

# HOUSE BILL No. 5493

March 20, 2012, Introduced by Reps. Ananich, Tlaib, Stanley, Smiley, Muxlow, Liss,  
Kandrevas, Bauer and Rutledge and referred to the Committee on Regulatory Reform.

A bill to regulate and license scrap metal dealers; to provide  
for the powers and duties of certain state officers and entities;  
and to prescribe penalties.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the "scrap  
2 metal licensing act".

3       Sec. 3. As used in this act:

4       (a) "Department" means the department of licensing and  
5 regulatory affairs.

6       (b) "License" means a scrap metal dealer license under this  
7 act.

8       (c) "Person" means an individual, partnership, corporation,  
9 limited liability company, association, or other legal entity.

10       (d) "Scrap metal dealer" means that term as defined in section

1 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423.

2 Sec. 5. (1) A person shall not engage in business as a scrap  
3 metal dealer in this state without a scrap metal dealer license  
4 from the department under this act.

5 (2) Except for an initial license, the term of a license is 1  
6 year, beginning on January 1 and expiring on December 31 of the  
7 next calendar year.

8 (3) The department shall issue an initial license for a term  
9 from the effective date of that initial license, as determined by  
10 the department, to the next December 31 after that effective date  
11 or, at the option of the department, to the second December 31  
12 after the effective date. If the effective date of the initial  
13 license is not January 1, the department shall adjust the amount of  
14 the license fee under section 9(3) for that initial term on a pro  
15 rata basis to reflect the length of the initial term, as determined  
16 by the department.

17 Sec. 7. This act or the issuance of a license under this act  
18 does not affect an obligation a person may have under 1917 PA 350,  
19 MCL 445.401 to 445.408, to obtain a license to carry on the  
20 business of a second hand dealer or junk dealer in a city, county,  
21 or village.

22 Sec. 9. (1) An applicant for a scrap metal dealer license  
23 under this act shall file a written application with the  
24 department. The application shall include all of the following  
25 information about the scrap metal dealer:

26 (a) The name of the applicant for the license and, if the  
27 applicant is a partnership, corporation, association, or other

1 legal entity, the name and the position of the individual filing  
2 the application on behalf of the entity.

3 (b) The address of the principal office of the applicant.

4 (c) The business address of the location or locations in this  
5 state where the scrap metal dealer conducts business or will  
6 conduct business as a scrap metal dealer.

7 (2) The department may charge an application fee in the amount  
8 of \$100.00 for processing an initial application for a license.

9 (3) A scrap metal dealer shall pay an annual license fee of  
10 \$100.00 for a new or renewal license.

11 Sec. 11. (1) If the department receives an application  
12 containing all of the information required under section 9(1), any  
13 application fee charged by the department under section 9(2), and  
14 the license fee described in section 9(3), the department may issue  
15 a scrap metal dealer license to the applicant. A scrap metal dealer  
16 license authorizes the applicant to engage in business as a scrap  
17 metal dealer under this act in this state.

18 (2) A scrap metal dealer license issued under this act is  
19 valid for the conduct of business as a scrap metal dealer only at  
20 the location specified in the application under section 9(1)(c). A  
21 separate scrap metal dealer license is required for each location  
22 specified in the application under section 9(1)(c).

23 Sec. 13. (1) A scrap metal dealer shall ensure that any of its  
24 employees who perform the duties of a scale operator, purchaser, or  
25 supervisor has received training that meets the standards  
26 established under subsection (2).

27 (2) After consultation with the department of state police and

persons familiar with the scrap metal industry, the department by rule shall establish training standards for the training of scale operators, purchasers, or supervisors employed by scrap metal dealers. The training standards shall require training in at least the following areas:

(a) The legal requirements of this act and the scrap metal regulatory act, 2008 PA 429, MCL 445.421 to 445.443, and the penalties for a violation of those requirements.

(b) How to identify stolen or illegal property.

(c) Safety procedures.

Sec. 15. (1) A scrap metal dealer licensed under this act shall maintain a system of books and records and make them available, on request during normal business hours, to the department or local, state, or law enforcement agencies.

