

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DIVISION OF STATE POLICE
Statutory Authority: 24 Delaware Code, Section 2311 (24 **Del.C.** §2311)
24 **DE Admin. Code** 2300

PROPOSED

PUBLIC NOTICE

2300 Pawn Brokers, Secondhand Dealers and Scrap Metal Processors

Notice is hereby given that the Department of Safety and Homeland Security, Division of State Police, in accordance with 24 **Del.C.** §2311 proposes to amend adopted Rule 1.0 - Licensing. This amendment describes its intent to make the licensing and renewal procedures of Pawnbrokers, Secondhand Dealers, and Scrap Metal Processors more efficient and clarifies the electronic reporting requirements. If you wish to view the complete amendment, contact Ms. Peggy Anderson at (302) 672-5304. Any persons wishing to present views may submit them in writing, by September 30, 2012, to Delaware State Police, Professional Licensing, P.O. Box 430, Dover, DE, 19903.

2300 Pawnbrokers, Secondhand Dealers and Scrap Metal Processors

1.0 Licensing

- 1.1 Any individual applying for a pawnbroker, secondhand dealer or scrap metal processor license under 24 **Del.C.** Ch. 23 must meet and maintain the following qualifications:
 - 1.1.1 Must not be convicted of any felony within 5 years of application date; and
 - 1.1.2 Must not have been convicted of any misdemeanor involving theft or fraud within 5 years of application date; and
 - 1.1.3 Must not have been convicted of any misdemeanor involving drugs within 3 years of application date.
- 1.2 A license for a pawnbroker, secondhand dealer or scrap metal processor will not be issued if there is a pending charge as listed in Section 1.1.1, 1.1.2, or 1.1.3.
- 1.3 The individual applying for a pawnbroker, secondhand dealer or scrap metal processor under 24 **Del.C.** Ch. 23 must also meet the following qualifications:
 - 1.3.1 Must be at least 18 years of age; and
 - 1.3.2 Must ~~have~~ submit a current valid Delaware Business License issued by the Delaware Division of Revenue; and
 - 1.3.3 Physical location of business must be in the State of Delaware; and
 - 1.3.4 Appropriate taxes must be filed to the State of Delaware and the United States of America; and
 - 1.3.5 License must be prominently displayed ~~within the business~~ at the location listed on the license along with the Delaware Business License issued by the Delaware Division of Revenue.
- 1.4 The individual applying for licensure under Title 24 Chapter 23 must complete the following for approval:
 - 1.4.1 Applicant must appear in person at the Delaware State Police ~~Criminal Investigative Unit (CIU) at Troop 2, Troop 3 or Troop 4 in their respective county~~ Professional Licensing Section, by appointment only, to submit the initial application. Licenses will be renewed annually. ~~Renewal applications may be submitted via mail; and~~
 - 1.4.2 ~~Any and all applications required by the Delaware State Police CIU~~ Compliance with 24 **Del.C.** §2302 and §2312 for reporting forms; and
 - 1.4.3 Submit fingerprints, if requested to confirm the status or existence of a Delaware (CHRI) criminal history. The Director of the State Bureau of Identification (SBI) determines the fee for this process.
- 1.5 Renewal applications may be submitted via mail to the Professional Licensing Section no later than March 15th of each year for renewal, otherwise submission must be made in person.
- 1.56 Notification of a change of address, phone number, e-mail address, or contact person for the business during the license year must be made to the Delaware State Police ~~CIU at Troop 2, Troop 3 or Troop 4~~ Professional Licensing Section.

2.0 Notification of Arrest

- 2.1 Anyone licensed under 24 **Del.C.** Ch. 23 shall notify the Delaware State Police CIU within five (5) days of being arrested for a misdemeanor or felony crime. Failure to do so may result in the suspension or revocation of any pawnbroker, secondhand dealer, or scrap metal processor license.

3.0 Revocations and Emergency Suspensions

- 3.1 The Director of State Bureau of Identification (SBI) shall have the authority to suspend any individual licensed under 24 **Del.C.** Ch. 23 of the **Delaware Code** on an emergency basis if the Director has good cause to believe that the individual:
- 3.1.1 Has engaged in any conduct that is an imminent threat to public safety;
 - 3.1.2 Has been arrested for a felony crime; or
 - 3.1.3 Has been arrested for a misdemeanor crime involving theft, receiving stolen property, fraud, or any crime involving drugs.
- 3.2 Any individual whose license is suspended on an emergency basis by the Director shall be entitled to a hearing before the Superintendent of State Police or his designee within thirty (30) days if the individual requests a hearing in writing within ten (10) calendar days of the date of the notice of the emergency suspension. At the hearing, the individual will have the right to counsel, the right to present evidence and to examine and cross examine witnesses. The hearing will not be subject to the case decision requirements of the Administrative Procedures Act. After the hearing, the Superintendent or his designee may either lift the emergency suspension, or continue the suspension until the resolution of the criminal charge(s) and will notify the individual in writing of the decision.
- 3.3 If the individual whose license is suspended on an emergency basis is not convicted of the crime because the charge is nolle prossed or otherwise dismissed by the court, or if the individual no longer poses an imminent threat to public safety, then the individual may apply in writing to the Director to lift the suspension administratively. The individual has the burden to prove that the basis for the emergency suspension no longer exists.
- 3.4 If the individual whose license is suspended on an emergency basis is convicted of the crime, or continues to pose imminent threat to public safety, then the Director may issue a notice of intent to revoke the license. If the individual makes a written request for a hearing within ten (10) days of the date of the notice, the matter will be heard before the Superintendent or his designee. At the hearing, the individual will have the right to counsel, to present evidence, and to examine and cross-examine witnesses. The hearing will not be governed by the case decision requirements of the Administrative Procedures Act.
- 3.5 If the hearing officer determines that there is good cause to revoke the license, then he/she shall so notify the individual in writing. There shall be no further appeal within the Department of Safety and Homeland Security.
- 3.6 Any individual whose license has been revoked cannot be reinstated. Revocation may be a ground for denying the individual's application for a new license, depending upon the reason for the revocation and the lapse of time.

4.0 Electronic Reporting

- 4.1 Pawnbrokers, Secondhand Dealers and Scrap Metal Processors will electronically report their required transactions as outlined by 24 **Del.C.** Ch. 23 via a method acceptable to the Delaware State Police.
- 4.2 All costs and fees associated with this reporting shall be incurred by the business. These fees will be in addition to those required to obtain licensure.

11 DE Reg. 687 (11/01/07)

13 DE Reg. 856 (12/01/09)

16 DE Reg. 255 (09/01/12) (Prop.)