

SENATE AMENDMENT NO. _____

Offered by _____ of _____

Amend SS/Senate Bill No. 46, Page 5, Section 307.380, Line 32,

2 by inserting after all of said line the following:

3 "407.296. As used in sections 407.296 to 407.303, the
 4 following terms mean:

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

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

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

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

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

21 (6) "Nonferrous metals", metals which do not contain
 22 significant amounts of iron and are not magnetic, such as
 23 aluminum, brass, lead, zinc, and copper;

24 (7) "Scrap metal dealer", any entity, including any
 25 person, firm, company, partnership, association, or

26 corporation, located in this state who purchases products
27 containing ferrous or nonferrous metals for recycling;

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

32 407.297. 1. No person shall engage in the business of
33 a copper property peddler in a city not within a county
34 without first obtaining a license from the governing
35 municipality and complying with the provisions of this
36 section.

37 2. The municipality issuing the license shall
38 determine the license fee. The license shall expire June
39 thirtieth of each year. Each license shall bear a separate
40 number, the name and address of the licensee, and telephone
41 number of the licensee. The license shall be available only
42 to the person in whose name it is issued and shall not be
43 used by any person other than the original licensee. Any
44 licensee who shall permit his or her license to be used by
45 any other person, and any other person who shall use a
46 license granted to another person, shall each be deemed
47 guilty of a violation of this section.

48 3. Application for a license under this section shall
49 be made in writing to the governing municipality and shall
50 state the name, age, description, and address of the
51 applicant. The application shall include a sworn statement
52 setting forth each and every conviction of the applicant for
53 violations of federal, state, or municipal laws, statutes,
54 or ordinances. In addition, the applicant shall, at his or
55 her expense, obtain a complete copy of the applicant's
56 criminal record as indicated by the records of a law
57 enforcement agency and submit such record as part of the
58 application. No license shall be granted to any person who

59 has been convicted of burglary, robbery, stealing, theft, or
60 possession or receiving stolen goods in the last twenty-four
61 months prior to the date of the application.

62 4. The municipality shall have the power and authority
63 to revoke any license under this section for any willful
64 violation of this section, section 407.298, or section
65 407.299 by a copper property peddler, provided the licensee
66 has been notified in writing at his or her place of business
67 of the violations complained of and shall have been afforded
68 a reasonable opportunity to have a hearing.

69 407.298. 1. A scrap metal dealer shall pay for any
70 copper property or HVAC component as follows:

71 (1) A scrap metal dealer shall not pay cash for any
72 copper property or HVAC component unless the seller
73 presents, or the scrap metal dealer has on file, a valid
74 business license, or a valid trade license or trade
75 certificate recognized by a national trade association or
76 organization;

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

82 (3) Payment to any seller of copper property or HVAC
83 component who does not present or have on file a valid
84 business license, valid trade license, or certificate or
85 valid copper peddler's license shall be by check. Checks
86 shall be payable only to the person whose name was recorded
87 as delivering the copper property or HVAC component to the
88 scrap metal dealer; provided, however, that if such person
89 is delivering the copper property or HVAC component on
90 behalf of a governmental entity or a nonprofit or for profit
91 business entity, the check may be payable to such entity.

92 All checks issued to a seller of copper property or HVAC
93 component who does not present or have on file a valid
94 business license, valid trade license, or valid copper
95 peddler's license shall be mailed via the United States mail
96 to the address provided on the driver's license or photo
97 identification issued by the state provided by the seller;

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

100 2. This section shall not apply to any transaction for
101 which the seller has an existing business relationship with
102 the scrap metal dealer and is known to the scrap metal
103 dealer making the purchase to be an established business
104 with a fixed location that can be reasonably expected to
105 generate regulated scrap metal and can be reasonably
106 identified as such a business or is a political subdivision.