(2) A scrap metal dealer licensed under this act shall retain the books and records described in this section for 1 of the following periods, whichever is longer:

(a) For a record the scrap metal dealer is required to prepare or maintain under the scrap metal regulatory act, 2008 PA 429, MCL 445.421 to 445.443, any time period required under that act.

(b) For a record the scrap metal dealer is required to prepare or maintain as a licensee of a city, county, or village under 1917 PA 350, MCL 445.401 to 445.408, any time period required under that act.

(c) For any other books and records, 5 years.

(3) As used in this section, "books and records" includes, but is not limited to, any of the following records:

1 (a) The records the scrap metal dealer is required to prepare  
2 or maintain under the scrap metal regulatory act, 2008 PA 429, MCL  
3 445.421 to 445.443.

4 (b) If the scrap metal dealer is required to obtain a license  
5 to carry on the business of a second hand dealer or junk dealer in  
6 a city, county, or village under 1917 PA 350, MCL 445.401 to  
7 445.408, the records the scrap metal dealer is required to prepare  
8 or maintain under that act.

9 Sec. 17. (1) A scrap metal dealer or other person that does  
10 any of the following is subject to the remedies described in  
11 subsection (2):

12 (a) Engages in fraud or deceit in obtaining or renewing a  
13 license.

14 (b) Acts as a scrap metal dealer in this state without a  
15 license.

16 (c) Aids or abets another person in acting as a scrap metal  
17 dealer without a license.

18 (d) Violates this act or the scrap metal regulatory act, 2008  
19 PA 429, MCL 445.421 to 445.443.

20 (e) If the person is required to obtain a license to carry on  
21 the business of a second hand dealer or junk dealer in a city,  
22 county, or village under 1917 PA 350, MCL 445.401 to 445.408,  
23 failing or neglecting to obtain that city, county, or village  
24 license or otherwise violating that act.

25 (2) After notice and opportunity for hearing under the  
26 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
27 24.328, the department shall do 1 or more of the following if it

1 determines that a person violated this act, a rule adopted under  
2 this act, or an order issued under this act:

3 (a) If the person is a licensee, limit, suspend, or revoke the  
4 person's license.

5 (b) Deny an initial license or the renewal of a license.

6 (c) Impose an administrative fine to be paid to the  
7 department, in an amount that does not exceed \$5,000.00.

8 (d) Require that the person pay restitution, based on proofs  
9 submitted to and findings made by the hearing examiner after a  
10 contested case.

11 Sec. 19. (1) A person shall not make a false statement in an  
12 application for a scrap metal dealer license. A person that  
13 violates this subsection is guilty of a misdemeanor punishable by  
14 imprisonment for not more than 1 year or a fine of not more than  
15 \$500.00, or both.

16 (2) A person shall not conduct business as a scrap metal  
17 dealer in this state without a scrap metal dealer license under  
18 this act. A person that violates this subsection is guilty of a  
19 misdemeanor punishable by imprisonment for not more than 1 year or  
20 a fine of not more than \$500.00, or both.

21 (3) Except for a violation described in subsection (1) or (2),  
22 a person that commits any other violation of this act is guilty of  
23 a misdemeanor punishable by imprisonment for not more than 1 year  
24 or a fine of not more than \$500.00, or both.

25 (4) Whether or not a person seeks damages under subsection (5)  
26 or has an adequate remedy at law, a person may bring an action to  
27 do any of the following:

1 (a) Obtain a declaratory judgment that a practice is in  
2 violation of this act.

3 (b) Enjoin by temporary or permanent injunction a person that  
4 is engaging or is about to engage in a practice in violation of  
5 this act.

6 (5) In addition to obtaining equitable relief under subsection  
7 (4), a person that suffers loss as a result of a violation of this  
8 act may bring an individual or a class action to recover the  
9 person's actual damages and reasonable attorney fees.

10 Enacting section 1. This act does not take effect unless all  
11 of the following bills of the 96th Legislature are enacted into  
12 law:

13 (a) Senate Bill No. \_\_\_\_\_ or House Bill No. 5490 (request  
14 no. 03482'11 \*).

15 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5491 (request  
16 no. 03565'11 \*).