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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: Senators Ruggerio, McCaffrey, Jabour, Archambault, and Conley

Date Introduced: February 28, 2013

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

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

3 **6-11.1-2. Application for license -- Annual fee -- Attorney general to promulgate**
4 **rules and regulations.** – (a) Application for the license shall be in writing, under oath, and in the
5 form prescribed by the attorney general and shall contain the name and the address (both of the
6 residence and place of business) of the applicant, and if the applicant is a partnership or
7 association, of every member, and if a corporation, of each officer and director and of the
8 principal owner or owners of the issued and outstanding capital stock; also the city or town with
9 the street and number where the business is to be conducted, and any further information that the
10 attorney general may require.

11 (b) After receipt of an application for a license, the attorney general shall conduct an
12 investigation to determine whether the facts presented in the application are true. The attorney
13 general may also request a record search and a report from the national crime and information
14 center (NCIC) of the federal bureau of investigation. If the application discloses that the applicant
15 has a disqualifying criminal record, or if the investigation indicates that any of the facts presented
16 in the application are not true, or if the records of the department of the attorney general indicate
17 criminal activity on the part of the person signing the application and any other persons named in
18 the application, or if the NCIC report indicates an outstanding warrant for the person signing the

1 application and any other persons named in the application, then the attorney general may initiate
2 a nationwide criminal records check that shall include fingerprints submitted to by the federal
3 bureau of investigation regarding the person signing the application and any other persons named
4 in the application, ~~in accordance with any applicable federal standards regarding a criminal~~
5 ~~records check.~~ Upon the annual renewal of a license or the opening of a new branch designated in
6 the license, the attorney general may initiate a nationwide criminal records check that shall
7 include fingerprints submitted to the federal bureau of investigation regarding the licensee and
8 any other persons named in the license. The individual who is subject to the national records
9 check shall be responsible for the cost of conducting such check.

10 (c) The applicant at the time of making his or her initial application only shall pay to the
11 attorney general the sum of fifty dollars (\$50.00) as a fee for investigating the application and the
12 additional sum of fifty dollars (\$50.00) shall be paid annually. The licensee shall pay an
13 additional fifty dollars (\$50.00) annually for each branch designated in the license. Licenses shall
14 not be assignable or transferable to any other person or entity. ~~The attorney general is authorized~~
15 ~~to promulgate rules and regulations not inconsistent with this chapter to provide for the effective~~
16 ~~discharge of the responsibilities granted by this chapter.~~

17 **6-11.1-4. Record of transactions required -- Reports to police. --** (a) Every person
18 licensed under this chapter shall keep a copy of the report form obtained from or under the
19 direction of the attorney general, containing a comprehensive record of all transactions
20 concerning precious metals including catalytic converters. The comprehensive record shall be
21 hand printed legibly or typed. The record shall include the name, address, telephone number and
22 date of birth of the seller, a complete and accurate description of the property purchased or sold
23 including any serial numbers or other identifying marks or symbols, and the date and hour of the
24 transaction.

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

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

31 **6-11.1-5. Fourteen day holding period -- Recovery of stolen property -- Return to**
32 **rightful owner. --** (a) All persons licensed under this chapter shall retain in their possession in an
33 unaltered condition for a period of fourteen (14) days all precious metals or articles made from or
34 containing a precious metal including catalytic converters except items of bullion, including

1 coins, bars, and medallions, which do not contain serial numbers or other identifying marks. The
2 fourteen (14) day holding period shall commence with the date the report of its acquisition was
3 delivered to or received ~~through the mails~~ by the chief of police or the attorney general,
4 whichever is later. The records so received by the chief of police and the attorney general shall be
5 available for inspection only by law enforcement officers for law enforcement purposes. If the
6 chief of police has probable cause that precious metals or an article made from or containing a
7 precious metal has been stolen, he or she may give notice, in writing, to the person licensed, to
8 retain the metal or article for an additional period of fifteen (15) days, and the person shall retain
9 the property for this additional fifteen (15) day period, unless the notice is recalled, in writing,
10 within the fifteen (15) day period; within the fifteen (15) day period the chief of police, or his or
11 her designee, shall designate, in writing, an officer to secure the property alleged to be stolen and
12 the persons in possession of the property shall deliver the property to the officer upon display of
13 the officer's written designation by the chief of police or his or her designee. Upon receipt of the
14 property from the officer, the clerk or person in charge of the storage of alleged stolen property
15 for a police department shall enter into a book a description of every article of property alleged to
16 be stolen which was brought to the police department and shall attach a number to each article.
17 The clerk or person in charge of the storage of alleged stolen property shall deliver the property to
18 the owner of the property upon satisfactory proof of ownership, without any cost to the owner,
19 provided that the following steps are followed:

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

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

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

30 (b) The clerk or person in charge of the storage of alleged stolen property shall not be
31 liable for damages for any official act performed in good faith in the course of carrying out the
32 provisions of this section. The photographic record of the alleged stolen property shall be allowed
33 to be introduced as evidence in any court of this state in place of the actual alleged stolen
34 property; provided that the clerk in charge of the storage of the alleged stolen property shall take

1 photographs of the property, and those photographs shall be tagged and marked and remain in his
2 possession or control.

