

FIRST REGULAR SESSION

SENATE BILL NO. 318

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAY.

1059S.01I

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 301.227, 407.300, and 407.302, RSMo, and to enact in lieu thereof seven new sections relating to scrap metals, with penalty provisions.

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

Section A. Sections 301.227, 407.300, and 407.302, RSMo,
2 are repealed and seven new sections enacted in lieu thereof, to
3 be known as sections 301.227, 407.296, 407.297, 407.298,
4 407.299, 407.300, and 407.302, to read as follows:

301.227. 1. Whenever a vehicle is sold for salvage,
2 dismantling or rebuilding, the purchaser shall forward to
3 the director of revenue within ten days the certificate of
4 ownership or salvage certificate of title and the proper
5 application and fee of eight dollars and fifty cents, and
6 the director shall issue a negotiable salvage certificate of
7 title to the purchaser of the salvaged vehicle. On vehicles
8 purchased during a year that is no more than six years after
9 the manufacturer's model year designation for such vehicle,
10 it shall be mandatory that the purchaser apply for a salvage
11 title. On vehicles purchased during a year that is more
12 than six years after the manufacturer's model year
13 designation for such vehicle, then application for a salvage
14 title shall be optional on the part of the purchaser.
15 Whenever a vehicle is sold for destruction and a salvage
16 certificate of title, junking certificate, or certificate of
17 ownership exists, the seller, if licensed under sections

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

18 301.217 to 301.221, shall forward the certificate to the
19 director of revenue within ten days, with the notation of
20 the date sold for destruction and the name of the purchaser
21 clearly shown on the face of the certificate.

22 2. Whenever a vehicle is classified as junk, as
23 defined in section 301.010, the purchaser may forward to the
24 director of revenue a properly completed application for a
25 junking certificate as well as the salvage certificate of
26 title or certificate of ownership and the director shall
27 issue a negotiable junking certificate to the purchaser of
28 the vehicle. The director may also issue a junking
29 certificate to a possessor of a vehicle manufactured twenty-
30 six years or more prior to the current model year who has a
31 bill of sale for said vehicle but does not possess a
32 certificate of ownership, provided no claim of theft has
33 been made on the vehicle and the highway patrol has by
34 letter stated the vehicle is not listed as stolen after
35 checking the registration number through its nationwide
36 computer system. Such junking certificate may be granted
37 within thirty days of the submission of a request. A
38 junking certificate shall authorize the holder to possess,
39 transport, or, by assignment, transfer ownership in such
40 parts, scrap, or junk.

41 3. For any vehicle issued a junking certificate or
42 such similar document or classification pursuant to the laws
43 of another state, regardless of whether such designation has
44 been subsequently changed by law in any other state, the
45 department shall only issue a junking certificate, and a
46 salvage certificate of title or original certificate of
47 ownership shall not thereafter be issued for such vehicle.
48 Notwithstanding the provisions of this subsection, if the
49 vehicle has not previously been classified as a junk

50 vehicle, the applicant making the original junking
51 certification application shall, within ninety days, be
52 allowed to rescind his application for a junking certificate
53 by surrendering the junking certificate and apply for a
54 salvage certificate of title in his name. The seller of a
55 vehicle for which a junking certificate has been applied for
56 or issued shall disclose such fact in writing to any
57 prospective buyers before sale of such vehicle; otherwise
58 the sale shall be voidable at the option of the buyer.

59 4. No scrap metal operator shall acquire or purchase a
60 motor vehicle or parts thereof without, at the time of such
61 acquisition, receiving the original certificate of ownership
62 or salvage certificate of title or junking certificate from
63 the seller of the vehicle or parts, unless the seller is a
64 licensee under sections 301.219 to 301.221.

65 5. All titles and certificates required to be received
66 by scrap metal operators from nonlicensees shall be
67 forwarded by the operator to the director of revenue within
68 ten days of the receipt of the vehicle or parts.

69 6. The scrap metal operator shall keep a record, for
70 three years, of the seller's name and address, the salvage
71 business license number of the licensee, date of purchase,
72 and any vehicle or parts identification numbers open for
73 inspection as provided in section 301.225.

