

Public Necessity Rules
of the
Department of Commerce and Insurance
Division of Regulatory Boards
Scrap Metal Dealer Registration Program

Statement of Necessity Requiring Public Necessity Rules

Pursuant to T.C.A. § 4-5-209, the Commissioner of Commerce and Insurance is authorized to promulgate public necessity rules in the event that the rules are required by an enactment of the general assembly within a prescribed period of time that precludes utilization of rulemaking procedures described elsewhere in T.C.A. Title 4, Chapter 5, for the promulgation of permanent rules.

Chapter 690 of the Public Acts of 2008, (hereinafter "Act"), creates a new registration program for scrap metal dealers and requires the Department of Commerce and Insurance to promulgate rules and regulations to effectuate the purposes of the Act. Section 4 of the Act specifically granted the Department of Commerce and Insurance the authority to promulgate rules of public necessary to effectuate the intent of the Act.

The Act makes it unlawful to act as a scrap metal dealer beginning on October 1, 2008 unless the person is registered with the Department of Commerce and Insurance. These rules are necessary for the Department of Commerce and Insurance to establish the registration requirements and fees so that scrap metal dealers can register with the Department of Commerce and Insurance.

Due to the length of time necessary to complete the rulemaking process, these public necessity rules are required in order for the Department of Commerce and Insurance to comply with the enactment of General Assembly and to ensure that the Department of Commerce and Insurance has the resources necessary to implement the Act.

For a copy of this these public necessity rules, contact: Sara Luna, Regulatory Board Licensing Manager, 500 James Robertson Parkway, Nashville, Tennessee 37243, (615) 253-2547.

Substance of Proposed Rules

New Rules

Table of Contents

0780-5-14-.01	Purpose
0780-5-14-.02	Definitions
0780-5-14-.03	Registration
0780-5-14-.04	Applications
0780-5-14-.05	Renewals
0780-5-14-.06	Fees
0780-5-14-.07	Check issuance fee
0780-5-14-.08	Vouchers
0780-5-14-.09	Revocation

0780-5-14-.01 Purpose

The purpose of this chapter is to provide for administration and implementation of the scrap metal dealer registration program, T.C.A., Title 62, Chapter 9 (as amended by Public Acts of 2008, Chapter 690), herein referred to as the "Act".

Authority: T.C.A. § 62-9-102.

0780-5-14-.02 Definitions

- (1) As used in this chapter, unless the context otherwise requires, the definitions of terms contained in T.C.A. § 62-9-101 are applicable.
- (2) "Person" means, according to the context, any individual, association, partnership, corporation, or any other legally cognizable organization or entity or their employees and duly authorized agents who have the authority to buy, exchange or deal in scrap metal.

Authority: T.C.A. §§ 62-9-102 and 1-3-105.

0780-5-14-.03 Registration

- (1) Any person who buys, exchanges, or deals in scrap metal either as an employer or employee must register with the Department of Commerce and Insurance as a scrap metal dealer.
- (2) All registrations issued under this part shall expire two (2) years from the date of issuance or renewal thereof.
- (3) Registration may be withdrawn by mailing the certificate of registration, along with any accompanying form required by the department, back to the Department.
- (4) A change in address for a registrant shall be reported to the Department within thirty (30) days.

Authority: T.C.A. §§ 62-9-102.

0780-5-14-.04 Applications

- (1) All applications for registration as a scrap metal dealer shall be made on a form provided by the Department of Commerce and Insurance and accompanied by a non-refundable application fee.
- (2) All applications must include the name of the applicant, the social security number or tax payer identification of the applicant, the physical and mailing address of the scrap metal dealer, and the telephone number of the scrap metal dealer. All applications must be signed by the applicant and by the owner, partner or authorized corporate officer of the scrap metal dealer.
- (3) An applicant shall disclose, under penalty of perjury, any criminal conviction of a violation of this Act and any conviction of the criminal offense of theft, burglary or vandalism where the offense involves scrap metal and the date of any such conviction.
- (4) Failure to disclose a criminal conviction on the application for registration shall be a basis for the denial of the application.
- (5) Failure to submit a complete application for registration shall be a basis for the denial of the application.

Authority: T.C.A. § 62-9-102.

0780-5-14-.05 Renewals

- (1) Prior to the expiration of their registration, a registrant shall submit an application for renewal of registration on the prescribed form and accompanied by a non-refundable renewal fee.
- (2) All applications for renewal must include the name of the applicant, the social security number or tax payer identification of the applicant, the physical and mailing address of the scrap metal dealer, and the telephone number of the scrap metal dealer. All applications for renewal must be signed by the applicant and by the owner, partner or authorized corporate officer of the scrap metal dealer.
- (3) The application for renewal shall disclose, under penalty of perjury, any criminal conviction of a violation of this Act and any conviction of the criminal offense of theft, burglary or vandalism where the offense involves scrap metal and the date of any such conviction.
- (4) Failure to disclose a criminal conviction on the application for renewal shall be a basis for the denial of the renewal.
- (5) Failure to submit a complete application for renewal shall be a basis for the denial of the renewal.
- (6) Registrations cannot be renewed after they expire. If a registration is not renewed prior to expiration, a new application will be required to be submitted.

Authority: T.C.A. § 62-9-102.

0780-5-14-.06 Fees

- (1) All applications for registration under the Act shall be accompanied by a non-refundable fee of one hundred seventy five dollars (\$175).
- (2) All applications for renewal of registration under the Act shall be accompanied by a non-refundable fee of one hundred twenty five dollars (\$125).
- (3) A request for a replacement certificate shall be accompanied by a non-refundable fee of ten dollars (\$10).
- (4) A request to change the address on a certificate shall be accompanied by a non-refundable fee of ten dollars (\$10).

Authority: T.C.A. § 62-9-102.

0780-5-14-.07 Check issuance fee

A scrap metal dealer may charge the person selling scrap metal a check issuance fee of ten percent (10%) of the dollar value of the scrap for the dealer's administrative costs of processing and issuing any check required by the Act. However, the fee, if charged, shall be a minimum of two dollars (\$2.00) and shall not exceed five dollars (\$5.00) per check.

Authority: T.C.A. § 62-9-104.

0780-5-14-.08 Vouchers

- (1) A voucher issued as payment for scrap metal as required by the Act shall expire six (6) months from the date of the transaction.
- (2) Any unredeemed voucher funds shall be remitted to the Department of Commerce and Insurance, with a form provided by the Department, within one (1) year of the expiration of the voucher.

Authority: T.C.A. § 62-9-104.

0780-5-14-.09 Revocation

- (1) The registration of a person convicted of a violation of any provision of the Act, or the criminal offense of theft, burglary or vandalism if such offense involved scrap metal, shall be immediately revoked by operation of law upon such conviction.
- (2) The law enforcement agency responsible for the conviction shall transmit to the Commissioner of Commerce and Insurance a copy of the judgment of conviction of a person registered as a scrap metal dealer.

Authority: T.C.A. § 62-9-110.

The public necessity rules set out herein were properly filed in the Department of State on the 29th day of August, 2008, and will become effective from the date of filing for a period of 165 days. These emergency rules will remain in effect through the day of 10th day of february, 2008. (FS 08-24-08; DBID 2946)