

HOUSE BILL No. 5490

March 20, 2012, Introduced by Reps. Tlaib, Greimel, Smiley, Olson, Muxlow, Irwin, Liss, Kandrevas, Bauer and Rutledge 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, 5, and 7 (MCL 445.421, 445.423, 445.425, and 445.427).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

1
2 An act to regulate the purchase and sale of ~~certain nonferrous~~
3 ~~metals; to provide for disclosures by certain persons regarding~~
4 ~~certain transactions; to require the creation of records for~~
5 ~~certain purposes and for the use of certain databases by certain~~
6 ~~persons;~~ **SCRAP METAL AND OTHER METAL ARTICLES TO SCRAP METAL**
7 **DEALERS; TO REQUIRE SELLERS TO PROVIDE AND SCRAP METAL DEALERS TO**
8 **OBTAIN CERTAIN INFORMATION AT THE TIME OF A PURCHASE TRANSACTION;**
9 **TO REQUIRE THAT SCRAP METAL DEALERS IMPLEMENT AND MAINTAIN RECORDS**
10 **OF THEIR PURCHASE TRANSACTIONS AND TO MAKE THOSE RECORDS AVAILABLE**

1 **FOR LAW ENFORCEMENT PURPOSES;** and to provide for penalties and
2 remedies.

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

5 Sec. 3. As used in this act:

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

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

25 ~~—— (c) "Ferrous metal" means a metal that contains significant~~
26 ~~quantities of iron or steel.~~

27 **(A)** ~~(d)~~—"First purchaser" means the first buyer of a **METAL**

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

9 (B) ~~(e)~~ "Industrial or commercial ~~account~~ ~~CUSTOMER~~" means ~~any~~
 10 ~~person,~~ ~~operating~~ ~~A PERSON THAT OPERATES~~ from a fixed location ~~;~~
 11 ~~that~~ ~~AND~~ is a seller of ~~ferrous or nonferrous~~ ~~SCRAP~~ metal to a
 12 scrap metal ~~recycler~~ ~~pursuant to~~ ~~DEALER UNDER~~ a written agreement.

13 ~~(f)~~ "Nonferrous metal" means a metal that does not contain
 14 significant ~~quantities of ferrous metal but contains copper, brass,~~
 15 ~~platinum based metals, aluminum, bronze, lead, zinc, nickel, or~~
 16 ~~alloys of those metals.~~

17 (C) "METAL ARTICLE" MEANS A METAL ITEM, INCLUDING, BUT NOT
 18 LIMITED TO, A PUBLIC FIXTURE, THAT IS USABLE FOR ITS ORIGINAL
 19 INTENDED PURPOSE WITHOUT PROCESSING, REPAIR, OR ALTERATION, BUT IS
 20 OFFERED FOR SALE FOR THE VALUE OF THE METAL IT CONTAINS.

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

24 (E) ~~(h)~~ "Public ~~fixtures~~ ~~FIXTURE~~" means ~~articles containing~~
 25 ~~nonferrous metal that are~~ ~~A METAL ARTICLE THAT IS~~ used or located
 26 in ~~areas~~ ~~AN AREA~~ open to the public. ~~and include~~ ~~THE TERM INCLUDES,~~
 27 ~~but are~~ ~~IS~~ not limited to, ~~A~~ utility access ~~eovers~~ ~~COVER;~~ street

1 light and ~~fixtures~~ POLE OR FIXTURE; road and ~~OR~~ bridge guard rails
2 GUARDRAIL; highway or street ~~signs~~ SIGN; water meter ~~eovers~~ COVER;
3 traffic directional and ~~OR~~ control ~~signs~~ SIGN; traffic light
4 ~~signals~~ SIGNAL; telecommunications cable; utility-related articles
5 METAL ARTICLE; and ~~OR~~ historical ~~markers~~ MARKER.

6 (F) "PURCHASE TRANSACTION" MEANS A PURCHASE OF SCRAP METAL BY
7 A SCRAP METAL DEALER.

8 (G) ~~(i)~~ "Record" means a paper, electronic, or other generally
9 accepted method of storing information in a retrievable form.

10 (H) "SCRAP METAL" MEANS A METAL ARTICLE; METAL REMOVED FROM OR
11 OBTAINED BY CUTTING, DEMOLISHING, OR DISASSEMBLING A BUILDING,
12 STRUCTURE, OR MANUFACTURED ITEM; OR OTHER METAL THAT CANNOT BE USED
13 FOR ITS ORIGINAL INTENDED PURPOSE BUT CAN BE PROCESSED FOR REUSE IN
14 A MILL, FOUNDRY, OR OTHER MANUFACTURING FACILITY.

