

# HOUSE BILL No. 4267

February 26, 2015, 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 2, 3, 4, and 5 (MCL 445.402, 445.403, 445.404, and 445.405), section 2 as amended by 2008 PA 432, section 3 as amended by 2006 PA 675, and sections 4 and 5 as amended by 2008 PA 428, and by adding section 4a.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 2. (1) The mayor of a city or chief executive officer of  
2       a county or village may grant to any person ~~, corporation,~~  
3       ~~copartnership, or firm,~~ a license ~~authorizing~~ **THAT AUTHORIZES** that  
4       person ~~, corporation, copartnership, or firm~~ to carry on the  
5       business of a second hand dealer or junk dealer **IN THAT CITY,**  
6       **VILLAGE, OR COUNTY,** subject to the provisions of this act.

(2) ~~The~~ **A** license **GRANTED UNDER THIS SECTION** shall designate the particular place where ~~that~~ **THE** person ~~, corporation,~~ ~~partnership,~~ ~~or firm~~ shall carry on ~~that~~ **THE** business **OF A SECOND HAND DEALER OR JUNK DEALER**. The **DEALER SHALL ONLY CONDUCT THAT** business ~~shall be conducted only in~~ **AT** the place designated in the license.

(3) ~~The~~ **A** license **GRANTED UNDER THIS SECTION** shall be for the period of 1 year from date of issuance, unless sooner revoked for cause, and is not transferable. The legislative body of any city, or the trustees and chief executive officer of any county or village, shall establish the fee for the processing and issuance of the license in accordance with its charter or local ordinance, based ~~upon~~ **ON** the cost of issuance and administration of that license.

(4) **A CITY, VILLAGE, OR COUNTY SHALL NOT ADOPT OR ENFORCE A LOCAL LAW, ORDINANCE, RESOLUTION, OR RULE THAT DUPLICATES, EXTENDS, REVISES, OR CONFLICTS WITH ANY PROVISION OF THIS ACT.**

(5) ~~(4)~~ ~~The~~ **A** city, village, or county may inspect the premises of a licensed second hand or junk dealer during normal business hours.

Sec. 3. As used in this act:

(a) "Automotive recycler" means a person ~~who~~ **THAT** engages in business primarily for the purpose of selling retail salvage vehicle parts and secondarily for the purpose of selling retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal or a person employed as a salvage vehicle agent as that term is defined in section 56c of the Michigan

1 vehicle code, 1949 PA 300, MCL 257.56c.

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

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

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

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

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

24 **(G)** ~~(f)~~—"Second hand dealer" or "junk dealer" means any person  
25 ~~, corporation, or member or members of a copartnership or firm~~  
26 whose principal business is that of purchasing, selling,  
27 exchanging, storing, or receiving second hand articles of any kind,

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

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

10 (2) A second hand or junk dealer shall make and maintain a  
 11 separate book or other written or electronic record, numbered  
 12 consecutively, and open to inspection by a member of a local law  
 13 enforcement agency and the Michigan state police, in which ~~shall be~~  
 14 ~~written or entered~~ **IT WRITES OR ENTERS** in the English language at  
 15 the time of the purchase or exchange of any **SECOND HAND** article, a  
 16 **ALL OF THE FOLLOWING:**

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

21 (B) ~~(a)~~ The name, **DATE OF BIRTH**, description, fingerprint,  
 22 operator's or chauffeur's license or state identification number,  
 23 registration plate number, and address of the ~~person~~ **INDIVIDUAL**  
 24 from whom the article ~~was~~ **IS** purchased and received. The second  
 25 hand dealer or junk dealer shall make a copy of the operator's  
 26 license, chauffeur's license, or state identification card as part  
 27 of the book or record.

1 (C) ~~(b)~~ The ~~day~~ DATE and ~~hour~~ TIME the purchase or exchange  
2 was made.

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

4 (E) A TRANSACTION NUMBER.

5 (F) THE PURCHASE PRICE OF THE ARTICLE, OR IF THE ARTICLE WAS  
6 TAKEN IN EXCHANGE, THE VALUE OF THE ITEM EXCHANGED.

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

11 SEC. 4A. (1) WITHIN 48 HOURS AFTER A TRANSACTION IN WHICH IT  
12 RECEIVES OR PURCHASES A SECOND HAND ARTICLE DESCRIBED IN SUBSECTION  
13 (7), A SECOND HAND DEALER OR JUNK DEALER SHALL ELECTRONICALLY  
14 TRANSMIT THE FOLLOWING INFORMATION TO THE DEPARTMENT, IN A FORMAT  
15 DETERMINED BY THE DEPARTMENT, FOR INCLUSION IN THE DATABASE:

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

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

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

21 (D) THE SECOND HAND DEALER'S OR JUNK DEALER'S NAME AND  
22 ADDRESS.

