

**SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4593**

A bill to amend 2008 PA 429, entitled
"Nonferrous metal regulatory act,"
by amending the title and sections 1, 3, 5, 7, 9, 11, 13, and 17
(MCL 445.421, 445.423, 445.425, 445.427, 445.429, 445.431, 445.433,
and 445.437) and by adding sections 6 and 10.

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

1 PROVIDE AND SCRAP METAL DEALERS TO OBTAIN CERTAIN INFORMATION AT
2 THE TIME OF A PURCHASE TRANSACTION; TO REQUIRE THAT SCRAP METAL
3 DEALERS IMPLEMENT AND MAINTAIN RECORDS OF THEIR PURCHASE
4 TRANSACTIONS AND TO MAKE THOSE RECORDS AVAILABLE FOR LAW
5 ENFORCEMENT PURPOSES; and to provide for penalties and remedies.

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

8 Sec. 3. As used in this act:

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

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

1 (A) ~~(e)~~-"Ferrous metal" means a metal that contains
2 significant quantities of iron or steel.

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

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

15 (D) ~~(e)~~-"Industrial or commercial account ~~CUSTOMER~~" means any
16 ~~person, operating~~ **A PERSON THAT OPERATES** from a fixed location ~~7~~
17 ~~that~~ **AND** is a seller of ~~ferrous or nonferrous~~ **SCRAP** metal to a
18 scrap metal ~~recycler pursuant to~~ **DEALER UNDER** a written agreement
19 **THAT PROVIDES FOR REGULAR OR PERIODIC SALE, DELIVERY, PURCHASE, OR**
20 **RECEIVING OF SCRAP METAL.**

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

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

1 (G) ~~(h)~~ "Public fixtures **FIXTURE**" means articles containing
2 ~~nonferrous metal that are used or located in areas open to the~~
3 ~~public and include, but are not limited to, utility access covers,~~
4 ~~street light and fixtures, road and bridge guard rails, highway or~~
5 ~~street signs, water meter covers, traffic directional and control~~
6 ~~signs, traffic light signals, telecommunications cable, utility-~~
7 ~~related articles, and historical markers.~~ **AN ITEM THAT CONTAINS**
8 **FERROUS OR NONFERROUS METAL AND IS OWNED OR UNDER THE EXCLUSIVE**
9 **CONTROL OF A GOVERNMENTAL UNIT. THE TERM INCLUDES, BUT IS NOT**
10 **LIMITED TO, A STREET LIGHT POLE OR FIXTURE, ROAD OR BRIDGE**
11 **GUARDRAIL, TRAFFIC SIGN, TRAFFIC LIGHT SIGNAL, OR HISTORICAL**
12 **MARKER.**

13 (H) "PURCHASE TRANSACTION" MEANS A PURCHASE OF SCRAP METAL, OR
14 THE PURCHASE OF PROPERTY DESCRIBED IN SECTION 10(A) TO (D) IF THE
15 KNOWING PURCHASE OR OFFER TO PURCHASE THAT PROPERTY IS NOT
16 PROHIBITED BY THAT SECTION, BY A SCRAP METAL DEALER. THE TERM DOES
17 NOT INCLUDE ANY OF THE FOLLOWING:

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

24 (ii) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
25 OR SALVAGE VEHICLES, VEHICLE PARTS, OR VEHICLE SCRAP BY A VEHICLE
26 SCRAP METAL PROCESSOR, VEHICLE SALVAGE POOL OPERATOR, OR FOREIGN
27 SALVAGE VEHICLE DEALER THAT IS LICENSED AS A DEALER UNDER SECTION

1 248 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, AND IS
2 ACTING WITHIN THE SCOPE OF THAT DEALER'S LICENSE.