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

5 **6-53-2. Application for license -- Annual fee -- Attorney general to promulgate rules**
6 **and regulations.** -- (a) Application for the license shall be in writing, under oath, and in the form
7 prescribed by attorney general and shall contain the name and the address (both of the residence
8 and place of business) of the applicant, and if the applicant is a partnership or association of every
9 member, and if a corporation, of each officer and director and of the principal owner or owners of
10 the issued and outstanding capital stock; also the city or town with the street and number where
11 the business is to be conducted, and any further information that the attorney general may require.
12 After receipt of an application for a license, the attorney general shall conduct an investigation to
13 determine whether the facts presented in the application are true. The attorney general may also
14 request a record search and a report from the national crime and information center (NCIC) of the
15 federal bureau of investigation. If the application discloses that the applicant has a disqualifying
16 criminal record, or if the investigation indicates that any of the facts presented in the application
17 are not true, or if the records of the department of the attorney general indicate criminal activity
18 on the part of the person signing the application and any other persons named in the application,
19 or if the NCIC report indicates an outstanding warrant for the person signing the application and
20 any other persons named in the application, then the attorney general may initiate a nationwide
21 criminal records check that shall include fingerprints submitted to ~~by~~ the federal bureau of
22 investigation regarding the person signing the application and any other persons named in the
23 application; ~~in accordance with any applicable federal standards regarding a criminal records~~
24 ~~check.~~ Upon the annual renewal of a license or the opening of a new branch designated in the
25 license, the attorney general may initiate a nationwide criminal records check that shall include
26 fingerprints submitted to the federal bureau of investigation regarding the licensee and any other
27 persons named in the license. The individual who is subject to the national records check shall be
28 responsible for the cost of conducting such check.

29 (b) The applicant at the time of making his or her initial application only shall pay to the
30 attorney general the sum of fifty dollars (\$50.00) as a fee for investigating the application and the
31 additional sum of fifty dollars (\$50.00) shall be paid annually. The licensee shall pay an
32 additional fifty dollars (\$50.00) annually for each branch designated in the license. Licenses shall
33 not be assignable or transferable to any other person or entity. ~~The attorney general is authorized~~
34 ~~to promulgate rules and regulations not inconsistent with this chapter to provide for the effective~~

1 ~~discharge of the responsibilities granted by this chapter; provided, however, if~~ If the applicant is
2 a holder of a precious metals and dealers license the fees as required in this section shall be
3 waived.

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

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

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

17 **6-53-5. Fourteen day holding period -- Recovery of stolen property -- Return to**
18 **rightful owner. --** (a) All persons licensed under this chapter shall retain in their possession in an
19 unaltered condition for a period of fourteen (14) days all tools and electronics including items
20 which do not contain serial numbers or other identifying marks. The fourteen (14) day holding
21 period shall commence with the date the report of its acquisition was delivered to or received
22 ~~through the mails~~ by the chief of police or the attorney general, whichever is later. The records so
23 received by the chief of police or the attorney general shall be available for inspection only by
24 law enforcement officers for law enforcement purposes. If the chief of police has probable cause
25 to believe that tools and electronics have been stolen, he or she may give notice, in writing, to the
26 person licensed, to retain the tools, electronics or article for an additional period of fifteen (15)
27 days, and the person shall retain the property for this additional fifteen (15) day period unless the
28 notice is recalled, in writing, within the fifteen (15) day period; within the fifteen (15) day period
29 the chief of police, or his or her designee, shall designate, in writing, an officer to secure the
30 property alleged to be stolen and the persons in possession of the property shall deliver the
31 property to the officer upon display of the officer's written designation by the chief of police or
32 his or her designee. Upon receipt of the property from the officer, the clerk or person in charge of
33 the storage of alleged stolen property for a police department shall enter into a book a description
34 of every article of property alleged to be stolen which was brought to the police department and

1 shall attach a number to each article. The clerk or person in charge of the storage of alleged stolen
2 property shall deliver the property to the owner of the property upon satisfactory proof of
3 ownership, without any cost to the owner, provided that the following steps are followed:

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

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

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

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

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

24 Section 2. This act shall take effect on ~~June 15~~ [December 31](#), 2013.

25 SECTION 4. Sections 1 and 2 of this act shall take effect on December 31, 2013. Section
26 3 of 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 Sections 1 and 2 of this act would take effect on December 31, 2013. Section 3 of this act
7 would take effect upon passage.

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