23 (E) THE DATE AND TIME OF THE TRANSACTION AND THE NAME OF THE  
24 EMPLOYEE OF THE DEALER WHO PURCHASED OR RECEIVED THE ARTICLE, OR  
25 AUTHORIZED THE PURCHASE OR RECEIPT OF THE ARTICLE, ON THE DEALER'S  
26 BEHALF.

27 (F) THE TRANSACTION NUMBER.

1 (G) THE CUSTOMER'S DATE OF BIRTH; OPERATOR'S LICENSE NUMBER OR  
2 OTHER IDENTIFICATION NUMBER; STREET ADDRESS, INCLUDING CITY,  
3 VILLAGE, OR TOWNSHIP OF RESIDENCE, STATE, AND ZIP CODE; AND COUNTY  
4 OF RESIDENCE.

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

8 (I) THE CUSTOMER'S THUMBPRINT.

9 (2) A SECOND HAND DEALER OR JUNK DEALER SHALL RETAIN AN  
10 ELECTRONIC COPY OF ANY INFORMATION TRANSMITTED UNDER SUBSECTION (1)  
11 FOR AT LEAST 5 YEARS, IN A FORMAT DETERMINED BY THE DEPARTMENT.

12 (3) WITHIN 180 DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION,  
13 EACH SECOND HAND DEALER OR JUNK DEALER SHALL IMPLEMENT ANY SOFTWARE  
14 THAT THE DEPARTMENT DETERMINES IS NECESSARY TO ADMINISTER THE  
15 COLLECTION OF INFORMATION REQUIRED UNDER THIS SECTION AND THE  
16 RETENTION OF INFORMATION BY THE SECOND HAND DEALER OR JUNK DEALER  
17 UNDER SUBSECTION (2).

18 (4) A SECOND HAND DEALER OR JUNK DEALER SHALL PAY AN ANNUAL  
19 FEE OF NOT MORE THAN \$250.00 FOR EACH OF ITS LICENSED LOCATIONS FOR  
20 THE IMPLEMENTATION AND MAINTENANCE OF THE DATABASE. THE DEPARTMENT  
21 SHALL DETERMINE THE SPECIFIC AMOUNT OF THE FEE AND COLLECT THE FEE.

22 (5) SUBSECTION (1) ONLY APPLIES TO A SECOND HAND ARTICLE  
23 RECEIVED OR PURCHASED BY A SECOND HAND DEALER OR JUNK DEALER THAT  
24 MEETS 1 OF THE FOLLOWING:

25 (A) A SECOND HAND ARTICLE ON WHICH A SERIAL NUMBER APPEARS.

26 (B) A SECOND HAND ARTICLE, OTHER THAN AN ARTICLE DESCRIBED IN  
27 SUBDIVISION (A), FOR WHICH THE PRICE PAID BY THE DEALER, OR THE

1 VALUE OF THE ITEM OR ITEMS GIVEN IN EXCHANGE FOR THE ARTICLE, IS  
2 \$15.00 OR MORE.

3 (6) AS USED IN THIS SECTION:

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

6 (B) "DATABASE" MEANS THE STATEWIDE ELECTRONIC DATABASE  
7 IMPLEMENTED AND MAINTAINED BY THE DEPARTMENT UNDER SECTION 6 OF  
8 1917 PA 273, MCL 446.206.

9 (C) "DATABASE FEE" MEANS THE FEE DESCRIBED IN SUBSECTION (4).

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

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

20 ~~— (2) The purchaser shall prepare and deliver on Monday of each~~  
21 ~~week to the chief of police or chief law enforcement officer of the~~  
22 ~~local unit of government in which that business is carried on,~~  
23 ~~before 12 noon, a legible and correct paper or electronic copy, in~~  
24 ~~the English language, from the book or other written or electronic~~  
25 ~~record, containing a description of each article purchased or~~  
26 ~~received during the preceding week, the hour and day when the~~  
27 ~~purchase was made, the description of the person from whom it was~~

~~purchased, and a copy of the documentation required under section 4  
regarding the person from whom it was purchased. The statement  
shall be verified in a manner acceptable to the chief of police or  
chief law enforcement officer.~~

(2) ~~(3) This section~~ **SUBSECTION (1)** does not apply to old  
rags, waste paper, and household goods except radios, televisions,  
record players, and electrical appliances and does not require the  
purchaser to retain articles purchased from ~~individuals, firms, or  
corporations having~~ **A PERSON THAT HAS** a fixed place of business  
after ~~those articles shall have been~~ **THAT ARTICLE IS** reported **UNDER**  
**SECTION 4A.**

Enacting section 1. This amendatory act takes effect 90 days  
after the date it is enacted into law.

Enacting section 2. This amendatory act does not take effect  
unless all of the following bills of the 98th Legislature are  
enacted into law:

(a) Senate Bill No. \_\_\_\_ or House Bill No. 4266 (request no.  
00015'15 \*\*).

(b) Senate Bill No. \_\_\_\_ or House Bill No. 4268 (request no.  
00017'15 \*\*).