107 407.299. 1. If a scrap metal dealer has actual
108 knowledge that copper property or a HVAC component in its
109 possession has been stolen, the dealer shall notify a law
110 enforcement agency via 911 and provide any information in
111 its possession relative to the seller or the sale
112 transaction.

113 2. Following notice from the scrap metal dealer, or if
114 the law enforcement agency has reasonable suspicion that the
115 scrap metal dealer is in possession of stolen property, the
116 law enforcement agency may issue to the scrap metal dealer a
117 written notice placing a ten-day hold order on the property.

118 3. (1) It is unlawful for any person to knowingly
119 present for sale to a scrap metal dealer stolen ferrous or
120 nonferrous metal, including but not limited to, copper
121 property or HVAC components. Any person who knowingly
122 presents for sale stolen ferrous or nonferrous metal shall
123 be guilty of a separate offense for each item of scrap metal
124 and shall upon conviction be subject to a fine of not less

125 than five hundred dollars or by imprisonment for a period
126 not to exceed ninety days or both fine and imprisonment.

127 (2) It is unlawful for a person to willfully and
128 maliciously cut, mutilate, deface, or otherwise injure any
129 personal or real property owned by a third party, including
130 any fixtures or improvements, for the purpose of obtaining
131 ferrous or nonferrous metals in any amount. Any person who
132 willfully and maliciously cuts, mutilates, defaces, or
133 otherwise injures any personal or real property owned by a
134 third party for the purpose of obtaining ferrous or
135 nonferrous metal shall be guilty of a separate offense for
136 each item of scrap metal derived from such actions and shall
137 upon conviction be subject to a fine of not less than five
138 hundred dollars or by imprisonment for a period not to
139 exceed ninety days or both fine and imprisonment.

140 (3) In addition to the penalties described in this
141 subsection, a copper property peddler's license shall be
142 revoked if he or she knowingly violates sections 407.296 to
143 407.300.

144 407.300. 1. Every purchaser or collector of, or
145 dealer in, junk, scrap metal, or any secondhand property
146 shall keep a register containing a written or electronic
147 record for each purchase or trade in which each type of
148 material subject to the provisions of this section is
149 obtained for value. There shall be a separate record for
150 each transaction involving any:

151 (1) Copper, brass, or bronze;

152 (2) Aluminum wire, cable, pipe, tubing, bar, ingot,
153 rod, fitting, or fastener;

154 (3) Material containing copper or aluminum that is
155 knowingly used for farming purposes as farming is defined in
156 section 350.010; whatever may be the condition or length of
157 such metal;

- 158 (4) Catalytic converter; or
159 (5) Motor vehicle, heavy equipment, or tractor battery.

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

162 (1) A copy of the driver's license or photo
163 identification issued by the state or by the United States
164 government or agency thereof to the person from whom the
165 material is obtained;

166 (2) The current address, gender, birth date, and a
167 photograph of the person from whom the material is obtained
168 if not included or are different from the identification
169 required in subdivision (1) of this subsection;

170 (3) The date, time, and place of the transaction;

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

173 (5) A full description of the material, including the
174 weight and purchase price.

175 3. The records required under this section shall be
176 maintained for a minimum of twenty-four months from when
177 such material is obtained and shall be available for
178 inspection by any law enforcement officer.

179 4. Anyone convicted of violating [this section]
180 subsections 1 to 5 of this section shall be guilty of a
181 class B misdemeanor. Subsections 1 to 5 of this section
182 shall not apply to a city not within a county.

