

FIRST REGULAR SESSION

SENATE BILL NO. 492

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

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ADRIANE D. CROUSE, Secretary.

2381S.01I

AN ACT

To repeal sections 407.300 and 407.302, RSMo, and to enact in lieu thereof six new sections relating to the resale of scrap metals, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 407.300 and 407.302, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 407.296, 407.297, 407.298, 407.299, 407.300, and 407.302, to read as follows:

407.296. As used in sections 407.296 to 407.303, the following terms mean:

(1) "Catalytic converter", a device designed for use in a vehicle for purposes of chemically converting harmful exhaust gases, produced by the internal combustion engine, into harmless carbon dioxide and water vapor;

(2) "Copper property", any insulated copper wire, copper tubing, copper guttering and downspouts, or any item composed completely of copper;

(3) "Copper property peddler", any person who sells or attempts to sell copper property and who is not either a licensed or certified tradesperson or does not hold a business license issued by a city, municipality, or county;

(4) "Ferrous metals", metals which contain iron and are magnetic;

(5) "HVAC component", any air conditioner evaporator coil or condenser used in connection with a residential, commercial, or industrial building;

(6) "Nonferrous metals", metals which do not contain significant

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 amounts of iron and are not magnetic, such as aluminum, brass, lead,
20 zinc, and copper;

21 (7) "Scrap metal dealer", any entity, including any person, firm,
22 company, partnership, association, or corporation, located in this state
23 who purchases products containing ferrous or nonferrous metals for
24 recycling;

25 (8) "Vehicle repair shop", any commercial facility engaged in the
26 repair or replacement of car, truck, van, motorcycle, or other motorized
27 mechanical and exhaust components, whether as a primary or ancillary
28 activity.

407.297. 1. No person shall engage in the business of a copper
2 property peddler without first obtaining a license from the
3 municipality or county and complying with the provisions of this
4 section.

5 2. Every copper property peddler shall pay a license fee of forty-
6 five dollars per year. The license shall expire June thirtieth of each
7 year. Each license shall bear a separate number, the name and address
8 of the licensee, and telephone number of the licensee. The license shall
9 be available only to the person in whose name it is issued and shall not
10 be used by any person other than the original licensee. Any licensee
11 who shall permit his or her license to be used by any other person, and
12 any other person who shall use a license granted to another person,
13 shall each be deemed guilty of a violation of this section.

14 3. Application for a license under this section shall be made in
15 writing to the municipality or county and shall state the name, age,
16 description, and address of the applicant. The application shall include
17 a sworn statement setting forth each and every conviction of the
18 applicant for violations of federal, state, or city laws, statutes, or
19 ordinances. In addition, the applicant shall, at his or her expense,
20 obtain a complete copy of the person's police record as indicated by the
21 records of the city police department and submit such record as part
22 of the application. No license shall be granted to any person who has
23 been convicted of burglary, robbery, stealing, theft, or possession or
24 receiving stolen goods in the last twenty-four months prior to the date
25 of the application.

26 4. The municipality or county shall have the power and authority
27 to revoke any license under this section for any willful violation by a

28 copper property peddler provided the licensee has been notified in
29 writing at his or her place of business of the violations complained of
30 and shall have been afforded a reasonable opportunity to having a
31 hearing.

407.298. 1. A scrap metal dealer shall pay for any copper
2 property or HVAC component as follows:

3 (1) A scrap metal dealer shall not pay cash for copper property
4 or HVAC component unless the seller presents or the scrap metal dealer
5 has on file a valid business license, valid trade license, or trade
6 certificate;

7 (2) Payment to any seller of copper property or HVAC component
8 who presents a valid copper property peddler's license shall be by
9 check. Checks shall be written to the licensee or certified tradesperson
10 and may be delivered to the seller at the time of the sale;

11 (3) Payment to any seller of copper property or HVAC component
12 who does not present or have on file a valid business license, valid
13 trade license, or certificate or valid copper peddler's license shall be by
14 check. Checks shall be payable only to the person whose name was
15 recorded as delivering the copper property or HVAC component to the
16 scrap metal dealer; provided, however, that if such person is delivering
17 the copper property or HVAC component on behalf of a governmental
18 entity or a nonprofit or for profit business entity, the check may be
19 payable to such entity. All checks issued to a seller of copper property
20 or HVAC component who does not present or have on file a valid
21 business license, valid trade license, or valid copper peddler's license
22 shall be mailed via the United States mail to the address provided on
23 the driver's license or picture identification provided by the seller;

24 (4) Checks shall not be converted to cash by a scrap metal dealer
25 or by any related entity.

