

## SECONDHAND DEALERS AND JUNK DEALERS

### Act 350 of 1917

AN ACT to regulate and license second hand dealers and junk dealers; and to prescribe penalties for the violation of the provisions of this act.

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- Am. 1939, Act 15, Eff. Sept. 29, 1939

*The People of the State of Michigan enact:*

#### **445.401 Second hand or junk dealer; license required; automated recycling kiosk; internet drop-off store exempt from licensure; articles of scrap metal; compliance required.**

##### Sec. 1.

(1) A person shall not carry on the business of a second hand dealer or junk dealer in a county, city, or village in this state without first obtaining, from the mayor of the city or the chief executive officer of the county or village where the business is to be carried on, a license under this act authorizing that person to carry on that business. If a second hand dealer uses an automated recycling kiosk to receive articles, the dealer must obtain a license under this section in the city, county, or village in which the kiosk is installed.

(2) This section does not require an internet drop-off store that complies with subsection (3), or an individual who is engaged in the sale, purchase, consignment, or trade of personal property or other valuable thing for himself or herself, to obtain a license under this act.

(3) An internet drop-off store that meets all of the following conditions is exempt from licensure as a second hand dealer or junk dealer under this act:

(a) The internet drop-off store has a fixed place of business in this state except that it exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.

(b) The internet drop-off store has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, and the website is searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(c) The internet drop-off store maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, and those records contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(d) The internet drop-off store provides the local law enforcement agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(e) Within 24 hours after a request from a local law enforcement agency, the internet drop-off store provides an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The internet drop-off store shall provide the information in a format that is acceptable to the local law enforcement agency but the information shall at least be in a legible format and in the English language.

(f) The internet drop-off store requires that payment for the personal property or other valuable thing is made by means of a check or through an electronic payment system; that the payment is not made in cash; and that payment is not made to the seller until the item is sold.

(g) The internet drop-off store immediately removes the personal property or other valuable thing from the website if the local law enforcement agency determines that the personal property or other valuable thing is stolen.

(4) This section does not exempt a person that is purchasing or selling articles of scrap metal, as defined in section 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423, from complying with that act.

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- CL 1929, 9758 ;-- Am. 1931, Act 127, Imd. Eff. May 19, 1931 ;-- CL 1948, 445.401 ;-- Am. 2006, Act 294, Imd. Eff. July 20, 2006 ;-- Am. 2006, Act 675, Eff. Mar. 30, 2007 ;-- Am. 2008, Act 432, Eff. Apr. 1, 2009 ;-- Am.

#### **445.402 Second hand or junk dealer; license, issuance; terms; transferability; fee; inspection.**

##### **Sec. 2.**

(1) The mayor of a city or chief executive officer of a county or village may grant a license to a person that authorizes that person to carry on the business of a second hand dealer or junk dealer in that city, county, or village, subject to the provisions of this act. For purposes of this subsection, a second hand dealer that uses an automated recycling kiosk to receive articles is considered to be carrying on the business of a second hand dealer in the city, county, or village in which the kiosk is installed.

(2) A license granted under this section must designate the particular place where the person shall carry on the business of a second hand dealer or junk dealer. The person must conduct that business only in the place designated in the license.

(3) The term of a license granted under this section is 1 year from date of issuance unless sooner revoked for cause. The license is not transferable. The legislative body of any city, or the trustees and chief executive officer of any county or village, shall establish the fee for processing and issuing a license in accordance with its charter or local ordinance, based on the cost of issuance and administration of that license.

(4) The city, village, or county may inspect the premises of a licensed second hand dealer or junk dealer during normal business hours. As used in this subsection, "premises" includes the place where an automated recycling kiosk is installed.

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- CL 1929, 9759 ;-- CL 1948, 445.402 ;-- Am. 2006, Act 675, Eff. Mar. 30, 2007 ;-- Am. 2008, Act 432, Eff. Apr. 1, 2009 ;-- Am. 2018, Act 329, Eff. Sept. 30, 2018

#### **445.403 Definitions.**

##### **Sec. 3.**

As used in this act:

(a) "Automated recycling kiosk" means an interactive device that meets all of the following:

(i) Is installed in a secure retail space.

