

Laws
of
Rockland County

STATE OF NEW YORK



CHAPTER 340

RELATING TO

**LICENSING SECOND-HAND
PRECIOUS METAL AND GEM DEALERS
IN THE COUNTY OF ROCKLAND**

COUNTY OF ROCKLAND
OFFICE OF CONSUMER PROTECTION
18 New Hempstead Road, 6th Floor, New City, NY 10956
(845) 708-7600

SECOND-HAND PRECIOUS METAL AND GEM DEALERS
CHAPTER 340

- 340-1. Legislative intent.**
- 340-2. Definitions.**
- 340-3. License required; display.**
- 340-4. Application for license; fee; bond.**
- 340-5. Issuance of license.**
- 340-6. Expiration and renewal of license.**
- 340-7. Nontransferability of license.**
- 340-8. Suspension or revocation of license; appeals.**
- 340-9. Restrictions.**
- 340-10. Display of daily price required.**
- 340-11. Lost or stolen property.**
- 340-12. Records.**
- 340-13. Identity of person from whom purchase is made.**
- 340-14. Reporting of records information.**
- 340-15. Duty to enforce.**
- 340-16. Disclaimer of liability.**
- 340-17. Penalties for offenses.**
- 340-18. Rules and Regulations.**

Chapter 340: SECONDHAND PRECIOUS METALS OR GEMS

[HISTORY: Adopted by the Rockland County Legislature 11-5-1980 by L.L. No. 10-1980. Amendments noted where applicable.]

GENERAL REFERENCES

Retail sales — See Ch. 331.

Sales tax — See Ch. 355, Art. V.

§ 340-1. Legislative intent.

It is hereby declared and found that, because of the increase of incidents of property theft, the increase of the price of precious metals and gems, the ease with which some secondhand dealers buy and sell precious metals or gems without requiring identification or proof of ownership, these secondhand precious metal or gem dealers represent to persons involved in crime an opportunity to dispose of stolen property. For business enterprises to be allowed to continue to operate without laws to control and regulate the purchase of such articles not only jeopardizes the property rights of many people but also extremely hampers the police agencies in their efforts to recover stolen property and identify suspects. If the law enforcement agencies are to function in this area, a local law regulating secondhand precious metal or gem dealers is necessary. Thereby, the public health, morals and general welfare of the County of Rockland will be protected and promoted and the best interest of the people would be served by the control and regulation of secondhand precious metal or gem dealers. It is the intention of the Legislature of Rockland County that this chapter, amending Local Law No. 9-1980; shall constitute the complete law in relation to the control and regulation of secondhand precious metal or gem dealers for the County of Rockland and shall therefore supersede the provisions of Local Law No. 9-1980.

§ 340-2. Definitions.

Unless the context specifically indicates otherwise, the meanings of terms used in this chapter shall be as follows:

DEALERS IN SECONDHAND PRECIOUS METALS OR GEMS — A person who, in any way, as principal, broker or agent of a business which buys from the public at retail, deals in the purchase from the public of gold, silver, platinum or gems; deals in the purchase from the public of any secondhand manufactured articles composed wholly or in part of gold, silver, platinum or gems; or deals in the purchase from the public of articles composed wholly or in part of precious metals for the purpose of melting or refining. Notwithstanding any other provisions of this chapter to the contrary, the purchase of precious metals or gems from the public incidental to the resetting, restyling or remanufacturing of jewelry for the owner shall be excluded from the application of this chapter.

DIRECTOR-The Director of Consumer Protection or his/her designee. **[Amended 9-16-2013 by L.L. No. 3-2013]**

GEMS — Articles composed wholly or in part of the following: emerald, diamond, ruby, sapphire, black opal, ruby spinel, citrine, demantoid, bloodstone, jasper, pearl, aquamarine, beryl, topaz, garnet, chrysolite, fire opal, moonstone, rose quartz, tourmaline, carnelian, peridot, sardonyx, zircon, morganite, chrysoprase, kunzite, cat's eye, amethyst, chalcedony, onyx, agate, alexandrite, star sapphire, lapis lazuli, harlequin opal, turquoise, jade or any other item composed wholly or in part of any gem or stone whose value is in excess of \$100.