74 7. Notwithstanding any other provision of this
75 section, a motor vehicle dealer as defined in section
76 301.550 and licensed under the provisions of sections
77 301.550 to 301.572 may negotiate one reassignment of a
78 salvage certificate of title on the back thereof.

79 8. Notwithstanding the provisions of subsection 1 of
80 this section, an insurance company which settles a claim for
81 a stolen vehicle may apply for and shall be issued a

82 negotiable salvage certificate of title without the payment
83 of any fee upon proper application within thirty days after
84 settlement of the claim for such stolen vehicle. However,
85 if the insurance company upon recovery of a stolen vehicle
86 determines that the stolen vehicle has not sustained damage
87 to the extent that the vehicle would have otherwise been
88 declared a salvage vehicle pursuant to section 301.010, then
89 the insurance company may have the vehicle inspected by the
90 Missouri state highway patrol, or other law enforcement
91 agency authorized by the director of revenue, in accordance
92 with the inspection provisions of subsection 9 of section
93 301.190. Upon receipt of title application, applicable fee,
94 the completed inspection, and the return of any previously
95 issued negotiable salvage certificate, the director shall
96 issue an original title with no salvage or prior salvage
97 designation. Upon the issuance of an original title the
98 director shall remove any indication of the negotiable
99 salvage title previously issued to the insurance company
100 from the department's electronic records.

101 9. **(1)** Notwithstanding subsection 4 of this section
102 or any other provision of the law to the contrary, if a
103 motor vehicle is inoperable and is at least ten model years
104 old, or the parts are from a motor vehicle that is
105 inoperable and is at least ten model years old, a scrap
106 metal operator may purchase or acquire such motor vehicle or
107 parts without receiving the original certificate of
108 ownership, salvage certificate of title, or junking
109 certificate from the seller of the vehicle or parts,
110 provided the scrap metal operator verifies with the
111 department of revenue, via the department's online record
112 access, that the motor vehicle is not subject to any
113 recorded security interest or lien and the scrap metal

114 operator complies with the requirements of this subsection.
115 In lieu of forwarding certificates of title or ownership for
116 such motor vehicles as required by subsection 5 of this
117 section, the scrap metal operator shall forward a copy of
118 the seller's state identification card along with a bill of
119 sale to the department of revenue. The bill of sale form
120 shall be designed by the director and such form shall
121 include, but not be limited to, a certification that the
122 motor vehicle is at least ten model years old, is
123 inoperable, is not subject to any recorded security interest
124 or lien, and a certification by the seller that the seller
125 has the legal authority to sell or otherwise transfer the
126 seller's interest in the motor vehicle or parts. Upon
127 receipt of the information required by this subsection, the
128 department of revenue shall cancel any certificate of title
129 or ownership and registration for the motor vehicle. If the
130 motor vehicle is inoperable and at least twenty model years
131 old, then the scrap metal operator shall not be required to
132 verify with the department of revenue whether the motor
133 vehicle is subject to any recorded security interests or
134 liens. As used in this subsection, the term "inoperable"
135 means a motor vehicle that is in a rusted, wrecked,
136 discarded, worn out, extensively damaged, dismantled, and
137 mechanically inoperative condition and the vehicle's highest
138 and best use is for scrap purposes.

139 **(2) The provisions of this subsection shall not apply**
140 **in any city not within a county, any county with a charter**
141 **form of government and with more than nine hundred fifty**
142 **thousand inhabitants, any home rule city with more than four**
143 **hundred thousand inhabitants and located in more than one**
144 **county, any county of the first classification with more**
145 **than two hundred thousand but fewer than two hundred sixty**

146 thousand inhabitants, any county of the first classification
147 with more than eighty-three thousand but fewer than ninety-
148 two thousand inhabitants and with a city of the fourth
149 classification with more than four thousand five hundred but
150 fewer than five thousand inhabitants as the county seat, and
151 any county with a charter form of government and with more
152 than six hundred thousand but fewer than seven hundred
153 thousand inhabitants.

154 10. If a scrap metal operator has knowledge that a
155 motor vehicle or parts thereof described under subsection 9
156 of this section originated in any of the locations set forth
157 in subdivision (2) of subsection 9 of this section, such
158 operator shall not acquire or purchase a motor vehicle or
159 parts thereof without, at the time of such acquisition,
160 receiving the original certificate of ownership or salvage
161 certificate of title or junking certificate from the seller
162 of the vehicle or parts, unless the seller is a licensee
163 under sections 301.219 to 301.221. The provisions of this
164 subsection shall not apply to any person licensed under
165 sections 301.550 to 301.580.

