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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO COMMERCIAL LAW - GENERAL REGULATORY PROVISIONS -COPPER  
THEFT PREVENTION ACT

Introduced By: Representatives Carnevale, Medina, DeSimone, and Palumbo

Date Introduced: April 10, 2012

Referred To: House Corporations

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.** – (a) "This chapter shall be known and may be cited as the  
6 "Copper theft prevention act."

7 **6-11.2-2. Definitions.** – (a) "Regulated metals property" means all ferrous and nonferrous  
8 metals, including, but not limited to, copper, copper alloy, bronze and aluminum.

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

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

16 **6-11.2-3. License required.** – (a) No person, including a secondary metals recycler,  
17 salvage yard operator or second hand dealer, shall engage in the business of buying or receiving  
18 for the purpose of selling or recycling any regulated metals property or any articles containing

1 those metals, from the general public for the purpose of reselling or recycling the regulated metals  
2 in any condition without first obtaining a license from the department of attorney general. The  
3 attorney general shall not issue any license to a person who has not registered a permanent place  
4 of business within the state for the purchase or sale of regulated metals. The criteria for  
5 determining a person's permanent place of business shall be formulated by the attorney general  
6 immediately on or after July 1, 2012.

7 **6-11.2-4. Application for license – Annual fee – Attorney general to promulgate**  
8 **rules and regulations.** – (a) The application for the license pursuant to section 6-11.2-3 shall be  
9 in writing, under oath, and in the form prescribed by the attorney general. The application shall  
10 contain the name, address of residence and the business, name and address of the applicant. If the  
11 applicant is a partnership or association, the application shall include the name and residence  
12 address of every member, and if a corporation, of each officer and director and of the principal  
13 owner or owners of the issued and outstanding capital stock. The application shall also include  
14 the city or town, and the street address where the business is to be conducted, and any further  
15 information that the attorney general may require.

16 (b) After receipt of an application for a license, the attorney general shall conduct an  
17 investigation to determine whether the facts presented in the application are true. The attorney  
18 general may also request a record search and a report from the national crime and information  
19 center (NCIC) of the federal bureau of investigation. If the application discloses that the applicant  
20 has a disqualifying criminal record, or if the investigation indicates that any of the facts presented  
21 in the application are not true, or if the records of the department of the attorney general indicate  
22 criminal activity on the part of the person(s) signing the application and a other person(s) named  
23 in the application, or if the NCIC report indicates an outstanding warrant for the person(s) signing  
24 the application or any other person(s) named in the application, then the attorney general may  
25 initiate a nationwide criminal records check by the federal bureau of investigation regarding the  
26 person(s) signing the application and any other person(s) named in the application, in accordance  
27 with any applicable federal standards regarding a criminal records check.

28 (c) The applicant at the time of making his or her initial application only shall pay to the  
29 attorney general the sum of seventy dollars (\$70.00) as a fee for investigating the application and  
30 the additional sum of seventy dollars (\$70.00) shall be paid annually. Licenses shall not be  
31 assignable or transferable to any other person or entity.

32 **6-11.2-5. Identification and authority of seller – Posting of prices - Weighing.** – (a)  
33 Every person required to be licensed under this chapter shall require positive proof of  
34 identification with photograph, date of birth and current address of every seller from whom

1 regulated metals or an article made from or containing a regulated metal is to be purchased, and  
2 shall require the seller to sign a statement on a form to be approved by the attorney general stating  
3 that the seller is the legal owner of the property, or is the agent of the owner authorized to sell the  
4 property, and when and where or in what manner the property was obtained.

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

8 (c) Every person required to be licensed under this chapter shall post the prices per ounce  
9 that are currently being paid for regulated metals in full sight of the prospective seller, and the  
10 regulated metals shall be weighed in full sight of the prospective seller.

11 **6-11.2-6. Record of transactions required – Reports to police.** – (a) Every person  
12 licensed under this chapter shall keep a copy of the report form obtained from or under the  
13 direction of the attorney general, containing a comprehensive record of all transactions  
14 concerning regulated metals. The comprehensive record shall be hand printed legibly or typed.  
15 The record shall include the name, address, telephone number and date of birth of the seller, the  
16 distinctive number from a federal or state government issued photo identification, the license tag  
17 number, state of issue, make and model, if available of the vehicle used to deliver the regulated  
18 metals to the secondary recycler, a complete and accurate description of the regulated metals  
19 purchased or sold including a general physical description, the weight, quantity or volume of  
20 regulated metal purchased, the consideration paid by the secondary recycler, and the date and  
21 hour of the transaction.