PERSON — Includes natural persons, corporations, partnerships, associations, joint-stock companies and all other entities of any kind capable of being used.

PRECIOUS METALS — Articles composed wholly or in part of gold, silver or platinum.

§ 340-3. License required; display.

- A. No person shall, within the County of Rockland, establish, engage in or carry on, directly or indirectly, the business of dealing in secondhand precious metals or gems, either separately or in connection with some other business, without first having obtained and having in full force and effect a license as provided herein.
- B. Such license shall be displayed in a conspicuous place at the designated place of business of the licensee.

§ 340-4. Application for license; fee; bond.

- A. Every person desiring to procure a license shall file with the Director an application supplied by the Director, containing the following information: **[Amended 9-16-2013 by L.L. No. 3-2013]**
 - (1) The name and description of the applicant in the form and manner as set forth in the Rules and Regulations. **[Amended 9-16-2013 by L.L. No. 3-2013]**
 - (2) The address of the applicant, local and legal.
 - (3) That the applicant is of legal age.
 - (4) A statement as to whether or not the applicant has, within the past 10 years, been convicted of any crime or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefor and such other facts or evidence as is deemed necessary to establish that the applicant is a person fit and capable of properly conducting the activity or business for which the license is sought.
 - (5) A description of the exact type of business that the applicant intends to conduct.
 - (6) The name and address of the owner or owners of the business premises and the nature of the right of occupancy of the applicant to the use of said premises.

- (7) Two photographs of the applicant, taken not more than 60 days prior to the filing of the application, which photographs shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner. If the applicant is a partnership, photographs and fingerprints as provided herein are required for each partner. If the applicant is a corporation, all officers shall be photographed and fingerprinted as provided herein. **[Amended 9-16-2013 by L.L. No. 3-2013]**
- (8) A corporate applicant shall furnish the name, address and title of an officer of the corporation or designated agent of service upon whom process or other legal notice may be served.
- (9) A copy of the applicant's fingerprints shall be provided as set forth in the Rules and Regulations. **[Amended 9-16-2013 by L.L. No. 3-2013]**

B. Such application for a secondhand precious metal or gem dealer's license shall be accompanied by a nonrefundable filing fee in the amount as set forth under the Rules and Regulations adopted pursuant to this Chapter and a bond or other surety to the County of Rockland in the sum of \$2,000, conditioned for the due observance during the term of the license of any of the laws relating to such dealers. **[Amended 9-16-2013 by L.L. No. 3-2013]**

§ 340-5. Issuance of license.

- A. Upon receipt of the license application and the payment of the filing fee and bonds required of the applicant, the Director shall prepare and deliver to the applicant his license. **[Amended 9-16-2013 by L.L. No. 3-2013]**
- B. The Director shall keep a record of all licenses issued, as well as any matters herein described. **[Amended 9-16-2013 by L.L. No. 3-2013]**
- C. No license shall be granted under this chapter to any dealer in secondhand precious metals or gems: **[Amended 9-16-2013 by L.L. No. 3-2013]**
 - (1) Who has been convicted of a felony or a misdemeanor within the last 10 years, except for any misdemeanor under the Vehicle and Traffic Law of this state.
 - (2) Who has been found, within the last 10 years, by any court of the state to have practiced a civil fraud, deceit or misrepresentation in the conduct of such secondhand precious metal or gem dealers' business unless the Sealer shall decide, in any particular case, upon the facts there presented, that it is proper to issue the license applied for.
 - (3) Whose license under this chapter has been revoked or as provided in §340-8 of this chapter. **[Amended 9-16-2013 by L.L. No. 3-2013]**
 - (4) Whose license has been suspended under this chapter and the period of such suspension has not expired at the time of the application for the license.