3 (iii) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
4 OR SALVAGE VEHICLES, VEHICLE PARTS, OR VEHICLE SCRAP BY AN
5 AUTOMOTIVE RECYCLER THAT IS LICENSED AS A DEALER UNDER SECTION 248
6 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, IF THE
7 TRANSACTION IS AUTHORIZED UNDER SECTION 217C OF THE MICHIGAN
8 VEHICLE CODE, 1949 PA 300, MCL 257.217C; SECTION 18 OF THE MOTOR
9 VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1318; OR
10 SECTION 2 OF 1986 PA 119, MCL 257.1352.

11 (iv) THE PURCHASE OF SCRAP METAL BY A MILL, FOUNDRY, DIE
12 CASTER, OR OTHER MANUFACTURING FACILITY THAT PURCHASES SCRAP METAL
13 FROM AN INDUSTRIAL OR COMMERCIAL CUSTOMER FOR ITS OWN USE IN THE
14 PRODUCTION OF METAL ARTICLES OR MATERIALS AND DOES NOT IN THE
15 ORDINARY COURSE OF ITS BUSINESS PURCHASE SCRAP METAL FOR RESALE.

16 (v) THE PURCHASE OF SCRAP METAL FROM A GOVERNMENTAL UNIT.

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

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

22 (K) "SCRAP METAL" MEANS FERROUS OR NONFERROUS METAL, OR ITEMS
23 THAT CONTAIN FERROUS OR NONFERROUS METAL, THAT ARE SOLD OR OFFERED
24 FOR SALE FOR THE VALUE OF THE FERROUS OR NONFERROUS METAL THEY
25 CONTAIN RATHER THAN THEIR ORIGINAL INTENDED USE; FERROUS OR
26 NONFERROUS METAL REMOVED FROM OR OBTAINED BY CUTTING, DEMOLISHING,
27 OR DISASSEMBLING A BUILDING, STRUCTURE, OR MANUFACTURED ITEM; OR

1 OTHER METAL THAT CANNOT BE USED FOR ITS ORIGINAL INTENDED PURPOSE
 2 BUT CAN BE PROCESSED FOR REUSE IN A MILL, FOUNDRY, DIE CASTER, OR
 3 OTHER MANUFACTURING FACILITY.

4 (I) "SCRAP METAL DEALER" MEANS A PERSON OR GOVERNMENTAL UNIT
 5 THAT BUYS SCRAP METAL AND IS NOT A FIRST PURCHASER. THE TERM
 6 INCLUDES, BUT IS NOT LIMITED TO, A PERSON, WHETHER OR NOT LICENSED
 7 UNDER STATE LAW OR LOCAL ORDINANCE, THAT OPERATES A BUSINESS AS A
 8 SCRAP METAL RECYCLER, SCRAP PROCESSOR, SECONDHAND AND JUNK DEALER,
 9 OR OTHER PERSON THAT PURCHASES ANY AMOUNT OF SCRAP METAL ON A
 10 REGULAR, SPORADIC, OR 1-TIME BASIS.

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

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

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

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

23 ~~— (a) Produce and maintain records as required under section~~
 24 ~~7(2).~~

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

27 ~~— (c) Tag and hold any nonferrous metal as provided for in~~

1 ~~section 9.~~

2 ~~—— (d) Pay a seller by a method capable of being traced from the~~
3 ~~dealer to the seller. Payment by cash or currency of more than~~
4 ~~\$50.00, barter, or trade is not considered a payment that complies~~
5 ~~with the requirement of this subdivision. Payment of cash in any~~
6 ~~amount in a transaction involving predominantly copper articles is~~
7 ~~considered a violation of this subdivision.~~

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

10 (A) UNLESS SECTION 6 APPLIES, AND EXCEPT AS PROVIDED IN
11 SUBDIVISION (B), BEGINNING 120 DAYS AFTER THE EFFECTIVE DATE OF THE
12 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, A SCRAP METAL DEALER
13 SHALL ONLY PAY A SELLER WITH 1 OF THE FOLLOWING IN A PURCHASE
14 TRANSACTION:

