

SENATE SUBSTITUTE FOR
HOUSE BILL NO. 6599

A bill to amend 1917 PA 350, entitled

"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,"

by amending sections 1, 2, 3, 4, 5, and 8 (MCL 445.401, 445.402, 445.403, 445.404, 445.405, and 445.408), sections 1 and 3 as amended by 2006 PA 294; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A person, corporation, copartnership, or firm
2 shall not carry on the business of dealer in second hand goods or
3 junk dealer in any of the **COUNTIES**, cities, or villages of this
4 state ~~having a population of 1,000 located in counties of 25,000~~
5 ~~or over~~ without having first obtained, from the mayor of the city
6 or the ~~president~~ **CHIEF EXECUTIVE OFFICER** of the **COUNTY OR** village

1 where ~~such~~ **THE** business is to be carried on, a license under this
2 act authorizing that person, corporation, copartnership, or firm to
3 carry on that business.

4 (2) This subsection does not require an internet drop-off
5 store complying with subsection (3), or a person engaged in the
6 sale, purchase, consignment, or trade of personal property or other
7 valuable thing for himself or herself, to obtain a license under
8 this act.

9 (3) An internet drop-off store in compliance with the
10 following conditions is exempt from licensure as a second hand
11 dealer or junk dealer under this act:

12 (a) Has a fixed place of business within this state except
13 that he or she exclusively transacts all purchases or sales by
14 means of the internet and the purchases and sales are not
15 physically transacted on the premises of that fixed place of
16 business.

17 (b) Has the personal property or other valuable thing
18 available on a website for viewing by photograph, if available, by
19 the general public at no charge, which website shall be searchable
20 by zip code or state, or both. The website viewing shall include,
21 as applicable, serial number, make, model, and other unique
22 identifying marks, numbers, names, or letters appearing on the
23 personal property or other valuable thing.

24 (c) Maintains records of the sale, purchase, consignment, or
25 trade of the personal property or other valuable thing for at least
26 2 years, which records shall contain a description, including a
27 photograph, if available, and, if applicable, serial number, make,

1 model, and other unique identifying marks, numbers, names, or
2 letters appearing on the personal property or other valuable thing.

3 (d) Provide the local law enforcement agency with any name
4 under which it conducts business on the website and access to the
5 business premises at any time during normal business hours for
6 purposes of inspection.

7 (e) Within 24 hours after a request from a local law
8 enforcement agency, provide an electronic copy of the seller's or
9 consignor's name, address, telephone number, driver license number
10 and issuing state, the buyer's name and address if applicable, and
11 a description of the personal property or other valuable thing as
12 described in subdivision (c). The provision of information shall be
13 in a format acceptable to the local law enforcement agency but
14 shall at least be in a legible format and in the English language.

15 (f) Provide that payment for the personal property or other
16 valuable thing is executed by means of check or other electronic
17 payment system, so long as the payment is not made in cash. No
18 payment shall be provided to the seller until the item is sold.

19 (g) Immediately remove the personal property or other valuable
20 thing from the website if the local law enforcement agency
21 determines that the personal property or other valuable thing is
22 stolen.

23 Sec. 2. (1) The mayor of ~~any such~~ **A city** ~~,~~ or ~~president~~
24 **CHIEF EXECUTIVE OFFICER** of ~~any such~~ **A COUNTY OR** village ~~,~~ may
25 ~~from time to time~~ grant ~~under his hand and the official seal of~~
26 ~~his office~~ to any ~~suitable~~ person, corporation, copartnership,
27 or firm, a license authorizing ~~such~~ **THAT** person, corporation,

1 copartnership, or firm to carry on the business of a second hand
2 dealer or junk dealer subject to the provisions of this act. ~~Said~~

3 (2) **THE** license shall designate the particular place ~~in said~~
4 ~~city or village~~ where ~~such~~ **THAT** person, corporation,
5 copartnership, or firm shall carry on ~~said~~ **THAT** business. ~~—, and~~
6 ~~no person, corporation, copartnership or firm receiving said~~
7 ~~license shall carry on said~~ **THE** business ~~in any~~ **SHALL BE**
8 **CONDUCTED ONLY IN THE** place ~~other than as~~ designated in ~~said~~
9 **THE** license. ~~It shall be unlawful for the issuing officer to grant~~
10 a

11 (3) **A** license **SHALL NOT BE ISSUED** to any person, firm, or
12 corporation ~~doing, or~~ desiring to ~~do~~ **CONDUCT** a junk business in
13 any residential community ~~—, where~~ ~~65 per cent~~ **65%** or more of
14 the property owners within a radius of 1 city block of ~~such junk~~
15 ~~business, or~~ **THE** contemplated junk business ~~—, petition the~~
16 issuing officer not to do so. ~~—: Provided, however, That in case~~
17 ~~any person shall have no regular place of business, a license shall~~
18 ~~be issued to such person to carry on the business of second hand~~
19 ~~dealer or junk dealer either by horse and wagon, cart, automobile~~
20 ~~or by pack.~~