D. Notwithstanding any provision of this chapter to the contrary, the Director, in his/her discretion, may grant a license as provided herein to any applicant who has been convicted of a crime within the last 10 years, upon the finding by the Director that said applicant is of good moral character and has demonstrated reliability and trustworthiness in finance and commercial transactions and would not compromise or jeopardize the public in the transaction of secondhand precious metal or gem business. **[Amended 9-16-2013 by L.L. No. 3-2013]**

§ 340-6. Expiration and renewal of license. [Amended 9-16-2013 by L.L. No. 3-2013]

Every license shall expire on the 30th day of November next after its issuance. Every license may be renewed as of the first day of December, upon payment of the required fee as set forth in the Rules and Regulations and filing a renewal application with the Director, certifying that no changes have occurred with respect to any of the facts or information required or supplied on the original application, or, if there have been any changes, the applicant shall furnish the facts and information relating to such changes and shall comply with the requirements of § 340-3 hereof with respect thereto.

§ 340-7. Nontransferability of license. [Amended 9-16-2013 by L.L. No. 3-2013]

No license under the provisions of this chapter shall be transferred or assigned to any person or used by any person other than the licensee to whom it was issued, his agents, employees or duly authorized representatives, said agents, employees or duly authorized representatives having been approved by the Director.

§ 340-8. Suspension or revocation of license; appeals.

A. Any license granted under this chapter may be suspended for a specific time not to exceed one year or revoked for cause, after a hearing before a hearing officer appointed by the County Executive of Rockland County. The determination as to suspension or revocation shall be made by said hearing officer. Any such hearing shall be held after reasonable written notice by the Director to the licensee of the charges, and the licensee shall have the right to counsel and to present evidence. Whenever any license shall be revoked or suspended, no refund of unearned portion of the license fee shall be made.

A license to conduct, operate, engage in and transact secondhand precious metals and gems may be suspended or revoked by the hearing officer for any one (1) or more of the following causes:

- (1) Fraud, misrepresentation or bribery in securing a license.
- (2) The making of any false statement as to a material matter in any application for a license or in any proceeding with respect to the suspension or revocation of a license, or a response to any order, demand, or inquiry made by the hearing

officer or by the Director with respect to a license or with respect to any transaction taken pursuant to this Chapter.

- (3) The person or the management personnel of the licensee are untrustworthy or not of good moral character.
- (4) Failure to display the license as provided in this chapter.
- (5) Violation of any provision of this chapter or of any rule or regulation adopted hereunder.

[Amended 9-16-2013 by L.L. No. 3-2013]

B. Appeals.

- (1) Any person aggrieved by the action of a hearing officer in suspending or revoking a license or the Director in refusing to grant a license or the making of any other decision or determination may take an appeal there from to the Legislature of Rockland County within 30 days after said decision or determination has been made. Such appeal shall be taken by filing, with the Clerk to the Legislature, a notice of appeal specifying the grounds therefore and the person from whom the appeal is being taken. **[Amended 9-16-2013 by L.L. No. 3-2013]**
- (2) The Clerk to the Legislature shall forthwith forward to the Legislature the notice of appeal and shall direct the person whose decision or determination is being appealed from to forthwith transmit to the Legislature all the papers constituting the record upon which the action appealed from was taken.
- (3) The Chairman of the Legislature shall designate three Legislators to hear appeals.
- (4) A time shall be fixed for the hearing of the appeals and the notice of the hearing shall be mailed to the appellant and the person whose decision or determination is being appealed at least five days before the hearing date.
- (5) Upon the hearing, any party may appear in person or by his attorney.
- (6) The three Legislators designated to hear appeals may reverse or affirm, wholly or partly, or may modify the decision, determination or action appealed from and shall make such decision or determination as, in their sole opinion, ought to be made in the premises and to that end shall have the powers of the person from which the appeal is taken.
- (7) Any person or persons aggrieved by any determination made upon an appeal may apply to the Supreme Court of the State of New York for a review by a proceeding under Article 78 of the Civil Practice Laws and Rules, provided that the proceeding is commenced within 30 days after the filing of the decision in the office of the Clerk to the Legislature.