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

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

25 (B) ALL OF THE FOLLOWING APPLY IN A PURCHASE TRANSACTION WITH
26 AN INDUSTRIAL OR COMMERCIAL CUSTOMER:

27 (i) THE SCRAP METAL DEALER MAY PAY USING ANY OF THE FOLLOWING

1 FORMS OF PAYMENT, AS AGREED TO BY THE SCRAP METAL DEALER AND THE
2 INDUSTRIAL OR COMMERCIAL CUSTOMER:

3 (A) BY CHECK, MONEY ORDER, OR PAYMENT CARD OR RECEIPT
4 DESCRIBED IN SUBDIVISION (A) (ii). IF A PAYMENT DESCRIBED IN THIS
5 SUB-SUBPARAGRAPH IS MAILED TO THE INDUSTRIAL OR COMMERCIAL
6 CUSTOMER, THE SCRAP METAL DEALER MAY MAIL THAT PAYMENT TO THE
7 STREET ADDRESS OR POST OFFICE BOX OF THE INDUSTRIAL OR COMMERCIAL
8 CUSTOMER OR TO ANOTHER PERSON OR POST OFFICE BOX AS DIRECTED BY THE
9 INDUSTRIAL OR COMMERCIAL CUSTOMER.

10 (B) BY BANK WIRE TRANSFER OR OTHER ELECTRONIC DELIVERY TO AN
11 ACCOUNT OF THE INDUSTRIAL OR COMMERCIAL CUSTOMER.

12 (ii) THE 3-DAY WAITING PERIOD DESCRIBED IN SECTION 6 DOES NOT
13 APPLY TO THE PURCHASE OF ANY OF THE ITEMS DESCRIBED IN THAT SECTION
14 BY AN INDUSTRIAL OR COMMERCIAL CUSTOMER.

15 (C) A SCRAP METAL DEALER MAY ACCEPT BARTER OR A TRADE OR
16 EXCHANGE OF SCRAP METAL OR OTHER PROPERTY IN A PURCHASE TRANSACTION
17 AS ALL OR PART OF THE CONSIDERATION FOR THAT TRANSACTION.

18 (D) A SCRAP METAL DEALER IN A PURCHASE TRANSACTION SHALL
19 EXAMINE THE IDENTIFICATION PRESENTED UNDER SUBSECTION (2) (A) BY THE
20 SELLER OR INDIVIDUAL ACTING ON BEHALF OF THE SELLER, AND IF THE
21 IDENTIFICATION PRESENTED DISPLAYS THE DATE OF BIRTH OF THE
22 INDIVIDUAL, CONFIRM THAT THE INDIVIDUAL IS AT LEAST 16 YEARS OLD
23 BASED ON THAT DATE OF BIRTH.

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

1 ~~(2) A seller shall do all of the following.~~ **IN A PURCHASE**
2 **TRANSACTION, ALL OF THE FOLLOWING APPLY TO A SELLER, IF THE SELLER**
3 **IS AN INDIVIDUAL, OR TO AN INDIVIDUAL ACTING AS AN AGENT OR**
4 **REPRESENTATIVE OF A SELLER:**

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

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

15 (c) ~~Execute~~ **HE OR SHE MUST PROVIDE THE SCRAP METAL DEALER WITH**
16 a signed statement ~~indicating that the seller~~ **CERTIFIES THAT HE OR**
17 **SHE** is the owner of, or is otherwise authorized to sell, the
18 ~~nonferrous~~ **SCRAP** metal ~~offered for purchase to the~~ **SCRAP METAL**
19 dealer **AND IS AT LEAST 16 YEARS OLD.**

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

26 **SEC. 6. (1) SUBJECT TO SUBSECTION (2), BEGINNING OCTOBER 1,**
27 **2014, IN A PURCHASE TRANSACTION OF ANY OF THE FOLLOWING ITEMS, A**