183 5. [This section] Subsections 1 to 4 of this section
184 shall not apply to any of the following transactions:

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

188 (2) Any transaction for which the seller, including a
189 farm or farmer, has an existing business relationship with
190 the scrap metal dealer and is known to the scrap metal

191 dealer making the purchase to be an established business or
192 political subdivision that operates a business with a fixed
193 location that can be reasonably expected to generate
194 regulated scrap metal and can be reasonably identified as
195 such a business; or

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

200 6. Every purchaser or collector of, or dealer in,
201 junk, scrap metal, or any secondhand property shall keep a
202 register containing a written or electronic record for each
203 purchase or trade in which each type of material, which
204 includes ferrous and nonferrous metals, subject to the
205 provisions of this section is obtained for value. There
206 shall be a separate record for each transaction involving
207 any:

208 (1) Copper, brass, or bronze;

209 (2) Aluminum wire, cable, pipe, tubing, bar, ingot,
210 rod, fitting, or fastener;

211 (3) Material containing copper or aluminum that is
212 knowingly used for farming purposes as farming is defined in
213 section 350.010; whatever may be the condition or length of
214 such metal;

215 (4) Catalytic converter; or

216 (5) Motor vehicle, heavy equipment, or tractor battery.

217 7. The record required by subsections 6 to 18 of this
218 section shall contain the following data:

219 (1) A copy of the driver's license or photo
220 identification issued by the state or by the United States
221 government or agency thereof to the person from whom the
222 material is obtained;

223 (2) The current address, gender, birth date, and a
224 photograph of the person from whom the material is obtained
225 if not included or are different from the identification
226 required in subdivision (1) of this subsection;

227 (3) The date, time, and place of the transaction;

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

230 (5) A full description of the material, including the
231 weight and purchase price, any business license number or
232 the copper property peddler's license (including the name of
233 the issuing municipality), amount paid, and license plate
234 number of the vehicle delivering the material. The
235 information shall be completed in full without any missing
236 data or information described in this subsection.

237 8. The records required under subsections 6 to 18 of
238 this section shall be maintained for a period of three years
239 from when such material is obtained and shall be available
240 for inspection by any law enforcement officer. All records
241 required under subsections 6 to 18 of this section shall be
242 photocopied and maintained for three years from the date of
243 the transaction.

244 9. Any person selling copper property who holds a
245 valid business license or copper property peddler's license
246 shall present a copy of such license to the scrap metal
247 dealer.

248 10. A transaction receipt shall be issued and consist
249 of the same information required under subsection 6 of this
250 section and shall include the following statement: "By
251 accepting payment from (insert name of scrap metal dealer),
252 seller represents and warrants that the material documented
253 by this receipt is owned by the seller or was lawfully
254 obtained, and the seller has the legal right to sell the
255 material to (insert name of scrap metal dealer)." If the

256 seller provides any documentation indicating that the seller
257 is in lawful possession of the scrap metal, or was otherwise
258 lawfully acquired, including without limitation a bill of
259 sale or receipt, the scrap metal dealer shall photocopy such
260 documentation and maintain it with the transaction
261 information otherwise required by this section.

262 11. A scrap metal dealer, the agent employee, or
263 representative of a scrap metal dealer shall not disclose
264 personal information concerning a customer under this
265 section without the consent of the customer unless the
266 disclosure is made in response to a request from a law
267 enforcement agency. A scrap metal dealer shall implement
268 reasonable safeguards:

269 (1) To protect the security of the personal
270 information required under subsection 7 of this section; and

271 (2) To prevent unauthorized access to or disclose of
272 that information.

273 12. A scrap metal dealer shall not be liable to any
274 customer for a disclosure of personal information if the
275 scrap metal dealer has met the requirements set forth in
276 subsection 10 of this section.

277 13. Anyone convicted of violating subsections 6 to 18
278 of this section shall be guilty of a class B misdemeanor.

279 14. This section shall not apply to any of the
280 following transactions:

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

284 (2) Any transaction for which the seller, including a
285 farm or farmer, has an existing business relationship with
286 the scrap metal dealer and is known to the scrap metal
287 dealer making the purchase to be an established business or
288 political subdivision that operates a business with a fixed

289 location that can be reasonably expected to generate
290 regulated scrap metal and can be reasonably identified as
291 such a business; or

292 (3) Any transaction for which the type of metal
293 subject to subsection 6 of this section is a minor part of a
294 larger item, except for equipment used in the generation and
295 transmission of electrical power or telecommunications.

