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TO: House Judiciary Committee

FROM: Kansas Judicial Council – Christy Molzen

DATE: March 9, 2015

RE: Judicial Council Testimony on SB 11 – Written only

The Judicial Council supports Senate Bill 11, a bill which is based on the work product of the Council's Scrap Metal Theft Advisory Committee. The attached report provides some background on the study process that resulted in the drafting of SB 11 and how that bill differs from last year's 2014 SB 418.

REPORT OF THE JUDICIAL COUNCIL
SCRAP METAL THEFT ADVISORY COMMITTEE
ON 2014 SENATE BILL 418

In May 2014, Senator Jeff King asked the Judicial Council to review Senate Bill 418 relating to regulated scrap metal, metal theft and related sentencing provisions. The Judicial Council accepted Senator King's request and formed a new Committee to undertake the study.

COMMITTEE MEMBERSHIP

The members of the Scrap Metal Theft Advisory Committee are:

Jeff King, Chair, Independence; State Senator from the 15th District, Vice President of the Senate and member of the Judicial Council

Marc Bennett, Wichita; Sedgwick County District Attorney

Raynard Brown, Kansas City, MO; President of Advantage Metals Recycling, LLC

Dave Holthaus, Topeka; Kansas Electric Cooperatives, Inc.

Mark Hutton, Wichita; general contractor and State Representative from the 105th District

Mike Irvin, Manhattan; Kansas Farm Bureau

Ed Klumpp, Tecumseh; Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association

Morgan Koon, Wichita; general counsel of Allmetal Recycling, LLC

Carolyn McGinn, Sedgwick; State Senator from the 31st District

Kirk Thompson, Topeka; Director of the Kansas Bureau of Investigation

Melissa Wangemann, Topeka; Kansas Association of Counties

METHOD OF STUDY

The Committee met four times during the fall of 2014. The Committee reviewed a number of background materials including: Senate Bill 418, its fiscal note, and the written testimony offered by proponents and opponents when the bill was heard in Senate Judiciary; current Kansas law regarding sale of regulated scrap metal to scrap metal dealers; Wichita ordinances regulating scrap metal dealers; and legislative approaches to scrap metal theft prevention in other states.

Several Committee members attended a town hall meeting on metal theft convened by Marc Bennett in Wichita on August 28. In addition, Raynard Brown invited the Committee to tour the Advantage Metals Recycling Topeka facility to learn more about metal recycling process.

BACKGROUND

Kansas first enacted legislation addressing the problem of scrap metal theft in 2007. That initial legislation required scrap metal dealers to maintain records of information provided by sellers of regulated scrap metal, including the seller's name, address, place of business, a description of the items purchased, the price paid, and a copy of the seller's photo identification. An intentional violation of these requirements was deemed a class C misdemeanor, with a third or subsequent violation within a two-year period being a class A misdemeanor.

In 2009, the legislature expanded the definition of regulated scrap metal to include junk vehicles and vehicle parts and added new items to the list of information required to be recorded at the time of a sale. Scrap metal dealers were required to obtain a signed statement from the seller that the items were not stolen and to inspect any junk vehicle, record its VIN number, and obtain the vehicle's title or bill of sale. Dealers were prohibited from buying scrap metal from a minor and from disposing of any scrap metal for 30 days when notified by law enforcement that the metal might have been stolen. Dealers were also prohibited from buying a list of specific items such as street light poles, guard rails and street signs without obtaining proof that the seller was authorized to sell the item on behalf of the governmental or other entity that owned them. Finally, the legislation provided for graduated penalties for first, second, and third or subsequent violations of the scrap metal statutes.

Legislation in 2011 required scrap metal dealers to register with the city or county where their business was located. Registration was to be accompanied by a fee and was valid for 10 years with an additional annual renewal fee. Scrap metal dealers were also required to pay by check or use a payment system that photographed or videotaped the seller of certain types of scrap metal. Finally, the general theft statute, which provides for graduated penalties depending upon the value of the property stolen, was amended so that the cost to restore the site of a scrap metal theft to its original condition could be taken into account.

Legislation in 2012 made more minor changes to existing law, including clarifications of the registration fee provisions.

In 2014, the legislature considered the bill that is the subject of the current study, S.B. 418. Drafted by the Sedgwick County District Attorney's office, S.B. 418 contained a number of provisions intended to assist law enforcement in investigating scrap metal theft, increase penalties for scrap metal theft, and tighten restrictions on the sale of regulated scrap metal. The bill included provisions to:

- Require the KBI to establish a central database containing information received by scrap metal dealers from sellers of regulated scrap metal at the time of sale.
- Expand the current definitions of regulated scrap metal and scrap metal dealer.
- Add a sentence enhancement of 36 months' imprisonment for felony theft of scrap metal where the offender has three prior felony convictions.
- Require scrap metal dealers to photograph the seller and the items being sold.
- Require scrap metal dealers to pay sellers by check or through an automated payment system that photographs or videotapes the seller.
- Allow cities and counties to suspend or revoke a scrap metal dealer's license and issue fines for violations of statutory requirements.

Proponents of the bill argued that it would give law enforcement better tools to investigate metal theft and would increase consistency of regulation across the state. Opponents were concerned that expanding requirements for scrap metal dealers was unduly burdensome on their businesses and would not lead to any decrease in metal theft.

COMMITTEE DISCUSSION

The Committee began its study of S.B. 418 by discussing the problem of scrap metal theft generally and by attempting to identify problem areas in the law. The Committee found that one of the main problems was a lack of consistent enforcement across the state. For example, although cities and counties have been required to register scrap metal dealers since 2011, it appears that many cities and counties are unaware of that requirement. Based on the experience of Committee members, the Committee believes there are anywhere from 300 to 700 scrap metal dealers in Kansas; however, that number is only an estimate. Despite inquiries to local government entities, the Committee was unable to determine either the total number of scrap metal dealers or the number of scrap metal dealers who are currently registered.

In addition to lack of uniform registration, scrap metal dealers are currently subject to a patchwork of requirements depending on where they are located. Some cities in Kansas, such as Wichita, have stricter scrap metal ordinances than others, and some cities and counties have none at all.

Statewide registration and enforcement

To address the problem of inconsistent registration and enforcement across the state, the Committee concluded that a single state agency should be tasked with overseeing registration and compliance of scrap metal dealers with statutory requirements. Having a single state agency in charge of registration and enforcement would level the playing field for all scrap dealers regardless of their location. Scrap dealers would also have a single contact agency they could report to if they suspect another dealer is not in compliance.

Two state agencies expressed a willingness to take on the task of overseeing scrap metal dealers if such a program were properly funded: the Department of Agriculture and the Attorney General's office. After meeting with representatives of both agencies, and based in part on the Attorney General's recent undertaking of roofer registration, the Committee concluded that the Attorney General's office would be the best fit.

The Committee recommends giving the Attorney General authority to adopt rules and regulations to enforce the registration and record keeping provisions relating to scrap metal dealers and to charge a licensing fee of not more than \$1,500.

Civil and administrative license penalties for scrap metal dealers

The Committee also recognized the burden that any new or expanded regulatory requirements will place on scrap metal dealers. In an attempt to lessen that burden somewhat, the Committee agreed to recommend eliminating criminal penalties for violations of the scrap metal dealer requirements. Instead, scrap metal dealers would be subject to civil and administrative license penalties. Under this approach, criminal prosecutions would focus on scrap metal thieves, though any dealer who knowingly purchased stolen scrap metal would remain subject to criminal prosecution.

Criminal penalties – aggravated criminal damage to property

While the Committee agreed to eliminate criminal penalties for violations of scrap metal dealer requirements, it also agreed that scrap metal thieves should be subject to increased penalties, especially

a greater likelihood of serving prison time. Because the enhanced penalty provisions of S.B. 418 had resulted in a significant bed space impact statement, the Committee decided to consider other options.

The Committee recommends creating a new specific intent crime of aggravated criminal damage to property. The crime would be defined as criminal damage to property committed with the intent to obtain regulated scrap metal and would be a severity level 5 felony. A severity level 5 felony, for a defendant who had little or no criminal history, would place the defendant in a border box for sentencing purposes. However, upon a second conviction, the sentence would be presumptive imprisonment.