House Bill No. 4593 as amended December 11, 2013

1 SCRAP METAL DEALER SHALL NOT PAY THE SELLER UNTIL 3 BUSINESS DAYS
2 AFTER THE DATE OF THE TRANSACTION, AND SHALL PAY THE SELLER AFTER
3 THAT PERIOD BY MAKING A DIRECT DEPOSIT OR ELECTRONIC TRANSFER TO
4 THE SELLER'S ACCOUNT AT A FINANCIAL INSTITUTION; BY MAILING A
5 CHECK, MONEY ORDER, PAYMENT CARD, OR RECEIPT DESCRIBED IN SECTION
6 5(1)(A) TO THE SELLER, AT THE ADDRESS SHOWN ON THE IDENTIFICATION
7 PRESENTED UNDER SECTION 5(2)(A); OR BY DELIVERING A CHECK, MONEY
8 ORDER, PAYMENT CARD, OR RECEIPT DESCRIBED IN SECTION 5(1)(A) TO THE
9 SELLER AT THE SCRAP METAL DEALER'S PREMISES:

10 (A) CATALYTIC CONVERTERS, UNLESS THE SELLER IS AN AUTOMOTIVE
11 RECYCLER AS DEFINED IN SECTION 2A OF THE MICHIGAN VEHICLE CODE,
12 1949 PA 300, MCL 257.2A; A MANUFACTURER OR WHOLESALE OF CATALYTIC
13 CONVERTERS; OR A MUFFLER SHOP, TIRE STORE, OR OTHER RETAIL BUSINESS
14 THAT SELLS CONVERTERS SEPARATELY OR AS PART OF AN EXHAUST SYSTEM.

15 (B) AIR CONDITIONERS, AIR CONDITIONER EVAPORATOR COILS OR
16 CONDENSERS, OR PARTS OF AIR CONDITIONER EVAPORATOR COILS AND
17 CONDENSERS.

18 (C) COPPER WIRE, INCLUDING COPPER WIRE THAT IS BURNED IN WHOLE
19 OR IN PART TO REMOVE THE INSULATION, COPPER PIPE, OR COPPER
20 FITTINGS.

21 (2) SUBSECTION (1) DOES NOT APPLY, AND A SCRAP METAL DEALER IS
22 NOT REQUIRED TO DELAY PAYMENT IN A PURCHASE TRANSACTION OF AN ITEM
23 DESCRIBED IN SUBSECTION (1)(A) TO (C), IF<< >>
24 REPRESENTATIVES OF THE SCRAP METAL INDUSTRY, IN CONSULTATION WITH
25 THE DEPARTMENT OF STATE POLICE, IMPLEMENT AND MAINTAIN AN
26 ELECTRONIC DATABASE THAT MEETS ALL OF THE FOLLOWING:

27 (A) IS AVAILABLE TO ALL SCRAP METAL DEALERS IN THIS STATE.

1 (B) IS WEB-BASED.

2 (C) HAS THE CAPABILITY TO CONDUCT STATEWIDE REAL-TIME SEARCHES
3 BY ITEM DESCRIPTION OR SELLER.

4 (D) IS ACCESSIBLE TO LAW ENFORCEMENT AGENCIES THROUGH A
5 PASSWORD SUPPORTED, INTERNET-BASED PLATFORM.

6 (E) ALLOWS A SCRAP METAL DEALER TO REPORT ALL OF THE FOLLOWING
7 INFORMATION CONCERNING THE PURCHASE OF 1 OR MORE OF THE ITEMS
8 DESCRIBED IN SUBSECTION (1) (A) TO (C):

9 (i) NAME AND ADDRESS OF THE SCRAP METAL DEALER AND SELLER.

10 (ii) DATE AND TIME OF THE PURCHASE TRANSACTION.

11 (iii) A DESCRIPTION OF THE ITEM OR ITEMS PURCHASED.

12 (iv) THE WEIGHT OR VOLUME OF THE ITEM OR ITEMS PURCHASED.

