

HOUSE BILL No. 4594

April 18, 2013, Introduced by Reps. Tlaib, Roberts, Darany, Hovey-Wright, Haugh, Brown, Cochran, Kivela, Santana, Muxlow, Knezek, Banks, Dillon, Talabi, Stallworth, Hobbs, Kosowski, Townsend, Zemke, Stanley, Geiss, LaVoy, Durhal, Kandrevas, Zorn, Outman, Faris, Greimel and Oakes and referred to the Committee on Regulatory Reform.

A bill to amend 2008 PA 429, entitled
"Nonferrous metal regulatory act,"
by amending the title and sections 1, 3, and 5 (MCL 445.421,
445.423, and 445.425).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to regulate the purchase and sale of ~~certain nonferrous~~
~~metals; to provide for disclosures by certain persons regarding~~
~~certain transactions; to require the creation of records for~~
~~certain purposes and for the use of certain databases by certain~~
~~persons;~~ SCRAP METAL AND OTHER ITEMS THAT CONTAIN FERROUS OR
NONFERROUS METAL TO SCRAP METAL DEALERS; TO REQUIRE SELLERS TO
PROVIDE AND SCRAP METAL DEALERS TO OBTAIN CERTAIN INFORMATION AT
THE TIME OF A PURCHASE TRANSACTION; TO REQUIRE THAT SCRAP METAL

1 DEALERS IMPLEMENT AND MAINTAIN RECORDS OF THEIR PURCHASE
2 TRANSACTIONS AND TO MAKE THOSE RECORDS AVAILABLE FOR LAW

3 ENFORCEMENT PURPOSES; and to provide for penalties and remedies.

4 Sec. 1. This act shall be known and may be cited as the
5 ~~"nonferrous"~~ **SCRAP** metal regulatory act".

6 Sec. 3. As used in this act:

7 ~~—— (a) "Dealer" means any person that is not a first purchaser~~
8 ~~who purchases nonferrous metals from any seller. Dealer includes,~~
9 ~~but is not limited to, a person, whether or not licensed under~~
10 ~~state law or local ordinance, that operates a business as a scrap~~
11 ~~metal recycler, scrap processor, secondhand and junk dealer, or~~
12 ~~other person who purchases any amount of nonferrous metal on a~~
13 ~~regular, sporadic, or 1 time basis. Dealer does not include an~~
14 ~~automotive recycler regulated by and complying with section 217 of~~
15 ~~the Michigan vehicle code, 1949 PA 300, MCL 257.217; section 18 of~~
16 ~~the motor vehicle service and repair act, 1974 PA 300, MCL~~
17 ~~257.1318; or section 2 of 1986 PA 119, MCL 257.1352, when engaging~~
18 ~~in activities that meet the definition of automotive recycler as~~
19 ~~defined in section 2a of the Michigan vehicle code, 1949 PA 300,~~
20 ~~MCL 257.2a.~~

21 ~~—— (b) "Documentation" means a signed statement that indicates~~
22 ~~where the person obtained the article, that the person is~~
23 ~~authorized to sell the article, or other evidence that reasonably~~
24 ~~demonstrates ownership of the article and the source of the~~
25 ~~article.~~

26 **(A)** ~~(c)~~ "Ferrous metal" means a metal that contains
27 significant quantities of iron or steel.

1 (B) ~~(d)~~-"First purchaser" means the first buyer of a
 2 manufactured ~~product containing~~ **ITEM THAT CONTAINS FERROUS OR**
 3 nonferrous metal in a retail or business-to-business transaction.
 4 ~~Persons purchasing nonferrous metal~~ **A PERSON THAT PURCHASES SCRAP**
 5 **METAL, OR OTHER PERSONAL PROPERTY DESCRIBED IN SECTION 10,** in
 6 violation of this act, ~~OR AN automotive recyclers, pawnshops,~~
 7 **RECYCLER, PAWNSHOP,** scrap metal ~~recyclers, and~~ **RECYCLER, OR** scrap
 8 ~~processors are~~ **PROCESSOR IS** not considered ~~A first~~
 9 ~~purchasers.~~ **PURCHASER.**

10 (C) **"GOVERNMENTAL UNIT" MEANS A SUBDIVISION, AGENCY,**
 11 **DEPARTMENT, COUNTY, PARISH, MUNICIPALITY, OR OTHER UNIT OF THE**
 12 **GOVERNMENT OF THE UNITED STATES, THIS STATE, ANOTHER STATE, OR A**
 13 **FOREIGN COUNTRY.**

14 (D) ~~(e)~~-"Industrial or commercial account ~~CUSTOMER~~" means ~~any~~
 15 ~~person, operating~~ **A PERSON THAT OPERATES** from a fixed location ~~;~~
 16 ~~that~~ **AND** is a seller of ~~ferrous or nonferrous~~ **SCRAP** metal to a
 17 scrap metal ~~recycler pursuant to~~ **DEALER UNDER** a written agreement.

