

HOUSE BILL No. 4593

April 18, 2013, Introduced by Reps. Muxlow, Tlaib, Pagel, Victory, Lauwers, Zemke, Faris, Brown, Callton, Price, Zorn, MacGregor, Hobbs, Switalski, Talabi, Kandrevas and Roberts and referred to the Committee on Regulatory Reform.

A bill to amend 2008 PA 429, entitled
"Nonferrous metal regulatory act,"
by amending sections 7, 11, 13, and 17 (MCL 445.427, 445.431,
445.433, and 445.437), and by adding section 10; and to repeal acts
and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 7. (1) ~~Except~~ **SUBJECT TO SUBSECTION (4), AND EXCEPT** as
2 otherwise provided in this ~~subsection,~~ **SECTION,** a **SCRAP METAL**
3 dealer shall ~~produce~~ **PREPARE** and maintain ~~an~~ **A SEPARATE,** accurate,
4 and legible record of each purchase transaction. The dealer shall
5 maintain the records ~~produced under~~ **DESCRIBED IN** this section for
6 at least 1 year; ~~7~~ **THE DEALER** shall keep the records in a location
7 that is readily accessible to a local, state, or federal law
8 enforcement agency for inspection during normal business hours; ~~7~~

1 and **THE DEALER** shall make the records, or copies of those records,
2 available to any local, state, or federal law enforcement agency
3 ~~upon THAT HAS A~~ reasonable suspicion ~~of THAT A~~ violation of this
4 act **HAS OCCURRED**.

5 (2) The record of a purchase transaction ~~regarding nonferrous~~
6 ~~metal shall contain~~ **DESCRIBED IN SUBSECTION (1) MUST INCLUDE** all of
7 the following:

8 (A) **THE NAME AND ADDRESS OF THE SELLER AND THE NAME AND**
9 **ADDRESS OF THE INDIVIDUAL WHO IS DELIVERING THE SCRAP METAL IF HE**
10 **OR SHE IS NOT THE SELLER. IF AN INDIVIDUAL IS A SELLER OR**
11 **REPRESENTATIVE OF A SELLER IN MORE THAN 1 PURCHASE TRANSACTION, THE**
12 **SCRAP METAL DEALER MAY RETAIN A COPY OF THE INDIVIDUAL'S**
13 **INFORMATION OR DOCUMENT DESCRIBED IN THIS SUBDIVISION IN A SEPARATE**
14 **FILE AND USE THAT INFORMATION IN FUTURE PURCHASE TRANSACTIONS.**

15 (B) ~~(a) The name, address, and identifying number from the~~
16 ~~seller's operator's or chauffeur's license, military identification~~
17 ~~card, Michigan identification card, passport, or other government~~
18 ~~issued identification containing a photograph.~~ **PRESENTED UNDER**
19 **SECTION 5(2) (A).** A legible scan or photocopy of the identification
20 ~~is considered satisfactory in fulfilling~~ **MEETS** the requirement of
21 this subdivision. ~~In the case of a repeat seller, a copy of the~~
22 ~~information may be kept on file with the dealer and be used for~~ **IF**
23 **AN INDIVIDUAL IS A SELLER OR REPRESENTATIVE OF A SELLER IN MORE**
24 **THAN 1 PURCHASE TRANSACTION, THE SCRAP METAL DEALER MAY RETAIN A**
25 **COPY OF THE INFORMATION OR DOCUMENT DESCRIBED IN THIS SUBDIVISION**
26 **IN A SEPARATE FILE AND USE THAT INFORMATION IN** future **PURCHASE**
27 transactions.

1 (C) ~~(b)~~ The license plate number of the vehicle ~~delivering the~~
2 ~~nonferrous metal.~~ **THAT DELIVERED THE SCRAP METAL.**

3 (D) ~~(c)~~ The date and time of the **PURCHASE** transaction.

4 (E) ~~(d)~~ A description of the predominant types of **SCRAP** metal
5 ~~purchases,~~ **PURCHASED**, made in accordance with the custom of the
6 trade.

7 (F) ~~(e)~~ The weight, quantity, or volume of metal, ~~made~~ **THE**
8 **SCRAP METAL PURCHASED, DESCRIBED AND CALCULATED** in accordance with
9 the custom of the trade; **THE NAME OF THE SCALE OPERATOR WHO WEIGHS**
10 **AND INSPECTS THAT PROPERTY; AND THE NAME OF THE EMPLOYEE OF THE**
11 **SCRAP METAL DEALER WHO PURCHASED OR AUTHORIZED THE PURCHASE OF THE**
12 **SCRAP METAL ON THE DEALER'S BEHALF IF THE PURCHASER WAS NOT THE**
13 **SCALE OPERATOR.**

14 (G) A PHOTOGRAPH OR DIGITAL OR ELECTRONIC IMAGE OF THE SCRAP
15 METAL PURCHASED. A DIGITAL OR ELECTRONIC IMAGE THAT MEETS 1 OF THE
16 FOLLOWING IS SUFFICIENT FOR PURPOSES OF THIS SUBDIVISION EVEN IF
17 EACH ITEM OF SCRAP METAL IS NOT SHOWN IN THE IMAGE:

18 (i) IF THE SCRAP METAL AND THE VEHICLE IN WHICH IT IS DELIVERED
19 ARE WEIGHED, AN OVERHEAD IMAGE OF THE VEHICLE AND THE SCRAP METAL
20 IN THE VEHICLE ON THE SCALE.