13 (3) IN ADDITION TO THE REQUIREMENTS OF SUBSECTION (2), THE
14 PERSON OR PERSONS THAT DEVELOP THE DATABASE DESCRIBED IN SUBSECTION
15 (2) SHALL ENDEAVOR, BUT ARE NOT REQUIRED, TO INCLUDE THE FOLLOWING
16 CAPABILITIES IN THE DATABASE:

17 (A) ALLOW THE REPORTING OF THE INFORMATION DESCRIBED IN
18 SUBSECTION (2) (E) FOR THE PURCHASE OF 1 OR MORE ITEMS DESCRIBED IN
19 SUBSECTION (1) (A) TO (C) CONCURRENTLY WITH THE CLOSING OF THE
20 PURCHASE TRANSACTION OF THOSE ITEMS.

21 (B) ALLOW A LAW ENFORCEMENT AGENCY TO FLAG THE NAME OF A
22 SELLER THAT APPEARS IN THE DATABASE AND, IF A LAW ENFORCEMENT
23 AGENCY HAS FLAGGED THE NAME OF A SELLER, THE DATABASE WILL NOTIFY
24 THE LAW ENFORCEMENT AGENCY IF THAT SELLER IS THE SELLER IN
25 SUBSEQUENT PURCHASE TRANSACTIONS AND PROVIDE THE AGENCY ALL OF THE
26 INFORMATION ABOUT THE SELLER AND ITS PURCHASE TRANSACTIONS THAT
27 SCRAP METAL DEALERS HAVE REPORTED TO THE DATABASE.

1 (4) IF THE DATABASE DESCRIBED IN SUBSECTION (2) IS IMPLEMENTED
2 AS DESCRIBED IN THAT SUBSECTION, BEGINNING NOT LATER THAN 30 DAYS
3 AFTER IMPLEMENTATION A SCRAP METAL DEALER SHALL DO ALL OF THE
4 FOLLOWING:

5 (A) REGISTER OR SUBSCRIBE TO THE DATABASE AND PAY A REASONABLE
6 FEE FOR THAT REGISTRATION OR SUBSCRIPTION.

7 (B) BY THE END OF THE BUSINESS DAY FOLLOWING THE DATE OF A
8 PURCHASE TRANSACTION OF 1 OR MORE ITEMS DESCRIBED IN SUBSECTION
9 (1) (A) TO (C), ELECTRONICALLY REPORT THE PURCHASE OF THE ITEM OR
10 ITEMS TO THE DATABASE. THE REPORT DESCRIBED IN THIS SUBDIVISION
11 SHALL INCLUDE ALL OF THE INFORMATION DESCRIBED IN SUBSECTION
12 (2) (E). A SCRAP METAL DEALER IS NOT REQUIRED TO REPORT THE
13 CONSIDERATION PAID FOR THE ITEM OR ITEMS OR OTHER PRICING
14 INFORMATION FOR INCLUSION IN THE DATABASE.

15 Sec. 7. (1) ~~Except~~ **SUBJECT TO SUBSECTION (4), AND EXCEPT** as
16 otherwise provided in this ~~subsection,~~ **SECTION**, a **SCRAP METAL**
17 dealer shall ~~produce~~ **PREPARE** and maintain ~~an~~ **A SEPARATE**, accurate,
18 and legible record of each purchase transaction. The dealer shall
19 maintain the records ~~produced under~~ **DESCRIBED IN** this section for
20 at least 1 year; ~~—~~ **THE DEALER** shall keep the records in a location
21 that is readily accessible to a local, state, or federal law
22 enforcement agency, **OR TO RAILROAD POLICE IN INVESTIGATION OF**
23 **STOLEN RAILROAD PROPERTY**, for inspection during normal business
24 hours; ~~—~~ and **THE DEALER** shall make the records, or copies of those
25 records, available **ON REQUEST** to any local, state, or federal law
26 enforcement agency. ~~upon reasonable suspicion of violation of this~~
27 ~~act.~~

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

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

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

24 **(C) ~~(b)~~** ~~The~~ **IF THE SCRAP METAL IS DELIVERED BY LICENSED**
25 **VEHICLE, THE** license plate number of the vehicle. ~~delivering the~~
26 ~~nonferrous metal.~~

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

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

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

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

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

19 (ii) IF ONLY THE SCRAP METAL IS WEIGHED, A PHOTOGRAPH OR IMAGE
20 OF THE SCRAP METAL ON THE SCALE.