§ 340-9. Restrictions. [Amended 7-14-1981 by L.L. No. 6-1981; 6-15-1999 by L.L. No. 5-1999]

- A. It shall be unlawful for any dealer of secondhand precious metals or gems to engage in buying activities in any place within Rockland County other than the place of business designated in such license, except to meet with a customer at his home, bank or suitable place of business. A dealer in secondhand precious metals or gems may, upon application to the Director and receiving approval of the Director, extend his license to cover other locations, such as flea markets, fairs, bazaars or religious or charitable organization functions. **[Amended 9-16-2013 by L.L. No. 3-2013]**
- B. It shall be unlawful for any dealer of secondhand precious metals or gems to purchase any secondhand precious metals or gems from any person whom he knows to be, or has reason to believe to be, under the age of 18 years.
- C. It shall be unlawful for a secondhand precious metal or gem dealer to purchase secondhand precious metals or gems from any person between the hours of 10:00 p.m. and 6:00 a.m.
- D. It shall be unlawful for any dealer in secondhand precious metals or gems to sell or dispose of any secondhand precious metals or gems until the expiration of 20 days after the acquisition by such dealer of said precious metals or gems. **[Amended 9-16-2013 by L.L. No. 3-2013]**
- E. It shall be unlawful for a secondhand precious metal or gem dealer to continue to carry on business after his license is suspended, revoked or has expired and has not been renewed.
- F. It shall be unlawful to cause, allow or approve of the blockage, obstruction or concealment from the view of the consumer any scale, machine, weighing device or part thereof used to weigh or calculate the value of precious metals or gems.
- G. It shall be unlawful for any dealer of secondhand precious metals or gems to damage, destroy, alter or in any way change or direct or request anyone else to alter or change the structure or makeup of a precious metal or gem so as to make it unidentifiable within 20 days after the acquisition by said dealers of such precious metal or gem. In the event that said precious metal or gem dealer damages, destroys, alters or in any way changes the precious metal or gem, the secondhand precious metal or gem dealer shall restore the precious metal or gem to its original condition as possible, provided that the secondhand precious metal or gem dealer receives a written request to do so from the owner of said item and law enforcement agency within the time limits set forth in this Subsection G and § 340-11 of this chapter, whichever is longer. **[Amended 9-16-2013 by L.L. No. 3-2013]**

§ 340-10. Display of daily price required. [Amended 9-16-2013 by L.L. No. 3-2013]

The daily price upon which the dealer bases his quotation for gold and silver shall be clearly displayed in Arabic numbers in the manner as set forth in the Rules and Regulations.

§ 340-11. Lost or stolen property. [Amended 7-14-1981 by L.L. No. 6-1981]

If any articles composed wholly or in part of precious metals or gems shall be advertised in any newspaper printed in the County of Rockland or reported by any law enforcement agency as having been lost or stolen, and if any articles answering such description or any part thereof shall be or come into the possession of any licensed dealer, such dealer, upon receiving actual written or oral notice of the similarity of description of such articles, shall immediately give information relating thereto to the appropriate law enforcement agency. No disposition of such articles shall be effected until authorization to do so shall be given to such dealer by said law enforcement agency. The failure of the law enforcement agency within 30 days to give the dealer further written notice that the articles are actually lost or are believed to be stolen and are needed in connection with a pending investigation or prosecution shall constitute authorization to dispose of said articles.