21 (ii) IF ONLY THE SCRAP METAL IS WEIGHED, AN IMAGE OF THE SCRAP
22 METAL ON THE SCALE.

23 (H) ~~(f)~~ The consideration paid and the method of payment.

24 (I) ~~(g)~~ A ~~THE~~ signed statement ~~from the seller that the seller~~
25 ~~is the owner of the metal or is otherwise authorized to sell the~~
26 ~~metal subject to the transaction.~~ **DESCRIBED IN SECTION 5(2)(C).**

27 (J) ~~(h)~~ A **LEGIBLE** thumbprint ~~of the seller.~~ **DESCRIBED IN**

1 **SECTION 5 (2) (B) .**

2 ~~(3) In the case of a seller that is~~ **A SCRAP METAL DEALER IS**
3 **NOT REQUIRED TO OBTAIN THE INFORMATION DESCRIBED IN SUBSECTION (2)**
4 **FOR A PURCHASE TRANSACTION WITH** an industrial or commercial ~~account~~
5 ~~where payment is made by a method capable of being traced from the~~
6 ~~dealer to the seller and payment is made~~ **CUSTOMER THAT MEETS ALL OF**
7 **THE FOLLOWING:**

8 **(A) PAYMENT IS MADE** directly to the business, ~~the dealer is~~
9 ~~not required to produce the record described in subsection (2) so~~
10 ~~long as the~~ **INDUSTRIAL OR COMMERCIAL CUSTOMER.**

11 **(B) THE** personal and business identifying information of the
12 industrial or commercial ~~account seller~~ **CUSTOMER** is on file with
13 the **SCRAP** dealer and conforms to a written description of the type
14 of ~~nonferrous~~ **SCRAP** metal ~~or articles~~ customarily purchased by the
15 **SCRAP METAL** dealer from that seller, ~~and the information~~ **CUSTOMER.**

16 **(C) THE INFORMATION ON FILE WITH THE SCRAP METAL DEALER UNDER**
17 **SUBDIVISION (B)** is periodically reviewed at least every 2 years and
18 validated as current or updated by the **SCRAP METAL** dealer.

19 **(4) A SCRAP METAL DEALER MAY UTILIZE AN ELECTRONIC RECORD-**
20 **KEEPING SYSTEM FOR PURPOSES OF SUBSECTION (1) IF THAT SYSTEM ALLOWS**
21 **FOR IMMEDIATE ACCESS TO EACH SELLER'S PURCHASE TRANSACTION**
22 **ACTIVITIES, DOCUMENTS, AND IMAGES, INCLUDING, BUT NOT LIMITED TO,**
23 **ELECTRONIC COPIES OF THE RECORDS DESCRIBED IN SUBSECTION (2) OR**
24 **(3), THE PAYMENT INFORMATION CONTAINED IN THE CARD OR RECEIPT, AND**
25 **THE IMAGE OF THE SELLER DESCRIBED IN SECTION 5 (1) (A) (ii) .**

26 **SEC. 10. A PERSON SHALL NOT KNOWINGLY SELL OR ATTEMPT TO SELL**
27 **TO A SCRAP METAL DEALER, AND A SCRAP METAL DEALER SHALL NOT**

1 KNOWINGLY PURCHASE OR ATTEMPT TO PURCHASE, ANY OF THE FOLLOWING
2 TYPES OF PERSONAL PROPERTY:

3 (A) PUBLIC FIXTURES.

4 (B) NEW METAL ARTICLES OR MATERIALS, SUCH AS THOSE USED IN A
5 MANUFACTURING PROCESS OR CONSTRUCTION.

6 (C) EQUIPMENT OR TOOLS USED BY CONTRACTORS.

7 (D) METAL ARTICLES OR MATERIALS THAT ARE CLEARLY MARKED AS
8 PROPERTY BELONGING TO A PERSON OTHER THAN THE SELLER.

9 (E) A COMMEMORATIVE, DECORATIVE, OR OTHER CEMETERY-RELATED OR
10 APPARENTLY CEREMONIAL ARTICLE.

11 (F) METAL ARTICLES OR MATERIALS REMOVED FROM PROPERTY OWNED BY
12 A RAILROAD COMPANY OR FROM A RAILROAD RIGHT-OF-WAY.