296 15. Hours of retail operation for scrap metal dealers
297 shall be no earlier than 6:00 a.m. and no later than 7:00
298 p.m.

299 16. No scrap metal dealer shall purchase or otherwise
300 receive from a person under the age of eighteen any ferrous
301 or nonferrous metal other than aluminum cans.

302 17. A scrap metal dealer shall register with or
303 subscribe to the alert system established by the Institute
304 of Scrap Recycling Industries, Inc., referred to as the ISRI
305 Scrap Theft Alert system or successor system, and maintain
306 that registration or subscription.

307 18. Subsections 6 to 18 of this section shall only
308 apply to a city not within a county.

309 407.302. 1. No scrap yard shall purchase any metal
310 that can be identified as belonging to a public or private
311 cemetery, political subdivision, telecommunications
312 provider, cable provider, wireless service or other
313 communications-related provider, electrical cooperative,
314 water utility, municipal utility, or utility regulated under
315 chapter 386 or 393, including bleachers, guardrails, signs,
316 street and traffic lights or signals, and manhole cover or
317 covers, whether broken or unbroken, from anyone other than
318 the cemetery or monument owner, political subdivision,
319 telecommunications provider, cable provider, wireless
320 service or other communications-related provider, electrical
321 cooperative, water utility, municipal utility, utility

322 regulated under chapter 386 or 393, or manufacturer of the
323 metal or item described in this section unless such person
324 is authorized in writing by the cemetery or monument owner,
325 political subdivision, telecommunications provider, cable
326 provider, wireless service or other communications-related
327 provider, electrical cooperative, water utility, municipal
328 utility, utility regulated under chapter 386 or 393, or
329 manufacturer to sell the metal.

330 2. Anyone convicted of violating subsection 1 of this
331 section shall be guilty of a class B misdemeanor.
332 Subsections 1 and 2 of this section shall not apply in a
333 city not within a county.

334 3. No scrap yard shall purchase any metal that can be
335 identified as belonging to a public or private cemetery,
336 political subdivision, telecommunications provider, cable
337 provider, wireless service or other communications-related
338 provider, electrical cooperative, water utility, municipal
339 utility, or utility regulated under chapter 386 or 393,
340 including bleachers, guardrails, signs, street and traffic
341 lights or signals, certain cables used in high voltage
342 transmission lines, historical markers, and manhole cover or
343 covers, whether broken or unbroken, from anyone other than
344 the cemetery or monument owner, political subdivision,
345 telecommunications provider, cable provider, wireless
346 service or other communications-related provider, electrical
347 cooperative, water utility, municipal utility, utility
348 regulated under chapter 386 or 393, or manufacturer of the
349 metal or item described in this subsection unless such
350 person is authorized in writing by the cemetery or monument
351 owner, political subdivision, telecommunications provider,
352 cable provider, wireless service or other communications-
353 related provider, electrical cooperative, water utility,

354 municipal utility, utility regulated under chapter 386 or
355 393, or manufacturer to sell the metal.

356 4. No person shall knowingly sell or attempt to sell
357 to a scrap metal dealer and no scrap metal dealer shall
358 knowingly and willfully purchase the following:

359 (1) New materials, such as those used in construction,
360 or equipment or tools used by contractors, unless
361 accompanied by proof of ownership or authorization to sell
362 the materials on behalf of the owner;

363 (2) HVAC components unless accompanied by written
364 authorization from the business or property owner evidencing
365 the seller has the legal right to sell the material;

366 (3) Catalytic converters removed from a motor vehicle
367 unless purchased from a vehicle repair business.

368 5. Anyone convicted of violating subsections 3 and 4
369 of this section shall be guilty of a class B misdemeanor.
370 Subsections 3 to 5 of this section shall only apply to a
371 city not within a county."; and

372 Further amend the title and enacting clause accordingly.