

CONFERENCE COMMITTEE SUBSTITUTE

FOR

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 157

AND

SENATE BILL NO. 102

AN ACT

To repeal sections 407.300, 407.302, 407.303, and 407.485, RSMo, and to enact in lieu thereof five new sections relating to the disposition of personal property, with penalty provisions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI,
AS FOLLOWS:

1 Section A. Sections 407.300, 407.302, 407.303, and 407.485,
2 RSMo, are repealed and five new sections enacted in lieu thereof,
3 to be known as sections 407.292, 407.300, 407.302, 407.303, and
4 407.485, to read as follows:

5 407.292. 1. As used in this section, the following words
6 and terms have the following meanings, unless the context clearly
7 indicates otherwise:

8 (1) "Business combination", the same meaning as such term
9 is defined in section 351.459;

10 (2) "Buyer of gold, silver, or platinum" or "buyer", an
11 individual, partnership, association, corporation, or business
12 entity, who or which purchases gold, silver, or platinum from the

1 general public for resale or refining, or an individual who acts
2 as agent for the individual, partnership, association,
3 corporation, or business entity for the purchases. The term does
4 not include financial institutions licensed under federal or
5 state banking laws, the purchaser of gold, silver, or platinum
6 who purchases from a seller seeking a trade-in or allowance, and
7 the purchaser of gold, silver, or platinum for his or her own use
8 or ownership and not for resale or refining;

9 (3) "Gold", items containing or being of gold including,
10 but not limited to, jewelry. The term does not include coins,
11 ingots, or bullion or articles containing less than five percent
12 gold by weight;

13 (4) "Platinum", items containing or being of platinum, but
14 shall only include jewelry. The term does not include coins,
15 ingots, bullion, or catalytic converters or articles containing
16 less than five percent platinum by weight;

17 (5) "Silver", items containing or being of silver
18 including, but not limited to, jewelry. The term does not
19 include coins, ingots, bullion, or photographic film or articles
20 containing less than five percent silver by weight;

21 (6) "Weighing device", shall only include a device that is
22 inspected and approved by the weight and measures program within
23 the department of agriculture.

24 2. The buyer shall completely, accurately, and legibly
25 record and photograph every transaction on a form provided by and
26 prepared by the buyer. The record of every transaction shall
27 include the following:

28 (1) A copy of the driver's license or photo identification

1 issued by the state or by the United States government or agency
2 thereof to the person from whom the material is obtained;

3 (2) The name, current address, birth date, sex, and a
4 photograph of the person from whom the material is obtained, if
5 not included or are different from the identification required in
6 subdivision (1) of this subsection;

7 (3) The seller shall be required to sign the form on which
8 is recorded the information required by this section;

9 (4) An accurate description of the property purchased;

10 (5) The time and date of the transaction shall be recorded
11 at the time of the transaction. Records of transactions shall be
12 maintained by the buyer in gold, silver, or platinum for a period
13 of one year and shall be available for inspection by any law
14 enforcement official of the federal government, state,
15 municipality, or county. No buyer shall accept any premelted
16 gold, silver, or platinum, unless it is part of the design of an
17 item of jewelry. Each item of gold, silver, or platinum
18 purchased by a buyer in gold, silver, or platinum shall be
19 retained in an unaltered condition for five full working days.
20 It shall be the buyer's duty to inform law enforcement if the
21 buyer has any reason to believe an item purchased may have been
22 obtained illegally by a seller.

23 3. Records of buyer transactions may be made available,
24 upon request, to law enforcement officials, governmental
25 entities, and any other concerned entities or persons.

26 4. When a purchase is made from a minor, the written
27 authority of the parent, guardian, or person in loco parentis
28 authorizing the sale shall be attached and maintained with the

1 record of transaction described in subsection 2 of this section.

2 5. (1) When a weighing device is used to purchase gold,
3 silver, or platinum, there shall be posted, on a conspicuous sign
4 located close to the weighing device, a statement of prices for
5 the gold, silver, or platinum being purchased as a result of the
6 weight determination.

