

Notice
of
Rulemaking Hearing

Department of Commerce and Insurance
Division of Regulatory Boards
Scrap Metal Dealer Registration Program

There will be a hearing before the Commissioner of Commerce and Insurance to consider the promulgation of new rules pursuant to P.C. No. 690 of 2008. The hearing will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204, and will take place in Room 160, Davy Crockett Tower, 500 James Robertson Parkway, Nashville, Tennessee 37243 at 09:00 a.m.(CST) on the 21st day of October, 2008.

Any individuals with disabilities who wish to participate in these proceedings (or review these filings) should contact the Department of Commerce and Insurance to discuss any auxiliary aids or services needed to facilitate such participation. Such initial contact may be made no less than ten (10) days prior to the scheduled meeting date (or the date the party intends to review such filings) to allow time for the department to determine how it may reasonably provide such aid or service. Initial contact may be made with Don Coleman, ADA Coordinator, Department of Commerce and Insurance, 500 James Robertson Parkway, Nashville, Tennessee 37243, at (615) 741-0481.

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

Substance of Proposed Rules

New Rules

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0780-05-14--.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.

0780-05-14--.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.

0780-05-14--.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.

0780-05-14--.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.

0780-05-14--.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.

0780-05-14-.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.

0780-05-14-.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.

0780-05-14--.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.

0780-05-14-.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.

0780-05-14-.10 Uniform Marking

In order to be considered marked under T.C.A. § 62-9-102(a)(9), the scrap metal must be clearly and visibly embossed, engraved, etched, painted or otherwise marked with the name of the governmental entity, business, company, or the name of the owner of such metal.

Authority: T.C.A. §§ 62-9-102 and 106.

0780-05-14--.11 Uniform Terminology

The following terms are the uniform terminology describing the types of metal and objects most commonly sold as scrap to be used in the transaction records:

Acetylene cutting torch
Air conditioner
Air conditioner coil
Air conditioner condenser
Aluminum ladder
Aluminum panels
Angle iron
Backflow preventer
Bare aluminum wire
Bare copper wire
Bare steel wire
Batteries
Bolt Cutters

Cable – aluminum
Cable – copper
Cable – steel
Catalytic converter
Chains

Compressed gas cylinder/tank
Copper tubing
Dishwasher
Dryer
Electrical box
Farm/garden equipment/implements
Fence
Firearms
Fuel Tank
Heater core/furnace
Insulated aluminum wire
Insulated copper wire
Insulated steel wire
Kitchen exhaust hood
Lawn Mower
Microwave oven
Miscellaneous aluminum scrap
Miscellaneous copper scrap
Miscellaneous iron scrap
Miscellaneous steel scrap
Motor vehicle
Motor vehicle parts
Motor vehicle – crushed
Muffler/muffler pipe
Pipe – iron
Pipe – stainless steel
Precious metal
Radiator
Refrigerator/freezer
Rolled Metal coil
Scaffolding
Stove/oven
Toolbox – truck
Toolbox – jobsite
Washing machine
Welder
Wrought iron

Authority: T.C.A. § 62-9-102 and 104.

The notice of rulemaking set out herein was properly filed in the Department of State on the 29th day of August, 2008. (FS 08-25-08;DBID 905)