166 11. The director of the department of revenue is
167 directed to promulgate rules and regulations to implement
168 and administer the provisions of this section, including but
169 not limited to, the development of a uniform bill of sale.
170 Any rule or portion of a rule, as that term is defined in
171 section 536.010, that is created under the authority
172 delegated in this section shall become effective only if it
173 complies with and is subject to all of the provisions of
174 chapter 536 and, if applicable, section 536.028. This
175 section and chapter 536 are nonseverable and if any of the
176 powers vested with the general assembly pursuant to chapter
177 536 to review, to delay the effective date, or to disapprove

178 and annul a rule are subsequently held unconstitutional,
179 then the grant of rulemaking authority and any rule proposed
180 or adopted after August 28, 2012, shall be invalid and void.

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

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

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

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

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

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

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

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

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

407.297. 1. No person shall engage in the business of
2 a copper property peddler in any home rule city with more
3 than four hundred thousand inhabitants and located in more
4 than one county or any city not within a county without
5 first obtaining a license from the governing municipality
6 and complying with the provisions of this section.

7 2. The municipality issuing the license shall
8 determine the license fee. The license shall expire June
9 thirtieth of each year. Each license shall bear a separate
10 number, the name and address of the licensee, and telephone
11 number of the licensee. The license shall be available only
12 to the person in whose name it is issued and shall not be
13 used by any person other than the original licensee. Any
14 licensee who shall permit his or her license to be used by
15 any other person, and any other person who shall use a
16 license granted to another person, shall each be deemed
17 guilty of a violation of this section.

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

32 4. The municipality shall have the power and authority
33 to revoke any license under this section for any willful
34 violation of this section, section 407.298, or section
35 407.299 by a copper property peddler, provided the licensee
36 has been notified in writing at his or her place of business
37 of the violations complained of and shall have been afforded
38 a reasonable opportunity to have a hearing.

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

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

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

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

26 business license, valid trade license, or valid copper
27 peddler's license shall be mailed via the United States mail
28 to the address provided on the driver's license or photo
29 identification issued by the state provided by the seller;

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

32 2. This section shall not apply to any transaction for
33 which the seller has an existing business relationship with
34 the scrap metal dealer and is known to the scrap metal
35 dealer making the purchase to be an established business
36 with a fixed location that can be reasonably expected to
37 generate regulated scrap metal and can be reasonably
38 identified as such a business or is a political subdivision.

407.299. 1. If a scrap metal dealer has actual
2 knowledge that copper property or a HVAC component in its
3 possession has been stolen, the dealer shall notify a law
4 enforcement agency via 911 and provide any information in
5 its possession relative to the seller or the sale
6 transaction.

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

12 3. (1) It is unlawful for any person to knowingly
13 present for sale to a scrap metal dealer stolen ferrous or
14 nonferrous metal, including but not limited to, copper
15 property or HVAC components. Any person who knowingly
16 presents for sale stolen ferrous or nonferrous metal shall
17 be guilty of a separate offense for each item of scrap metal
18 and shall upon conviction be subject to a fine of not less

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

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

34 (3) In addition to the penalties described in this
35 subsection, a copper property peddler's license shall be
36 revoked if he or she knowingly violates sections 407.296 to
37 407.300.

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

9 (1) Copper, brass, or bronze;

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

12 (3) Material containing copper or aluminum that is
13 knowingly used for farming purposes as farming is defined in

14 section 350.010; whatever may be the condition or length of
15 such metal;

16 (4) Catalytic converter; or

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

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

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

24 (2) The current address, gender, birth date, and a
25 photograph of the person from whom the material is obtained
26 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 the transaction;

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

31 (5) A full description of the material, including the
32 weight and purchase price, **any business license number or**
33 **the copper property peddler's license (including the name of**
34 **the issuing municipality), amount paid, and license plate**
35 **number of the vehicle delivering the material. The**
36 **information shall be completed in full without any missing**
37 **data or information described in this subsection.**

38 3. The records required under this section shall be
39 maintained for a [minimum of twenty-four months] **period of**
40 **three years** from when such material is obtained and shall be
41 available for inspection by any law enforcement officer.
42 **All records required under this section shall be photocopied**
43 **and maintained for three years from the date of the**
44 **transaction.**

45 4. Any person selling copper property who holds a
46 valid business license or copper property peddler's license
47 shall present a copy of such license to the scrap metal
48 dealer.