(ii) Has the following technological functions:

(A) Verification of a seller's identity by remote examination of a government-issued identification card by a live representative during all hours of operation.

(B) Secure storage of items accepted by the kiosk for recycling.

(C) Capture and storage of images of the seller and the article purchased during the transaction.

(D) Electronic reporting of all transactions to law enforcement.

(b) "Automotive recycler" means a person that engages in business primarily for the purpose of selling retail salvage vehicle parts and secondarily for the purpose of selling retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal or a person employed as a salvage vehicle agent as that term is defined in section 56c of the Michigan vehicle code, 1949 PA 300, MCL 257.56c.

(c) "Industrial scrap" means materials that are a direct product or by-product of any form of manufacturing, shaping, or cutting process from a person whose principal business is the manufacturing, shaping, or cutting of materials at a fixed place of business.

(d) "Internet drop-off store" means a person that contracts with other persons to offer its personal property or other valuable thing for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in section 1(3).

(e) "Local law enforcement agency" means the police agency of the city, village, or township, or if none, the county sheriff of the county, in which a second hand dealer, junk dealer, or internet drop-off store conducts business.

(f) "Person" means an individual, corporation, limited liability company, partnership, or other legal entity.

(g) "Scrap processor" means a person, utilizing machinery and equipment and operating from a fixed location, whose principal business is the processing and manufacturing of iron, steel, nonferrous metals, paper, plastic, or

glass, into prepared grades of products suitable for consumption by recycling mills, foundries, and other scrap processors.

(h) "Second hand dealer" or "junk dealer" means a person whose principal business is that of purchasing, selling, exchanging, storing, or receiving second hand articles of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures. Second hand dealer includes a person that is engaged in the business of receiving tangible personal property for recycling by means of an automated recycling kiosk. Second hand dealer or junk dealer does not include a scrap processor, an automotive recycler, or a junkyard that deals principally in industrial scrap and is licensed by a city, village, or county.

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- CL 1929, 9760 ;-- Am. 1939, Act 15, Eff. Sept. 29, 1939 ;-- CL 1948, 445.403 ;-- Am. 2006, Act 294, Imd. Eff. July 20, 2006 ;-- Am. 2006, Act 675, Eff. Mar. 30, 2007 ;-- Am. 2018, Act 329, Eff. Sept. 30, 2018

#### **445.404 Second hand or junk dealer; sign; prerequisites; record; inspection.**

##### **Sec. 4.**

(1) A second hand dealer or junk dealer shall post in a conspicuous place in or on its place of business a sign that states its name and occupation.

(2) A second hand dealer or junk dealer shall make and maintain a separate book or other written or electronic record, numbered consecutively, and open to inspection by a member of a local law enforcement agency and the Michigan state police, in which the dealer writes or enters in the English language at the time of the purchase or exchange of any article, all of the following:

(a) A description of the article.

(b) The name, description, fingerprint, operator's or chauffeur's license or state identification number, registration plate number, and address of the individual from whom the article is purchased and received. The second hand dealer or junk dealer shall make a copy of the operator's license, chauffeur's license, or state identification card as part of the book or record.

(c) The day and hour the purchase or exchange is made.

(d) The location from which the item is obtained.

(e) Subject to subsection (3), the method of payment.

(3) A second hand dealer or junk dealer must pay for an item by check or by an electronic payment system, except that if payment is made by an automated recycling kiosk, the second hand dealer may pay cash for the item.

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- CL 1929, 9761 ;-- CL 1948, 445.404 ;-- Am. 2006, Act 675, Eff. Mar. 30, 2007 ;-- Am. 2008, Act 428, Eff. Apr. 1, 2009 ;-- Am. 2018, Act 329, Eff. Sept. 30, 2018

#### **445.405 Second hand or junk dealer; articles purchased or exchanged; retention; retention automated recycling kiosk; tagging; record; requirements; exceptions.**

##### **Sec. 5.**

(1) Except as provided in subsection (2), a second hand dealer or junk dealer shall retain each article it purchases or receives in exchange for at least 15 days before disposing of it, in an accessible place in the building where the article is purchased and received. The dealer shall attach a tag to the article in a visible and convenient place, and write on the tag the number that corresponds with the entry number in the book or other record.

