110-RICR-20-00-1

TITLE 110 – ATTORNEY GENERAL

CHAPTER 20 – BUREAU OF CRIMINAL IDENTIFICATION

SUBCHAPTER 00 – N/A

PART 1 – Rules and Regulations for Precious Metals

1.1 Authority ~~and Purpose~~

These Rules and Regulations are promulgated pursuant to the authority set forth in R.I. Gen. Laws Chapter 6-11.1. This Part has been prepared in accordance with the requirements of the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.

~~A. Authority~~

~~1. As provided in R.I. Gen. Laws Chapter 6-11.1, the Attorney General is empowered to promulgate regulations to administer the licensing program for previous metals dealers.~~

~~B. Purpose~~

~~1. The purpose of these rules and regulations is to promote consumer protection for the citizens of Rhode Island by regulating trade in precious metals. Dealers will be required to follow prescribed procedures for identification of sellers and goods sold. Local police departments will be provided with improved opportunities to recover stolen property.~~

1.2 Purpose

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

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1.~~3~~2 Severability

~~If any portion of these rules and regulations are held invalid, such invalidity shall not affect other provisions or application of these rules and regulations, that can be given effect without the invalid provisions or application and to that end the provisions of these rules and regulations are available.~~ If any provisions 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.

1.~~43~~ 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 6-11.1.

D. "Business" means the trade in precious metals and stones conducted in a place of business specifically owned or rented for this purpose, except that rented hotel or motel rooms shall not be construed as permanent places of business.

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

F. "Criminal record clearance" means review of applicant's name by the Bureau of Criminal Identification ("BCI") of the Department of Attorney General.

G. "Description" means precise statements of weight, metal content and color, gem size and quality, design or configuration, trademarks or other identifying information useful to law enforcement agencies in recovering stolen property.

H. "Disqualifying criminal record" means a record of criminal convictions on charges of felony charge of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, receiving stolen goods, burglary, breaking and entering or any similar offense or offenses, or tax evasion associated with the conduct of business.

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

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

K. "Numismatic value" means value based on published prices in recognized guides to value to collectors of coins or other articles related to rarity or aesthetic merit, not on value of metal content.

L. "Precious metals" means gold, silver, or platinum metals group: platinum, iridium, palladium, rhodium, and osmium.

M. "Precious stone" means any gem or stone cut and polished for use in jewelry, which fulfills trade standards for value based on beauty, durability, and rarity.

~~1.4 Powers and Duties of the Attorney General~~

~~A. The Attorney General shall make, amend, or repeal such rules and regulations as are necessary to carry out the provisions of the statute for licensing of precious metals and dealers.~~

~~B. The Attorney General shall cooperate with other agencies of the state government to provide consumers protection under the statute.~~

~~C. The Attorney General shall investigate all complaints by citizens pertaining to sales of precious metals.~~

1.5 Permanent Place of Business

Each Dealer shall maintain and operate ~~his/her~~ 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.

1.6 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.

1.7 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 ~~within~~ 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 precious metals. Precious metal licenses are not transferrable or assignable.

1.8 ~~Refund of Application Fee or License~~ Fees

A. The applicant will pay both the fifty-dollar ($50.00) application fee and fifty-dollar ($50.00) 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 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).

1.9 Exemption from Licensing

A. Dealers in coins purchased for numismatic value, rather than metal content, are exempt from licensing. Prices paid for such precious metal coins must be based on book value of numismatic worth. Purchase of coins for metal content is a violation of the statute and such buyers are subject to prosecution as unlicensed precious metals dealers.

B. Jewelry manufacturers purchasing precious metals directly from trade suppliers are exempt from licensing. Jewelry manufacturers buying previous metals from the general public are subject to licensing.

C. Applications for exemption will be made directly to the Office ~~Department~~ of the Attorney General, Attn: Precious Metals Unit, at 4 Howard Avenue, Cranston, Ri 02920.~~150 South Main Street, Providence, RI 02903.~~

1.10 Investigation of License Applicants

A. Applicant names submitted on license applications will be referred to the Office of the Attorney General's Bureau of Criminal Identification and Investigation.

B. Applicants with criminal records will be immediately notified if their records are disqualifying criminal records. Approved applicants will be notified of criminal record clearance.

C. Corporate names will be reviewed by the ~~Corporations Secretary,~~ Secretary of State, for review of names of officers, directors, and major shareholders.

D. Each applicant shall produce a certification, in a form supplied by the Attorney General, certifying that:

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

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

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

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1.11 Dealer Procedures

A. Dealers must post prices in conspicuous places. Posted prices must be the basis for purchases of precious 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. Dealers must require sellers to complete the authorized Attorney General form "Report of Purchase and Identification of Seller," or similar form approved by the Attorney General. In verifying the ~~identification of~~ seller's identity, dealers must ~~seek~~ obtain a positive form of identification ~~with~~ that includes a photograph, date of birth, and current address. Purchases from minors must follow procedures covered in § 1.11(J) of this Part.