26 2. This section shall not apply to any transaction for which the
27 seller has an existing business relationship with the scrap metal dealer
28 and is known to the scrap metal dealer making the purchase to be an
29 established business or political subdivision that operates a business
30 with a fixed location that can be reasonably expected to generate
31 regulated scrap metal and can be reasonably identified as such a
32 business.

407.299. 1. If a scrap metal dealer has actual knowledge that

2 copper or HVAC component in its possession has been stolen, the dealer
3 shall notify the local police department via 911 and provide any
4 information in its possession relative to the seller or the sale
5 transaction.

6 2. Following notice from the scrap metal dealer or if the police
7 department has reasonable suspicion that the scrap metal dealer is in
8 possession of stolen property, the police department may issue to the
9 scrap metal dealer a written notice placing a ten-day hold order on the
10 property.

11 3. (1) It is unlawful for any person to knowingly present for sale
12 to a scrap metal dealer stolen ferrous or nonferrous metal, including
13 but not limited to, copper property or HVAC components. Any person
14 who knowingly presents for sale stolen ferrous or nonferrous metal
15 shall be guilty of an offense for each item of scrap metal and shall upon
16 conviction be subject to a fine of not less than five hundred dollars or
17 by imprisonment for a period not to exceed ninety days or both fine
18 and imprisonment.

19 (2) It is unlawful for a person to willfully and maliciously cut,
20 mutilate, deface, or otherwise injure any personal or real property
21 owned by a third party, including any fixtures or improvements, for the
22 purpose of obtaining ferrous or nonferrous metals in any amount. Any
23 person who willfully and maliciously cuts, mutilates, defaces, or
24 otherwise injures any personal or real property owned by a third party
25 for the purpose of obtaining ferrous or nonferrous metal shall be guilty
26 of an offense for each item of scrap metal derived from such actions
27 and shall upon conviction be subject to a fine of not less than five
28 hundred dollars or by imprisonment for a period not to exceed ninety
29 days or both fine and imprisonment.

30 (3) In addition to the penalties described in this subsection, a
31 copper property peddler's license shall be revoked if he or she
32 knowingly violates sections 407.296 to 407.300.

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

- 7 (1) Copper, brass, or bronze;
- 8 (2) Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener;
- 9 (3) Material containing copper or aluminum that is knowingly used for
- 10 farming purposes as farming is defined in section 350.010; whatever may be the
- 11 condition or length of such metal;
- 12 (4) Catalytic converter; or
- 13 (5) Motor vehicle, heavy equipment, or tractor battery.

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

- 15 (1) A copy of the driver's license or photo identification issued by the state
- 16 or by the United States government or agency thereof to the person from whom
- 17 the material is obtained;
- 18 (2) The current address, gender, **race, sex**, birth date, and a photograph
- 19 of the person from whom the material is obtained if not included or are different
- 20 from the identification required in subdivision (1) of this subsection;
- 21 (3) The date, time, and place of the transaction;
- 22 (4) The license plate number of the vehicle used by the seller during the
- 23 transaction;
- 24 (5) A full description of the material, including the weight and purchase
- 25 price, **any business license number or the copper property peddler's**
- 26 **license (including the name of the issuing municipality), amount paid,**
- 27 **and license plate number of the vehicle delivering the material. The**
- 28 **information shall be completed in full without any missing data or**
- 29 **information described in this subsection.**

30 3. The records required under this section shall be maintained for a

31 **[minimum of twenty-four months] period of three years** from when such

32 material is obtained and shall be available for inspection by any law enforcement