This approach addresses one of the biggest problems with metal theft – the incidental damage that is done to property during the theft. Also, prosecutors will be able to charge aggravated criminal damage to property as an additional felony count along with theft, trespass, or burglary depending on the facts of the case.

Database for information gathered by scrap metal dealers

The Committee found that one of the most important provisions of S.B. 418 was the requirement that the KBI establish a database to serve as a central repository for the information required to be collected by scrap metal dealers from sellers at the time of each sale or transfer of scrap metal. The database would be made available to law enforcement for investigatory or evidentiary purposes.

The Committee believes that a database would be an excellent tool to help law enforcement investigate scrap metal theft. For example, having access to statewide scrap metal transaction information would allow officers to zero in on suspicious sellers who may be frequenting a number of different scrap dealers.

Because the Committee is recommending that the Attorney General's office take on regulatory oversight of scrap metal dealers, the Committee is also recommending that the Attorney General be responsible for establishing the database, rather than the KBI as contemplated by S.B. 418.

KBI Director Kirk Thompson reported to the Committee that Leads Online has developed an online system for tracking stolen property. This metal theft investigation system is being used in 39 states, and it has four statewide contracts: with Mississippi, Arkansas, Arizona and Georgia. In Kansas, 42 law enforcement agencies are already paid subscribers to Leads Online.

Mr. Thompson stated that the Leads Online system would be able to do everything required by SB 418 plus additional functionality such as a theft notification system. The flat fee for a statewide contract would be \$150,000 per year. Mr. Thompson believes this option would be less expensive than having IT staff build a new database in-house.

The Committee recognized that requiring scrap metal dealers to enter transaction information into an online database is an additional burden, especially on smaller businesses. However, the Committee believes the burden will be minimal because dealers should need only a computer, internet access, and a camera to be able to upload the required information.

Photo requirement

S.B. 418 would also require scrap metal dealers to photograph both the seller and the items being sold. The Committee believes the photo requirement is important so that a person selling stolen metal can't avoid getting caught simply by using someone else's I.D. While the Committee recognized that some dealers might be reluctant to ask customers to stand for a picture, dealers could meet this requirement by installing cameras that take photos of each transaction discreetly.

Payment methods

Current law requires scrap metal dealers to pay sellers by check or automated payment system that photographs or videotapes the seller when purchasing certain specific kinds of scrap metal such as catalytic converters, insulated, stripped or burnt wire, and refrigeration condensing units. Under S.B. 418, dealers would be required to use these payment methods for any transaction involving regulated scrap metal.

The Committee found that restricting dealers to payment by check or an ATM with photo or video has not worked well in practice. Some dealers have circumvented the requirement by issuing a check to the seller that the dealer then cashes for them. Also, even where checks are required to be taken to a third party for cashing, the paper trail does not seem to have aided law enforcement in their investigations. Accordingly, the Committee recommends deleting this requirement from current law.

Other provisions

The Committee approved the following provisions contained in S.B. 418:

- New section making scrap metal dealer's business records admissible into evidence at a preliminary hearing without the testimony of the business records custodian. (S.B. 418, Section 2.)
- Amendments to K.S.A. 21-5804 providing that the giving of false information to a scrap dealer or the transportation of scrap metal across county or state lines constitutes prima facie evidence of intent to permanently deprive the owner of possession of the scrap metal, an element of the crime in any theft prosecution. (S.B. 418, Section 3.)

The Committee also recommends the following new or amended provisions:

- Simplified and broadened definition of scrap metal dealer, which would include mobile scrap dealers for the first time.
- Simplified definition of regulated scrap metal.

CONCLUSION

The Committee agreed that many of the provisions of S.B. 418 would be helpful in addressing the problem of scrap metal theft. However, the Committee made a number of changes to some of the bill's provisions and added several new concepts. The Committee's resulting work product is a legislative proposal that includes these main elements:

- Statewide registration of scrap metal dealers and compliance enforcement through a single state agency -- the Attorney General's office;
- Violations of scrap metal dealer requirements subject to civil and administrative license penalties rather than criminal prosecution;
- Database of scrap metal transaction information as investigatory tool for law enforcement; and
- Increased criminal penalties for scrap metal theft offenders.

The Committee's proposed legislation is attached on the next page, as well as a copy of the original version of S.B. 418.

New Section 1.

(a) The attorney general is hereby authorized to administer and implement the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

(b) In accordance with the rules and regulations filing act, the attorney general is hereby authorized to adopt rules and regulations necessary to implement the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

(c) There is hereby established in the state treasury the scrap metal dealer registration fee fund to be administered by the attorney general. All monies received by the attorney general from fees, charges, or penalties collected under the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount thereof in the state treasury to the credit of the scrap metal dealer registration fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the attorney general and the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee. All moneys credited to the scrap metal dealer registration fee fund shall be expended for the administration of the duties, functions and operating expenses incurred under the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

(d) The attorney general shall establish and maintain a database which shall be a central repository for the information required to be provided under K.S.A. 50-6,110, and amendments thereto. The database shall be maintained for the purpose of providing information to law enforcement and for any other purpose deemed necessary by the attorney general to implement and enforce the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

(e) The information required by K.S.A. 50-6,110, and amendments thereto, maintained in such database by the attorney general, or by any entity contracting with the attorney general, submitted to, maintained or stored as a part of the system:

(1) Shall be confidential, shall only be used for investigatory, evidentiary or analysis purposes related to criminal violations of city, state or federal law and shall only be released to law enforcement in response to an official investigation; and

(2) shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(f) This section shall take effect on and after January 1, 2016.

1 New Sec. 2. (a) At any preliminary examination, pursuant to K.S.A.
2 22-2902, and amendments thereto, in which the details of each sale or
3 transaction required to be maintained by scrap metal dealers pursuant to
4 K.S.A. 50-6,110, and amendments thereto, are to be introduced as
5 evidence, the business records of such sale or transaction shall be
6 admissible into evidence in the preliminary examination in the same
7 manner and with the same force and effect as if the individuals who made
8 the record, and the records custodian who keeps the record, had testified in
9 person.

10 (b) This section shall be a part of and supplemental to the Kansas
11 code of criminal procedure.

12 (c) This section shall take effect on and after January 1, 2016.
13

14 Sec. 3. K.S.A. 2014 Supp. 21-5804 is hereby amended to read
15 as follows: 21-5804. (a) In any prosecution under K.S.A. 2013 Supp. 5801
16 through 21-5839, and amendments thereto, the following shall be prima
17 facie evidence of intent to permanently deprive the owner or lessor of
18 property of the possession, use or benefit thereof:

19 (1) The giving of a false identification or fictitious name, address or
20 place of employment at the time of ~~obtaining~~ *buying, selling, leasing,*
21 *trading, gathering, collecting, soliciting, procuring, receiving, dealing or*
22 *otherwise obtaining or exerting control over the property;*

23 (2) the failure of a person who leases or rents personal property to
24 return the same within 10 days after the date set forth in the lease or rental
25 agreement for the return of the property, if notice is given to the person
26 renting or leasing the property to return the property within seven days
27 after receipt of the notice, in which case the subsequent return of the
28 property within the seven-day period shall exempt such transaction from
29 consideration as prima facie evidence as provided in this section;

30 (3) destroying, breaking or opening a lock, chain, key switch,
31 enclosure or other device used to secure the property in order to obtain
32 control over the property;

33 (4) destruction of or substantially damaging or altering the property
34 so as to make the property unusable or unrecognizable in order to obtain
35 control over the property;

36 (5) the failure of a person who leases or rents from a commercial
37 renter a motor vehicle under a written agreement that provides for the
38 return of the motor vehicle to a particular place at a particular time, if
39 notice has been given to the person renting or leasing the motor vehicle to
40 return such vehicle within three calendar days from the date of the receipt
41 or refusal of the demand. In addition, if such vehicle has not been returned
42 after demand, the lessor may notify the local law enforcement agency of
43 the failure of the lessee to return such motor vehicle and the local law
44 enforcement agency shall cause such motor vehicle to be put into any
45 appropriate state and local computer system listing stolen motor vehicles;

