110-RICR-20-00-3

TITLE 110 – ATTORNEY GENERAL

CHAPTER 20 – BUREAU OF CRIMINAL IDENTIFICATION

SUBCHAPTER 00 – N/A

PART 3 – Rules and Regulations for Regulated Metals

3.1 Heading

A. These Rules and Regulations are promulgated pursuant to the authority set forth in R.I. Gen. Laws Chapter 6-11.2. This Part has been prepared in accordance with the requirements of the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

3.2 Purpose

A. These Rules and Regulations are promulgated to promote consumer protection for the citizens of Rhode Island by regulating trade in regulated metals.

3.3 Severability

A. If any provision of this Part or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the validity of the remainder of this Part and the application of such provisions to other persons and circumstances shall not be affected thereby.

3.4 Definitions

A. "Advertise" means the issuance of any card, sign or device to any person; the causing, permitting, or allowing of any sign or marketing on or in any building or structure, or in any newspaper periodical, or in any directory under a listing of precious metals buyers or sellers or related business, or broadcasting by radio or television with or without any limiting qualifications.

B. "Attorney General Investigator" means an investigator designated by the Attorney General pursuant to R.I. Gen. Laws §42-9-8.1.

C. "Authority" means the authority of the Attorney General as authorized by R.I. Gen. Laws Chapter 6-11.2.

D. "Business" means the trade in regulated metals conducted in a place of business specifically owned or rented for this purpose.

E. "Complaint" means receipt of standard complaint form by an authorized representative of the Attorney General.

F. "Electronic reporting system" means an electronic process that records, reports, processes, stores and sends data and digital images of transactions in accordance with R.I. Gen. Laws § 6-11.2-6.

G. "Person(s)" shall include any individual(s), partnership(s), association(s), or corporation(s).

H. "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.

I. "Posted prices" means the price offered by dealers at that point and time for purchase of regulated metals.

J. "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, as well as any component of a cable, broadband, wireless, or wired communications device or facility.

K. "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 purpose, whether or not engaged in the business of performing the manufacturing process by which regulated metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value.

L. "Weighing" means weighing by scales approved by municipal officials responsible for certification of scales.

3.5 Permanent Place of Business

A. Each dealer shall maintain and operate their business from a permanent place of business located in a permanent building or structure, accessible to the public during posted business hours. The place of business must be located within the State of Rhode Island

3.6 Branch Offices

A. All branch offices must be operated under the same name as that of the permanent place of business, unless they are separately licensed.

B. The location of all branch offices must be indicated on the license application at the time of license application.

C. New branch offices may be opened by the dealer only with the written approval of the Attorney General.

D. Each branch office must have a copy of the license issued to the dealer prominently posted in a conspicuous place.

3.7 Change of Company Name, Address, or Ownership

A. Dealers changing the name under which they advertise or otherwise do business must reapply for licensing.

B. Dealers changing the location of the principal offices or approved branch offices, but continuing to operate under the same company name, need not reapply for licensing, but must notify the Attorney General at least thirty (30) days in advance of commencement of business in the new location.

C. Dealers selling businesses, whether real estate, structures, equipment, or stock cannot transfer license authority to deal in Regulated metals. Regulated Metals licenses are not transferable or assignable.

3.8 Fees

A. The applicant will pay both the fifty-dollar ($50.00) application fee and seventy-dollar ($70.00) annual license fee at the time of application.

B. In the event of disapproval of a license application, the Attorney General will refund the annual license fee but retain the application fee for the cost of investigation.

C. Applicants withdrawing licensing applications before final approval or disapproval may request refunds of annual license fees. Application fees are not refundable.

D. Applicants failing to apply for renewal of their license prior to its expiration date will incur a late fee of fifty-dollars ($50.00).

3.9 License Applications

A. The application for the regulated metal license shall be submitted electronically, under oath, and in the form prescribed by the Attorney General. The application shall contain the following information:

1. Full name, including middle name and any aliases, address of residence and the business, social security number and/or federal employer identification number of the applicant and/or principals of any applicant corporation.

2. The city or town and street address where the business is to be conducted, and any additional information that the Attorney General may require.

3. Each applicant shall produce a certification, in a form to be approved by the Attorney General, certifying that:

a. The place of business, including all branch offices, complies with local zoning ordinances in the municipality in which the business is located;

b. The business is in possession of all valid licenses required by both the State and the municipality in which the business is located, including all branch offices; and

c. The business is not in violation of any federal, state, or local statutes, ordinances or regulations.