D. Dealers must clearly describe, or assist sellers in describing, goods offered for sale on all approved Attorney General forms that, require~~ing~~ description of goods. Failure to describe goods in accordance with the requirements set forth in R.I. Gen. Laws § 6-11.1-4 will be characterized as a license violation and be cause for revoking of license.

1. How to Describe Jewelry

a. A sketch drawn by the buyer should supplement difficult descriptions, such as jewelry. In addition to the name and value of the article to be described, include the following details:

(1) Color and kind of metal

(2) Number, kind, color, ring size, and size of stone(s)

(3) Weight and unit of measurement of each piece

(4) Type of mounting (e.g., filigree, plain, engraves, etc.)

(5) Type of setting (e.g., basket, tiffany, box, etc.)

(6) Inscription, dates, engravings, initials, serial numbers, and jeweler's markings

b. Further, when describing specific jewelry types:

(1) Bracelets: Provide width; whether link, filigree, solid, flexible, etc.; whether plain, engraved or stone set; whether a safety chain is attached and type of clasp.

(2) Brooches and Pins: Provide size and shape; indicate whether plain, engraved or filigree; whether pin has safety clasp.

(3) Earrings: Provide style, length; whether screw, clasp, or pierced; color stones, etc.

(4) Emblems, Charms, Frat Pin, Etc.: Provide size, shape, and name of lodge or club (e.g., Masonic, Elks, Eagles, Phi Delta Kappa, Sigma Chi, Nurse, Corporation Service Pins, etc.).

(5) Necklaces: Provide length: whether 1,2,3,4, or 5 strands; whether matched or graduated stones or beads; whether strung or thread or chain (give color and kind); describe clasp.

(6) Pendants: Show size, shape strung or chain, ribbon, cord, or thread; provide color and type; describe clasp.

(7) Rings: Provide kind of metal and color (e.g., yellow gold, white gold, sterling silver, etc.); kind and number of stones (e.g., diamond, ruby, etc.); whether plain, engraved, or filigree; ring size, and any jeweler's marks, inscriptions, or initials.

(8) Watches: Provide make (e.g., Elgin, Hamilton, Waltham, Rolex, etc.); movement; case; jewel number; size of watch; type of case; whether plain, engraved, or set with stones. If it has a chain or wrist band attached, describe and provide color, material length, etc.

(9) Miscellaneous Articles of Jewelry: Provide size, color, shape, stones, description etc.

Note: If any of the preceding are part of a matching set (e.g., ring, pin, necklace, earrings, bracelets, etc.), state that the pieces

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are a set. Also indicate whether the jewelry is estate, antique, or modern.

E. Reports to local police department may be made as frequently as dealers find to be convenient in the conduct of their business, but must be done at least on a weekly basis. Record keeping by dealers, as set forth in R.I. Gen. Laws § 6-11.1-4 is required so that local police, Attorney General Investigators, or other authorized agencies may review permanent record of all transactions. The reports may consist of copies of weekly reports filed with the local police.

F. Dealers must retain possession of precious metals for seven (7) days after notification of local police of a particular purchase. The seven-day period begins, with the date the report was received through the mail or facsimile by the Chief of Police or the Attorney General, whichever is later. The seven-day period ends on the opening of business on the seventh calendar day after the date the report was received through the mail or facsimile by the Chief of Police or Attorney General.

G. Dealers must retain goods for the seven-day period in unaltered condition. Goods with identifying trademarks, monograms, or other identifying configurations must be retained in exactly the condition that existed upon receipt by the dealer.

H. Dealers may make agreements to purchase goods from sellers and complete reports to local police based on the intent to purchase. Dealers must retain in their possession the goods and provide the seller with detailed receipts of said goods. At the expiration of the seven-day period following filing of a report to local police of dealer intent to buy specific precious metals, the dealer may complete the sales transaction with the seller, based on posted price at that point in time.

I. The dealer is required to provide the seller with a detailed receipt including, but not limited to, the following:

1. Seller (Customer) Information: Full name, address, telephone number, form of identification, date of birth, and identification (ID) number;

2. Buyer (Dealer) Information: Dealer name, license number, address, sales agent name, date of sale, time of transaction, and authorized agent signature;

3. Transaction Details: Number of items sold, the metal type, weight, size and/or length, price paid, and a description or design of the item; and

4. Seller Certification: The seller shall provide their signature beneath the following statement on the receipt: "I hereby represent that I am the full legal and rightful owner of the previous metals or stones described above."

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J~~I~~. All dealers' advertisements must include, as part of the advertisement the dealer's precious metals license number.

