

**SUBSTITUTE FOR
HOUSE BILL NO. 6181**

A bill to regulate the purchase and sale of certain nonferrous metals; to provide for certain disclosures by certain persons regarding certain transactions; to require the creation of certain records for certain purposes and for the use of certain databases by certain persons; and to provide for penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

3 Sec. 3. As used in this act:

4 (a) "Dealer" means any person who purchases nonferrous metals
5 from any seller. Dealer includes, but is not limited to, a person,
6 whether or not licensed under state law or local ordinance, that
7 operates a business as a scrap metal recycler, scrap processor,

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1 secondhand and junk dealer, or other person who purchases any
2 amount of nonferrous metal on a regular, sporadic, or 1-time basis.

3 (b) "Ferrous metal" means a metal that contains significant
4 quantities of iron or steel.

5 (c) "Industrial or commercial account" means any person,
6 operating from a fixed location, that is a seller of ferrous or
7 nonferrous metal to a scrap metal recycler pursuant to a written
8 agreement.

9 (d) "Nonferrous metal" means a metal that does not contain
10 significant quantities of ferrous metal but contains copper, brass,
11 aluminum, bronze, lead, zinc, nickel, platinum, or alloys of those
12 metals.

13 (e) "Person" means an individual, partnership, corporation,
14 limited liability company, joint venture, trust, association, or
15 other legal entity.

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

18 (g) "Scrap metal recycler" means a person that purchases [
19] nonferrous metal, whether regarded as a scrap
20 processor, core buyer, or other similar business operation.

21 (h) "Scrap processor" means that term as defined in section 3
22 of 1917 PA 350, MCL 445.403.

23 (i) "Seller" means any individual or person that either
24 regularly, sporadically, or on a 1-time basis receives
25 consideration from any other person from the purchase by a dealer
26 of nonferrous metal offered by that seller.

27 Sec. 5. (1) A dealer shall do all of the following:

1 (a) Produce and maintain records as required under section
2 7(2).

3 (b) Participate in a database meeting the requirements of
4 section 11.

5 (c) Tag and hold any nonferrous metal as provided for in
6 section 9.

7 (d) Pay a seller by check, electronic transfer or ATM card, or
8 other method capable of being traced from the dealer to the seller.
9 Payment by cash or currency, barter, or trade is not considered a
10 payment that complies with the requirement of this subdivision.

11 (2) A seller shall do all of the following:

12 (a) Present to the dealer an operator's or chauffeur's
13 license, military identification card, Michigan identification
14 card, passport, or other government-issued identification
15 containing a photograph and allow the dealer to make a photocopy or
16 electronic copy of the identification.

17 (b) Allow the dealer to make a thumbprint, to be used only for
18 identification purposes by the dealer and for investigation
19 purposes by a law enforcement agency.

20 (c) Execute a signed statement indicating that the seller is
21 the owner of, or is otherwise authorized to sell, the nonferrous
22 metal offered for purchase to the dealer.

23 (d) Attest to the lack of any criminal convictions involving
24 the theft, conversion, or sale of nonferrous metals.

25 Sec. 7. (1) Except as otherwise provided in this subsection, a
26 dealer shall produce and maintain an accurate and legible record of
27 each purchase transaction. The dealer shall maintain the records

1 produced under this section for at least 1 year, shall keep the
2 records in a location that is readily accessible to a local, state,
3 or federal law enforcement agency for inspection during normal
4 business hours, and shall make the records, or copies of those
5 records, available to any local, state, or federal law enforcement
6 agency upon reasonable suspicion of violation of this act.

7 (2) The record of a purchase transaction regarding nonferrous
8 metal shall contain all of the following:

9 (a) The name, address, and identifying number from the
10 seller's operator's or chauffeur's license, military identification
11 card, Michigan identification card, passport, or other government-
12 issued identification containing a photograph. A legible scan or
13 photocopy of the identification is considered satisfactory in
14 fulfilling the requirement of this subdivision. In the case of a
15 repeat seller, a copy of the information may be kept on file with
16 the dealer and be used for future transactions.

17 (b) The license plate number of the vehicle delivering the
18 nonferrous metal.

19 (c) The date and time of the transaction.

20 (d) A description of the predominant types of metal purchases,
21 made in accordance with the custom of the trade.

22 (e) The weight, quantity, or volume of metal, made in
23 accordance with the custom of the trade.

24 (f) The consideration paid and the method of payment.

25 (g) A signed statement from the seller that the seller is the
26 owner of the metal or is otherwise authorized to sell the metal
27 subject to the transaction.

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1 (h) A thumbprint of the seller.

