

**LAWS AND REGULATIONS RELATING TO**  
**Registry for Secondary Metals Recyclers**



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## **DISCLAIMER**

The statutes and regulations provided in this booklet are an *unofficial* version of the Kentucky Revised Statutes and Kentucky Administrative Regulations and are intended for informational purposes only. The official or certified versions of the Kentucky Revised Statutes and Kentucky Administrative Regulations should be consulted for all matters requiring reliance on the statutory text.

For the official copies of the statutes and regulations pertaining to this profession, please visit <http://lrc.ky.gov>.

**TABLE OF CONTENTS**  
**KENTUCKY REVISED STATUTES**

KRS 433.900	Definitions for KRS 433.900 to 433.906.....	1-2
KRS 433.902	Secondary metals recycler to obtain certificate of registration from Office of Occupations and Professions—Applications—Name-based background check—Fees—Annual renewal—Display of certificate—Administrative regulations.....	2-4
KRS 433.904	Requirements for purchase of restricted metals by secondary metals recycler—Cash transactions prohibited—Payment to be made by check—Daily reports to sheriff and police—Confidentiality of information—Proof of ownership of restricted metals—Applicability.....	4-5
KRS 433.906	Secondary metals recycler to maintain equipment to receive notifications of stolen restricted metals, ferrous metals, and nonferrous metals—Change in contact information to be reported to Office of Occupations and Professions.....	6

**KENTUCKY ADMINISTRATIVE REGULATION**

forthcoming

## KENTUCKY REVISED STATUTES

### 433.900 Definitions for KRS 433.900 to 433.906.

As used in KRS 433.900 to 433.906, unless the context otherwise requires:

- (1) "Applicant" means a secondary metals recycler seeking an application for a certificate of registration with the Office of Occupations and Professions of the Public Protection Cabinet, as provided in KRS 433.902. If the secondary metals recycler is owned by a corporation, limited liability corporation, limited liability partnership, incorporated association, or any other entity organized for the purpose of engaging in business as a secondary metals recycler, "applicant" means the officers of these entities;
- (2) "Ferrous metals" means any metal containing significant quantities of iron or steel;
- (3) "Nonferrous metals" means metal not containing significant quantities of iron, including but not limited to copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys thereof;
- (4) "Name-based background check" means a statewide search of the centralized criminal history record information system by the Department of Kentucky State Police, utilizing the name, date of birth, and Social Security number of the applicant;
- (5) "Restricted metals" means any of the following metal items:
  - (a) Manhole covers;
  - (b) Electric light poles or other utility poles;
  - (c) Guardrails;
  - (d) Street signs, traffic signs, or traffic signals;
  - (e) Whole road tiles;
  - (f) Funeral markers or funeral vases;
  - (g) Railroad equipment, including but not limited to a tie plate, signal house, control box, switch plate, e-clip, or rail tie junction;
  - (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;
  - (i) Stainless steel beer kegs;
  - (j) A catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a vehicle; or
  - (k) Storm drain covers; and
- (6) (a) "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.

**Effective:** July 12, 2012

**History:** Created 2012 Ky. Acts ch. 91, sec. 1, effective July 12, 2012.

**433.902 Secondary metals recycler to obtain certificate of registration from Office of Occupations and Professions -- Application -- Name-based background check -- Fees -- Annual renewal -- Display of certificate -- Administrative regulations.**

- (1) (a) Each secondary metals recycler shall submit to a name-based background check as provided in subsection (2) of this section and 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 pursuant to this section.
- (b) The application for certificate of registration shall be in a 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.
- (c) Any person listed on an application for a certificate of registration shall be at least eighteen (18) years of age prior to the date that the application is submitted.
- (d) Any corporation, limited liability corporation, limited liability partnership, incorporated association, or any other entity engaged in business as, or organized for the

purpose of engaging in business as, a secondary metals recycler submitting an application must be organized and qualified to do business in the Commonwealth.

(e) The Office of Occupations and Professions of the Public Protection Cabinet shall charge each applicant a reasonable fee established by administrative regulation equal to the actual administrative costs of processing an application for a certificate of registration.

(f) If an applicant is the owner of more than one (1) secondary metals recycling location, the Office of Occupations and Professions of the Public Protection Cabinet shall charge a fee for each location that is no greater than the actual administrative costs of processing the application for certificate of registration. Upon approval of the application, the Office of Occupations and Professions of the Public Protection Cabinet shall issue a certificate of registration for each location.

(g) Each applicant that receives a certificate of registration from the Office of Occupations and Professions of the Public Protection Cabinet as provided in this section shall be required to pay an annual renewal fee equal to the actual administrative costs of processing the renewal of the certificate for registration.

(h) The list of secondary metals recyclers registered with the Office of Occupations and Professions of the Public Protection Cabinet as provided in this section shall be public information and available upon written request to the Office of Occupations and Professions of the Public Protection Cabinet.