22 (b) All person licensed under this chapter shall deliver or mail weekly to the chief of  
23 police of the city or town in which the business is located, and to the attorney general, copies of  
24 all report forms from the preceding seven (7) day period.

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

30 **6-11.2-7. Prohibition against certain cash transactions.** – (a) A secondary metals  
31 recycler shall not enter into any cash transaction in excess of five hundred dollars (\$500) in  
32 payment for the purchase of regulated metals.

33 (b) For transactions in excess of five hundred dollars (\$500), the secondary metals  
34 recycler shall make payment in the form of a check made payable to the name and address of the

1 seller.

2 **6-11.2-8. Persons injured by violations of chapter - Damages and costs.** – Any person  
3 who has been damaged or injured by the failure of a person required to be licensed under this  
4 chapter to comply with the provisions of this chapter, may recover the actual damages sustained.  
5 The court in its discretion, may also award punitive damages and/or the costs of suit and  
6 reasonable attorneys' fees to a prevailing plaintiff.

7 **6-11.2-9. Penalties.** – (a) Every person who shall violate the provisions of this chapter  
8 shall be guilty of a misdemeanor and shall be fined not more than five hundred dollars (\$500), or  
9 imprisoned for not more than one year, or both.

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

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

16 **6-11.2-10. Rules and regulations.** – The attorney general is authorized to promulgate,  
17 adopt, and enforce any and all rules and regulations deemed necessary to carry out the duties and  
18 responsibilities of this chapter. Rules and regulations shall be adopted in accordance with the  
19 “Administrative Procedures Act”, chapter 35 of title 42.

20 **6-11.2-11. Refusal to issue license.** – The attorney general shall refuse to issue a license  
21 when the attorney general has found that the application for the license contains a false  
22 representation of a material fact, when investigation reveals that the person applying for the  
23 license has previously been guilty of a violation of this chapter or has been a partner of a  
24 partnership, member of an association, or an officer, director or member of a corporation which  
25 has previously been guilty of a violation of this chapter, or has a disqualifying criminal record as  
26 defined in section 6-11.2-14. The attorney general may, in his or her discretion issue a license if  
27 the disqualifying criminal record is more than ten (10) years old.

28 **6-11.2-12. Suspension, revocation, and nonrenewal of license.** – The attorney general,  
29 upon his or her own investigation or upon receipt of a signed written complaint which alleges  
30 violations of this chapter, or the rules and regulations promulgated pursuant to this chapter, may,  
31 after a hearing, suspend, revoke, or refuse to renew any license issued pursuant to this chapter.

32 **6-11.2-13. Hearings.** – Hearings conducted pursuant to this chapter shall be in  
33 accordance with the “Administrative Procedures Act”, chapter 35 of title 42.

34 **6-11.2-14. Appeals.** – Appeals from a decision by the attorney general shall be made to

1 the sixth division district court in Providence. Appeals from the decision of the sixth division  
2 district court shall be to the Rhode Island supreme court in accordance with the “Administrative  
3 Procedures Act”, chapter 35 of title 42, as amended.

4 **6-11.2-15. Disqualifying criminal records - Employees or agents of licensee. – A**  
5 licensee convicted in a court of this state, a court of another state or in a federal court, of a felony  
6 charge of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny,  
7 extortion, conspiracy to defraud, receiving stolen goods, burglary, breaking and entering, or any  
8 similar offense of offenses, or tax evasion associated with the conduct of business under a license  
9 issued pursuant to this chapter shall forfeit his or her license. Prior to forfeiture of the license, the  
10 licensee may request a hearing on the forfeiture. The attorney general, when so requested, shall  
11 hold a hearing.

12 **6-11.2-16. Severability. –** If any provision or phrase of this chapter or application of this  
13 chapter to any person or circumstances is held invalid, the invalidity shall not affect other  
14 provisions or phrases or applications, of this chapter that can be given effect without the invalid  
15 provision or phrase or applications of this chapter that can be given effect without the invalid  
16 provision or phrase or applications of this chapter that can be given effect without the invalid  
17 provision or application, and to this end the provisions and phrases of this chapter are severable.

18 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 -COPPER  
THEFT PREVENTION ACT

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1           This act would create the Copper Theft Prevention Act, which would require secondary  
2 metals recyclers to obtain a license from the attorney general's office in order to purchase certain  
3 types of ferrous and non-ferrous metals. The act would create a regulatory scheme for the  
4 issuance of a license, as well as are reporting requirements of the licensee, and procedures for the  
5 penalizing of a licensee for failure to comply with the license requirements.

6           This act would take effect upon passage.

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