21 (4) The ~~said~~ license shall be for the period of 1 year from
22 date of issuance unless sooner revoked for cause ~~—, and shall~~ **IS**
23 not ~~be~~ transferable. ~~It shall be within the power of the~~ **THE**
24 legislative body of any city, or the trustees and ~~president~~ **CHIEF**
25 **EXECUTIVE OFFICER** of any **COUNTY OR** village, ~~to fix the amount to~~
26 ~~be paid as an annual license fee at any amount not more than 50~~
27 ~~dollars~~ **SHALL ESTABLISH THE FEE FOR THE PROCESSING AND ISSUANCE OF**

1 THE LICENSE IN ACCORDANCE WITH ITS CHARTER OR LOCAL ORDINANCE,
2 BASED UPON THE COST OF ISSUANCE AND ADMINISTRATION OF THAT LICENSE.

3 (5) THE CITY, VILLAGE, OR COUNTY MAY INSPECT THE PREMISES OF A
4 LICENSED SECOND HAND OR JUNK DEALER DURING NORMAL BUSINESS HOURS.

5 Sec. 3. As used in this act:

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

13 (B) "INDUSTRIAL SCRAP" MEANS MATERIALS THAT ARE A DIRECT
14 PRODUCT OR BY-PRODUCT OF ANY FORM OF MANUFACTURING, SHAPING, OR
15 CUTTING PROCESS FROM A PERSON, COMPANY, CORPORATION, COPARTNERSHIP,
16 OR FIRM WHOSE PRINCIPAL BUSINESS IS THE MANUFACTURING, SHAPING, OR
17 CUTTING OF MATERIALS AT A FIXED PLACE OF BUSINESS.

18 (C) ~~(b)~~ "Internet drop-off store" means a person,
19 corporation, or firm that contracts with other persons,
20 corporations, or firms to offer its personal property or other
21 valuable thing for sale, purchase, consignment, or trade through
22 means of an internet website and meets the conditions described in
23 section 1(3).

24 (D) ~~(e)~~ "Local law enforcement agency" means the police
25 agency of the city, village, or township, or if none, the county
26 sheriff of the county in which the internet drop-off store conducts
27 business.

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1 (E) ~~-(d)-~~ "Scrap processor" means a person, utilizing
 2 machinery and equipment and operating from a fixed location, whose
 3 principal business is the processing and manufacturing of iron,
 4 steel, nonferrous metals, paper, plastic, or glass, into prepared
 5 grades of products suitable for consumption by recycling mills<<, and
 6 ~~foundries-~~ **FOUNDRIES, AND OTHER SCRAP PROCESSORS.>>**

7 (F) ~~-(e)-~~ "Second hand dealer" or "junk dealer" means any
 8 person, corporation, or member or members of a copartnership or
 9 firm whose principal business is that of purchasing, selling,
 10 exchanging, storing, or receiving second hand articles of any kind,
 11 **SCRAP METALS**, cast iron, old iron, old steel, tool steel, aluminum,
 12 copper, brass, lead pipe or tools, **OR** lighting and plumbing
 13 fixtures. Second hand dealer or junk dealer does not include a
 14 scrap processor, ~~or~~ an automotive recycler, **OR A JUNKYARD THAT**
 15 **DEALS PRINCIPALLY IN INDUSTRIAL SCRAP AND IS LICENSED BY A CITY,**
 16 **VILLAGE, OR COUNTY.**

17 Sec. 4. (1) ~~Such~~ A second hand dealer or junk dealer ~~as~~
 18 ~~defined in the preceding section~~ shall post in a conspicuous place
 19 in or upon ~~his shop, store, wagon, boat or other~~ **ITS** place of
 20 business ~~—~~ a sign having ~~his~~ **ITS** name and occupation. ~~legibly~~
 21 ~~inscribed thereon, and~~

22 (2) **A SECOND HAND OR JUNK DEALER** shall keep a separate book **OR**
 23 **OTHER RECORD** open to inspection by **A** member of a ~~police force,~~
 24 ~~city marshal, constable or other person,~~ **LOCAL LAW ENFORCEMENT**
 25 **AGENCY**, in which shall be written **OR ENTERED** in the English
 26 language at the time of the purchase or exchange of ~~such articles,~~
 27 **ANY ARTICLE** a description ~~thereof~~ **OF THE ARTICLE**, the name,

1 description, **FINGERPRINT, OPERATOR'S OR CHAUFFEUR'S LICENSE OR**
2 **STATE IDENTIFICATION NUMBER, REGISTRATION PLATE NUMBER,** and
3 ~~residence~~ **ADDRESS** of the person from whom the ~~same~~ **ARTICLE** was
4 purchased and received, and the day and hour when ~~such~~ **THE**
5 purchase or exchange was made **AS WELL AS THE LOCATION FROM WHICH**
6 **THE ITEM WAS OBTAINED, IF APPLICABLE.** Each entry shall be numbered
7 consecutively. ~~commencing with number 1.~~