(2) A second hand dealer that operates an automated recycling kiosk may store articles acquired at the kiosk in a secure off-site location. A dealer must retain an article stored under this subsection for 30 days, and upon request return that article to a law enforcement officer of this state without cost.

(3) A second hand dealer or junk dealer shall prepare and deliver on Monday of each week to the local law enforcement agency of the local unit of government in which the dealer's business is carried on, before 12 noon, a legible and correct paper or electronic copy, in the English language, from the book or other written or electronic record, that contains a description of each article purchased or received in exchange during the preceding week, the hour and day when the purchase or exchange was made, a description of the individual from whom it was purchased or received in exchange, and a copy of the documentation required under section 4 concerning the

individual from whom it was purchased or received in exchange. The statement shall be verified in a manner acceptable to the chief of police or chief law enforcement officer of the local law enforcement agency.

(4) This section does not apply to old rags, waste paper, and household goods except radios, televisions, record players, and electrical appliances and does not require a second hand dealer or junk dealer to retain articles purchased from a person that has a fixed place of business after those articles are reported under subsection (3).

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- CL 1929, 9762 ;-- CL 1948, 445.405 ;-- Am. 1961, Act 35, Eff. Sept. 8, 1961 ;-- Am. 2006, Act 675, Eff. Mar. 30, 2007 ;-- Am. 2008, Act 428, Eff. Apr. 1, 2009 ;-- Am. 2018, Act 329, Eff. Sept. 30, 2018

#### **445.406 Second hand or junk dealer; person without business place; retention of goods, record for police.**

##### **Sec. 6.**

If the purchaser or receiver, by exchange or otherwise, as described in section 3, is a peddler or goes about with a wagon to purchase or obtain by exchange or otherwise, any of such articles, and does not have a place of business in a building, he need not retain such articles for 15 days before selling them, provided on Monday of each week he files with the chief of police or chief police officer of the city or village in which he is located a report showing the place of business of the person to whom such sale was made; a copy of the record required by such section to be kept in a separate book of the articles purchased or received during the preceding week, including a description of such articles sold, to whom sold and his place of business.

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- CL 1929, 9763 ;-- CL 1948, 445.406

#### **445.407 Second hand or junk dealer; unlawful purchases.**

##### **Sec. 7.**

No person shall purchase or receive by sale, barter or exchange or otherwise, any article mentioned in this act from any person between the hours of 9 p.m. and 7 a.m., nor from any person who is at the time intoxicated or from an habitual drunkard or from any person known by said second hand dealer or junk dealer to be a thief or any associate of thieves or receiver of stolen property or from any person he has reason to suspect of being such.

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- CL 1929, 9764 ;-- CL 1948, 445.407

#### **445.408 Violation of act; penalties; remedies.**

##### **Sec. 8.**

(1) Except as otherwise provided for in this section, a person who violates this act is guilty of a misdemeanor and shall be imprisoned for not more than 6 months and shall be fined not less than \$500.00 or more than \$1,000.00.

(2) A second hand or junk dealer who buys or sells scrap metal, knowing that it is stolen, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$5,000.00, or both. The penalties imposed under this subsection apply only to a first violation of this subsection.

(3) A second hand or junk dealer who buys or sells stolen scrap metal knowing that it was stolen is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both. The penalties imposed under this subsection apply to a second or subsequent violation.

(4) The license of a person, corporation, copartnership, or firm that is found guilty of violating any of the provisions of this act shall be considered to be revoked upon entry of a conviction and such person, corporation, copartnership, or firm shall not be permitted to carry on the business of being a second hand or junk dealer within

this state for a period of 1 year after that conviction.

(5) The remedies under this act are independent and cumulative. The use of 1 remedy by a person does not bar the use of other lawful remedies by that person or the use of a lawful remedy by another person.

**History:** 1917, Act 350, Imd. Eff. May 10, 1917 ;-- CL 1929, 9765 ;-- CL 1948, 445.408 ;-- Am. 2006, Act 675, Eff. Mar. 30, 2007 ;-- Am. 2008, Act 428, Eff. Apr. 1, 2009