15 (I) "SCRAP METAL DEALER" MEANS A PERSON THAT BUYS OR SELLS
16 SCRAP METAL AND IS NOT A FIRST PURCHASER. THE TERM INCLUDES, BUT IS
17 NOT LIMITED TO, A PERSON, WHETHER OR NOT LICENSED UNDER STATE LAW
18 OR LOCAL ORDINANCE, THAT OPERATES A BUSINESS AS A SCRAP METAL
19 RECYCLER, SCRAP PROCESSOR, SECONDHAND AND JUNK DEALER, OR OTHER
20 PERSON THAT PURCHASES ANY AMOUNT OF SCRAP METAL ON A REGULAR,
21 SPORADIC, OR 1-TIME BASIS. THE TERM DOES NOT INCLUDE AN AUTOMOTIVE
22 RECYCLER REGULATED BY AND COMPLYING WITH SECTION 217 OF THE
23 MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.217; SECTION 18 OF THE
24 MOTOR VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1318; OR
25 SECTION 2 OF 1986 PA 119, MCL 257.1352, WHEN ENGAGING IN ACTIVITIES
26 THAT MEET THE DEFINITION OF AUTOMOTIVE RECYCLER AS DEFINED IN
27 SECTION 2A OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.2A.

1 (j) "Scrap metal recycler" means a person that purchases
 2 ~~nonferrous~~ metal that is intended for recycling or reuse, whether
 3 regarded as a scrap processor, core buyer, or other similar
 4 business operation.

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

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

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

13 ~~—— (a) Produce and maintain records as required under section~~
 14 ~~7(2).~~

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

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

19 ~~—— (d) Pay a seller by a method capable of being traced from the~~
 20 ~~dealer to the seller. Payment by cash or currency of more than~~
 21 ~~\$50.00, barter, or trade is not considered a payment that complies~~
 22 ~~with the requirement of this subdivision. Payment of cash in any~~
 23 ~~amount in a transaction involving predominantly copper articles is~~
 24 ~~considered a violation of this subdivision.~~

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

27 **(A) IN A PURCHASE TRANSACTION, A SCRAP METAL DEALER SHALL ONLY**

1 PAY A SELLER BY CHECK OR MONEY ORDER, MAILED WITHIN 3 BUSINESS DAYS
2 TO A STREET ADDRESS PROVIDED TO SCRAP METAL DEALER BY THE SELLER. A
3 SCRAP METAL DEALER SHALL NOT MAIL AN INSTRUMENT DESCRIBED IN THIS
4 SECTION TO A POST OFFICE BOX AND SHALL NOT PAY ALL OR ANY PART OF
5 THE PURCHASE PRICE IN CASH.

6 (B) A SCRAP METAL DEALER IN A PURCHASE TRANSACTION SHALL NOT
7 ACCEPT BARTER OR A TRADE OR EXCHANGE OF SCRAP METAL OR OTHER
8 PERSONAL PROPERTY.

9 (C) A SCRAP METAL DEALER SHALL NOT ENTER INTO A PURCHASE
10 TRANSACTION IF THE SELLER, IF THE SELLER IS AN INDIVIDUAL, OR THE
11 INDIVIDUAL ACTING AS AN AGENT OR REPRESENTATIVE OF THE SELLER, IS
12 NOT AT LEAST 16 YEARS OLD. A SCRAP METAL DEALER SHALL NOT ENTER
13 INTO A PURCHASE TRANSACTION WITHOUT VERIFYING THE AGE OF THAT
14 INDIVIDUAL.

15 (D) A SCRAP METAL DEALER SHALL NOT PURCHASE SCRAP METAL THAT
16 IS NOT DELIVERED IN OR ON A VEHICLE LICENSED AND TITLED FOR USE ON
17 PUBLIC HIGHWAYS.

18 (E) A SCRAP METAL DEALER SHALL ENSURE THAT IT PROVIDES EACH
19 SCALE OPERATOR, PURCHASER, AND SUPERVISOR EMPLOYED BY THE DEALER
20 THE TRAINING DESCRIBED IN SECTION 13 OF THE SCRAP METAL LICENSING
21 ACT.