46 (6) the failure of a person who is provided with a use of a vehicle
47 by the owner of the vehicle to return it to the owner pursuant to a
48 written instruction specifying: (A) The time and place to return the

1 vehicle; and

2 (B) that failure to comply may be prosecuted as theft, and such
3 instructions are delivered to the person by the owner at the time the person
4 is provided with possession of the vehicle. In addition, if such vehicle
5 has not been returned pursuant to the specifications in such instructions,
6 the owner may notify the local law enforcement agency of the failure of
7 the person to return such motor vehicle and the local law enforcement
8 agency shall cause such motor vehicle to be put into any appropriate
9 state and local computer system listing stolen motor vehicles;

10 (7) removing a theft detection device, without authority, from
11 merchandise or disabling such device prior to purchase; or

12 (8) under the provisions of subsection (a)(5) of K.S.A. 2013
13 Supp. 21-5801, and amendments thereto, the failure to replace or
14 reattach the nozzle and hose of the pump used for the dispensing of
15 motor fuels or placing such nozzle and hose on the ground or pavement.

16 (b) In any prosecution for a misdemeanor under K.S.A. 2013 Supp.
17 21-5801, and amendments thereto, in which the object of the alleged theft
18 is a book or other material borrowed from a library, it shall be prima facie
19 evidence of intent to permanently deprive the owner of the possession, use
20 or benefit thereof if the defendant failed to return such book or material
21 within 30 days after receiving notice from the library requesting its return,
22 in which case the subsequent return of the book or material within the 30-
23 day period shall exempt such transaction from consideration as prima facie
24 evidence as provided in this section.

25 (c) In a prosecution for theft as defined in K.S.A. 2013 Supp.
26 21-5801, and amendments thereto, and such theft is of services, the
27 existence of any of the connections of meters, alterations or use of
28 unauthorized or unmeasured electricity, natural gas, water, telephone
29 service or cable television service, caused by tampering, shall be prima
30 facie evidence of intent to commit theft of services by the person or
31 persons using or receiving the direct benefits from the use of the
32 electricity, natural gas, water, telephone service or cable television service
33 passing through such connections or meters, or using the electricity,
34 natural gas, water, telephone service or cable television service which has
35 not been authorized or measured.

36 (d) *In a prosecution for theft as defined in K.S.A. 2014 Supp. 21-*
37 *5801, and amendments thereto, and such theft is of regulated scrap metal*
38 *as defined in K.S.A. 2014 Supp. 50-6,109, and amendments thereto, either*
39 *in whole or in part, the failure to give information or the giving of false*
40 *information to a scrap metal dealer pursuant to the requirements of K.S.A.*
41 *2014 Supp. 50-6,109 et seq., and amendments thereto, the transportation*
42 *of regulated scrap metal outside the county from where it was obtained,*
43 *the transportation of regulated scrap metal across state lines or the*
44 *alteration of any regulated scrap metal prior to any transaction with a*
45 *scrap metal dealer shall be prima facie evidence of intent to permanently*
46 *deprive the owner of the regulated scrap metal of the possession, use or*
47 *benefit thereof.*

48 (d)(e) As used in this section:

(1) "Notice" means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address; and

(2) "tampering" includes, but is not limited to:

(A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

(B) defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;

(C) preventing any such meters from properly measuring or registering;

(D) knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not been measured; or any telephone or cable television service which has not been authorized; or

(E) causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.

Sec. 4. K.S.A. 2014 Supp. 21-5813 is hereby amended to read as follows: 21-5813. (a) Criminal damage to property is by means other than by fire or explosive:

(1) Knowingly damaging, destroying, defacing or substantially impairing the use of any property in which another has an interest without the consent of such other person; or

(2) damaging, destroying, defacing or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.

(b) Criminal damage to property if the property:

(1) Is damaged to the extent of \$25,000 or more is a severity level 7, nonperson felony;

(2) is damaged to the extent of at least \$1,000 but less than \$25,000 is a severity level 9, nonperson felony; and

(3) damaged is of the value of less than \$1,000 or is of the value of \$1,000 or more and is damaged to the extent of less than \$1,000 is a class B nonperson misdemeanor.

(c) *Aggravated criminal damage to property is criminal damage to property, as defined in subsection (a)(1), regardless of the value or amount of damage, committed with the intent to obtain any regulated scrap metal as defined in K.S.A. 2014 Supp. 50-6,109 and amendments thereto, or any items listed in K.S.A. 2014 Supp. 50-6,111(d)(1) through (d)(21), and amendments thereto, upon:*

(1) *any building, structure, personal property or place used primarily for worship or any religious purpose;*

- 1 (2) any building, structure or place used as a school or as an
2 educational facility;
- 3 (3) any building, structure, or place used by a non-profit or charitable
4 business, corporation, firm, service, or association;
- 5 (4) any grave, cemetery, mortuary or personal property of the cemetery
6 or mortuary or other facility used for the purpose of burial or
7 memorializing the dead;
- 8 (5) any agricultural property, or agricultural infrastructure;
- 9 (6) any construction, mining, or recycling facility, structure, or site;
- 10 (7) any utility, utility service, telecommunication, or telecommunication
11 service facility, property, building, structure, site or component
12 thereof;
- 13 (8) any municipal, county or state building, structure, site, or property;
- 14 (9) any residential, commercial, industrial or agricultural irrigation,
15 sprinkler, or watering system or component thereof;
- 16 (10) the infrastructure of any residence, building or structure;
- 17 (11) any historical marker, plaque, or work of art;
- 18 (12) any vehicle, or transportation building, facility, structure, site or
19 property; or
- 20 (13) any other building, structure, residence, facility, site, place, property,
21 vehicle, or any infrastructure thereof;
- 22
- 23 (d) Aggravated criminal damage to property, as defined in subsection
24 (c), is a severity level 5, nonperson felony.
- 25
- 26 (e) (1) As used in this section:
- 27 (A) "Infrastructure" includes any fixture to, attachment upon, or part
28 of a residence, building or structure's framework, electrical wiring and
29 appurtenances, plumbing or heating and air systems.
- 30
- 31 (B) "Site" includes any area, place, or location set aside for specific
32 use or uses, including, but not limited to storage, staging, repair, sorting,
33 transportation, planning, or organization.
- 34
- 35 (2) Any of the items or locations listed in subsection (c), shall include
36 the curtilage, adjoining land, and any improvements thereupon.
- 37
- 38 (3) Nothing in subsection (c) shall be construed to require the
39 construction or existence of any door, gate, fence, barrier, or wall. Nothing
40 in subsection (c) shall be construed to require the existence of notice,
41 postings, or signs to potential trespassers.
- 42
- 43 (4) In determining the amount of damage to property, damages may
44 include the cost of repair or replacement of the property that was damaged,
45 the reasonable cost of the loss of production, crops, and livestock,
46 reasonable labor costs of any kind, reasonable material costs of any kind,
47 and any reasonable costs that are attributed to equipment that is used to
48 abate or repair the damage to the property.