18 (E) ~~(f)~~-"Nonferrous metal" means a metal that does not contain
 19 significant quantities of ferrous metal but contains copper, brass,
 20 platinum-based metals, aluminum, bronze, lead, zinc, nickel, or
 21 alloys of those metals.

22 (F) ~~(g)~~-"Person" means an individual, partnership,
 23 corporation, limited liability company, joint venture, trust,
 24 association, or other legal entity.

25 (G) ~~(h)~~-"Public ~~fixtures~~ **FIXTURE**" means ~~articles containing~~
 26 ~~nonferrous metal that are used or located in areas open to the~~
 27 ~~public and include, but are not limited to, utility access covers;~~

~~street light and fixtures, road and bridge guard rails, highway or~~
~~street signs, water meter covers, traffic directional and control~~
~~signs, traffic light signals, telecommunications cable, utility-~~
~~related articles, and historical markers.~~ AN ITEM THAT CONTAINS
FERROUS OR NONFERROUS METAL AND IS OWNED OR UNDER THE EXCLUSIVE
CONTROL OF A GOVERNMENTAL UNIT. THE TERM INCLUDES, BUT IS NOT
LIMITED TO, A STREET LIGHT POLE OR FIXTURE, ROAD OR BRIDGE
GUARDRAIL, TRAFFIC SIGN, TRAFFIC LIGHT SIGNAL, OR HISTORICAL
MARKER.

(H) "PURCHASE TRANSACTION" MEANS A PURCHASE OF SCRAP METAL BY
A SCRAP METAL DEALER. THE TERM DOES NOT INCLUDE ANY OF THE
FOLLOWING:

(i) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
OR SALVAGE VEHICLES OR VEHICLE PARTS BY A USED OR SECONDHAND
VEHICLE DEALER OR USED OR SECONDHAND VEHICLE PARTS DEALER THAT IS
LICENSED AS A DEALER UNDER SECTION 248 OF THE MICHIGAN VEHICLE
CODE, 1949 PA 300, MCL 257.248, AND IS ACTING WITHIN THE SCOPE OF
THAT DEALER'S LICENSE.

(ii) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
OR SALVAGE VEHICLES, VEHICLE PARTS, OR VEHICLE SCRAP BY A VEHICLE
SCRAP METAL PROCESSOR, VEHICLE SALVAGE POOL OPERATOR, OR FOREIGN
SALVAGE VEHICLE DEALER THAT IS LICENSED AS A DEALER UNDER SECTION
248 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, AND IS
ACTING WITHIN THE SCOPE OF THAT DEALER'S LICENSE.

(iii) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
OR SALVAGE VEHICLES, VEHICLE PARTS, OR VEHICLE SCRAP BY AN
AUTOMOTIVE RECYCLER THAT IS LICENSED AS A DEALER UNDER SECTION 248

1 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, IF THE
2 TRANSACTION IS AUTHORIZED UNDER SECTION 217C OF THE MICHIGAN
3 VEHICLE CODE, 1949 PA 300, MCL 257.217C; SECTION 18 OF THE MOTOR
4 VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1318; OR
5 SECTION 2 OF 1986 PA 119, MCL 257.1352.

6 (iv) THE PURCHASE OF SCRAP METAL BY A MILL, FOUNDRY, DIE
7 CASTER, OR OTHER MANUFACTURING FACILITY THAT PURCHASES SCRAP METAL
8 FOR ITS OWN USE IN THE PRODUCTION OF METAL ARTICLES OR MATERIALS
9 AND DOES NOT IN THE ORDINARY COURSE OF ITS BUSINESS PURCHASE SCRAP
10 METAL FOR RESALE.

11 (i) "Record" means a paper, electronic, or other generally
12 accepted method of storing information in a retrievable form.

13 (J) "SCALE OPERATOR" MEANS THE EMPLOYEE OF A SCRAP METAL
14 DEALER WHO OPERATES OR ATTENDS A SCALE THAT IS USED TO WEIGH THE
15 SCRAP METAL IN A PURCHASE TRANSACTION.

16 (K) "SCRAP METAL" MEANS FERROUS OR NONFERROUS METAL, OR ITEMS
17 THAT CONTAIN FERROUS OR NONFERROUS METAL, THAT ARE SOLD OR OFFERED
18 FOR SALE FOR THE VALUE OF THE FERROUS OR NONFERROUS METAL THEY
19 CONTAIN RATHER THAN THEIR ORIGINAL INTENDED USE; FERROUS OR
20 NONFERROUS METAL REMOVED FROM OR OBTAINED BY CUTTING, DEMOLISHING,
21 OR DISASSEMBLING A BUILDING, STRUCTURE, OR MANUFACTURED ITEM; OR
22 OTHER METAL THAT CANNOT BE USED FOR ITS ORIGINAL INTENDED PURPOSE
23 BUT CAN BE PROCESSED FOR REUSE IN A MILL, FOUNDRY, DIE CASTER, OR
24 OTHER MANUFACTURING FACILITY.

