

HOUSE BILL No. 5919

September 19, 2012, Introduced by Rep. Lipton and referred to the Committee on Regulatory Reform.

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 3 and 8 (MCL 445.403 and 445.408), section 3 as amended by 2006 PA 675 and section 8 as amended by 2008 PA 428, and by adding section 7a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 3. As used in this act:

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

1 (b) "Industrial scrap" means materials that are a direct
2 product or by-product of any form of manufacturing, shaping, or
3 cutting process from a person ~~, company, corporation,~~
4 ~~copartnership,~~ or firm whose principal business is the
5 manufacturing, shaping, or cutting of materials at a fixed place of
6 business.

7 (c) "Internet drop-off store" means a person ~~, corporation, or~~
8 ~~firm~~ that contracts with other persons ~~, corporations, or firms~~ to
9 offer its personal property or other valuable thing for sale,
10 purchase, consignment, or trade through means of an internet
11 website and meets the conditions described in section 1(3).

12 (d) "Local law enforcement agency" means the police agency of
13 the city, village, or township, or if none, the county sheriff of
14 the county in which ~~the~~ ~~AN~~ internet drop-off store conducts
15 business.

16 **(E) "PERSON" MEANS AN INDIVIDUAL, A GENERAL PARTNER, OR A**
17 **CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR OTHER LEGAL**
18 **ENTITY.**

19 **(F)** ~~(e)~~ "Scrap processor" means a person, utilizing machinery
20 and equipment and operating from a fixed location, whose principal
21 business is the processing and manufacturing of iron, steel,
22 nonferrous metals, paper, plastic, or glass, into prepared grades
23 of products suitable for consumption by recycling mills, foundries,
24 and other scrap processors.

25 **(G)** ~~(f)~~ "Second hand dealer" or "junk dealer" means ~~any~~ ~~A~~
26 person ~~, corporation, or member or members of a copartnership or~~
27 ~~firm~~ whose principal business is that of purchasing, selling,

1 exchanging, storing, or receiving second hand articles of any kind,
2 scrap metals, cast iron, old iron, old steel, tool steel, aluminum,
3 copper, brass, lead pipe or tools, or lighting and plumbing
4 fixtures. Second hand dealer or junk dealer does not include a
5 scrap processor, an automotive recycler, or a junkyard that deals
6 principally in industrial scrap and is licensed by a city, village,
7 or county.

8 **SEC. 7A. (1) A SECOND HAND OR JUNK DEALER SHALL NOT CONDUCT**
9 **BUSINESS AS A PAWNBROKER WITHOUT A LICENSE UNDER 1917 PA 273, MCL**
10 **446.201 TO 446.219. A SECOND HAND OR JUNK DEALER THAT VIOLATES THIS**
11 **SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY 1 OF THE**
12 **FOLLOWING:**

13 **(A) EXCEPT AS PROVIDED IN SUBDIVISION (B), IMPRISONMENT FOR**
14 **NOT FEWER THAN 10 DAYS OR MORE THAN 90 DAYS OR A FINE OF NOT LESS**
15 **THAN \$25.00 OR MORE THAN \$100.00, OR BOTH.**

16 **(B) FOR A SECOND OR SUBSEQUENT VIOLATION OF THIS SECTION,**
17 **IMPRISONMENT FOR NOT FEWER THAN 10 DAYS OR MORE THAN 90 DAYS OR A**
18 **FINE OF NOT LESS THAN \$1,000.00 OR MORE THAN \$2,500.00, OR BOTH.**

19 **(2) AS USED IN THIS SECTION:**

20 **(A) "CONDUCT BUSINESS AS A PAWNBROKER" MEANS TO ENGAGE IN ANY**
21 **CONDUCT OR ACTIVITY DESCRIBED IN SECTION 1(1) OF 1917 PA 273, MCL**
22 **446.201.**

23 **(B) "PAWNBROKER" MEANS THAT TERM AS DEFINED IN SECTION 3 OF**
24 **1917 PA 273, MCL 446.203.**

25 **Sec. 8. (1) Except as otherwise provided for in this section**
26 **OR SECTION 7A, a person ~~who~~ THAT violates this act is guilty of a**
27 **misdemeanor ~~and shall be imprisoned~~ PUNISHABLE BY IMPRISONMENT for**

1 not more than ~~6 months and shall be fined~~ **180 DAYS OR A FINE OF** not
2 less than \$500.00 or more than \$1,000.00, **OR BOTH.**

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

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

13 (4) The license of a person ~~, corporation, copartnership, or~~
14 ~~firm~~ that is found guilty of violating any of the provisions of
15 this act ~~shall be~~ **IS** considered to be revoked ~~upon entry of a~~ **WHEN**
16 **THE** conviction ~~and such~~ **IS ENTERED, AND THE** person ~~, corporation,~~
17 ~~copartnership, or firm~~ ~~shall not be~~ **IS NOT** permitted to carry on
18 the business of being a second hand or junk dealer ~~within~~ **IN** this
19 state for a period of 1 year after that conviction.

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

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

27 (a) Senate Bill No. ____ or House Bill No. 5920(request no.

1 01496'11).

2 (b) Senate Bill No. _____ or House Bill No. 5918 (request no.

3 02061'11).