1
2 Sec. 5. K.S.A. 2014 Supp. 21-6604 is hereby amended to read as
3 follows:
4

5
6
7 (b) (1) In addition to or in lieu of any of the above, the court shall
8 order the defendant to pay restitution, which shall include, but not be limited
9 to, damage or loss caused by the defendant's crime, unless the court finds
10 compelling circumstances which would render a plan of restitution
11 unworkable. In regard to a violation of K.S.A. 2013 Supp. 21-6107, and
12 amendments thereto, such damage or loss shall include, but not be limited
13 to, attorney fees and costs incurred to repair the credit history or rating of
14 the person whose personal identification documents were obtained and used
15 in violation of such section, and to satisfy a debt, lien or other obligation
16 incurred by the person whose personal identification documents were
17 obtained and used in violation of such section. *In regard to a violation of*
18 *2015 Supp K.S.A. 21-5801, 2015 Supp. 21-5807, or 2015 Supp. 21-5813,*
19 *such damage or loss shall include the cost of repair or replacement of the*
20 *property that was damaged, the reasonable cost of any loss of production,*
21 *crops, and livestock, reasonable labor costs of any kind, reasonable*
22 *material costs of any kind, and any reasonable costs that are attributed to*
23 *equipment that is used to abate or repair the damage to the property. If the*
24 *court finds a plan of restitution unworkable, the court shall state on the*
25 *record in detail the reasons therefor.*
26

27 Sec. 6. K.S.A. 2014 Supp. 50-6,109 is hereby amended to read
28 as follows: 50-6,109. As used in ~~K.S.A. 2013 Supp. 50-6,112a through~~
29 ~~50-6,112c, and amendments thereto, and K.S.A. 2013 Supp. 50-6,109~~
30 ~~through 50-6,112-50-6,112b, and amendments thereto:~~

31 (a) "Scrap metal dealer" means any ~~person individual, firm,~~
32 ~~company, partnership, association or corporation~~ that operates a business
33 ~~out of a fixed location, and that is also either that is:~~

34 (1) Engaged in the business of buying ~~and, trading, or dealing in~~
35 ~~regulated scrap metal for the purpose of sale for recycling; or (2) —~~
36 ~~purchasing, gathering, collecting, soliciting or procuring regulated~~
37 ~~scrap metal; or (3) — operating, carrying on, conducting or~~
38 ~~maintaining a regulated scrap metal yard or place where regulated~~
39 ~~scrap metal is gathered together and stored or kept for shipment, sale or~~
40 ~~transfer.~~

41 (b) ~~"Regulated scrap metal yard" means any yard, plot, space,~~
42 ~~enclosure, building or any other place where regulated scrap metal is~~
43 ~~collected, gathered together and stored or kept for shipment, sale or~~
44 ~~transfer.~~

45 (e) (b) "Regulated scrap metal" shall mean wire, cable, bars, ingots,
46 wirescraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle
47 parts, pipes or connectors made from aluminum; catalytic converters
48 containing platinum, palladium or rhodium; and copper, titanium,

1 tungsten, stainless steel and nickel in any form; for which the purchase-
2 price described in K.S.A. 2013 Supp. 50-6,110 and 50-6,111, and
3 amendments thereto, was primarily based on the content therein of
4 aluminum, copper, titanium, tungsten, nickel, platinum, palladium,
5 stainless steel or rhodium; any item composed in whole or in part of any
6 nonferrous metal other than an item composed of tin, that is purchased or
7 otherwise acquired for the purpose of recycling or storage for later
8 recycling. Aluminum shall not include food or beverage containers. any
9 item, in any form, for which the purchase price described in K.S.A. 2014
10 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily
11 based on the content therein of:

12 (1) aluminum, except that aluminum shall not include food or beverage
13 containers;

14 (2) copper;

15 (3) brass;

16 (4) bronze;

17 (5) stainless steel;

18 (6) zinc;

19 (7) titanium;

20 (8) tungsten;

21 (9) nickel;

22 (10) platinum;

23 (11) palladium;

24 (12) rhodium;

25 (13) magnesium;

26 (14) lead;

27 (15) any other nonferrous metal; or

28 (16) any combination of nonferrous metals listed in subsections (c)(1)
29 through (c)(15).

30 ~~(d)~~ (c) "Bales of regulated metal" means regulated scrap metal property
31 processed with professional recycling equipment by compression, shearing
32 or shredding, to a form in which it may be sold by a scrap metal dealer
33 consistent with industry standards.

34 ~~(e)~~ "Ferrous metal" means a metal that contains iron or steel.

35 ~~(f)~~ (d) "Junk vehicle" means a vehicle as defined in K.S.A. 2014 Supp.
36 8-126(pp), and amendments thereto, not requiring a title as provided in
37 chapter 8 of the Kansas Statutes Annotated, and amendments thereto,
38 an aircraft, or a boat, farming implement, industrial equipment, trailer or
39 any other conveyance used on the highways and roadways, which has
40 no use or resale value except as scrap which is being sold for scrap value.

41 ~~(g)~~ (e) "Nonferrous metal" means a metal that does not contain iron or
42 steel, including but not limited to: Copper, brass, aluminum, bronze, lead,
43 zinc, nickel and their alloys.

44 ~~(h)~~ "Tin" means a metal consisting predominantly of light sheet metal
45 ferrous scrap, including large and small household appliances, construction
46 siding and construction roofing.

47 ~~(i)~~ (f) "Vehicle part" means the front clip consisting of the two front
48 fenders, hood, grill and front bumper of an automobile assembled as one

1 unit; or the rear clip consisting of those body parts behind the rear edge of
2 the back doors, including both rear quarter panels, the rear window, trunk
3 lid, trunk floor panel and rear bumper, assembled as one unit; ~~or any other~~
4 ~~vehicle part.~~

5 (g) "Person" means any individual, scrap metal dealer, manager or
6 employee, owner, operator, corporation, partnership or association.

7 (h) "Attorney general" means the attorney general of the state of Kansas or
8 the attorney general's designee.

9
10 Sec. 7. K.S.A. 2014 Supp. 50-6,110 is hereby amended to read as
11 follows: 50-6,110. (a) ~~Except as provided in subsection (d),~~ It shall be
12 unlawful for any person to sell any item or items of regulated scrap metal
13 to a scrap metal dealer, or employee or agent of a dealer, in this state
14 unless such person presents to such scrap metal dealer, or employee or
15 agent of such dealer, at or before the time of sale, the following
16 information:

17 The seller's name, address, sex, date of birth and the identifying
18 ~~number from the seller's driver's license, military identification card,~~
19 ~~passport or personal identification license. The identifying~~
20 ~~number from~~—An official governmental document for a country other
21 than the United States may be used to meet this requirement provided
22 that a legible fingerprint is also obtained from the seller. *The seller must*
23 *also complete and sign the statement provided for in subsection (b)(10).*

24 (b) Every scrap metal dealer shall keep a register in which the dealer, or
25 employee or agent of the dealer, shall at the time of purchase or receipt of
26 any item for which such information is required to be presented, cross-
27 reference to previously received information, or accurately and legibly
28 record at the time of sale the following information:

29 (1) The time, date and place of transaction;

30 (2) the seller's name, address, sex, date of birth and the identifying
31 number from the seller's driver's license, military identification card,
32 passport or personal identification license; the identifying number from an
33 official governmental document for a country other than the United States
34 may be used to meet this requirement provided that a legible fingerprint is
35 also obtained from the seller;

36 (3) a copy of the identification card or document containing such
37 identifying number;

38 (4) the license number, color and style or make of any motor vehicle in
39 which the junk vehicle or other regulated scrap metal property is
40 delivered in a purchase transaction;

41 (5) a general description, made in accordance with the custom of the
42 trade, of the predominant types of junk vehicle or other regulated scrap
43 metal property purchased in the transaction;

44 (6) the weight, quantity or volume, made in accordance with the
45 custom of the trade, of the regulated scrap metal property purchased;

46 (7) if a junk vehicle or vehicle part is being bought or sold, a
47 description of the junk vehicle or vehicle part, including the make, model,