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

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

25 (J) ~~(h)~~ A **LEGIBLE** thumbprint ~~of the seller.~~ **DESCRIBED IN**
26 **SECTION 5(2)(B).**

27 (3) ~~In the case of a seller that is~~ **A SCRAP METAL DEALER IS**

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

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

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

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

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

25 Sec. 9. (1) ~~A~~ SUBJECT TO SUBSECTION (3), A SCRAP METAL dealer
26 shall tag and hold, for 7 calendar days, any ~~article containing~~
27 ~~nonferrous metal purchased from a seller and that is offered for~~

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~~purchase under any of the following circumstances:~~ **OF THE FOLLOWING
ITEMS ACQUIRED IN A PURCHASE TRANSACTION:**

~~—— (a) The article has altered or obliterated serial numbers, and
the person delivering the article does not have a written receipt
or documentation.~~

~~—— (b) Where, due to the identification on the article or due to
the type of article, the dealer would reasonably be considered to
have knowledge that the article is, or was, the property of a
governmental entity, and the person delivering the article does not
have a written receipt or documentation.~~

~~—— (c) Where, due to the identification on the article, the
dealer would reasonably be considered to have knowledge that the
article is, or was, the property of a business, and the person
delivering the article does not have a written receipt or
documentation.~~

~~—— (d) The article is a commemorative, decorative, or other
cemetery related or apparently ceremonial article, and the person
delivering the article does not have a written receipt or
documentation.~~

~~—— (e) The article is subject to a notification or bulletin from
any law enforcement agency that is received by the dealer prior to
the purchase of the article.~~

(A) ~~(f) Where the article is copper~~ **COPPER** wiring, whether
burned or with sheathing., and the person delivering the article
does not have a written receipt or documentation.

(B) A CATALYTIC CONVERTER.

**<<(C) CLEARLY IDENTIFIABLE NON-AUTOMOTIVE AIR CONDITIONING COILS
WHICH ARE SOLD SEPARATELY FROM AN AIR CONDITIONER.>>**

~~(2) The tag and hold requirements of this section require the~~

~~dealer to also~~ **A SCRAP METAL DEALER THAT PURCHASES AN ITEM DESCRIBED IN SUBSECTION (1) SHALL** create and maintain the records required under section 7 regarding those articles, **AND IF THE DATABASE DESCRIBED IN SECTION 6 IS IMPLEMENTED, REPORT THE PURCHASE TO THE DATABASE.**

(3) The tag and hold requirements of subsection (1) do not apply to ~~any of the following~~. **THE ACQUISITION OF AN ITEM DESCRIBED IN SUBSECTION (1) FROM AN INDUSTRIAL OR COMMERCIAL CUSTOMER.**

~~—— (a) Any article containing nonferrous metal that does not conform to the circumstances described in subsection (1).~~

~~—— (b) Any article that has been the subject of tag and hold by a dealer in compliance with this section if that article is resold directly to another dealer. In addition, any article that was not initially subject to the tag and hold provisions of this section is not thereafter subject to the tag and hold provisions if that article is resold to another dealer.~~

~~—— (4) Except in the case where the seller has specific written documentation that the seller is the owner, agent, or person with authority to possess and sell certain articles, a seller shall not sell or offer for sale, and a dealer shall not purchase, any article containing nonferrous metal that is marked with any form of the name, initials, markings, or logo of a governmental entity, utility, cemetery, or railroad; any beer kegs; or any public fixtures. Any sale is subject to the provisions of this act.~~