33 officer. **All records required under this section shall be photocopied and**

34 **maintained for three years from the date of the transaction.**

35 4. **Any person selling copper property who holds a valid business**

36 **license or copper property peddler's license shall present a copy of**

37 **such license to the scrap metal dealer.**

38 5. **A transaction receipt shall be issued and consist of the same**

39 **information required under subsection 1 of this section and shall**

40 **include the following statement: "By accepting payment from (insert**

41 **name of scrap metal dealer), seller represents and warrants that the**

42 **material documented by this receipt is owned by or was lawfully**

43 **obtained, and the seller has the legal right to sell the material to (insert**
44 **name of scrap metal dealer)". If the seller provides any documentation**
45 **indicating that the person is in lawful possession of the scrap metal, or**
46 **was otherwise lawfully acquired, including without limitation a bill of**
47 **sale or receipt, the scrap metal dealer shall photocopy such**
48 **documentation and maintain it with the transaction information**
49 **otherwise required by this section.**

50 **6. A scrap metal dealer, the agent employee, or representative of**
51 **a scrap metal dealer shall not disclose personal information concerning**
52 **a customer under this section without the consent of the customer**
53 **unless the disclosure is made in response to a request from a law**
54 **enforcement agency. A scrap metal dealer shall implement reasonable**
55 **safeguards:**

56 **(1) To protect the security of the personal information required**
57 **under subsection 1 of this section; and**

58 **(2) To prevent unauthorized access to or disclose of that**
59 **information.**

60 **7. A scrap metal dealer shall not be liable to any customer for a**
61 **disclosure of personal information if the scrap metal dealer has met the**
62 **requirements set forth in subsection 5 of this section.**

63 **[4.] 8. Anyone convicted of violating this section shall be guilty of a class**
64 **B misdemeanor.**

65 **[5.] 9. This section shall not apply to any of the following transactions:**

66 **(1) Any transaction for which the total amount paid for all regulated**
67 **material purchased or sold does not exceed fifty dollars, unless the material is a**
68 **catalytic converter;**

69 **(2) Any transaction for which the seller, including a farm or farmer, has**
70 **an existing business relationship with the scrap metal dealer and is known to the**
71 **scrap metal dealer making the purchase to be an established business or political**
72 **subdivision that operates a business with a fixed location that can be reasonably**
73 **expected to generate regulated scrap metal and can be reasonably identified as**
74 **such a business; or**

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

78 **10. Hours of retail operation for scrap metal dealers shall be no**

79 **earlier than 6:00 a.m. and no later than 7:00 p.m.**

80 **11. No scrap metal dealer shall purchase or otherwise receive**
81 **from a person under the age of eighteen any ferrous or nonferrous**
82 **metal other than aluminum cans.**

83 **12. A scrap metal dealer shall register with or subscribe to the**
84 **alert system established by the Institute of Scrap Recycling Industries,**
85 **Inc., referred to as the ISRI Scrap Theft Alert system and maintain that**
86 **registration or subscription.**

407.302. 1. No scrap yard shall purchase any metal that can be identified
2 as belonging to a public or private cemetery, political subdivision,
3 telecommunications provider, cable provider, wireless service or other
4 communications-related provider, electrical cooperative, water utility, municipal
5 utility, or utility regulated under chapter 386 or 393, including bleachers,
6 guardrails, signs, street and traffic lights or signals, **certain cables used in**
7 **high voltage transmission lines, historical markers,** and manhole cover or
8 covers, whether broken or unbroken, from anyone other than the cemetery or
9 monument owner, political subdivision, telecommunications provider, cable
10 provider, wireless service or other communications-related provider, electrical
11 cooperative, water utility, municipal utility, utility regulated under chapter 386
12 or 393, or manufacturer of the metal or item described in this section unless such
13 person is authorized in writing by the cemetery or monument owner, political
14 subdivision, telecommunications provider, cable provider, wireless service or other
15 communications-related provider, electrical cooperative, water utility, municipal
16 utility, utility regulated under chapter 386 or 393, or manufacturer to sell the
17 metal.

18 **2. No person shall knowingly sell or attempt to sell to a scrap**
19 **metal dealer and no scrap metal dealer shall knowingly and willfully**
20 **purchase the following:**

21 **(1) New materials, such as those used in construction, or**
22 **equipment or tools used by contractors unless accompanied by proof of**
23 **ownership or authorization to sell the materials on behalf of the owner;**

24 **(2) HVAC components unless accompanied by written**
25 **authorization from the business or property owner evidencing the**
26 **seller has the legal right to sell the material;**

27 **(3) Catalytic converters unless purchased from a vehicle repair**
28 **business.**

29 **3.** Anyone convicted of violating this section shall be guilty of a class B
30 misdemeanor.

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