§ 340-12. Records. [Amended 10-18-1983 by L.L. No. 17-1983; Amended 9-16-2013 by L.L. No. 3-2013]

A. Every dealer in secondhand precious metals or gems by the close of the business day shall keep an electronic record in the form as set forth in the Rules and Regulations or a written record in duplicate and on a form prescribed by the Director of consecutively numbered transactions, legibly written in English, which shall contain a complete, thorough description of every secondhand precious metal or gem article so purchased, utilizing accepted trade words and phrases such as, but not limited to, serpentine, herringbone, braided herringbone, rope, crosscut, woven link, cobra, basket weave, tricolor, florentine, twist, beveled, gem names as listed in § 340-2, quantities of gems, number or numbers of said articles and any monograms, inscriptions or other marks of identification that may appear on such articles. The record whether electronic or written shall also include the name, residence address and description of the person from whom such purchase was made, including the day and hour of the purchase. Within 48 hours of the close of business on the day of purchase, the dealer in precious metals or gems shall forward by electronic means or mail, to the Rockland County Bureau of Criminal Identification the duplicate record of purchase, as provided herein, of each transaction which had taken place on that day.

B. Such electronic or written record shall be kept on the business premises of the secondhand precious metal or gem dealership or at the place designated on the

fully approved license, at all times during normal business hours. Such record shall be open to the inspection of any police officer or the Director or any person duly authorized for such purposes by the Director.

C. If the record of sales is in written form the dealer is mandated to use the forms prescribed by the Director and shall reimburse the Director for the cost of said forms.

§ 340-13. Identity of person from whom purchase is made.

A. It shall be the duty of every secondhand precious metal or gem dealer to verify the identity of every person from whom he makes a purchase and to make and keep a written record of the nature of the evidence submitted by such person to prove his identity.

B. Only the following shall be deemed acceptable evidence of identity:

(1) Any official document, except a Social Security Account number card, issued by the United States Government, any state, County, municipality or subdivision thereof, any public agency or department thereof or any public or private employer, which requires and bears signature and picture of the person to whom issued. **[Amended 9-16-2013 by L.L. No. 3-2013]**

(2) Other identification documentation which, under the circumstances of any particular purchase, would lead a reasonable person to believe to be accurate and reliable, when identification under Subsection B(1) is not available.

C. It shall be the duty of every dealer in secondhand precious metal or gem articles to require that every person from whom an article is purchased sign his or her name in the presence of the secondhand precious metal or gem dealer and to compare the signature on the identifying document, if any, and retain on said premises the person's signature, together with the number and description of the identifying document, if any.

§ 340-14. Reporting of records information. [Amended 9-16-2013 by L.L. No. 3-2013]

Every secondhand precious metal or gem dealer shall furnish to the Director or his/her agent or the appropriate law enforcement agency all information requested relative to all records required to be kept under this chapter.

§ 340-15. Duty to enforce. [Amended 9-16-2013 by L.L. No. 3-2013]

It shall be the duty of the Director or any police officer having jurisdiction at the site where a person is seen dealing in secondhand precious metals or gems to require such person seen so dealing and who is not known to the Director or such police officer to be duly licensed to produce or display his secondhand precious metal

dealer's license and to enforce the provisions of this chapter against any person found to be in violation of the same. It shall be the duty of the Director or any police officer as described herein to require the immediate closure of any business dealing in the purchase of secondhand metals or gems as defined herein who is operating said business without a license as required by § 340-3 of this chapter.

§ 340-16. Disclaimer of liability.

This chapter shall not create any liability on the part of the County of Rockland, its officers, agents or employees or any police officer for any act or damage caused as a result of reliance on this chapter or any administrative decision lawfully made thereunder.

§ 340-17. Penalties for offenses.

- A. A failure to comply with the provisions of § 340-3 or a failure to comply with so much of § 340-12A which requires every dealer in secondhand precious metals or gems by the close of the business day to keep a written record of every secondhand precious metal or gem article purchased by said dealer shall constitute a Class A misdemeanor, punishable by a fine not exceeding \$1,000 or imprisonment for a period not exceeding one year, or by both such fine and imprisonment. **[Amended 7-14-1981 by L.L. No. 6-1981]**
- B. A failure to comply with the other sections of this chapter shall constitute a violation and shall be punishable by a fine not exceeding \$250 or imprisonment for a period not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense shall constitute a separate and distinct violation hereunder for each day the offense is continued.
- C. In addition to the penalties provided above, any offense against the provisions of this chapter or the rules or regulations adopted under this chapter shall subject the person committing the offense to a civil penalty in an amount not to exceed \$1,000 as imposed by the Director for each day that the offense shall continue. Said penalty shall be collectible by and in the name of the County of Rockland. **[Amended 9-16-2013 by L.L. No. 3-2013]**

