

Secondary Metal Recyclers Frequently Asked Questions

1. The law was said to go in effect on July 12, 2012. Should I be following the law as of July 12, 2012 even though the regulations and application for registration are not final?

Yes. The statutes went into effect on July 12, 2012. However, the regulations and application have not been finalized and according to KRS 933.902, "Each secondary metals recycler shall obtain a certificate of registration from the Office of Occupations and Professions of the Public Protection Cabinet within sixty (60) days of the effective date of administrative regulations promulgated." Therefore, once the regulations are finalized you will be required to register within sixty (60) days with this office.

2. When will the administrative regulations be promulgated and finalized?

The process for completion of the regulations is unknown at this time and could take anywhere from one (1) month to six (6) months to complete.

3. What is the process for registering?

You will need to request a background check from the Kentucky State Police (KSP) and then submit an application for registration with the appropriate fee to the Office of Occupations and Professions.

The Office of Occupations and Professions shall not issue a certificate of registration if the name-based background check by the KSP reveals that the applicant has been convicted of, or entered a plea of guilty, and Alford plea, or a plea of no contest to a felony involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, or obtaining property by false pretenses, or a felony drug offense.

4. What is the fee for the application?

The fee is to be set by regulation which is unknown at this time.

5. How long does it take to obtain a background check from KSP?

A background check could take ten (10) days to two (2) weeks before we receive it.

6. When should I obtain my background check?

Once the regulations are promulgated and a final application is available you should request a background check and then submit your application. You will have 60 days from the effective date of the regulations to obtain the background check, submit your application to O&P and have it approved.

7. How long is my background check good for?

The KSP will issue a copy of your last background check performed within the past six (6) months. However, the Office of Occupations and Professions will require your background check to have been completed within 45 days of the receipt of your application.

8. Should the background check come directly from the KSP or can I send a copy with my application to your office?

The KSP will send your background check directly to our office for review with your application. The Office of Occupations and Professions will not accept background checks mailed directly from individuals.

9. Who do I contact for a background check?

Kentucky State Police
Criminal Identification and Records Branch
Criminal Dissemination Section
1266 Louisville Road
Frankfort, KY 40601
(502) 782-9781
Website: <http://kentuckystatepolice.org>

10. Will there be a background check form specifically for the Metal Recyclers?

Yes. The KSP are working on finalizing a form to be placed on their website for use specifically for the Metal Recyclers Registry and background check requests.

11. If the registration is in a company name, do all the employees of that company have to register and obtain a background check?

Yes. According to KRS 433.902 (b) "The application for certificate of registration shall be in the form and format determined by the Office of Occupations and Professions of the Public Protection Cabinet and shall contain at a minimum the following:

1. The name of the secondary metals recycling business;
2. The name or names of each applicant;
3. The address of each secondary metals recycling business owned by the applicant; and
4. Contact information for the purposes of KRS 433.906

12. Who are secondary metal recyclers?

According to KRS 433.900 – 433.906 "Secondary metals recycler" means:

1. Any person who is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value;
 2. Any person who has facilities for performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential monetary value, other than by the exclusive use of hand tools, by methods including but not limited to processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof; or
 3. Any recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, or collector of or dealer in articles found in ashes, garbage, or other refuse, whether a dealer, collector, or vendor operates an established place of business or an itinerant business.
- (b) "Secondary metals recycler" shall not include a municipal solid waste department or any entity which has been issued a municipal solid waste transporter license by the Kentucky

Transportation Cabinet and which gathers or obtains ferrous or nonferrous metals in a vehicle registered in Kentucky to transport solid waste.

13. Do I have to create a daily log and send it to the Kentucky State Police on a daily basis?

According to the law you will need to report daily to the sheriff and police as is described in the following section of KRS 433.904: (because of conflicting reporting requirement found in KRS Chapter 433, maybe we just refer to the current statute?)

At the close of each business day a secondary metals recycler shall make a report describing any purchases of restricted metals as defined in Section 1 of this Act, in digital format, in writing, or by other electronic means to:

- (a) The sheriff of the county in which the purchase transaction was made by a secondary metals recycler and the sheriff of the county where the secondary metals recycler is located; and
- (b) The police department of the city, county, charter county government, urban-county government, consolidated local government, or unified local government in which the purchase transaction was made and the police department of the city, county, charter county government, urban-county government, consolidated local government, or unified local government in which the secondary metals recycler is located.

14. Are we required to use the reporting form on the KSP website or can we use our own spreadsheet?

This has been undecided and presented to the KSP legal office for review.

15. Define which copper wire is restricted?

According to KRS 433.900(5)(h):

Condensing or evaporating coils made from copper, aluminum, or aluminum-copper, including the tubing or rods from a heating or air conditioning unit that is not from a window air conditioning unit or automobile air conditioning unit;

16. What constitutes a bill of sale?

A bill of sale is a legal document made by a 'seller' to a purchaser, reporting that on a specific date, at a specific locality, and for a particular sum of money or other 'value received', the seller sold to the purchaser a specific item of personal, or parcel of real, property of which he had lawful possession. It is a written instrument which evidences the transfer of title to personal property from the vendor, seller, to the vendee, buyer.

18. Can we still accept cash for non-restricted metals?

According to KRS 433.904 cash transactions are prohibited for restricted metals. There is no information on non-restricted metals as written in the current statutes.

19. If I buy from an individual who is employed by a company/business, whose information do I take for the daily log which is required?

You would obtain the individual's information.

20. Do the "fly by night" fixed businesses of silver and gold fall under the new law?

According to KRS 433.900 (6)(a) regarding the definition of secondary metals recycler the applicant is, "Any person who is engaged in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous or nonferrous metals are converted into raw material products consisting of prepared grades and having existing or potential monetary value."

21. Who do I file a complaint with?

Complaints should be directed to the Attorney General's Office for review.

22. When do I renew my registration?

Your registration will renew on an annual basis with the Office of Occupations and Professions and will be based on the date your license was issued.

23. What is the role of the Office of Occupation and Professions?

Secondary metals recyclers shall obtain a certificate of registration from the Office of Occupations and Professions. Qualified persons for registration with the Secondary Metals Recyclers will be required to submit an application, pay an application fee, and be subject to renewal of his/or her registration each year with the office.

24. What is the role of the Attorney General's Office?

The Attorney General shall have concurrent jurisdiction with the Commonwealth attorneys and county attorneys in the investigation and prosecution of offenses under KRS 433.890 to 433.896 and Sections 1 to 4 and Section 5 of this Act.

25. What is the role of the local sheriff and local police?

Businesses registered with the Office of Occupations and Professions will be required at the close of each business day to make a report describing any purchases of restricted metals as defined in Section 1 of this Act, in digital format, in writing, or by other electronic means to their local police where the registered secondary metals recycler is located and to the local sheriff's office in which the purchase transaction was made by a secondary metals recycler and to the sheriff of the county where the secondary metals recycler is located.

Question-if someone is not registered with O&P, then do they not have to follow this requirement? The bullet point would imply that-

26. What is the role of the Kentucky State Police?

Each applicant shall provide written authorization to the Department of Kentucky State Police to perform a name-based background check and release the results to the Office of Occupations and Professions.