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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

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A N A C T

RELATING TO COMMERCIAL LAW--GENERAL REGULATORY PROVISIONS --  
PURCHASE AND SALE OF TOOLS AND ELECTRONICS

Introduced By: Representatives JP O'Neill, Nunes, Johnston, Jackson, and Serpa

Date Introduced: March 03, 2011

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 53

4 PURCHASE AND SALE OF TOOLS AND ELECTRONICS

5 **6-53-1. License required – "Person" defined.** – (a) No person, including a pawnbroker,  
6 as defined in section 5-21-1, shall engage in the business of buying or receiving for the purpose of  
7 selling tools or electronic equipment readily identifiable with a serial number to include, but not  
8 limited to, generators, powers tools, video game consoles, MP3 players, computers, audio and  
9 video equipment, referred to in this chapter as "tools and electronics or trade-ins and store credits  
10 of the aforementioned," from the general public for the purpose of reselling the tools and  
11 electronics in any condition without first obtaining a license from the attorney general of the State  
12 of Rhode Island ("attorney general"). The attorney general shall not issue any license to a person  
13 who has not registered a permanent place of business within the state for the purchase or sale of  
14 tools and electronics. The criteria for determining a person's permanent place of business shall be  
15 formulated by the attorney general within ninety (90) days after passage.

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

18 **6-53-2. Application for license – Annual fee. – Attorney general to promulgate rules**

1 **and regulations.** - (a) Application for the license shall be in writing, under oath, and in the form  
2 prescribed by attorney general and shall contain the name and the address (both of the residence  
3 and place of business) of the applicant, and if the applicant is a partnership or association of every  
4 member, and if a corporation, of each officer and director and of the principal owner or owners of  
5 the issued and outstanding capital stock; also the city or town with the street and number where  
6 the business is to be conducted, and any further information that the attorney general may require.  
7 After receipt of an application for a license, the attorney general shall conduct an investigation to  
8 determine whether the facts presented in the application are true. The attorney general may also  
9 request a record search and a report from the national crime and information center (NCIC) of the  
10 federal bureau of investigation. If the application discloses that the applicant has a disqualifying  
11 criminal record, or if the investigation indicates that any of the facts presented in the application  
12 are not true, or if the records of the department of the attorney general indicate criminal activity  
13 on the part of the person signing the application and any other persons named in the application,  
14 or if the NCIC report indicates an outstanding warrant for the person signing the application and  
15 any other persons named in the application, then the attorney general may initiate a nationwide  
16 criminal records check by the federal bureau of investigation regarding the person signing the  
17 application and any other persons named in the application, in accordance with any applicable  
18 federal standards regarding a criminal records check. The applicant at the time of making his or  
19 her initial application only shall pay to the attorney general the sum of fifty dollars (\$50.00) as a  
20 fee for investigating the application and the additional sum of fifty dollars (\$50.00) shall be paid  
21 annually. Licenses shall not be assignable or transferable to any other person or entity. The  
22 attorney general is authorized to promulgate rules and regulations not inconsistent with this  
23 chapter to provide for the effective discharge of the responsibilities granted by this chapter;  
24 provided, however, if the applicant is a holder of a precious metals and dealers license the fees as  
25 required in this section shall be waived.

26 **6-53-3. Identification and authority of seller.** - (a) Every person required to be licensed  
27 under this chapter shall require positive proof of identification with photograph, date of birth and  
28 current address of every seller from whom tools and electronics is to be purchased and shall  
29 require the seller to sign a statement on a form to be approved by the attorney general stating that  
30 the seller is the legal owner of the property or is the agent of the owner authorized to sell the  
31 property, and when and where or in what manner the property was obtained.

32 (b) Every person required to be licensed under this chapter shall, before purchasing any  
33 tool or electronic device, require the seller, if a minor, to be accompanied by the parent or legal  
34 guardian of the minor.

1           **6-53-4. Record of transactions required – Reports to police.** – (a) Every person  
2 licensed under this chapter shall keep a copy of the report form obtained from or under the  
3 direction of the attorney general, containing a comprehensive record of all transactions  
4 concerning tools and electronics. The comprehensive record shall be hand printed legibly or  
5 typed. The record shall include the name, address, telephone number and date of birth of the  
6 seller, a complete and accurate description of the property purchased or sold including any serial  
7 numbers or other identifying marks or symbols, and the date and hour of the transaction.

8           (b) All persons licensed under this chapter shall deliver or send electronically to the chief  
9 of police of the city or town in which the business is located and to the attorney general copies of  
10 all report forms from the preceding seven (7) day period.