7 (2) The statement of prices shall include, but not be
8 limited to, the following in terms of the price per troy ounce:

9 (a) The price for twenty-four karat, eighteen karat,
10 fourteen karat, and ten karat gold;

11 (b) The price for pure silver and sterling silver;

12 (c) The price for platinum.

13 (3) When the weight determination is expressed in metric
14 units, a conversion chart to troy ounces shall be prominently
15 displayed so as to facilitate price comparison. The metric
16 equivalent of a troy ounce is 31.10348 grams.

17 6. A weighing device used in the purchase of gold, silver,
18 or platinum shall be positioned in such a manner that its
19 indications may be accurately read and the weighing operation
20 observed from a position which may be reasonably assumed by the
21 buyer and the seller. A verbal statement of the result of the
22 weighing shall be made by the person operating the device and
23 recorded on the buyer's record of transaction.

24 7. The purchase of an item of gold, silver, or platinum by
25 a buyer in gold, silver, or platinum not in accordance with this
26 section, shall constitute a violation of this section and the
27 buyer may be subject to a fine not to exceed one thousand
28 dollars.

1 8. This section shall not apply to a pawnbroker, as defined
2 in section 367.011, or a scrap metal dealer, as provided in
3 sections 407.300 to 407.305.

4 407.300. 1. Every purchaser or collector of, or dealer in,
5 junk, scrap metal, or any secondhand property shall keep a
6 register containing a written or electronic record for each
7 purchase or trade in which each type of metal subject to the
8 provisions of this section is obtained for value. There shall be
9 a separate record for each transaction involving any:

10 (1) Copper, brass, or bronze;

11 (2) Aluminum wire, cable, pipe, tubing, bar, ingot, rod,
12 fitting, or fastener; [or]

13 (3) Material containing copper or aluminum that is
14 knowingly used for farming purposes as farming is defined in
15 section 350.010; whatever may be the condition or length of such
16 metal; or

17 (4) Catalytic converter.

18 2. The record required by this section shall contain the
19 following data:

20 (1) A copy of the driver's license or photo identification
21 issued by the state or by the United States government or agency
22 thereof to the person from whom the material is obtained[, which
23 shall contain a];

24 (2) The current address, gender, birth date, and a
25 photograph of the person from whom the material is obtained[,
26 and] if not included or are different from the identification
27 required in subdivision (1) of this subsection;

28 (3) The date, time, and place of [and] the transaction;

1 (4) The license plate number of the vehicle used by the
2 seller during the transaction;

3 (5) A full description of [each such purchase or trade] the
4 metal, including the [quantity by] weight [thereof] and purchase
5 price.

6 [2.] 3. The records required under this section shall be
7 maintained for a minimum of twenty-four months from when such
8 material is obtained and shall be available for inspection by any
9 law enforcement officer.

10 [3.] 4. Anyone convicted of violating this section shall be
11 guilty of a class [A] B misdemeanor.

12 [4.] 5. This section shall not apply to any of the
13 following transactions:

14 (1) Any transaction for which the total amount paid for all
15 regulated scrap metal purchased or sold does not exceed fifty
16 dollars, unless the scrap metal is a catalytic converter;

17 (2) Any transaction for which the seller, including a farm
18 or farmer, has an existing business relationship with the scrap
19 metal dealer and is known to the scrap metal dealer making the
20 purchase to be an established business or political subdivision
21 that operates a business with a fixed location that can be
22 reasonably expected to generate regulated scrap metal and can be
23 reasonably identified as such a business; or

24 (3) Any transaction for which the type of metal subject to
25 subsection 1 of this section is a minor part of a larger item,
26 except for equipment used in the generation and transmission of
27 electrical power or telecommunications.