- (2)
  - (a) Prior to approval of the application, the Office of Occupations and Professions of the Public Protection Cabinet shall require a name-based background check on each applicant.
  - (b) 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 of the Public Protection Cabinet.
  - (c) Any request for a name-based background check shall be on a form or through a process approved by the Department of Kentucky State Police, which may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
  - (d) The Office of Occupations and Professions of the Public Protection Cabinet shall not issue a certificate of registration to an applicant if the name-based background check results reveal that the applicant has been convicted of, or entered a plea of guilty, an Alford plea, or a plea of nolo contendere to, a felony involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, or obtaining property by false pretenses, any felony drug offense, or knowingly and intentionally violating the laws of the Commonwealth relating to registration as a secondary metals recycler.
- (3) A secondary metals recycler's certificate of registration shall be conspicuously displayed at the location of the secondary metals recycler listed on the application for certificate of

registration or at each location if the secondary metals recycler owns more than one (1) business location.

- (4) The Office of Occupations and Professions of the Public Protection Cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section.
- (5) The Office of Occupations and Professions of the Public Protection Cabinet shall not be responsible for any disciplinary action against any secondary metals recycler seeking an application for certificate of registration.

**Effective:** July 12, 2012

**History:** Created 2012 Ky. Acts ch. 91, sec. 2, effective July 12, 2012.

**433.904 Requirements for purchase of restricted metals by secondary metals recycler -- Cash transactions prohibited -- Payment to be made by check -- Daily reports to sheriff and police -- Confidentiality of information -- Proof of ownership of restricted metals -- Applicability.**

- (1)
  - (a) A secondary metals recycler shall not enter into any cash transaction for the purchase of any restricted metals as defined in KRS 433.900.
  - (b) Payment by a secondary metals recycler for the purchase of restricted metals shall be made by check issued to the seller and payable to the seller.
  - (c) Each check for payment shall be mailed by the secondary metals recycler directly to the street address of the seller. Payment shall not be mailed to a post office box.
  - (d) Each check shall be mailed by the secondary metals recycler to the seller no sooner than one (1) day after the purchase transaction.
- (2) At the close of each business day, a secondary metals recycler shall make a report describing any purchases of restricted metals as defined in KRS 433.900, 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.

The information required by this subsection shall remain confidential, and this information shall include the following disclosure: "This information is for the designated recipient only and may contain privileged, proprietary, or otherwise private information. If you are not the intended recipient of this information, you are hereby notified that any use, distribution, copying, or disclosure of this communication is strictly prohibited. If

you have received this information in error, please notify the sender and purge the communication immediately."

- (3) A secondary metals recycler shall not purchase any restricted metals without obtaining reasonable proof that the seller owns the property, such as a receipt or bill of sale, or reasonable proof that the seller is an employee, agent, or contractor of a governmental entity, utility company, cemetery, railroad, manufacturer, or other person, business, or entity owning the property and that the seller is authorized to sell the item of restricted metal. A secondary metals recycler may retain on file an official document on the letterhead of the person, business, or entity indicating that the seller is authorized to sell the restricted metal item. Such a letter must be dated within three hundred sixty-five (365) days of the transaction.
- (4) The requirements for the purchase of restricted metals according to the provisions of subsections (1) and (2) of this section shall also apply to the purchase of copper wire or coaxial cable belonging to a utility or cable provider, such as communication, transmission, distribution, or service wire, by a secondary metals recycler.
- (5) The provisions of subsections (1) and (3) of this section shall not apply to nonreturnable used beverage containers.
- (6) The provisions of this section shall not apply to the following:
  - (a) The purchase of restricted metals from a secondary metals recycler;
  - (b) The purchase of restricted metals from an organization, corporation, or association registered with the Commonwealth as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organization;
  - (c) The purchase of restricted metals pursuant to a written contract, from a manufacturing, industrial, or other commercial vendor that generates restricted metals in the ordinary course of business; or
  - (d) A motor vehicle, aircraft, or other item that is licensed by the state or federal government pursuant to a legitimate transfer of title or issuance of a junk title.

**Effective:** July 12, 2012

**History:** Created 2012 Ky. Acts ch. 91, sec. 3, effective July 12, 2012.

**Legislative Research Commission Note** (7/12/2012). Under the authority of KRS 7.136(1), the Reviser of Statutes has altered the format of the text in subsection (2) of this statute during codification in order to correct a manifest clerical or typographical error. The words in the text were not changed.

**433.906 Secondary metals recycler to maintain equipment to receive notifications of stolen restricted metals, ferrous metals, and nonferrous metals -- Change in contact information to be reported to Office of Occupations and Professions.**

- (1) A secondary metals recycler shall maintain at its place of business, or otherwise have immediate access to, an e-mail address, facsimile, or other equipment of similar function on which notifications of stolen restricted metals, ferrous metals, and nonferrous metals may be expeditiously received from law enforcement officials or electronic metal theft notification systems.
  
- (2) The equipment shall be operable at all times during the secondary metal recycler's customary business hours. The secondary metals recycler shall notify the Office of Occupations and Professions of the Public Protection Cabinet within two (2) days of any change to the contact information used for the purposes of this section.

**Effective:** July 12, 2012

**History:** Created 2012 Ky. Acts ch. 91, sec. 4, effective July 12, 2012.