1 color, vehicle identification number and serial number if applicable;
2 (8) ~~the amount of consideration given in a purchase price paid for,~~
3 ~~traded for or dealt for in a transaction for the junk vehicle or other~~
4 ~~regulated scrap metal property;~~
5 ~~and~~
6 (9) the full name of the individual acting on behalf of the regulated
7 scrap metal dealer in making the purchase; and
8 (10) a signed statement from the seller indicating from where the
9 property was obtained and that: (A) Each item is the seller's own personal
10 property, is free of encumbrances and is not stolen; or (B) the seller is-
11 acting for the owner and has permission to sell each item. If the seller is-
12 not the owner, such statement shall include the name and address of the-
13 owner of the property.
14 (c) The scrap metal dealer shall also photograph both the seller and the
15 item or lot of items being sold at the time of the transaction, and keep the
16 photographs with the record of the transaction, register and copies of the
17 identification cards.
18 (e)-(d) The scrap metal dealer's register, including copies of
19 identification cards, signed statements by the seller and photographs, may
20 be kept in electronic format.
21 (e) The scrap metal dealer shall forward the information required by-
22 subsection (b) to the database described in section 1, and amendments
23 thereto.
24 (d) ~~Notwithstanding the foregoing, this section shall not apply to:~~
25 ~~(1) Transactions involving regulated scrap metal, except for catalytic-~~
26 ~~converters, for which the total sale price for all regulated scrap metal is~~
27 ~~\$50.00 or less;~~
28 ~~(2) transactions involving only catalytic converters for which the total sale~~
29 ~~price is \$30.00 or less;~~
30 ~~(3) transactions in which the seller is also a scrap metal dealer; or~~
31 ~~(4) transactions for which the seller is known to the purchasing scrap~~
32 ~~metal dealer to be an established business that operates out of a fixed~~
33 ~~business location and that can reasonably be expected to generate~~
34 ~~regulated scrap metal.~~
35 (e) ~~The exceptions contained in subsections (d)(1) and (d)(2) shall not~~
36 ~~apply to any purchase from any seller of the following materials:~~
37 ~~(1) Catalytic converters purchased separate from a vehicle;~~
38 ~~(2) coated or insulated wire or stripped wire or burnt wire;~~
39 ~~(3) refrigeration condensing units or air conditioning coils of any~~
40 ~~type; or~~
41 ~~(4) copper tubing, bars, plate, buss bar and sheet copper.~~
42 (f) It shall be unlawful for any scrap metal dealer, or employee or
43 agent of the dealer, to pay for any of the items described in
44 subsections (e)(1) through (4) by any means other than:
45 (1) A prenumbered check drawn on a regular bank account in the
46 name of the scrap metal dealer and with such check made payable to the
47 person documented as the seller in accordance with subsection (b) (a); or
48 (2) a system for automated cash or electronic payment distribution

1 which photographs or videotapes the payment recipient and identifies the
2 payment with a distinct transaction in the register maintained in
3 accordance with subsection (b).

4 (f) Notwithstanding any other provision to the contrary, this section
5 shall not apply to transactions in which the seller is a registered scrap
6 metal dealer, a vehicle dealer licensed under chapter 8 of the Kansas Statutes
7 Annotated, or a scrap metal dealer or vehicle dealer registered or licensed in
8 another state.

9 (g) The attorney general may determine, by regulation, which of the
10 requirements of this section apply to transactions in which the seller is known
11 to the purchasing scrap metal dealer to be a licensed business that operates
12 out of a fixed business location and that can reasonably be expected to
13 generate regulated scrap metal.

14
15 Sec. 8. K.S.A. 2013 Supp. 50-6,111 is hereby amended to read as
16 follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer,
17 or employee or agent of the dealer, to purchase any item or items of
18 regulated scrap metal in a transaction for which K.S.A. 2013 Supp. 50-
19 6,110, and amendments thereto, requires information to be presented by
20 the seller, without demanding and receiving from the seller that
21 information. Every scrap metal dealer shall file and maintain a record of
22 information obtained in compliance with the requirements in K.S.A. 2013
23 Supp. 50-6,110, and amendments thereto. All records kept in accordance
24 with the provisions of this act shall be open at all times to peace or law
25 enforcement officers and shall be kept for two years. If the required
26 information is maintained in electronic format, the scrap metal dealer shall
27 provide a printout of the information to peace or law enforcement officers
28 upon request.

29 ~~(b) It shall be unlawful for any scrap metal dealer, or employee or~~
30 ~~agent of the dealer, to purchase any item or items of regulated scrap metal~~
31 ~~in a transaction for which K.S.A. 2013 Supp. 50-6,110, and amendments~~
32 ~~thereto, requires information to be presented by the seller, without~~
33 ~~obtaining from the seller a signed statement that:~~

34 ~~(1) Each item is the seller's own personal property, is free of~~
35 ~~encumbrances and is not stolen; or~~

36 ~~(2) that the seller is acting for the owner and has permission to sell each~~
37 ~~item.~~

38 ~~(e)-(b)~~ It shall be unlawful for any scrap metal dealer, or employee or
39 agent of the dealer, to purchase any junk vehicle in a transaction for which
40 K.S.A. 2013 Supp. 50-6,110, and amendments thereto, requires
41 information to be presented by the seller, without: (1) Inspecting the
42 vehicle offered for sale and recording the vehicle identification number;
43 and

44 (2) obtaining an appropriate vehicle title or bill of sale issued by a
45 governmentally operated vehicle impound facility if the vehicle purchased
46 has been impounded by such facility or agency.

47 ~~(d)-(c)~~ It shall be unlawful for any scrap metal dealer, or employee or
48 agent of the dealer, to purchase or receive any regulated scrap metal from a

1 minor unless such minor is accompanied by a parent or guardian or such
2 minor is a licensed scrap metal dealer.

3 ~~(e)-(d)~~ It shall be unlawful for any scrap metal dealer, or employee or
4 agent of the dealer, to purchase any of the following items ~~of regulated~~
5 ~~scrap metal property~~ without obtaining proof that the seller is an
6 employee, agent or person who is authorized to sell the item ~~of regulated~~
7 ~~scrap metal property~~ on behalf of the governmental entity; utility
8 provider; railroad; cemetery; civic organization; *manufacturing,*
9 *industrial or other commercial vendor that generates or sells such items in*
10 *the regular course of business; or scrap metal dealer:*

- 11 (1) Utility access cover;
- 12 (2) street light poles or fixtures;
- 13 (3) road or bridge guard rails;
- 14 (4) highway or street sign;
- 15 (5) water meter cover;
- 16 (6) traffic directional or traffic control signs;
- 17 (7) traffic light signals;
- 18 (8) any metal marked with any form of the name or initials of a
19 governmental entity;
- 20 (9) property owned and marked by a telephone, cable, electric, water
21 or other utility provider;
- 22 (10) property owned and marked by a railroad;
- 23 (11) funeral markers or vases;
- 24 (12) historical markers;
- 25 (13) bales of regulated metal;
- 26 (14) beer kegs;
- 27 (15) manhole covers;
- 28 (16) fire hydrants or fire hydrant caps;
- 29 (17) junk vehicles with missing or altered vehicle identification
30 numbers;
- 31 (18) real estate signs;
- 32 (19) bleachers or risers, in whole or in part; ~~and~~
- 33 (20) twisted pair copper telecommunications wiring of 25 pair or
34 greater existing in 19, 22, 24 or 26 gauge; *and*
35 *(21) burnt wire.*

36 ~~(f)-(e)~~ It shall be unlawful for any scrap metal dealer, or employee or
37 agent of the dealer, to sell, trade, melt or crush, or in any way dispose of,
38 alter or destroy any regulated scrap metal, junk vehicle or vehicle part
39 upon notice from any law enforcement agency, or any of their agents or
40 employees, that they have cause to believe an item has been stolen. A scrap
41 metal dealer shall hold any of the items that are designated by or on behalf
42 of the law enforcement agency for 30 days, exclusive of weekends and
43 holidays.

44
45
46 Sec. 9. On and after January 1, 2016, K.S.A. 2013 Supp. 50-6,112a is
47 hereby amended to read as follows: 50-6,112a. (a) No ~~business scrap~~
48 ~~metal dealer~~ shall purchase any regulated scrap metal without having

1 first registered each place of business as herein provided. *All*
2 *registrations shall be made to the attorney general. In case such place*
3 *of business is located within the corporate limits of a city, the*
4 *registration shall be made to the governing body of such city. In all other*
5 *cases, the registration shall be made to the board of county commissioners*
6 *in the county in which such place of business is to be located.*

7 ~~(b)~~ A board of county commissioners shall provide the clerk of the
8 township with written notice of the filing of a registration by a scrap metal
9 dealer within 10 days of registration or renewal.