I~~J~~. Any purchase from ~~form~~ a minor requires ~~the following procedure~~: the minor ~~must~~ to be accompanied by a parent or legal guardian who must present proper identification and cosign the "Report of Purchase and Identification of Seller" form.

1.12 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 § 6-11.1-1, *et seq*. will be referred to 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 State Police if related to complaints to the Office of the Attorney General~~'s Office~~ of violations of licensing regulations.

1.13 Appeals

Appeals from a decision by the Attorney General shall be made to the Sixth Division District Court in Providence. Appeals from the decision of the Sixth Division District Court shall be to the Supreme Court in accordance with the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, as amended.

~~1.14 Appendix A - Attorney General Letter to Precious Metals Dealers dated July 11, 2005, "Record of Transactions Required - Reports to Police."~~

~~Precious Metals Dealers~~

~~Dear Sir or Madam:~~

~~It has come to my attention that some precious metal dealers have not been complying with R.I. Gen. Laws § 6-11.1-4 "Record of Transactions Required - Reports to Police"; the law states as follows:~~

~~§ 6-11.1-4 Record of transactions required - Reports to police. - (a) Every person licensed under this chapter shall keep a copy of the report form obtained from or under the direction of the Attorney General, containing a comprehensive record of all transactions concerning precious metals. The comprehensive record shall be hand printed legibly or typed. The record shall include the name, address, telephone number and date of birth of the seller, a complete and accurate description of the~~

property purchased or sold including any serial numbers or other identifying marks or symbols, and the date and hour of the transaction.

RULES AND REGULATIONS

11.4 Dealers must clearly describe, or assist sellers in describing, goods offered for sale on all approved Attorney General forms, requiring description of goods. Failure to describe goods accurately and legibly will be characterized as a license violation and cause for revoking of a license.

Slips that say "SCRAP" or "MISC" or have blank lines or missing information will not be accepted. Also, each item must be listed and described individually and cannot be combined as a group, i.e. "3 RINGS." More importantly, each item must be fully described, size of stone, ring size, length of chain/bracelet, etc., as in the following example:

Item	RING
Karat	14 CT yellow gold
Weight	10.1 PW
Design	HIGH SCHOOL RING
Identifying Marks	"1977" Central High School with Blue stone, engraved "JD"
Ring Size	10

The law is clear in that the dealer must keep a "comprehensive record", which is defined as "able to understand". This simply states that all reports must be legible and it is the responsibility of the licensed dealer to ensure that everyone in their employ understands the requirements and executes the form properly that includes a full description of the item. Noncompliance is subject to license suspension.

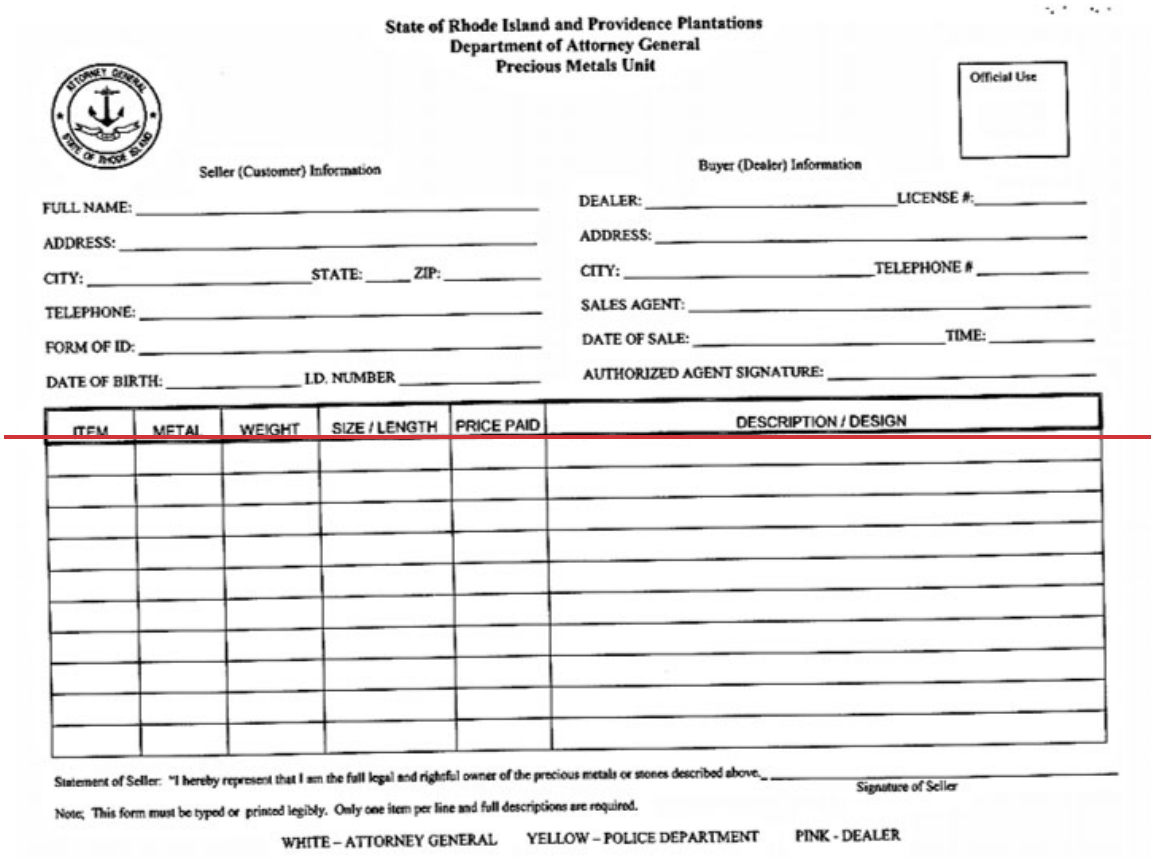
If you have any questions, regarding the requirements under R.I. Gen. Laws Chapter 6-11.1 or the attached informational sheet on How to Describe Jewelry, please do not hesitate to contact the Precious Metals Unit at 401-274-4400 ext. 2110 or ext. 2276, Monday through Friday between 8:30 am and 4:30 pm.

