

SESSION OF 2009

**SUPPLEMENTAL NOTE ON SENATE BILL NO. 237**

As Amended by House Committee on  
Judiciary

**Brief\***

SB 237, as amended, would amend current law concerning the regulation of scrap metal under the Kansas Consumer Protection Act.

The bill would:

- Expand the definition of “regulated scrap metal” to include:
  - Junk vehicles;
  - Vehicle parts; and
  - Any item composed, in whole or in part, of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling;
- Add a definition for:
  - Bales of regulated metal;
  - Ferrous metal;
  - Junk vehicle;
  - Nonferrous metal;
  - Tin; and
  - Vehicle part;
- Make it unlawful to sell regulated scrap metal unless the seller provides to the scrap metal dealer, or employee or agent of a dealer, the seller’s sex, date of birth, and an identifying number from an official United States

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

government document such as the seller's driver's license, state or military identification card, or passport. A legible fingerprint would be required of a seller using the identifying number from an official governmental document from outside of the United States;

- Require scrap metal dealers, or employees or agents of a dealer, to accurately and legibly record information of the transaction and of the parties to the transaction, as specified in the bill;
- Make it unlawful for any scrap metal dealer, or employee or agent of a dealer, to purchase regulated scrap metal without obtaining a signed statement from the seller that the seller is the owner of the scrap metal, the scrap metal is free of encumbrances, and the scrap metal is not stolen; or a signed statement from the seller that the seller is acting on behalf of the owner and has the owner's permission to sell the scrap metal;
- Make it unlawful for any scrap metal dealer, or employee or agent of a dealer, to purchase any junk vehicle from a seller without inspecting the vehicle and recording the vehicle identification number, and obtaining an appropriate vehicle title or bill of sale;
- Make it unlawful for any scrap metal dealer, employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor;
- Specifically list items of regulated scrap metal that would be unlawful for any scrap metal dealer to purchase without obtaining proof that the seller is authorized to sell the regulated scrap metal on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization, or scrap metal dealer;
- Make it unlawful for any scrap metal dealer to dispose of, alter, or destroy any regulated scrap metal when notified by any law enforcement agency that there is cause to

believe the regulated scrap metal has been stolen. The scrap metal dealer would be required to hold the item or items for 30 days, excluding weekends and holidays; and

- Provide a graduated penalty for convictions of a violation of the scrap metal statutes as follows:
  - A conviction for a first violation is a class C misdemeanor and would require a fine of not less than \$200, or confinement in the county jail for not more than one month, or both such fine and jail time;
  - A conviction for a second violation, within a two-year period, is a class B misdemeanor and would require a fine of not less than \$500, or confinement in the county jail for not more than six months, or both such fine and jail time;
  - A conviction for a third or subsequent violation, within a two-year period, is a class A misdemeanor and would require a fine of not less than \$1,000, or confinement in the county jail for not more than one year, or both such fine and jail time.

In addition, the bill would deal with the crime of traffic in contraband in a correctional institution to include any care and treatment facility to the facilities where contraband is illegal. Additionally, the bill would:

- Define care and treatment facility to mean a facility operated by the Department of Social and Rehabilitation Services (SRS) for the purpose of care and treatment of involuntarily committed sexually violent predators;
- Define firearms, ammunition, explosives, or a controlled substance as contraband, a severity level 5, nonperson felony, in a care and treatment facility;
- Authorize the Secretary of SRS to define contraband by rules and regulations and make traffic in contraband of this type of contraband in a care and treatment facility a severity level 6, nonperson felony; and

- Make traffic in contraband in a care and treatment facility by an employee a severity level 5, nonperson felony.

## **Background**

The proponents of the bill, as introduced, who presented testimony at the Senate Committee hearing were Phil Perry, Home Builders Association of Kansas City; John Federico, Kansas Cable Telecommunications Association; Ed Klumpp, Kansas Association of Chiefs of Police and Kansas Peace Officers Association; Kent Cornish, President, Association of Broadcasters; Whitney Damron, City of Topeka; Eric Stafford, Associated General Contractors of Kansas, Inc.; Larry Berg, Midwest Energy; and Mark Shreiber, Westar Energy.

There were no opponents of the bill who presented testimony at the Senate hearing.

The Senate Committee on Judiciary amended the bill to:

- Clarify that it is unlawful for any scrap metal dealer to purchase or receive any regulated scrap metal from a minor;
- Delete the portion of the provision that would have made it unlawful for any scrap metal dealer to receive any stolen property or any property which such dealer has reason to believe or suspect that it cannot be rightfully or lawfully sold by the person offering the scrap metal;
- Add employees or agents of a scrap metal dealer to the requirements or restrictions imposed on scrap metal dealers;
- Clarify the list of items specifically listed in the bill that would be unlawful for any scrap metal dealer to purchase without obtaining proof that the seller is authorized to sell the item; and

- Make technical amendments.

The House Committee on Judiciary amended the bill to insert the provisions of the crime of traffic in contraband. These provisions came from the original version of SB 95. Further, the House Committee clarified the fines in the scrap metal violations and made technical changes.

According to the fiscal note on the bill, as introduced, the League of Kansas Municipalities indicates that the passage of SB 237 would have no direct fiscal effect on cities.