

HOUSE BILL No. 5491

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

A bill to amend 2008 PA 429, entitled
"Nonferrous metal regulatory act,"
by amending sections 11, 13, and 17 (MCL 445.431, 445.433, and
445.437) and by adding section 10; and to repeal acts and parts of
acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 10. A PERSON SHALL NOT KNOWINGLY SELL OR ATTEMPT TO SELL
2 TO A SCRAP METAL DEALER, AND A SCRAP METAL DEALER SHALL NOT
3 KNOWINGLY PURCHASE OR ATTEMPT TO PURCHASE, ANY OF THE FOLLOWING
4 TYPES OF PERSONAL PROPERTY:

5 (A) PUBLIC FIXTURES.

6 (B) NEW METAL ARTICLES OR MATERIALS, SUCH AS THOSE USED IN A
7 MANUFACTURING PROCESS OR CONSTRUCTION.

8 (C) EQUIPMENT OR TOOLS USED BY CONTRACTORS.

9 (D) METAL ARTICLES OR MATERIALS THAT ARE CLEARLY MARKED AS

1 PROPERTY BELONGING TO A BUSINESS OR A PERSON OTHER THAN THE SELLER.

2 (E) CATALYTIC CONVERTERS, UNLESS THE SELLER IS AN AUTOMOTIVE
3 RECYCLER AS DEFINED IN SECTION 2A OF THE MICHIGAN VEHICLE CODE,
4 1949 PA 300, MCL 257.2A.

5 (F) AIR CONDITIONER EVAPORATOR COILS OR CONDENSERS OR PARTS OF
6 AIR CONDITIONER EVAPORATOR COILS OR CONDENSERS.

7 (G) COPPER WIRE THAT WAS BURNED IN WHOLE OR IN PART TO REMOVE
8 THE INSULATION, UNLESS THE SELLER IS AN INDUSTRIAL OR BUSINESS
9 CUSTOMER.

10 (H) A COMMEMORATIVE, DECORATIVE, OR OTHER CEMETERY-RELATED OR
11 APPARENTLY CEREMONIAL ARTICLE.

12 Sec. 11. (1) A **SCRAP METAL** dealer shall register with or
13 subscribe to, ~~and maintain~~ that registration or subscription with,
14 **AND USE IN THE CONDUCT OF ITS BUSINESS**, an internet-based database
15 available to **SCRAP METAL** dealers, law enforcement agencies, and the
16 general public that lists and tracks, at a minimum, thefts of
17 ~~nonferrous-METAL ARTICLES AND OTHER SCRAP metal. and articles~~
18 ~~containing nonferrous metals.~~ The database may be reasonably
19 limited in terms of time and geographical area.

20 (2) The existing database established by the institute of
21 scrap recycling industries, inc., referred to as the ISRI theft
22 alert system, is considered an appropriate internet-based database.
23 A **SCRAP METAL** dealer may register with or subscribe to any other
24 database that provides substantially the same services as ~~the~~ A
25 database described in subsection (1).

26 (3) A **SCRAP METAL DEALER SHALL ENSURE THAT IT MAKES AVAILABLE**
27 **TO EACH OF ITS EMPLOYEES ENGAGED IN PURCHASING OR WEIGHING SCRAP**

1 METAL SOLD OR OFFERED FOR SALE TO THE SCRAP METAL DEALER EACH THEFT
2 ALERT, OR SIMILAR NOTICE THAT A SCRAP METAL THEFT HAS OCCURRED,
3 THAT THE SCRAP METAL DEALER RECEIVES FROM THE DATABASE SERVICE
4 DESCRIBED IN THIS SECTION, AND THAT THOSE EMPLOYEES REVIEW THE
5 ALERTS OR SIMILAR NOTICES ON A DAILY BASIS.

6 Sec. 13. (1) ~~A person who violates section 7(1) or section 9~~
7 ~~knowing or having reason to know that he or she is violating those~~
8 ~~sections~~ **IF A PERSON VIOLATES SECTION 7, AND KNOWS OR HAS REASON TO**
9 **KNOW THAT SECTION 7 WAS VIOLATED, THE PERSON** is guilty of a
10 misdemeanor punishable by a fine of not more than \$500.00 or
11 imprisonment for not more than 93 days, or both.

12 (2) ~~A person who buys or sells nonferrous metal articles~~
13 ~~knowing or having reason to know that they are stolen~~ **EACH OF THE**
14 **FOLLOWING** is guilty of a felony punishable by imprisonment for not
15 more than 5 years or a fine of not more than \$5,000.00, or both,
16 for a first offense and is guilty of a felony punishable by
17 imprisonment for not more than 5 years or a fine of not more than
18 \$10,000.00, or both, for a second or subsequent offense:-

19 (A) **A SCRAP METAL DEALER THAT PURCHASES METAL ARTICLES, AND**
20 **KNOWS OR HAS REASON TO KNOW THAT THEY WERE STOLEN.**

21 (B) **A PERSON THAT SELLS METAL ARTICLES TO A SCRAP METAL**
22 **DEALER, AND KNOWS OR HAS REASON TO KNOW THAT THEY WERE STOLEN.**

23 Sec. 17. (1) A person may bring a private cause of action
24 **AGAINST A SELLER OR A SCRAP METAL DEALER,** in a court of competent
25 jurisdiction, for monetary damages suffered from violation of this
26 act. ~~by a seller or a dealer, or both.~~

27 (2) ~~The~~ **IF THE COURT IN AN ACTION DESCRIBED IN SUBSECTION (1)**

1 **FINDS THAT THE VIOLATION INCLUDED THE PURCHASE OR SALE OF STOLEN**
 2 **METAL ARTICLES, THE** court shall award treble damages for the value
 3 of the ~~nonferrous metal article~~ **PROPERTY** stolen. ~~The court may~~
 4 ~~award costs regarding any aspect of an action brought under~~
 5 ~~subsection (1).~~ As used in this subsection, "value of the
 6 ~~nonferrous metal article~~ **PROPERTY** stolen" means the greatest of the
 7 following:

8 (a) The replacement cost of the ~~stolen article~~. **METAL ARTICLES.**

9 (b) The cost of repairing the damage caused by the larceny of
 10 ~~that article~~. **THE METAL ARTICLES.**

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

12 **(3) THE COURT MAY AWARD COSTS AND REASONABLE ATTORNEY FEES IN**
 13 **AN ACTION BROUGHT UNDER SUBSECTION (1).**

14 Enacting section 1. Section 9 of the nonferrous metal
 15 regulatory act, 2008 PA 429, MCL 445.429, is repealed.

16 Enacting section 2. This amendatory act does not take effect
 17 unless all of the following bills of the 96th Legislature are
 18 enacted into law:

19 (a) Senate Bill No. ____ or House Bill No. 5490 (request no.
 20 03482'11 *).

21 (b) Senate Bill No. ____ or House Bill No. 5492 (request no.
 22 03566'11 *).