49 5. A transaction receipt shall be issued and consist
50 of the same information required under subsection 1 of this
51 section and shall include the following statement: "By
52 accepting payment from (insert name of scrap metal dealer),
53 seller represents and warrants that the material documented
54 by this receipt is owned by the seller or was lawfully
55 obtained, and the seller has the legal right to sell the
56 material to (insert name of scrap metal dealer)". If the
57 seller provides any documentation indicating that the seller
58 is in lawful possession of the scrap metal, or was otherwise
59 lawfully acquired, including without limitation a bill of
60 sale or receipt, the scrap metal dealer shall photocopy such
61 documentation and maintain it with the transaction
62 information otherwise required by this section.

63 6. A scrap metal dealer, the agent employee, or
64 representative of a scrap metal dealer shall not disclose
65 personal information concerning a customer under this
66 section without the consent of the customer unless the
67 disclosure is made in response to a request from a law
68 enforcement agency. A scrap metal dealer shall implement
69 reasonable safeguards:

70 (1) To protect the security of the personal
71 information required under subsection 2 of this section; and

72 (2) To prevent unauthorized access to or disclose of
73 that information.

74 7. A scrap metal dealer shall not be liable to any
75 customer for a disclosure of personal information if the

76 **scrap metal dealer has met the requirements set forth in**
77 **subsection 5 of this section.**

78 [4.] **8.** Anyone convicted of violating this section
79 shall be guilty of a class B misdemeanor.

80 [5.] **9.** This section shall not apply to any of the
81 following transactions:

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

85 (2) Any transaction for which the seller, including a
86 farm or farmer, has an existing business relationship with
87 the scrap metal dealer and is known to the scrap metal
88 dealer making the purchase to be an established business or
89 political subdivision that operates a business with a fixed
90 location that can be reasonably expected to generate
91 regulated scrap metal and can be reasonably identified as
92 such a business; or

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

97 **10. Hours of retail operation for scrap metal dealers**
98 **shall be no earlier than 6:00 a.m. and no later than 7:00**
99 **p.m.**

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

103 **12. A scrap metal dealer shall register with or**
104 **subscribe to the alert system established by the Institute**
105 **of Scrap Recycling Industries, Inc., referred to as the ISRI**
106 **Scrap Theft Alert system or successor system, and maintain**
107 **that registration or subscription.**

407.302. 1. No scrap yard shall purchase any metal
2 that can be identified as belonging to a public or private
3 cemetery, political subdivision, telecommunications
4 provider, cable provider, wireless service or other
5 communications-related provider, electrical cooperative,
6 water utility, municipal utility, or utility regulated under
7 chapter 386 or 393, including bleachers, guardrails, signs,
8 street and traffic lights or signals, **certain cables used in**
9 **high voltage transmission lines, historical markers,** and
10 manhole cover or covers, whether broken or unbroken, from
11 anyone other than the cemetery or monument owner, political
12 subdivision, telecommunications provider, cable provider,
13 wireless service or other communications-related provider,
14 electrical cooperative, water utility, municipal utility,
15 utility regulated under chapter 386 or 393, or manufacturer
16 of the metal or item described in this section unless such
17 person is authorized in writing by the cemetery or monument
18 owner, political subdivision, telecommunications provider,
19 cable provider, wireless service or other communications-
20 related provider, electrical cooperative, water utility,
21 municipal utility, utility regulated under chapter 386 or
22 393, or manufacturer to sell the metal.

23 2. **No person shall knowingly sell or attempt to sell**
24 **to a scrap metal dealer and no scrap metal dealer shall**
25 **knowingly and willfully purchase the following:**

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

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

33 (3) Catalytic converters unless purchased from a
34 vehicle repair business.

35 3. Anyone convicted of violating this section shall be
36 guilty of a class B misdemeanor.

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