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

13           **6-53-5. Fourteen day holding period – Recovery of stolen property. – Return to**

14 **rightful owner.** – (a) All persons licensed under this chapter shall retain in their possession in an  
15 unaltered condition for a period of fourteen (14) days all tools and electronics except items which  
16 do not contain serial numbers or other identifying marks. The fourteen (14) day holding period  
17 shall commence with the date the report of its acquisition was delivered to or received through the  
18 mails by the chief of police or the attorney general, whichever is later. The records so received by  
19 the chief of police or the attorney general shall be available for inspection only by law  
20 enforcement officers for law enforcement purposes. If the chief of police has probable cause to  
21 believe that tools and electronics have been stolen, he or she may give notice, in writing, to the  
22 person licensed, to retain the metal or article for an additional period of fifteen (15) days, and the  
23 person shall retain the property for this additional fifteen (15) day period unless the notice is  
24 recalled, in writing, within the fifteen (15) day period; within the fifteen (15) day period the chief  
25 of police, or his or her designee, shall designate, in writing, an officer to secure the property  
26 alleged to be stolen and the persons in possession of the property shall deliver the property to the  
27 officer upon display of the officer's written designation by the chief of police or his or her  
28 designee. Upon receipt of the property from the officer, the clerk or person in charge of the  
29 storage of alleged stolen property for a police department shall enter into a book a description of  
30 every article of property alleged to be stolen which was brought to the police department and  
31 shall attach a number to each article. The clerk or person in charge of the storage of alleged stolen  
32 property shall deliver the property to the owner of the property upon satisfactory proof of  
33 ownership, without any cost to the owner, provided that the following steps are followed:

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

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

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

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

17           **6-53-6. Persons injured by violations of chapter – Damages and costs.** – Any person  
18 who has been damaged or injured by the failure of a person required to be licensed under this  
19 chapter to comply with the provisions of this chapter, may recover the actual damages sustained.  
20 The court in its discretion, may also award punitive damages and/or the costs of suit and  
21 reasonable attorneys' fees to a prevailing plaintiff.

22           **6-53-7. Penalties.** – (a) Every person who shall violate the provisions of this chapter shall  
23 be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500) or  
24 imprisoned for not more than one year, or both.

25           (b) If the value of the property involved in a transaction which is in violation of this  
26 chapter exceeds five hundred dollars (\$500), a person convicted of a violation shall be fined not  
27 more than two thousand dollars (\$2,000) or imprisoned for not more than three (3) years, or both.

28           (c) The attorney general shall have the authority to suspend the license of any person  
29 required to be licensed under this chapter as a result of violations of this chapter or attorney  
30 general regulations leading to penalties under this chapter.

31           **6-53-8. Rules and regulations.** – The attorney general is authorized to promulgate,  
32 adopt, and enforce any and all rules and regulations deemed necessary to carry out the duties and  
33 responsibilities of this chapter. Rules and regulations shall be adopted in accordance with the  
34 Administrative Procedures Act, chapter 35 of title 42.

1           **6-53-9. Refusal to issue license.** – The attorney general shall refuse to issue a license  
2 when the attorney general has found that the application for the license contains a false  
3 representation of a material fact, when investigation reveals that the person applying for the  
4 license has previously been guilty of a violation of this chapter or has been a partner of a  
5 partnership, member of an association, or an officer or director of a corporation which has  
6 previously been guilty of a violation of this chapter, or has a disqualifying criminal record as  
7 defined in section 6-53-13. The attorney general may, in his or her discretion, issue a license if  
8 the disqualifying criminal record is more than ten (10) years old.

9           **6-53-10. Suspension, revocation, and nonrenewal of license.** – The attorney general,  
10 upon his or her own motion or upon receipt of a signed written complaint which alleges violations  
11 of this chapter or of the rules and regulations promulgated pursuant to this chapter, may, after a  
12 hearing, suspend, revoke, or refuse to renew any license issued pursuant to this chapter.

13           **6-53-11. Hearings.** – Hearings conducted pursuant to this chapter shall be in accordance  
14 with the Administrative Procedures Act, chapter 35 of title 42.

15           **6-53-12. Appeals.** – Appeals from a decision by the attorney general shall be made to the  
16 sixth division district court in Providence. Appeals from the decision of the sixth division district  
17 court shall be to the supreme court in accordance with the Administrative Procedures Act, chapter  
18 35 of title 42, as amended.

19           **6-53-13. Disqualifying criminal records – Employees or agents of licensee.** – A  
20 licensee convicted in a court of this state, a court of another state or in a federal court, of a felony  
21 charge of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny,  
22 extortion, conspiracy to defraud, receiving stolen goods, burglary, breaking and entering, or any  
23 similar offense or offenses, or tax evasion associated with the conduct of business under a license  
24 issued pursuant to this chapter, shall forfeit his or her license. Prior to the forfeiture of the license,  
25 the licensee may request a hearing on the forfeiture. The attorney general when so requested shall  
26 hold a hearing. No licensee shall employ or engage any person as an employee or agent while  
27 engaging in the business of trading in tools and electronics who has been convicted of any of the  
28 offenses as they are described in this section and which shall be deemed to be disqualifying  
29 criminal record.

30           **6-53-14. Severability.** – If any provisions of this chapter or application of this chapter to  
31 any person or circumstances is held invalid, the invalidity shall not affect other provisions or  
32 applications of this chapter than can be given effect without the invalid provision or phrase or  
33 application, and to this end the provisions and phrases of this chapter are severable.

34

1 SECTION 2. 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 TOOLS AND ELECTRONICS

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- 1           This act would require any person engaged in the business of buying or selling tools or
- 2 electronic equipment to obtain a license from the attorney general.
- 3           This act would take effect upon passage.

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