Sincerely,

Patrick C. Lynch

Attorney General

~~1.15 Appendix B - Sample of Authorized Precious Metals Sales Receipt~~



State of Rhode Island and Providence Plantations
Department of Attorney General
Precious Metals Unit

Official Use

Seller (Customer) Information

FULL NAME: _____

ADDRESS: _____

CITY: _____ STATE: ____ ZIP: _____

TELEPHONE: _____

FORM OF ID: _____

DATE OF BIRTH: _____ I.D. NUMBER _____

Buyer (Dealer) Information

DEALER: _____ LICENSE #: _____

ADDRESS: _____

CITY: _____ TELEPHONE # _____

SALES AGENT: _____

DATE OF SALE: _____ TIME: _____

AUTHORIZED AGENT SIGNATURE: _____

ITEM	METAL	WEIGHT	SIZE / LENGTH	PRICE PAID	DESCRIPTION / DESIGN

Statement of Seller: "I hereby represent that I am the full legal and rightful owner of the precious metals or stones described above." _____
Signature of Seller

Note; This form must be typed or printed legibly. Only one item per line and full descriptions are required.

WHITE – ATTORNEY GENERAL YELLOW – POLICE DEPARTMENT PINK - DEALER

1.16 Appendix C – How to Describe Jewelry

A. A sketch drawn by the buyer should supplement difficult descriptions, such as jewelry. In addition to the name and value of the article to be described, include the following:

1. Color and kind of metal

2. Number, kind, color, ring size, and size of stone(s)

3. Weight and unit of measurement of each piece

4. Type of mounting such as filigree, plain, engraved, etc.

5. Type of setting, such as basket, tiffany, box, etc.

6. Inscriptions, dates, engravings, initials, serial numbers, and jeweler's markings

B. Further, when you are describing:

1. Bracelets: Give width, whether link, filigree, solid, flexible, etc.; whether plain, engraved or stone set. State whether safety chain attached and type of clasp.

2. Brooches and Pins: Give size and shape, whether plain, engraved or filigree; whether pin has safety clasp.

3. Earrings: State style, length; whether screw, clasp, or pierced; color stones, etc.

4. Emblems, Charms, Frat Pin, Etc.: Show size shape and name of lodge or club (Masonic, Elks, Eagles, Phi Delta Kappa, Sigma Chi, Nurse, Corporation Service Pins, etc.).

5. Necklaces: Give length: whether 1, 2, 3, 4, or 5 strands; whether matched or graduated stones or beads; whether strung or thread or chain (give color and kind); describe clasp.

6. Pendants: Show size, shape strung or chain, ribbon, cord, or thread; give color and type; describe clasp.

7. Rings: State kind of metal and color (yellow gold, white gold, sterling silver, etc.); kind and number of stones (diamond, ruby, etc.); whether plain, engraved, or filigree; ring size, and any jeweler's marks, inscriptions, or initials.

8. ~~Watches: State make (Elgin, Hamilton, Waltham, Rolex, Etc.); movement; case; jewel number; size of watch; type of case; whether plain, engraved, or set with stones. If it has a chain or wrist band attached, describe by giving color, material length, etc.~~

9. ~~Miscellaneous Articles of Jewelry: Show size, color, shape, stones, description etc.~~

10. ~~Note: If any of the preceding are sets (ring, pin, necklace, earrings, bracelets, etc.), all matched, so state. State whether estate, antique, or modern type jewelry.~~