SEC. 10. A PERSON SHALL NOT KNOWINGLY SELL OR ATTEMPT TO SELL TO A SCRAP METAL DEALER, AND A SCRAP METAL DEALER SHALL NOT KNOWINGLY PURCHASE OR OFFER TO PURCHASE, ANY OF THE FOLLOWING TYPES

1 OF PROPERTY:

2 (A) PUBLIC FIXTURES. THIS SUBDIVISION DOES NOT APPLY IF THE
3 SELLER IS A GOVERNMENTAL UNIT OR THE SELLER HAS WRITTEN
4 AUTHORIZATION FROM THE GOVERNMENTAL UNIT THAT OWNED THE PROPERTY TO
5 SELL THE PROPERTY.

6 (B) METAL ARTICLES OR MATERIALS THAT ARE CLEARLY MARKED AS
7 PROPERTY BELONGING TO A PERSON OTHER THAN THE SELLER. THIS
8 SUBDIVISION DOES NOT APPLY IF THE SELLER HAS AUTHORIZATION FROM
9 THAT PERSON TO SELL THE PROPERTY.

10 (C) A COMMEMORATIVE, DECORATIVE, OR OTHER CEMETERY-RELATED OR
11 APPARENTLY CEREMONIAL ARTICLE. THIS SUBDIVISION DOES NOT APPLY IF
12 THE SELLER IS THE OWNER OF THE ARTICLE; IF THE SELLER IS AUTHORIZED
13 BY THE OWNER OF THE ARTICLE TO SELL THE ARTICLE; OR IF THE SELLER
14 OF A CEMETERY-RELATED ARTICLE IS THE CEMETERY IN WHICH THE ARTICLE
15 WAS LOCATED.

16 (D) METAL ARTICLES OR MATERIALS REMOVED FROM PROPERTY OWNED BY
17 A RAILROAD COMPANY OR FROM A RAILROAD RIGHT-OF-WAY. THIS
18 SUBDIVISION DOES NOT APPLY IF THE SELLER IS THE OWNER OF THE METAL
19 ARTICLES OR MATERIALS; IS THE MANUFACTURER OF THE METAL ARTICLES OR
20 MATERIALS; IS A CONTRACTOR ENGAGED IN THE BUSINESS OF REPAIRING
21 RAILROAD EQUIPMENT; OR IS A PERSON THAT HAS WRITTEN AUTHORIZATION
22 FROM THAT OWNER, MANUFACTURER, OR CONTRACTOR TO SELL THOSE METAL
23 ARTICLES OR MATERIALS.

24 Sec. 11. (1) A **SCRAP METAL** dealer shall register with or
25 subscribe to, ~~and~~ maintain that registration or subscription with,
26 **AND USE IN THE CONDUCT OF ITS BUSINESS**, an internet-based database
27 available to **SCRAP METAL** dealers, law enforcement agencies, and the

1 general public that lists and tracks, at a minimum, thefts of
2 ~~nonferrous SCRAP metal. and articles containing nonferrous metals.~~
3 The database may be reasonably limited in terms of time and
4 geographical area.

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

11 (3) A **SCRAP METAL DEALER SHALL ENSURE THAT IT MAKES AVAILABLE**
12 **TO EACH OF ITS EMPLOYEES ENGAGED IN PURCHASING OR WEIGHING SCRAP**
13 **METAL SOLD OR OFFERED FOR SALE TO THE SCRAP METAL DEALER EACH THEFT**
14 **ALERT, OR SIMILAR NOTICE THAT A SCRAP METAL THEFT HAS OCCURRED,**
15 **THAT THE SCRAP METAL DEALER RECEIVES FROM THE DATABASE SERVICE**
16 **DESCRIBED IN THIS SECTION, AND THAT THOSE EMPLOYEES REVIEW ANY**
17 **RECENT ALERTS OR SIMILAR NOTICES THAT THEY HAVE NOT PREVIOUSLY**
18 **REVIEWED ON A DAILY BASIS.**