13 Sec. 11. (1) A **SCRAP METAL** dealer shall register with or
14 subscribe to, ~~and maintain~~ that registration or subscription with,
15 **AND USE IN THE CONDUCT OF ITS BUSINESS**, an internet-based database
16 available to **SCRAP METAL** dealers, law enforcement agencies, and the
17 general public that lists and tracks, at a minimum, thefts of
18 ~~nonferrous-**SCRAP** metal. and articles containing nonferrous metals.~~
19 The database may be reasonably limited in terms of time and
20 geographical area.

21 (2) The existing database established by the institute of
22 scrap recycling industries, inc., referred to as the ISRI theft
23 alert system, is considered an appropriate internet-based database.
24 A **SCRAP METAL** dealer may register with or subscribe to any other
25 database that provides substantially the same services as ~~the~~ **A**
26 database described in subsection (1).

27 (3) A **SCRAP METAL DEALER SHALL ENSURE THAT IT MAKES AVAILABLE**

1 TO EACH OF ITS EMPLOYEES ENGAGED IN PURCHASING OR WEIGHING SCRAP
2 METAL SOLD OR OFFERED FOR SALE TO THE SCRAP METAL DEALER EACH THEFT
3 ALERT, OR SIMILAR NOTICE THAT A SCRAP METAL THEFT HAS OCCURRED,
4 THAT THE SCRAP METAL DEALER RECEIVES FROM THE DATABASE SERVICE
5 DESCRIBED IN THIS SECTION, AND THAT THOSE EMPLOYEES REVIEW THE
6 ALERTS OR SIMILAR NOTICES ON A DAILY BASIS.

7 Sec. 13. (1) ~~A person who violates section 7(1) or section 9~~
8 ~~knowing or having reason to know that he or she is violating those~~
9 ~~sections~~ IF A PERSON VIOLATES SECTION 7, AND KNOWS OR HAS REASON TO
10 KNOW THAT SECTION 7 WAS VIOLATED, THE PERSON is guilty of a
11 misdemeanor punishable by a fine of not more than \$500.00 or
12 imprisonment for not more than 93 days, or both.

13 (2) ~~A person who buys or sells nonferrous metal articles~~
14 ~~knowing or having reason to know that they are stolen~~ EACH OF THE
15 FOLLOWING is guilty of a felony punishable by imprisonment for not
16 more than 5 years or a fine of not more than \$5,000.00, or both,
17 for a first offense and is guilty of a felony punishable by
18 imprisonment for not more than 5 years or a fine of not more than
19 \$10,000.00, or both, for a second or subsequent offense:-

20 (A) A SCRAP METAL DEALER THAT PURCHASES SCRAP METAL OR AN ITEM
21 OF PERSONAL PROPERTY DESCRIBED IN SECTION 10 AND KNOWS OR HAS
22 REASON TO KNOW THAT IT WAS STOLEN.

23 (B) A PERSON THAT SELLS SCRAP METAL OR AN ITEM OF PERSONAL
24 PROPERTY DESCRIBED IN SECTION 10 TO A SCRAP METAL DEALER AND KNOWS
25 OR HAS REASON TO KNOW THAT IT WAS STOLEN.

26 Sec. 17. (1) A person may bring a private cause of action
27 AGAINST A SELLER OR A SCRAP METAL DEALER, in a court of competent

jurisdiction, for monetary damages suffered from violation of this act. ~~by a seller or a dealer, or both.~~

(2) ~~The~~ **IF THE COURT IN AN ACTION DESCRIBED IN SUBSECTION (1) FINDS THAT THE VIOLATION INCLUDED THE PURCHASE OR SALE OF STOLEN PROPERTY, THE** court shall award treble damages for the value of the ~~nonferrous metal article~~ **PROPERTY** stolen. ~~The court may award costs regarding any aspect of an action brought under subsection (1).~~ As used in this subsection, "value of the ~~nonferrous metal article~~ **PROPERTY** stolen" means the greatest of the following:

(a) The replacement cost of the stolen ~~article~~. **PROPERTY.**

(b) The cost of repairing the damage caused by the larceny of ~~that article~~. **THE PROPERTY.**

(c) The total of subdivisions (a) and (b).

(3) THE COURT MAY AWARD COSTS AND REASONABLE ATTORNEY FEES IN AN ACTION BROUGHT UNDER SUBSECTION (1).

Enacting section 1. Section 9 of the nonferrous metal regulatory act, 2008 PA 429, MCL 445.429, is repealed.

Enacting section 2. This amendatory act does not take effect unless both of the following bills of the 97th Legislature are enacted into law:

(a) Senate Bill No. ____ or House Bill No. 4594 (request no. 00702'13).

(b) Senate Bill No. ____ or House Bill No. 4595 (request no. 00752'13).