28 407.302. 1. No scrap yard shall purchase any metal that

1 can be identified as belonging to a public or private cemetery,
2 [or to a] political subdivision [or], telecommunications
3 provider, cable provider, wireless service or other
4 communications-related provider, electrical cooperative, water
5 utility, municipal utility, or [a] utility regulated under
6 chapter 386 or 393, including bleachers, guardrails, signs,
7 street and traffic lights or signals, and manhole cover or
8 covers, whether broken or unbroken, from anyone other than the
9 cemetery or monument owner, political subdivision,
10 telecommunications provider, cable provider, wireless service or
11 other communications-related provider, electrical cooperative
12 [or], water utility, municipal utility, utility regulated under
13 chapter 386 or 393, or manufacturer of the metal or item
14 described in this section unless such person is authorized in
15 writing by the cemetery or monument owner, political subdivision,
16 [or] telecommunications provider, cable provider, wireless
17 service or other communications-related provider, electrical
18 cooperative, water utility, municipal utility, utility regulated
19 under chapter 386 or 393, or manufacturer to sell the metal.

20 2. Anyone convicted of violating this section shall be
21 guilty of a class B misdemeanor.

22 407.303. 1. Any scrap metal dealer paying out an amount
23 that is five hundred dollars or more shall make such payment [in
24 the form of a check or shall pay by any method in which a
25 financial institution makes and retains a record of the
26 transaction] by issuing a prenumbered check drawn on a regular
27 bank account in the name of the licensed scrap metal dealer and
28 with such check made payable to the person documented as the

1 seller in accordance with this section, or by using a system for
2 automated cash or electronic payment distribution which
3 photographs or videotapes the payment recipient and identifies
4 the payment with a distinct transaction in the register
5 maintained in accordance with this chapter.

6 2. Any scrap metal dealer that purchases scrap metal from a
7 seller and pays in the form of cash is required to obtain a copy
8 of the seller's driver's license or nondriver's license if the
9 metal is copper or a catalytic converter. This section shall not
10 apply to any transaction for which the seller has an existing
11 business relationship with the scrap metal dealer and is known to
12 the scrap metal dealer making the purchase to be an established
13 business or political subdivision that operates a business with a
14 fixed location that can be reasonably expected to generate
15 regulated scrap metal and can be reasonably identified as such a
16 business.

17 3. Any person who knowingly and willfully violates the
18 provisions of sections 407.300 to 407.303 shall be guilty of a
19 class B misdemeanor and a fine of up to five hundred dollars for
20 the first offense, a class A misdemeanor and a fine of up to one
21 thousand dollars for the second offense, and the revocation of
22 any and all business licenses that are held with the state for
23 the third offense.

24 4. Any person in violation of sections 407.300 to 407.303
25 by selling stolen scrap metal shall be responsible for
26 consequential damages related to obtaining the scrap metal.

27 407.485. 1. It shall be an unfair business practice in
28 violation of section 407.020 for a for-profit entity or natural

1 person to collect [donations of] unwanted household items via a
2 public receptacle and resell the [donated] deposited items for
3 profit unless the [donation] deposited item receptacle
4 prominently displays a statement in bold letters at least two
5 inches high and two inches wide stating: "[DONATIONS] DEPOSITED
6 ITEMS ARE NOT FOR CHARITABLE ORGANIZATIONS AND WILL BE RESOLD FOR
7 PROFIT. DEPOSITED ITEMS ARE NOT TAX DEDUCTIBLE".

8 2. It shall be an unfair business practice in violation of
9 section 407.020 for a for-profit entity or natural person to
10 collect donations of unwanted household items via a public
11 receptacle and resell the donated items where some or all of the
12 proceeds from the sale are directly given to a not-for-profit
13 entity unless the donation receptacle prominently displays a
14 statement in bold letters at least two inches high and two inches
15 wide stating: "DONATIONS TO THE FOR-PROFIT COMPANY: (name of
16 the company) ARE SOLD FOR PROFIT AND (% of proceeds donated to
17 the not-for-profit) % OF ALL PROCEEDS ARE DONATED TO (name of the
18 nonprofit beneficiary organization's name)."