8 Sec. 5. (1) ~~Such~~ **THE** articles ~~which~~ purchased or exchanged
9 shall be retained by the purchaser ~~thereof,~~ for at least 15 days
10 before disposing of them, in an accessible place in the building
11 where ~~such~~ **THE** articles are purchased and received. A tag shall
12 be attached to ~~such~~ **THE** articles in some visible and convenient
13 place, with the number written thereupon, to correspond with the
14 entry number in ~~such~~ **THE** book **OR OTHER RECORD.** ~~Such~~

15 (2) **THE** purchaser shall prepare and deliver on Monday of each
16 week to the chief of police or chief ~~police~~ **LAW ENFORCEMENT**
17 officer of the ~~city~~ **LOCAL UNIT OF GOVERNMENT** in which such
18 business is carried on, before 12 o'clock noon, a legible and
19 correct copy written in the English language from ~~such~~ **THE** book
20 **OR OTHER RECORD,** containing a description of each article purchased
21 or received during the preceding week, the hour and day when the
22 purchase was made, and the description of the person from whom it
23 was purchased. ~~Such~~ **THE** statement shall be verified by ~~the~~
24 ~~affidavit of~~ the person subscribing his **OR HER** name thereto.

25 (3) This section ~~shall~~ **DOES** not apply to old rags, waste
26 paper, and household goods except radios, televisions, record
27 players, and electrical appliances ~~. Nothing herein contained~~

1 ~~shall make it necessary for~~ **AND DOES NOT REQUIRE** the purchaser to
2 retain articles purchased from individuals, firms, or corporations
3 having a fixed place of business after ~~said~~ **THOSE** articles shall
4 have been reported.

5 Sec. 8. (1) ~~Every person violating any of the provisions of~~
6 ~~this act shall be punished by a fine not exceeding 100 dollars, nor~~
7 ~~less than 10 dollars, or by imprisonment in the county jail not~~
8 ~~exceeding 6 months, or by both such imprisonment and fine. In case~~
9 ~~any~~ **EXCEPT AS OTHERWISE PROVIDED FOR IN THIS SECTION, A PERSON WHO**
10 **VIOLATES THIS ACT IS GUILTY OF A MISDEMEANOR AND SHALL BE**
11 **IMPRISONED FOR NOT MORE THAN 6 MONTHS AND SHALL BE FINED NOT LESS**
12 **THAN \$500.00 OR MORE THAN \$1,000.00.**

13 (2) **A SECOND HAND OR JUNK DEALER WHO BUYS OR SELLS SCRAP**
14 **METAL, KNOWING THAT IT IS STOLEN, IS GUILTY OF A FELONY PUNISHABLE**
15 **BY IMPRISONMENT FOR NOT MORE THAN 3 YEARS OR A FINE OF NOT MORE**
16 **THAN \$2,000.00, OR BOTH.**

17 (3) **A SECOND HAND OR JUNK DEALER WHO BUYS OR SELLS STOLEN**
18 **SCRAP METAL THAT HE OR SHE HAS REASON TO BELIEVE WAS UNLAWFULLY**
19 **REMOVED FROM A UTILITY POLE, TELECOMMUNICATION COMPANY PROPERTY,**
20 **GOVERNMENT PROPERTY, OR UTILITY PROPERTY OR JOBSITE IS GUILTY OF A**
21 **FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 5 YEARS OR A**
22 **FINE OF NOT MORE THAN \$10,000.00, OR BOTH.**

23 (4) **THE LICENSE OF A person, corporation, copartnership, or**
24 **firm ~~shall be~~ THAT IS found guilty of violating any of the**
25 **provisions of this act ~~, the license issued to such person,~~**
26 **~~corporation, copartnership or firm~~ shall be ~~deemed~~ CONSIDERED to**
27 **have been BE revoked ~~ipso facto,~~ UPON ENTRY OF A CONVICTION and**

1 such person, corporation, copartnership, or firm shall not be
2 permitted to carry on ~~such~~ **THE business OF BEING A SECOND HAND OR**
3 **JUNK DEALER** within this state for a period of 1 year after ~~such~~
4 **THAT** conviction.

5 (5) **THE REMEDIES UNDER THIS ACT ARE INDEPENDENT AND**
6 **CUMULATIVE. THE USE OF 1 REMEDY BY A PERSON DOES NOT BAR THE USE OF**
7 **OTHER LAWFUL REMEDIES BY THAT PERSON OR THE USE OF A LAWFUL REMEDY**
8 **BY ANOTHER PERSON.**

9 Enacting section 1. 1945 PA 231, MCL 445.471 to 445.476, is
10 repealed.