

# HOUSE BILL No. 5836

September 18, 2014, Introduced by Rep. Callton and referred to the Committee on Financial Services.

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 4, 5, and 8 (MCL 445.404, 445.405, and 445.408), as amended by 2008 PA 428, and by adding section 4a.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 4. (1) A second hand dealer or junk dealer shall post in  
2 a conspicuous place in or ~~upon~~**ON** its place of business a sign  
3 ~~having~~**THAT STATES** its name and occupation.

4           (2) A second hand or junk dealer shall make and maintain a  
5 separate book or other written or electronic record, numbered  
6 consecutively, and open to inspection by a member of a local law  
7 enforcement agency and the Michigan state police, in which ~~shall be~~  
8 ~~written or entered~~**IT WRITES OR ENTERS** in the English language at

1 the time of the purchase or exchange of any **SECOND HAND** article, a  
2 **ALL OF THE FOLLOWING:**

3 (A) A description of the article, ~~and all of the~~  
4 ~~following.~~ **INCLUDING, BUT NOT LIMITED TO, ANY SERIAL NUMBER, MODEL**  
5 **NUMBER, OR OTHER IDENTIFYING NUMBER OR MARK THAT APPEARS ON THE**  
6 **ARTICLE.**

7 (B) ~~(a)~~ **DATE OF BIRTH**, description, fingerprint,  
8 operator's or chauffeur's license or state identification number,  
9 registration plate number, and address of the ~~person~~ **INDIVIDUAL**  
10 from whom the article ~~was~~ **IS** purchased and received. The second  
11 hand dealer or junk dealer shall make a copy of the operator's  
12 license, chauffeur's license, or state identification card as part  
13 of the book or record.

14 (C) ~~(b)~~ **DATE** and ~~hour~~ **TIME** the purchase or exchange  
15 was made.

16 (D) ~~(c)~~ The location from which the item was obtained.

17 (E) **A TRANSACTION NUMBER.**

18 (F) **THE PURCHASE PRICE OF THE ARTICLE, OR IF THE ARTICLE WAS**  
19 **TAKEN IN EXCHANGE, THE VALUE OF THE ITEM EXCHANGED.**

20 (3) ~~(d)~~ ~~Payment for an item shall be made only~~ **A SECOND HAND**  
21 **DEALER OR JUNK DEALER SHALL ONLY PAY FOR A SECOND HAND ARTICLE** by  
22 check or by an electronic payment system. The record **DESCRIBED IN**  
23 **SUBSECTION (2)** shall indicate the method of payment.

24 **SEC. 4A. (1) WITHIN 48 HOURS AFTER A TRANSACTION IN WHICH IT**  
25 **RECEIVES OR PURCHASES A SECOND HAND ARTICLE, A SECOND HAND DEALER**  
26 **OR JUNK DEALER SHALL ELECTRONICALLY TRANSMIT THE FOLLOWING**  
27 **INFORMATION TO THE DEPARTMENT, IN A FORMAT DETERMINED BY THE**

1 DEPARTMENT, FOR INCLUSION IN THE DATABASE:

2 (A) A FULL AND COMPLETE DESCRIPTION OF THE ARTICLE.

3 (B) IF APPLICABLE, THE SERIAL NUMBER, MODEL NUMBER, OR OTHER  
4 IDENTIFYING NUMBER OR MARK THAT APPEARS ON THE ARTICLE.

5 (C) THE PURCHASE PRICE OF THE ARTICLE OR THE VALUE OF ANY ITEM  
6 GIVEN IN EXCHANGE FOR THE ARTICLE.

7 (D) THE SECOND HAND DEALER'S OR JUNK DEALER'S NAME AND  
8 ADDRESS.

9 (E) THE DATE AND TIME OF THE TRANSACTION.

10 (F) THE TRANSACTION NUMBER.

11 (G) THE CUSTOMER'S DATE OF BIRTH; OPERATOR'S LICENSE NUMBER OR  
12 OTHER IDENTIFICATION NUMBER; STREET ADDRESS, INCLUDING CITY,  
13 VILLAGE, OR TOWNSHIP OF RESIDENCE, STATE, AND ZIP CODE; AND COUNTY  
14 OF RESIDENCE.

15 (H) THE NUMBER OF THE DEALER'S CHECK, BANK DRAFT, OR MONEY  
16 ORDER OR THE NOTATION "CASH" IF THE DEALER PAID THE PURCHASE PRICE  
17 IN CASH.

18 (I) THE CUSTOMER'S THUMBPRINT

19 (2) BY JULY 1, 2015, EACH SECOND HAND DEALER OR JUNK DEALER  
20 SHALL IMPLEMENT ANY SOFTWARE THAT THE DEPARTMENT DETERMINES IS  
21 NECESSARY TO ADMINISTER THE COLLECTION OF INFORMATION REQUIRED  
22 UNDER THIS SECTION.

23 (3) A SECOND HAND DEALER OR JUNK DEALER SHALL PAY AN ANNUAL  
24 FEE OF NOT MORE THAN \$250.00 FOR EACH OF ITS LICENSED LOCATIONS FOR  
25 THE IMPLEMENTATION AND MAINTENANCE OF THE DATABASE. THE DEPARTMENT  
26 SHALL DETERMINE THE SPECIFIC AMOUNT OF THE FEE. THE TREASURER OF  
27 EACH LOCAL GOVERNMENTAL UNIT SHALL COLLECT THE FEE ON BEHALF OF THE

1 DEPARTMENT UNDER SUBSECTION (4).

2 (4) ANNUALLY, A SECOND HAND DEALER OR JUNK DEALER SHALL PAY  
3 THE FEE DESCRIBED IN SUBSECTION (3) TO THE TREASURER OF THE LOCAL  
4 GOVERNMENTAL UNIT. THE TREASURER SHALL FORWARD THAT FEE TO THE  
5 DEPARTMENT ON RECEIPT.