25 (I) "SCRAP METAL DEALER" MEANS A PERSON THAT BUYS OR SELLS
26 SCRAP METAL AND IS NOT A FIRST PURCHASER. THE TERM INCLUDES, BUT IS
27 NOT LIMITED TO, A PERSON, WHETHER OR NOT LICENSED UNDER STATE LAW

OR LOCAL ORDINANCE, THAT OPERATES A BUSINESS AS A SCRAP METAL RECYCLER, SCRAP PROCESSOR, SECONDHAND AND JUNK DEALER, OR OTHER PERSON THAT PURCHASES ANY AMOUNT OF SCRAP METAL ON A REGULAR, SPORADIC, OR 1-TIME BASIS. THE TERM DOES NOT INCLUDE A GOVERNMENTAL UNIT THAT BUYS OR SELLS SCRAP METAL.

(M) ~~(j)~~—"Scrap metal recycler" means a person that purchases **FERROUS OR** nonferrous metal that is intended for recycling or reuse, whether regarded as a scrap processor, core buyer, or other similar business operation.

(N) ~~(k)~~—"Scrap processor" means that term as defined in section 3 of 1917 PA 350, MCL 445.403.

(O) ~~(l)~~—"Seller" means ~~any individual or~~ **A** person that either regularly, sporadically, or on a 1-time basis receives consideration from any other person from the purchase by a **SCRAP METAL** dealer of ~~nonferrous~~ **SCRAP** metal offered by that seller.

Sec. 5. (1) ~~A dealer shall do all~~ **ALL** of the following **APPLY TO A SCRAP METAL DEALER:**

~~—— (a) Produce and maintain records as required under section 7(2).~~

~~—— (b) Participate in a database meeting the requirements of section 11.~~

~~—— (c) Tag and hold any nonferrous metal as provided for in section 9.~~

~~—— (d) Pay a seller by a method capable of being traced from the dealer to the seller. Payment by cash or currency of more than \$50.00, barter, or trade is not considered a payment that complies with the requirement of this subdivision. Payment of cash in any~~

~~amount in a transaction involving predominantly copper articles is considered a violation of this subdivision.~~

~~—— (e) In the case of a transaction involving nonferrous metal, verify that the seller is at least 16 years of age.~~

(A) UNLESS SUBDIVISION (B) APPLIES, AND EXCEPT AS PROVIDED IN SUBDIVISION (C), A SCRAP METAL DEALER SHALL ONLY PAY A SELLER WITH 1 OF THE FOLLOWING IN A PURCHASE TRANSACTION:

(i) A CHECK OR MONEY ORDER. A SCRAP METAL DEALER SHALL MAKE AND RETAIN A PHOTOGRAPH OR DIGITAL OR ELECTRONIC IMAGE OF THE DELIVERY OF THE CHECK OR MONEY ORDER TO THE SELLER OR INDIVIDUAL ACTING ON BEHALF OF THE SELLER IN THE PURCHASE TRANSACTION.

(ii) AN ELECTRONIC PAYMENT CARD OR ENCRYPTED RECEIPT THAT MAY ONLY BE CONVERTED TO CASH IN AN AUTOMATED TELLER MACHINE THAT IS LOCATED ON THE SELLER'S PREMISES; IS USED FOR THE SOLE PURPOSE OF DISPENSING CASH IN CONNECTION WITH PURCHASE TRANSACTIONS; AND PROVIDES A DIGITAL OR ELECTRONIC IMAGE OF THE DISPENSING OF THE CASH TO THE SELLER.

(B) EXCEPT AS PROVIDED IN SUBDIVISION (C), IN A PURCHASE TRANSACTION OF ANY OF THE FOLLOWING ITEMS, A SCRAP METAL DEALER SHALL NOT PAY THE SELLER UNTIL 3 BUSINESS DAYS AFTER THE DATE OF THE TRANSACTION, AND SHALL ONLY PAY THE SELLER AFTER THAT PERIOD BY MAKING A DIRECT DEPOSIT OR ELECTRONIC TRANSFER TO THE SELLER'S ACCOUNT AT A FINANCIAL INSTITUTION OR MAILING A CHECK OR MONEY ORDER, PAYABLE TO THE SELLER, TO A STREET ADDRESS PROVIDED TO THE DEALER BY THE SELLER AND NOT TO A POST OFFICE BOX:

(i) CATALYTIC CONVERTERS, UNLESS THE SELLER IS AN AUTOMOTIVE RECYCLER AS DEFINED IN SECTION 2A OF THE MICHIGAN VEHICLE CODE,

1 1949 PA 300, MCL 257.2A.