19 3. It shall be an unfair business practice in violation of
20 section 407.020 for a for-profit entity or natural person to
21 collect donations of unwanted household items via a public
22 receptacle and resell the donated items, where such for-profit
23 entity is paid a flat fee, not contingent upon the proceeds
24 generated by the sale of the collected goods, and one hundred
25 percent of the proceeds from the sale of the items are given
26 directly to the not-for-profit, unless the donation receptacle
27 prominently displays a statement in bold letters at least two
28 inches high and two inches wide stating: "THIS DONATION

1 RECEPTACLE IS OPERATED BY THE FOR-PROFIT ENTITY: (name of the
2 for-profit/individual) ON BEHALF of (name of the nonprofit
3 beneficiary organization's name)".

4 4. It shall be an unfair business practice in violation of
5 section 407.020 for a not-for-profit entity to collect donations
6 of unwanted household items via a public receptacle and resell
7 the donated items unless the donation receptacle prominently
8 displays a statement in bold letters at least two inches high and
9 two inches wide stating: "THIS RECEPTACLE IS OWNED AND OPERATED
10 BY THE NOT-FOR-PROFIT ENTITY: (name of the not-for-
11 profit/charity) AND (% of proceeds donated to the not-for-profit)
12 % OF THE PROCEEDS FROM THE SALE OF ANY DONATIONS SHALL BE USED
13 FOR THE CHARITABLE MISSION OF (charity name/charitable cause)".

14 [4.] 5. The term "bold letters" as used in subsections 1,
15 2, and 3 of this section shall mean a primary color on a white
16 background so as to be clearly visible to the public.

17 [5.] 6. Nothing in this section shall apply to paper,
18 glass, or aluminum products that are donated for the purpose of
19 being recycled in the manufacture of other products.

20 [6.] 7. Any entity which, on or before June 1, 2009, has
21 distributed one hundred or more separate public receptacles
22 within the state of Missouri to which the provisions of
23 subsection 2 or 3 of this section would apply shall be deemed in
24 compliance with the signage requirements imposed by this section
25 for the first six months after August 28, 2009, provided such
26 entity has made or is making good faith efforts to bring all
27 signage in compliance with the provisions of this section and all
28 such signage is in complete compliance no later than six months

1 after August 28, 2009.

2 8. All receptacles described in this section shall
3 conspicuously display the name, address, and telephone number of
4 the owner and operator of the receptacle. The owner or operator
5 of the receptacle shall maintain permission to place the
6 receptacle on the property from the property owner or his or her
7 agent where the receptacle is located. Such permission shall be
8 in writing and clearly identify the owner of the receptacle and
9 property owner or his or her agent in addition to the nature of
10 the collections and where proceeds will be accrued. Failure to
11 secure such permission shall constitute an unfair business
12 practice in addition to any other statutory conditions. Unless
13 otherwise agreed upon in writing, the property owner or his or
14 her agent may remove the receptacle. Any charges incurred in
15 such removal shall be the responsibility of the owner of the
16 receptacle. Unless the receptacle owner pays such charges within
17 thirty calendar days of the sending of a written certified letter
18 from the property owner stating his or her intent to remove the
19 receptacle, the receptacle owner shall relinquish any right to
20 the receptacle. If the receptacle does not conspicuously display
21 the name, address, and telephone number of the owner and operator
22 of the receptacle, the receptacle shall be considered abandoned
23 property and may be destroyed or permanently possessed by the
24 property owner or their agent.

25 9. Any owner and operator of a receptacle that does not
26 display the address of the owner and operator, but does display
27 the website of the owner and operator, shall make the address
28 easily accessible on such website for the property owner to send

1 the letter specified in subsection 8 of this section. The
2 provisions of this subsection shall expire on September 1, 2014.

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11 David Sater

_____ Don Phillips