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

26 (a) ~~Present to the dealer~~ HE OR SHE MUST PRESENT an operator's
27 or chauffeur's license, military identification card, Michigan

1 identification card, passport, or other government-issued
2 identification containing a photograph **TO THE SCRAP METAL DEALER**
3 and allow the **SCRAP METAL** dealer to make a photocopy or electronic
4 copy of the identification.

5 (b) ~~Allow~~ **HE OR SHE MUST ALLOW** the **SCRAP METAL** dealer to make
6 a thumbprint, to be used only for identification purposes by the
7 **SCRAP METAL** dealer and for investigation purposes by a law
8 enforcement agency.

9 (c) ~~Execute~~ **HE OR SHE MUST EXECUTE AND DELIVER TO THE SCRAP**
10 **METAL DEALER** a signed statement indicating that ~~the seller~~ **HE OR**
11 **SHE** is the owner of, or is otherwise authorized to sell, the
12 ~~nonferrous~~ **SCRAP** metal offered for purchase to the **SCRAP METAL**
13 dealer.

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

20 Sec. 7. (1) Except as otherwise provided in this ~~subsection,~~
21 **SECTION,** a **SCRAP METAL** dealer shall ~~produce~~ **PREPARE** and maintain an
22 accurate and legible record of each purchase transaction. The
23 dealer shall maintain the records ~~produced under~~ **DESCRIBED IN** this
24 section for at least 1 year, shall keep the records in a location
25 that is readily accessible to a local, state, or federal law
26 enforcement agency for inspection during normal business hours, and
27 shall make the records, or copies of those records, available to

1 any local, state, or federal law enforcement agency ~~upon~~ **THAT HAS A**
2 reasonable suspicion ~~of~~ **THAT A** violation of this act **HAS OCCURRED.**

3 (2) The record of a purchase transaction ~~regarding nonferrous~~
4 ~~metal shall contain~~ **DESCRIBED IN SUBSECTION (1) MUST INCLUDE** all of
5 the following, **ON A FORM PROVIDED BY THE DEPARTMENT OF STATE**
6 **POLICE:**

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

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

27 (C) ~~(b)~~ The license plate number of the vehicle ~~delivering the~~

1 ~~nonferrous metal.~~ **THAT DELIVERED THE SCRAP METAL.**

2 (D) ~~(e)~~ The date and time of the **PURCHASE** transaction.

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

6 (F) ~~(e)~~ The weight, quantity, or volume of metal, ~~made~~ **THE**
7 **SCRAP METAL PURCHASED, DESCRIBED AND CALCULATED** in accordance with
8 the custom of the trade, **AND THE NAME OF THE EMPLOYEE OF THE SCRAP**
9 **METAL DEALER WHO WEIGHS AND INSPECTS THAT PROPERTY.**

10 (G) **A PHOTOGRAPH OF THE SCRAP METAL PURCHASED.**

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

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

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

17 (3) ~~In the case of a seller that is~~ **A SCRAP METAL DEALER SHALL**
18 **RETAIN THE ORIGINAL OF THE COMPLETED RECORD FORM PREPARED UNDER**
19 **SUBSECTION (2) AND PROVIDE THE SELLER A COPY OF THAT COMPLETED**
20 **FORM.**

21 (4) **A SCRAP METAL DEALER IS NOT REQUIRED TO OBTAIN ALL OF THE**
22 **INFORMATION DESCRIBED IN SUBSECTION (2) AND COMPLETE THE RECORD**
23 **FORM DESCRIBED IN THAT SUBSECTION FOR A PURCHASE TRANSACTION WITH**
24 ~~an industrial or commercial account where payment is made by a~~
25 ~~method capable of being traced from the dealer to the seller and~~
26 ~~payment is made~~ **CUSTOMER THAT MEETS ALL OF THE FOLLOWING:**

27 (A) **PAYMENT IS MADE** directly to the business, ~~the dealer is~~

1 ~~not required to produce the record described in subsection (2) so~~
2 ~~long as the INDUSTRIAL OR COMMERCIAL CUSTOMER.~~

3 (B) THE personal and business identifying information of the
4 industrial or commercial ~~account seller~~ CUSTOMER is on file with
5 the SCRAP dealer and conforms to a written description of the type
6 of ~~nonferrous~~ SCRAP metal ~~or articles~~ customarily purchased by the
7 SCRAP METAL dealer from that ~~seller, and the information~~ CUSTOMER.

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

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

14 (a) Senate Bill No. ____ or House Bill No. 5491 (request no.
15 03565'11 *).

16 (b) Senate Bill No. ____ or House Bill No. 5492 (request no.
17 03566'11 *).