B. The Attorney General shall refuse to issue or renew a license if the Attorney General determines that the license application contains a false representation of a material fact, or if an investigation reveals that the applicant has previously been guilty of a violation of R.I. Gen. Laws Chapter 6-11.2, or has been a partner of a partnership, a member of an association, or an officer, director or member of a corporation that has been previously been guilty of a violation of R.I. Gen. Laws Chapter 6-11.2.

C. All licenses granted in accordance with this Rule shall expire on January 1 of each year, and no rebate shall be made from the license fee for such license for any license term of less than one (1) year.

D. Renewal applications shall be submitted a minimum of forty-five (45) days prior to the expiration of the license.

E. Every licensee shall display its license in a visible location at the licensee's place of business, including all branch offices.

F. The licensee shall not assign or transfer its license issued pursuant to this Rule to any other person or entity.

G. The Attorney General may issue a final order suspending, revoking or refusing any license issued, upon determination of a valid written complaint.

H. Corporate names will be reviewed by the Secretary of State, for review of names or officers, directors, and major shareholders.

3.10 Dealer Procedures

A. Dealers must post prices in conspicuous places. Posted prices must be the basis for purchases of regulated metals.

B. Dealers must weigh goods offered in view of seller. Weighing to establish weight of metals offered for sale must be used in conjunction with posted prices to establish price offered by dealer.

C. All dealers' advertisements must include, as part of the advertisement, the dealer's regulated metals license number.

D. Holding period for property acquired by licensee:

1. Every person licensed under this Part shall keep, for a period of three (3) days, and shall immediately notify the police department of the following property:

    a. Property purchased or received consisting of brass, bronze, copper, cast iron, stainless steel, and/or wrought iron, including:

        (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. Property which is known or reasonably should be known as ordinarily used by, belongs to, or is identified with markings indicating ownership by a telephone, telegraph, cable, broadband, Internet, wireless communication, gas, water, or electric light company. For the purposes of this Part, evidence that the insulating casing of a regulated metals property was burned, smoldered off, or otherwise obfuscated shall create a presumption that the secondary metals recycler should have known the material is a regulated metals property.

2. During the holding period, property shall be kept separate and distinct and shall not be disfigured or treated in any manner that would alter or destroy its identity.

E. Every person licensed under this Part shall, prior to issuing any payment, notify the seller of the material of the requirement to notify the police department of receipt of materials listed under R.I. Gen. Laws § 6-11.2-8.

3.11 Reports to Police

A. Every person licensed under this Part shall keep a copy of the report form obtained from, or under the direction of, the Office of the Attorney General, containing a comprehensive record of all transactions concerning regulated metals. The comprehensive record shall be legibly hand-printed or typed. The licensee shall, upon request, provide any records described in subsection §3.12(b) of this Part by hand delivery, mail or electronic submission, as applicable, to the chief of police of the requesting department.

B. The record shall include the following information:

1. The date of the transaction(s);

2. 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 that person's photo identification;

3. 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;

4. The price paid for the old or used metals;

5. A description of the regulated metals, or, alternatively, a digital image of the transaction, in a manner approved by the Attorney General; and

6. Any additional information that the 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 Part shall retain a copy of the report form for a period of two (2) years from the date of the sale recorded on the form. These records shall be made available for inspection by any law enforcement agency requesting access. A secondary metals recycler shall note release a customer's information without the customer's consent, except when the disclosure is made in response to a request from a law enforcement agency.

3.12 Identification of Seller of Goods

A. Every person licensed under this Part shall require the seller of any goods or merchandise to present a valid motor vehicle operator's license containing their photograph, or other suitable identification containing their photograph.

B. The licensee shall maintain a record of such identification, together with any other records required by law.

C. Every seller shall sign a statement, on a form to be approved by the Attorney General, affirming that the seller is either the legal owner of the property or an agent of the owner authorized to sell the property.

D. Any purchase from a minor requires the minor to be accompanied by a parent or legal guardian who must present proper identification and cosign the form affirming the seller is either the legal owner of the property or an agent of the owner authorized to sell the property.

3.13 Monitoring of Dealer Compliance and Enforcement

A. Attorney General investigators will review dealer compliance with regulations by random review during field visits to dealers' offices.

B. Non-compliance with the provisions of R.I. Gen. Laws § 6-11.2-1, et seq. will be referred for prosecution. Cease and desist orders may be requested to suspend dealer operations not in compliance with these regulations.

C. Evidence of stolen property held by licensed dealers will be recovered by local law enforcement agencies if related to complaints to local police, or by the State Police if related to complaints to the Office of the Attorney General regarding violations of licensing regulations.

3.14 Appeals

A. Appeals of a final decision issued by the Office of the Attorney General shall be made in accordance with the "Administrative Procedure Act", chapter § 42-35.