19 Sec. 13. (1) ~~A person who violates section 7(1) or section 9~~
20 ~~knowing or having reason to know that he or she is violating those~~
21 ~~sections~~ **IF A PERSON VIOLATES SECTION 7, OR SECTION 9, AND KNOWS OR**
22 **SHOULD HAVE KNOWN THAT THE PERSON HAS VIOLATED THAT SECTION, THE**
23 **PERSON** is guilty of a misdemeanor punishable by a fine of not more
24 than \$500.00 or imprisonment for not more than 93 days, or both. **IF**
25 **A VIOLATION OF SECTION 7 IS THE RESULT OF A MALFUNCTION OF AN**
26 **ELECTRONIC RECORD-KEEPING SYSTEM DESCRIBED IN SECTION 7(4), IT IS**
27 **AN AFFIRMATIVE DEFENSE IN AN ACTION AGAINST THE SCRAP METAL DEALER**

1 THAT UTILIZES THAT SYSTEM THAT THE DEALER DILIGENTLY PURSUED REPAIR
2 OF THE ELECTRONIC RECORD-KEEPING SYSTEM AFTER THE MALFUNCTION
3 OCCURRED, AND IMPLEMENTED AND MAINTAINED A MANUAL RECORD-KEEPING
4 SYSTEM FOR PURCHASE TRANSACTIONS THAT OCCURRED WHILE THE ELECTRONIC
5 RECORD-KEEPING SYSTEM WAS MALFUNCTIONING.

6 (2) ~~A person who buys or sells nonferrous metal articles~~
7 ~~knowing or having reason to know that they are stolen~~ IN CONNECTION
8 WITH A PURCHASE TRANSACTION, EACH OF THE FOLLOWING is guilty of a
9 felony punishable by imprisonment for not more than 5 years or a
10 fine of not more than \$5,000.00, or both, for a first offense and
11 is guilty of a felony punishable by imprisonment for not more than
12 5 years or a fine of not more than \$10,000.00, or both, for a
13 second or subsequent offense:-

14 (A) A SCRAP METAL DEALER THAT PURCHASES SCRAP METAL OR AN ITEM
15 OF PROPERTY DESCRIBED IN SECTION 10 AND KNEW OR SHOULD HAVE KNOWN
16 THAT IT WAS STOLEN.

17 (B) A PERSON THAT SELLS SCRAP METAL OR AN ITEM OF PROPERTY
18 DESCRIBED IN SECTION 10 TO A SCRAP METAL DEALER AND KNEW OR SHOULD
19 HAVE KNOWN THAT IT WAS STOLEN.

20 Sec. 17. (1) A person may bring a private cause of action
21 AGAINST A SELLER OR A SCRAP METAL DEALER, in a court of competent
22 jurisdiction, for monetary damages suffered from violation of this
23 act. ~~by a seller or a dealer, or both.~~

24 (2) ~~The~~ IF THE COURT IN AN ACTION DESCRIBED IN SUBSECTION (1)
25 FINDS THAT THE VIOLATION INCLUDED THE PURCHASE OR SALE OF STOLEN
26 PROPERTY AND FINDS THAT THE PURCHASER IN AN ACTION AGAINST THE
27 PURCHASER, OR THE SELLER IN AN ACTION AGAINST THE SELLER, KNEW OR

1 **SHOULD HAVE KNOWN THAT THE PROPERTY WAS STOLEN, THE** court shall
2 award treble damages for the value of the ~~nonferrous metal article~~
3 **PROPERTY** stolen. ~~The court may award costs regarding any aspect of~~
4 ~~an action brought under subsection (1).~~ As used in this subsection,
5 "value of the ~~nonferrous metal article~~ **PROPERTY** stolen" means the
6 greatest of the following:

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

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

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

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

13 Enacting section 1. This amendatory act does not take effect
14 unless House Bill No. 4595 of the 97th Legislature is enacted into
15 law.