2 (3) In the case of a seller that is an industrial or
3 commercial account where payment is made by check or electronic
4 transfer made payable directly to the business, the dealer is not
5 required to produce the record described in subsection (2) so long
6 as the personal and business identifying information of the
7 industrial or commercial account seller is on file with the dealer
8 and conforms to a written description of the type of nonferrous
9 metal or articles customarily purchased by the dealer from that
10 seller, and the information is reviewed at least every 2 years and
11 validated as current or updated by the dealer.

12 Sec. 9. (1) A dealer shall tag and hold, for [] 7
13 calendar days, any article containing nonferrous metal purchased
14 from a seller and that is offered for purchase under any of the
15 following circumstances:

16 (a) The article has altered or obliterated serial numbers, and
17 the person delivering the article does not have a written receipt
18 or other documentation that indicates where the person obtained the
19 article.

20 (b) Where, due to the identification on the article or due to
21 the type of article, the dealer would reasonably be considered to
22 have knowledge that the article is, or was, the property of a
23 governmental entity, and the person delivering the article does not
24 have a written receipt or other documentation that indicates where
25 the person obtained the article.

26 (c) Where, due to the identification on the article, the
27 dealer would reasonably be considered to have knowledge that the

1 article is, or was, the property of a business, and the person
2 delivering the article does not have a written receipt or other
3 documentation that indicates where the person obtained the article.

4 (d) The article is a commemorative, decorative, or other
5 cemetery-related or apparently ceremonial article, and the person
6 delivering the article does not have a written receipt of other
7 documentation that indicates where the person obtained the article.

8 (e) The article is subject to a theft alert report or bulletin
9 received by the dealer from any law enforcement agency.

10 (f) Where the article is copper wiring, whether burned or with
11 sheathing, and the person delivering the article does not have a
12 written receipt or other documentation that indicates where the
13 person obtained the article.

14 (2) Any article containing nonferrous metal that does not
15 conform to the circumstances described in subsection (1) is not
16 subject to the tag and hold requirement of that subsection.

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

25 (4) As used in this section, "public fixtures" means articles
26 containing nonferrous metal that are used or located in areas open
27 to the public and include, but are not limited to, utility access

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1 covers; street light poles and fixtures; road and bridge guard
2 rails; highway or street signs; water meter covers; traffic
3 directional and control signs; traffic light signals;
4 telecommunications cable; utility-related articles; and historical
5 markers.

6 Sec. 11. (1) A dealer shall participate in, and maintain
7 participation in, an internet-based database available to dealers,
8 law enforcement agencies, and the general public that lists and
9 tracks, at a minimum, thefts of nonferrous metal and articles
10 containing nonferrous metals.

11 (2) The existing database established by the institute of
12 scrap recycling industries, inc., referred to as the ISRI theft
13 alert system, is considered an appropriate internet-based database.
14 A dealer may participate in any other database that provides
15 substantially the same services as the database described in
16 subsection (1).

17 Sec. 13. A person who violates section 7[] is guilty of a
18 misdemeanor punishable by a fine of not more than \$500.00 or
19 imprisonment for not more than 93 days, or both.

20 Sec. 15. (1) A person violating this act is responsible for a
21 state civil infraction and may be ordered to pay a civil fine of
22 not more than \$5,000.00.

23 (2) A person who [buys or sells nonferrous metal articles that he
24 or she has reason to believe were] stolen, is guilty of a felony
25 punishable
26 by imprisonment for not more than 5 years or a fine of not more
27 than \$5,000.00, or both, for a first offense and is guilty of a
felony punishable by imprisonment for not more than 5 years or a

1 fine of not more than \$10,000.00, or both, for a second or
2 subsequent offense.

3 Sec. 17. (1) A person may bring a private cause of action, in
4 a court of competent jurisdiction, for monetary damages suffered
5 from violation of this act by a seller or a dealer, or both.

6 (2) The court shall award treble damages for the value of the
7 nonferrous metal article stolen. The court may award costs
8 regarding any aspect of an action brought under subsection (1). As
9 used in this subsection, "value of the nonferrous metal article
10 stolen" means the greatest of the following:

11 (a) The replacement cost of the stolen article.

12 (b) The cost of repairing the damage caused by the larceny of
13 that article.

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

15 Sec. 19. (1) The remedies under this act are cumulative and do
16 not affect the ability or right of any other person, local
17 governmental unit, or state or federal governing unit to bring any
18 action under this or any other civil, criminal, or regulatory act
19 or ordinance that is otherwise not prohibited by law.

20 (2) This act does not exempt or release any person from the
21 following:

22 (a) Obtaining and maintaining a license under any other act or
23 ordinance.

24 (b) Complying with any strictures contained in any other act
25 or ordinance.