10 ~~(e)~~ The governing body of any city and the board of county
11 ~~commissioners~~ attorney general shall provide the sheriff, chief of
12 police or director of all law enforcement agencies in the county written
13 notice of the filing of registration by a scrap metal dealer within 10
14 days of registration or renewal.

15 ~~(d)~~ (c) A registration for a scrap metal dealer shall be verified and
16 upon a form approved by the attorney general and contain:

17 (1) The name and residence of the applicant, *including all previous*
18 *names and aliases, and, if the applicant is a corporation, the name and*
19 *address of each stockholder; if a limited liability company, the name and*
20 *address of each member; and if a partnership, the name and address of*
21 *each partner;*

22 (2) the length of time that the applicant has resided within the state of
23 Kansas and a list of all residences outside the state of Kansas during the
24 previous 10 years;

25 (3) the particular place of business for which a registration is desired,
26 *the name of the business, the address where the business is to be*
27 *conducted, the hours of operation and the days of the week during which*
28 *the applicant proposes to engage in business;*

29 (4) the name of the owner of the premises upon which the place of
30 business is located; and

31 (5) the applicant shall disclose any prior convictions within 10 years
32 immediately preceding the date of making the registration for theft, as
33 defined in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2013 Supp. 21-
34 5801, and amendments thereto, theft of property lost, mislaid or delivered
35 by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A.
36 2013 Supp. 21-5802, and amendments thereto, theft of services, as defined
37 in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as
38 defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. 2013 Supp. 21-
39 5803, and amendments thereto, *aggravated criminal damage to property,*
40 *as defined in K.S.A. 21-5813, and amendments thereto,* or any other
41 crime involving possession of stolen property.

42 ~~(e)~~ (d) Each registration for a scrap metal dealer to purchase regulated
43 scrap metal shall be accompanied by a fee of not less than \$100 nor more
44 than \$400 \$1,500, as prescribed by the board of county commissioners
45 or the governing body of the city, as the case may be attorney general.

46 ~~(f)~~ (e) The board of county commissioners or the governing body of a
47 city attorney general shall accept a registration for a scrap metal
48 dealer as otherwise provided for herein, from any scrap metal dealer

1 engaged in business in such county or city and qualified to file such
2 registration, to purchase regulated scrap metals. Such registration shall be
3 issued for a period of 10 years ~~one year~~.
4 ~~(g) (f)~~ If an original registration is accepted, the governing body of the
5 ~~city or the board of county commissioners~~ attorney general shall
6 grant and issue renewals thereof upon application of the registration
7 holder, if the registration holder is qualified to receive the same and the
8 registration has not been revoked as provided by law. ~~The registration fee~~
9 ~~for such renewal shall be not less than \$25 nor more than \$50. The renewal~~
10 ~~fee shall be not more than \$1,500, as prescribed by the attorney~~
11 ~~general.~~
12 (h) No registration issued under this act shall be transferable.
13 (i) Violation of subsection (a) is a class A nonperson
14 misdemeanor.
15 (j) This section shall not apply to a business licensed under the
16 provisions of K.S.A. 8-2404, and amendments thereto, unless such
17 business buys or recycles regulated scrap metal that are not motor vehicle
18 components.
19

20 Sec. 10. On and after January 1, 2016, K.S.A. 2013 Supp. 50-6,112b is
21 hereby amended to read as follows: 50-6,112b. (a) After examining the
22 information contained in a filing for a scrap metal dealer registration and
23 determining the registration meets the statutory requirements for such
24 registration, the governing body of the city or the board of county
25 ~~commissioners~~ attorney general shall accept such filing and the scrap
26 metal dealer shall be deemed to be properly registered.

27 (b) No scrap metal registration shall be accepted for:

28 (1) *Any person who is not a citizen or legal permanent resident of the*
29 *United States.*

30 (2) A person who is under 18 years of age and whose parents or legal
31 guardians have been convicted of a felony or other crime which would
32 disqualify a person from registration under this section and such crime was
33 committed during the time that such parents or legal guardians held a
34 registration under this act.

35 ~~(2) (3)~~ A person who, within ~~five~~ ten years immediately preceding the
36 date of filing, has pled guilty to, *entered a diversion agreement for,*
37 *been convicted of, released from incarceration for or released from*
38 *probation or parole for committing,*
39 *attempting to commit, or conspiring to commit a violation of article 37 of*
40 *chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or*
41 *K.S.A. 2013 Supp. 21-5801 through 21-5839 and subsection (a)(6) of*
42 *K.S.A. 2013 Supp. 21-6412, perjury, K.S.A. 21-3805, prior to its repeal, or*
43 *K.S.A. 2013 Supp. 21-5903, compounding a crime, K.S.A. 21-3807, prior*
44 *to its repeal, obstructing legal process or official duty, K.S.A. 21-3808,*
45 *prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its*
46 *repeal, interference with law enforcement, K.S.A. 2013 Supp. 21-5904,*
47 *interference with judicial process, K.S.A. 2013 Supp. 21-5905, or any*

1 crime involving ~~moral turpitude~~ truth or dishonesty or any substantially
2 similar offense pursuant to the laws of any city, state or of the United
3 States.

4 ~~(3)~~ (4) A person who, within the ~~five~~-ten years immediately preceding
5 the date of registration, has pled guilty to, been found guilty of, or entered
6 a diversion agreement for violating the provisions of K.S.A. 2013 Supp.
7 50-6,112a, and amendments thereto, K.S.A. 50-6,109 et seq., and
8 amendments thereto, the laws of another state comparable to such
9 provisions or laws of any county or city regulating the sale or purchase of
10 regulated scrap metal three or more times aggravated criminal damage to
11 property, as defined in K.S.A. 21-5813, and amendments thereto.

12 ~~(4)~~ (5) A person who within the ~~three~~-ten years immediately
13 preceding the date of registration held a scrap metal dealer registration
14 which was revoked, or managed a facility for a scrap metal dealer whose
15 registration was revoked, or was an employee whose conduct led to or
16 contributed to the revocation of such registration.

17 ~~(5)~~ (6) A person who makes a materially false statement on the
18 registration application or has made a materially false statement on a
19 registration or similar filing within the last ~~three~~-ten years.

20 ~~(6)~~ (7) A partnership or limited liability company, unless all members
21 of the partnership or limited liability company are otherwise qualified to
22 file a registration.

23 ~~(7)~~ (8) A corporation, if any manager, officer or director thereof, or
24 any stockholder owning in the aggregate more than 25% of the stock of
25 such corporation, would be ineligible to receive a license hereunder for
26 any reason.

27 ~~(8)~~ (9) A person whose place of business is conducted by a manager
28 or agent unless the manager or agent possesses all of the qualifications for
29 registration.

30 ~~(9)~~ (10) A person whose spouse has been convicted of a felony or
31 other crime which would disqualify a person from registration under this
32 section and such crime was committed during the time that the spouse held
33 a registration under this act.

34 (11) *Any person who does not own the premises for which a license is*
35 *sought, unless the person has a written lease for at least ¾ of the period*
36 *for which the license is to be issued.*

37
38 New section 11.

39 (a) Any scrap metal dealer who violates any of the provisions of K.S.A. 50-
40 6,109 et seq., and amendments thereto, in addition to any other penalty
41 provided by law, may incur a civil penalty imposed under subsection (b) in
42 the amount fixed by rules and regulations of the attorney general in an
43 amount not less than \$100 nor more than \$5,000 for each violation.

44 (b) The attorney general, upon a finding that a scrap metal dealer or any
45 employee or agent thereof or any person or entity required to be registered
46 as a scrap metal dealer has violated any of the provisions of K.S.A. 50-
47 6,109 et seq., and amendments thereto, may impose a civil penalty as
48 provided in this section upon such dealer.

1 (c) No civil penalty shall be imposed pursuant to this section except upon
2 the written order of the attorney general to the scrap metal dealer who
3 committed the violation. Such order shall state the violation, the penalty to
4 be imposed and the right of such dealer to appeal. Any such dealer, within
5 30 days after notification of the penalty, may appeal such decision as
6 provided in the Kansas administrative procedure act.