§340-18 Rules and Regulations. [Amended 9-16-2013 by L.L. No. 3-2013]

The Director shall have the authority to adopt rules and regulations in respect to any subject matter over which he/she has jurisdiction under this chapter or any other law after a public hearing by the Director and subject to the approval of the Rockland County Legislature. Upon adoption and approval of such rules and regulations they shall be duly filed with the clerk to the Rockland County Legislature.

Rules and Regulations
Relating to the
Licensing of Second-Hand Precious Metal
and Gem Dealers in the County of Rockland

1) Fees:

- a) Application for a license - \$200.00
- b) Renewal for a license \$200.00
- c) Late fee – for renewals not received by the 16th of the month in which they are due \$50.00
- d) Precious Metal receipt book \$10.00 per book
- e) All fees are non-refundable.
- f) Payment of all fees will be by check or money order.

2) Business Entity Documents:

- a) A CORPORATION must submit a copy of the filing receipt showing the filing of the corporation with the State of New York, Secretary of State. A certificate of good standing issued by the State of New York, Secretary of State within thirty (30) days of submission will also be accepted.
- b) A FOREIGN CORPORATION must submit a copy of the filing receipt from the State of New York Secretary of State granting the corporation the authority to do business in New York State. A certificate of good standing issued by the State of New York, Secretary of State within thirty (30) days of submission will also be accepted.
- c) A DOMESTIC OR FOREIGN CORPORATION with an ASSUMED NAME must submit a copy of the filing receipt from the State of New York Secretary of State granting use of the assumed name in the county of Rockland.
- d) A PARTNERSHIP, conducting business under a trade name, must submit a copy of a fully executed partnership agreement and a certified copy of the partnership certificate on file in the Rockland County Clerk's Office. All information in the partnership agreement except partnership name, address, partners percentage of ownership, and signature page shall be redacted.
- e) AN INDIVIDUAL operating under a trade name must submit a certified copy of the business certificate on file in the Rockland County Clerk's Office.

3) Change of Address:

- a) Dealer shall notify the Director within ten (10) days of any change of address.

4) Change of Business Name or Control in Ownership:

- a) Dealer shall apply to Director if there is to be a change in the business name or control in ownership.

- 5) Display of Prices: Dealer shall prominently display the daily price upon which the dealer bases the quotation at or near the point of sale. Said daily price shall be printed in minimum two (2) inches in height. Said daily price shall be quoted in Troy ounces and/or metric grams. The dealer shall include in their display the daily price for precious metal alloys *i.e. 14 karat or 18 karat sterling silver or gold*
- 6) Recordkeeping: Dealer shall provide the information on purchases as set forth in section 340-12 of this Chapter using the following procedure:
- a) Electronic Reporting –
 - i) Dealer shall be required to report by electronic means no later than July 1, 2014 unless a waiver is granted by the Director pursuant to subsection (c) of this rule. All information included in the electronic report shall be in conformity with Section 340-12.
 - ii) The County will provide, at no cost to the dealer, training and software to allow the dealer to transmit electronically any information required under the law in section 340-12 to the Rockland County Sheriff's Department. Any software/hardware provided to the dealer shall remain the property of the County and if the dealer ceases to hold a license under this Chapter they shall promptly return any County property. Failure to return property shall subject dealer to penalty in accordance with Section 340-17(c).
 - b) Written Reporting – If a waiver is granted, written reporting shall be done in conformity with Section 340-12
 - c) Waiver – A dealer may apply to the Director in writing for a waiver of the requirement of reporting purchases electronically if same will result in an undue burden upon the dealer. The Director, for good cause shown, shall have the power to issue a waiver. Good cause shall not include the dealer electing to continue submission of written reports.