6 (5) THE TREASURER OF A GOVERNMENTAL UNIT THAT COLLECTS A  
7 DATABASE FEE ON BEHALF OF THE DEPARTMENT MAY CHARGE AND COLLECT A  
8 FEE FOR PROCESSING THE DATABASE FEE. THE AMOUNT OF A PROCESSING FEE  
9 UNDER THIS SUBSECTION SHALL NOT EXCEED \$50.00.

10 (6) AS USED IN THIS SECTION:

11 (A) "CUSTOMER" MEANS AN INDIVIDUAL FROM WHOM A SECOND HAND OR  
12 JUNK DEALER PURCHASES OR RECEIVES A SECOND HAND ARTICLE.

13 (B) "DATABASE" MEANS THE STATEWIDE ELECTRONIC DATABASE  
14 IMPLEMENTED AND MAINTAINED BY THE DEPARTMENT UNDER SECTION 6 OF  
15 1917 PA 273, MCL 446.206.

16 (C) "DATABASE FEE" MEANS THE FEE DESCRIBED IN SUBSECTION (3).

17 (D) "DEPARTMENT" MEANS THE DEPARTMENT OF STATE POLICE.

18 Sec. 5. (1) ~~The articles purchased or exchanged shall be~~  
19 ~~retained by the purchaser~~ A SECOND HAND DEALER OR JUNK DEALER SHALL  
20 RETAIN EACH SECOND HAND ARTICLE IT PURCHASES OR RECEIVES IN  
21 EXCHANGE for at least 15 days before disposing of them, IT, in an  
22 accessible place in the building where the SECOND HAND articles are  
23 purchased and received. ~~A THE DEALER SHALL ATTACH A tag shall be~~  
24 ~~attached to the articles~~ ARTICLE in some visible and convenient  
25 place, with the TRANSACTION number written thereupon, to correspond  
26 with the entry number in the book or other record. ON THE TAG.

27 ~~(2) The purchaser shall prepare and deliver on Monday of each~~

1 ~~week to the chief of police or chief law enforcement officer of the~~  
2 ~~local unit of government in which that business is carried on,~~  
3 ~~before 12 noon, a legible and correct paper or electronic copy, in~~  
4 ~~the English language, from the book or other written or electronic~~  
5 ~~record, containing a description of each article purchased or~~  
6 ~~received during the preceding week, the hour and day when the~~  
7 ~~purchase was made, the description of the person from whom it was~~  
8 ~~purchased, and a copy of the documentation required under section 4~~  
9 ~~regarding the person from whom it was purchased. The statement~~  
10 ~~shall be verified in a manner acceptable to the chief of police or~~  
11 ~~chief law enforcement officer.~~

12       (2) ~~(3) This section~~ **SUBSECTION (1)** does not apply to old  
13 rags, waste paper, and household goods except radios, televisions,  
14 record players, and electrical appliances and does not require the  
15 purchaser to retain articles purchased from ~~individuals, firms, or~~  
16 ~~corporations having~~ **A PERSON THAT HAS** a fixed place of business  
17 ~~after those articles shall have been~~ **THAT ARTICLE IS** reported **UNDER**  
18 **SECTION 4A. AS USED IN THIS SUBSECTION, "PERSON" MEANS AN**  
19 **INDIVIDUAL, CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR**  
20 **OTHER LEGAL ENTITY.**

21       Sec. 8. (1) Except as otherwise provided for in this section,  
22 a person ~~who~~ **THAT** violates this act is guilty of a misdemeanor and  
23 ~~shall be imprisoned for not more than 6 months and shall be fined~~  
24 ~~not less than \$500.00 or more than \$1,000.00.~~ **PUNISHABLE BY**  
25 **IMPRISONMENT FOR NOT MORE THAN 1 YEAR OR A FINE OF \$1,000.00, OR**  
26 **BOTH.**

27       (2) A second hand or junk dealer ~~who~~ **THAT** buys or sells scrap

1 metal, knowing that it is stolen, is guilty of a felony punishable  
 2 by imprisonment for not more than ~~5-2~~ years or a fine of not more  
 3 than \$5,000.00, or both. The penalties imposed under this  
 4 subsection apply only to a first violation of this subsection.

5 (3) A second hand or junk dealer ~~who~~**THAT** buys or sells stolen  
 6 scrap metal knowing that it was stolen is guilty of a felony  
 7 punishable by imprisonment for not more than ~~5-2~~ years or a fine of  
 8 not more than ~~\$10,000.00,~~**\$5,000.00**, or both. The penalties imposed  
 9 under this subsection apply to a second or subsequent violation.

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

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

21 Enacting section 1. This amendatory act takes effect January  
 22 1, 2015.

23 Enacting section 2. This amendatory act does not take effect  
 24 unless all of the following bills of the 97th Legislature are  
 25 enacted into law:

26 (a) Senate Bill No. \_\_\_\_ or House Bill No. 5837 (request no.  
 27 04841'14 \*).

1 (b) Senate Bill No. \_\_\_\_\_ or House Bill No. 5835 (request no.  
2 04964'14 \*).