7 (d) This section shall take effect on and after January 1, 2016.
8

9 Sec. 12. On and after January 1, 2016, K.S.A. 2013 Supp. 50-6,112c is
10 hereby amended to read as follows: 50-6,112c. (a) ~~The board of county~~
11 ~~commissioners or the governing body of any city~~ *attorney general*, upon
12 five days notice to the persons holding a registration, may suspend the scrap
13 metal dealer's registration for up to 30 days for any one of the following
14 reasons:

15 (1) The registrant has been ~~convicted of violating~~ *found to have violated*
16 any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto,
17 or any similar ordinance, resolution or rules or regulations ~~made by the~~
18 ~~board or the city, as the case may be;~~

19 (2) the employment or continuation in employment of a person if the
20 registered scrap metal dealer knows such person has, within the 24 months
21 prior to the notice of suspension or revocation action, been ~~convicted of~~
22 ~~violating found to have violated~~ any of the provisions of K.S.A. 50-6,109 et
23 seq., and amendments thereto, or the laws of another state comparable to
24 such provisions, or any city or county ordinance or resolution, or regulation
25 controlling scrap metal sale or purchase in Kansas or any other state; or

26 (3) permitting any criminal activity under the Kansas criminal code, or
27 similar ordinance, resolution or rules or regulations made by the board or
28 city, as the case may be, in or upon the registrant's place of business.

29 (b) ~~The board of county commissioners or the governing body of any city~~
30 *attorney general* may revoke the registration of a scrap metal dealer who
31 has had its registration suspended three or more times within a 24-month
32 period.

33 (c) ~~The board of county commissioners or the governing body of any city~~
34 *attorney general*, upon five days' notice to the person holding the
35 registration, shall revoke or suspend the registration for any one of the
36 following reasons:

37 (1) The registrant has fraudulently registered by knowingly giving
38 materially false information on the registration form;

39 (2) the registrant has become ineligible to obtain a registration under this
40 act;

41 (3) the nonpayment of any registration fees after receiving written notice
42 that such registration fees are more than 30 days past due; or

43 (4) *the nonpayment of any civil penalty after receiving written*
44 *notice that such penalty is more than 30 days past due.*

45 (4) ~~Within 20 days after the order of the board denying, revoking or~~
46 ~~suspending any registration, the registrant may appeal to the district court~~
47 ~~and the district court shall proceed to hear such appeal as though the court~~
48 ~~had original jurisdiction of the matter. Upon request by the registrant, the~~

1 ~~district court may enjoin the revocation or suspension of a registration until~~
2 ~~final disposition of any action brought under this act.~~
3 (d) Any action brought under subsections (a), (b) or (c) shall be brought
4 individually against a single registrant's site and not against any other scrap
5 metal sites or locations registered by the same individual, company or
6 business entity.
7 *(e) Any person aggrieved by the decision of the attorney general to suspend*
8 *or revoke a registration under this section may appeal such decision as*
9 *provided in the administrative procedure act.*
10
11
12 Sec. 13. K.S.A. 21-5804, 21-5813, and 21-6604 and K.S.A. 2014 Supp. 50-
13 6,109, 50-6,110, and 50-6,111 are hereby repealed.
14
15 Sec. 14. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112, 50-
16 6,112a, 50-6,112b and 50-6,112c are hereby repealed.
17
18 Sec. 15. This act shall take effect and be in force from and after its
19 publication in the statute book.
20

SENATE BILL No. 418

By Committee on Ways and Means

2-24

1 AN ACT concerning regulated scrap metal; relating to the crime of theft;
2 sentencing; evidence at preliminary examination; regulation of scrap
3 metal dealers; unlawful acts; penalties; amending K.S.A. 2013 Supp.
4 21-5804, 21-6804, 50-6,109, 50-6,110, 50-6,111, 50-6,112, 50-6,112a
5 and 50-6,112b and repealing the existing sections; also repealing
6 K.S.A. 2013 Supp. 50-6,112c.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) The Kansas bureau of investigation shall establish
10 a database which shall be a central repository of information received by
11 scrap metal dealers as defined in K.S.A. 2013 Supp. 50-6,109, and
12 amendments thereto, from sellers of regulated scrap metals at the time of
13 the sale or transfer of regulated scrap metal, as required by K.S.A. 2013
14 Supp. 50-6,110, and amendments thereto. The database shall be
15 maintained for the purpose of providing information to law enforcement.

16 (b) The information maintained in such database by the bureau, or by
17 any entity contracting with the bureau, submitted to, maintained or stored
18 as a part of the system:

19 (1) Shall be confidential, shall only be used for investigatory or
20 evidentiary purposes related to criminal violations of city, state or federal
21 law and shall only be released to law enforcement in response to an
22 official investigation; and

23 (2) shall not be a public record and shall not be subject to the Kansas
24 open records act, K.S.A. 45-215 et seq., and amendments thereto.

25 New Sec. 2. (a) At any preliminary examination, pursuant to K.S.A.
26 22-2902, and amendments thereto, in which the details of each sale or
27 transaction required to be maintained by scrap metal dealers pursuant to
28 K.S.A. 50-6,110, and amendments thereto, are to be introduced as
29 evidence, the business records of such sale or transaction shall be
30 admissible into evidence in the preliminary examination in the same
31 manner and with the same force and effect as if the individuals who made
32 the record, and the records custodian who keeps the record, had testified in
33 person.

34 (b) This section shall be a part of and supplemental to the Kansas
35 code of criminal procedure.

36 Sec. 3. K.S.A. 2013 Supp. 21-5804 is hereby amended to read as

1 follows: 21-5804. (a) In any prosecution under K.S.A. 2013 Supp. 21-5801
2 through 21-5839, and amendments thereto, the following shall be prima
3 facie evidence of intent to permanently deprive the owner or lessor of
4 property of the possession, use or benefit thereof:

5 (1) The giving of a false identification or fictitious name, address or
6 place of employment at the time of ~~obtaining~~ *buying, selling, leasing,*
7 *trading, gathering, collecting, soliciting, procuring, receiving, dealing or*
8 *otherwise obtaining or exerting control over the property;*

9 (2) the failure of a person who leases or rents personal property to
10 return the same within 10 days after the date set forth in the lease or rental
11 agreement for the return of the property, if notice is given to the person
12 renting or leasing the property to return the property within seven days
13 after receipt of the notice, in which case the subsequent return of the
14 property within the seven-day period shall exempt such transaction from
15 consideration as prima facie evidence as provided in this section;

16 (3) destroying, breaking or opening a lock, chain, key switch,
17 enclosure or other device used to secure the property in order to obtain
18 control over the property;

19 (4) destruction of or substantially damaging or altering the property
20 so as to make the property unusable or unrecognizable in order to obtain
21 control over the property;

22 (5) the failure of a person who leases or rents from a commercial
23 renter a motor vehicle under a written agreement that provides for the
24 return of the motor vehicle to a particular place at a particular time, if
25 notice has been given to the person renting or leasing the motor vehicle to
26 return such vehicle within three calendar days from the date of the receipt
27 or refusal of the demand. In addition, if such vehicle has not been returned
28 after demand, the lessor may notify the local law enforcement agency of
29 the failure of the lessee to return such motor vehicle and the local law
30 enforcement agency shall cause such motor vehicle to be put into any
31 appropriate state and local computer system listing stolen motor vehicles;

32 (6) the failure of a person who is provided with a use of a vehicle by
33 the owner of the vehicle to return it to the owner pursuant to a written
34 instruction specifying: (A) The time and place to return the vehicle; and
35 (B) that failure to comply may be prosecuted as theft, and such instructions
36 are delivered to the person by the owner at the time the person is provided
37 with possession of the vehicle. In addition, if such vehicle has not been
38 returned pursuant to the specifications in such instructions, the owner may
39 notify the local law enforcement agency of the failure of the person to
40 return such motor vehicle and the local law enforcement agency shall
41 cause such motor vehicle to be put into any appropriate state and local
42 computer system listing stolen motor vehicles;

43 (7) removing a theft detection device, without authority, from

1 merchandise or disabling such device prior to purchase; or

2 (8) under the provisions of subsection (a)(5) of K.S.A. 2013 Supp.
3 21-5801, and amendments thereto, the failure to replace or reattach the
4 nozzle and hose of the pump used for the dispensing of motor fuels or
5 placing such nozzle and hose on the ground or pavement.