2 (ii) AIR CONDITIONERS, AIR CONDITIONER EVAPORATOR COILS OR
3 CONDENSERS, OR PARTS OF AIR CONDITIONER EVAPORATOR COILS AND
4 CONDENSERS.

5 (iii) COPPER WIRE, INCLUDING COPPER WIRE THAT IS BURNED IN WHOLE
6 OR IN PART TO REMOVE THE INSULATION.

7 (C) IN A PURCHASE TRANSACTION WITH AN INDUSTRIAL OR BUSINESS
8 CUSTOMER, A SCRAP METAL DEALER MAY PAY THAT CUSTOMER IN ANY MANNER
9 DESCRIBED IN SUBDIVISION (A) OR (B).

10 (D) UNLESS THE TRANSACTION IS WITH AN INDUSTRIAL OR COMMERCIAL
11 CUSTOMER, A SCRAP METAL DEALER SHALL NOT ACCEPT BARTER OR A TRADE
12 OR EXCHANGE OF SCRAP METAL OR OTHER PERSONAL PROPERTY.

13 (E) A SCRAP METAL DEALER IN A PURCHASE TRANSACTION SHALL
14 EXAMINE THE IDENTIFICATION PRESENTED UNDER SUBSECTION (2) (A) BY THE
15 SELLER OR INDIVIDUAL ACTING ON BEHALF OF THE SELLER, AND IF THE
16 IDENTIFICATION PRESENTED DISPLAYS THE DATE OF BIRTH OF THE
17 INDIVIDUAL, CONFIRM THAT THE INDIVIDUAL IS AT LEAST 16 YEARS OLD
18 BASED ON THAT DATE OF BIRTH.

19 (F) A SCRAP METAL DEALER SHALL NOT PURCHASE SCRAP METAL THAT
20 IS NOT DELIVERED IN OR ON A VEHICLE LICENSED AND TITLED FOR USE ON
21 PUBLIC HIGHWAYS.

22 (G) A SCRAP METAL DEALER SHALL ENSURE THAT IT TRAINS EACH
23 SCALE OPERATOR, PURCHASER, AND SUPERVISOR EMPLOYED BY THE DEALER
24 CONCERNING THE LEGAL REQUIREMENTS OF THIS ACT AND THE
25 RESPONSIBILITIES OF THE SCRAP METAL DEALER UNDER THIS ACT.

26 (2) ~~A seller shall do all of the following:~~ IN A PURCHASE
27 TRANSACTION, ALL OF THE FOLLOWING APPLY TO A SELLER, IF THE SELLER

1 IS AN INDIVIDUAL, OR TO AN INDIVIDUAL ACTING AS AN AGENT OR
2 REPRESENTATIVE OF A SELLER:

3 ~~(a) Present to the dealer an~~ HE OR SHE MUST PRESENT HIS OR HER
4 operator's or chauffeur's license, military identification card,
5 Michigan identification card, passport, or other government-issued
6 identification containing ~~a~~ HIS OR HER photograph TO THE SCRAP
7 METAL DEALER and allow the SCRAP METAL dealer to make a photocopy
8 or electronic copy of the identification.

9 ~~(b) Allow~~ HE OR SHE MUST ALLOW the SCRAP METAL dealer to make
10 ~~a~~ TAKE HIS OR HER thumbprint, to be used only for identification
11 purposes by the SCRAP METAL dealer and for investigation purposes
12 by a law enforcement agency.

13 ~~(c) Execute~~ HE OR SHE MUST PROVIDE THE SCRAP METAL DEALER WITH
14 a signed statement ~~indicating that the seller~~ CERTIFIES THAT HE OR
15 SHE is the owner of, or is otherwise authorized to sell, the
16 ~~nonferrous~~ SCRAP metal ~~offered for purchase to the~~ SCRAP METAL
17 dealer.

18 ~~(d) Attest to the lack of any criminal convictions~~ AN
19 INDIVIDUAL WHO HAS BEEN CONVICTED OF A CRIME involving the theft,
20 conversion, or sale of ~~nonferrous metals~~. SCRAP METAL MAY NOT ENTER
21 INTO A PURCHASE TRANSACTION. AS PART OF A PURCHASE TRANSACTION, THE
22 INDIVIDUAL SHALL CERTIFY THAT HE OR SHE HAS NOT BEEN CONVICTED OF A
23 CRIME DESCRIBED IN THIS SUBDIVISION.

24 Enacting section 1. This amendatory act does not take effect
25 unless both of the following bills of the 97th Legislature are
26 enacted into law:

27 (a) Senate Bill No. ____ or House Bill No. 4593 (request no.

1 00660'13).

2 (b) Senate Bill No. ____ or House Bill No. 4595 (request no.

3 00752'13).