullion, including
23 coins, bars, and medallions, which do not contain serial numbers or other identifying marks. The
24 fourteen (14) day holding period shall commence with the date the report of its acquisition was
25 delivered to or received ~~through the mails~~ by the chief of police or the attorney general,
26 whichever is later. The records so received by the chief of police and the attorney general shall be
27 available for inspection only by law enforcement officers for law enforcement purposes. If the
28 chief of police has probable cause that precious metals or an article made from or containing a
29 precious metal has been stolen, he or she may give notice, in writing, to the person licensed, to
30 retain the metal or article for an additional period of fifteen (15) days, and the person shall retain
31 the property for this additional fifteen (15) day period, unless the notice is recalled, in writing,
32 within the fifteen (15) day period; within the fifteen (15) day period the chief of police, or his or
33 her designee, shall designate, in writing, an officer to secure the property alleged to be stolen and
34 the persons in possession of the property shall deliver the property to the officer upon display of

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

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

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

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

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

25 SECTION 2. Sections 6-53-1, 6-53-2, 6-53-4 and 6-53-5 of the General Laws in Chapter
26 6-53 entitled "Purchase and Sale of Tools and Electronics" are hereby amended to read as
27 follows:

28 **6-53-1. License required -- "Person" defined.** -- (a) No person, including a
29 pawnbroker, consignment shop, salvage yard operator, or second hand dealer as defined in
30 section 5-21-1, shall engage in the business of buying or receiving for the purpose of selling tools
31 or electronic equipment, whether or not readily identifiable with a serial number to include, but
32 not limited to, generators, powers tools, video game consoles, MP3 players, computers, audio and
33 video equipment, referred to in this chapter as "tools and electronics or trade-ins and store credits
34 of the aforementioned," from the general public for the purpose of reselling the tools and

1 electronics in any condition without first obtaining a license from the attorney general of the State
2 of Rhode Island ("attorney general"). The attorney general shall not issue any license to a person
3 who has not registered a permanent place of business, in an area zoned for commercial use as
4 determined by the municipality in which the permanent place of business is located, within the
5 state for the purchase or sale of tools and electronics. The criteria for determining a person's
6 permanent place of business shall be formulated by the attorney general within ninety (90) days
7 after passage.

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

10 **6-53-2. Application for license -- Annual fee -- Attorney general to promulgate rules**

11 **and regulations.** -- (a) Application for the license shall be in writing, under oath, and in the form
12 prescribed by attorney general and shall contain the name and the address (both of the residence
13 and place of business) of the applicant, and if the applicant is a partnership or association of every
14 member, and if a corporation, of each officer and director and of the principal owner or owners of
15 the issued and outstanding capital stock; also the city or town with the street and number where
16 the business is to be conducted, and any further information that the attorney general may require.
17 After receipt of an application for a license, the attorney general shall conduct an investigation to
18 determine whether the facts presented in the application are true. The attorney general may also
19 request a record search and a report from the national crime and information center (NCIC) of the
20 federal bureau of investigation. If the application discloses that the applicant has a disqualifying
21 criminal record, or if the investigation indicates that any of the facts presented in the application
22 are not true, or if the records of the department of the attorney general indicate criminal activity
23 on the part of the person signing the application and any other persons named in the application,
24 or if the NCIC report indicates an outstanding warrant for the person signing the application and
25 any other persons named in the application, then the attorney general may initiate a nationwide
26 criminal records check that shall include fingerprints submitted to ~~by~~ the federal bureau of
27 investigation regarding the person signing the application and any other persons named in the
28 application, ~~in accordance with any applicable federal standards regarding a criminal records~~
29 ~~check.~~ Upon the annual renewal of a license or the opening of a new branch designated in the
30 license, the attorney general may initiate a nationwide criminal records check that shall include
31 fingerprints submitted to the federal bureau of investigation regarding the licensee and any other
32 persons named in the license. The individual who is subject to the national records check shall be
33 responsible for the cost of conducting such check.

34 (b) The applicant at the time of making his or her initial application only shall pay to the

1 attorney general the sum of fifty dollars (\$50.00) as a fee for investigating the application and the
2 additional sum of fifty dollars (\$50.00) shall be paid annually. The licensee shall pay an
3 additional fifty dollars (\$50.00) annually for each branch designated in the license. Licenses shall
4 not be assignable or transferable to any other person or entity. ~~The attorney general is authorized~~
5 ~~to promulgate rules and regulations not inconsistent with this chapter to provide for the effective~~
6 ~~discharge of the responsibilities granted by this chapter; provided, however, if~~ If the applicant is
7 a holder of a precious metals and dealers license the fees as required in this section shall be
8 waived.

9 **6-53-4. Record of transactions required -- Reports to police. --** (a) Every person
10 licensed under this chapter shall keep a copy of the report form obtained from or under the
11 direction of the attorney general, containing a comprehensive record of all transactions
12 concerning tools and electronics. The comprehensive record shall be hand printed legibly or
13 typed. The record shall include the name, address, telephone number and date of birth of the
14 seller, a complete and accurate description of the property purchased or sold including any serial
15 numbers or other identifying marks or symbols, and the date and hour of the transaction.

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

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

22 **6-53-5. Fourteen day holding period -- Recovery of stolen property -- Return to**
23 **rightful owner. --** (a) All persons licensed under this chapter shall retain in their possession in an
24 unaltered condition for a period of fourteen (14) days all tools and electronics including items
25 which do not contain serial numbers or other identifying marks. The fourteen (14) day holding
26 period shall commence with the date the report of its acquisition was delivered to or received
27 ~~through the mails~~ by the chief of police or the attorney general, whichever is later. The records so
28 received by the chief of police or the attorney general shall be available for inspection only by
29 law enforcement officers for law enforcement purposes. If the chief of police has probable cause
30 to believe that tools and electronics have been stolen, he or she may give notice, in writing, to the
31 person licensed, to retain the tools, electronics or article for an additional period of fifteen (15)
32 days, and the person shall retain the property for this additional fifteen (15) day period unless the
33 notice is recalled, in writing, within the fifteen (15) day period; within the fifteen (15) day period
34 the chief of police, or his or her designee, shall designate, in writing, an officer to secure the

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

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

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

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

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

26 SECTION 3. Section 2 of Chapter 444 of the 2012 public laws entitled "An Act Related
27 to Commercial Law – General Regulatory Provisions – Purchase and Sale of Tools and
28 Electronics" is hereby amended to read as follows:

29 Section 2. This act shall take effect on ~~June 15~~ December 21, 2013.

30 SECTION 4. This act shall take effect upon passage.

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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 require the electronic submission of required reports under this chapter to
2 the attorney general. This act would further provide that a permanent place of business for a
3 precious metals license must be in a commercial zone as determined by the municipality where
4 the business is located. The act would also provide that licensees must pay an additional fifty
5 dollar (\$50.00) annual fee for each branch designated in the license.

6 This act would take effect upon passage.

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