6 (b) In any prosecution for a misdemeanor under K.S.A. 2013 Supp.
7 21-5801, and amendments thereto, in which the object of the alleged theft
8 is a book or other material borrowed from a library, it shall be prima facie
9 evidence of intent to permanently deprive the owner of the possession, use
10 or benefit thereof if the defendant failed to return such book or material
11 within 30 days after receiving notice from the library requesting its return,
12 in which case the subsequent return of the book or material within the 30-
13 day period shall exempt such transaction from consideration as prima facie
14 evidence as provided in this section.

15 (c) In a prosecution for theft as defined in K.S.A. 2013 Supp. 21-
16 5801, and amendments thereto, and such theft is of services, the existence
17 of any of the connections of meters, alterations or use of unauthorized or
18 unmeasured electricity, natural gas, water, telephone service or cable
19 television service, caused by tampering, shall be prima facie evidence of
20 intent to commit theft of services by the person or persons using or
21 receiving the direct benefits from the use of the electricity, natural gas,
22 water, telephone service or cable television service passing through such
23 connections or meters, or using the electricity, natural gas, water,
24 telephone service or cable television service which has not been authorized
25 or measured.

26 (d) *In a prosecution for theft as defined in K.S.A. 2013 Supp. 21-*
27 *5801, and amendments thereto, and such theft is of regulated scrap metal*
28 *as defined in K.S.A. 2013 Supp. 50-6,109, and amendments thereto, either*
29 *in whole or in part, the failure to give information or the giving of false*
30 *information to a scrap metal dealer pursuant to the requirements of K.S.A.*
31 *2013 Supp. 50-6,109 et seq., and amendments thereto, the transportation*
32 *of regulated scrap metal outside the county from where it was obtained,*
33 *the transportation of regulated scrap metal across state lines or the*
34 *alteration of any regulated scrap metal prior to any transaction with a*
35 *scrap metal dealer shall be prima facie evidence of intent to permanently*
36 *deprive the owner of the regulated scrap metal of the possession, use or*
37 *benefit thereof.*

38 (d) (e) As used in this section:

39 (1) "Notice" means notice in writing and such notice in writing will
40 be presumed to have been given three days following deposit of the notice
41 as registered or certified matter in the United States mail, addressed to
42 such person who has leased or rented the personal property or borrowed
43 the library material at the address as it appears in the information supplied

1 by such person at the time of such leasing, renting or borrowing, or to such
2 person's last known address; and

3 (2) "tampering" includes, but is not limited to:

4 (A) Making a connection of any wire, conduit or device, to any
5 service or transmission line owned by a public or municipal utility, or by a
6 cable television service provider;

7 (B) defacing, puncturing, removing, reversing or altering any meter
8 or any connections, for the purpose of securing unauthorized or
9 unmeasured electricity, natural gas, water, telephone service or cable
10 television service;

11 (C) preventing any such meters from properly measuring or
12 registering;

13 (D) knowingly taking, receiving, using or converting to such person's
14 own use, or the use of another, any electricity, water or natural gas which
15 has not been measured, or any telephone or cable television service which
16 has not been authorized; or

17 (E) causing, procuring, permitting, aiding or abetting any person to
18 do any of the preceding acts.

19 Sec. 4. K.S.A. 2013 Supp. 21-6804 is hereby amended to read as
20 follows: 21-6804. (a) The provisions of this section shall be applicable to
21 the sentencing guidelines grid for nondrug crimes. The following
22 sentencing guidelines grid shall be applicable to nondrug felony crimes:

1

SENTENCING RANGE - NONDRUG OFFENSES

Category	A	B	C	D	E	F	G	H	I
Severity Level	3 + Person Felonies	2 Person Felonies	1 Person & 1 Nonperson Felonies	1 Person Felony	3 + Nonperson Felonies	2 Nonperson Felonies	1 Nonperson Felony	2 + Misdemeanors	1 Misdemeanor No Record
I	653 620 592	618 586 554	285 272 258	267 253 240	246 234 221	226 214 203	203 195 184	186 176 166	165 155 147
II	493 467 442	460 438 416	216 205 194	200 190 181	184 174 165	168 160 152	154 146 138	138 131 123	123 117 109
III	247 233 221	228 216 206	107 102 96	100 94 89	92 88 82	83 79 74	77 72 68	71 66 61	61 59 55
IV	172 162 154	162 154 144	75 71 68	69 66 62	64 60 57	59 56 52	52 50 47	48 45 42	43 41 38
V	136 130 122	128 120 114	60 57 53	55 52 50	51 49 46	47 44 41	43 41 38	38 34 32	34 32 30
VI	46 43 40	41 39 37	38 36 34	36 34 32	32 30 28	29 27 25	26 24 22	21 20 19	19 18 17
VII	34 32 30	31 29 27	29 27 25	26 24 22	23 21 19	19 18 17	17 16 15	14 13 12	13 12 11
VIII	23 21 19	20 19 18	19 18 17	17 16 15	15 14 13	13 12 11	11 10 9	11 10 9	9 8 7
IX	17 16 15	15 14 13	13 12 11	13 12 11	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5
X	13 12 11	12 11 10	11 10 9	10 9 8	9 8 7	8 7 6	7 6 5	7 6 5	7 6 5

LEGEND
Presumptive Probation
Guideline 205
Presumptive Imprisonment

1 (b) Sentences expressed in the sentencing guidelines grid for nondrug
2 crimes represent months of imprisonment.

3 (c) The sentencing guidelines grid is a two-dimensional crime
4 severity and criminal history classification tool. The grid's vertical axis is
5 the crime severity scale which classifies current crimes of conviction. The
6 grid's horizontal axis is the criminal history scale which classifies criminal
7 histories.

8 (d) The sentencing guidelines grid for nondrug crimes as provided in
9 this section defines presumptive punishments for felony convictions,
10 subject to the sentencing court's discretion to enter a departure sentence.
11 The appropriate punishment for a felony conviction should depend on the
12 severity of the crime of conviction when compared to all other crimes and
13 the offender's criminal history.

14 (e) (1) The sentencing court has discretion to sentence at any place
15 within the sentencing range. In the usual case it is recommended that the
16 sentencing judge select the center of the range and reserve the upper and
17 lower limits for aggravating and mitigating factors insufficient to warrant a
18 departure.

19 (2) In presumptive imprisonment cases, the sentencing court shall
20 pronounce the complete sentence which shall include the:

21 (A) Prison sentence;

22 (B) maximum potential reduction to such sentence as a result of good
23 time; and

24 (C) period of postrelease supervision at the sentencing hearing.
25 Failure to pronounce the period of postrelease supervision shall not negate
26 the existence of such period of postrelease supervision.

27 (3) In presumptive nonprison cases, the sentencing court shall
28 pronounce the:

29 (A) Prison sentence; and

30 (B) duration of the nonprison sanction at the sentencing hearing.

31 (f) Each grid block states the presumptive sentencing range for an
32 offender whose crime of conviction and criminal history place such
33 offender in that grid block. If an offense is classified in a grid block below
34 the dispositional line, the presumptive disposition shall be
35 nonimprisonment. If an offense is classified in a grid block above the
36 dispositional line, the presumptive disposition shall be imprisonment. If an
37 offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose
38 an optional nonprison sentence as provided in subsection (q).

39 (g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal,
40 aggravated battery against a law enforcement officer committed prior to
41 July 1, 2006, or a violation of subsection (d) of K.S.A. 2013 Supp. 21-
42 5412, and amendments thereto, aggravated assault against a law
43 enforcement officer, which places the defendant's sentence in grid block 6-

1 H or 6-I shall be presumed imprisonment. The court may impose an
2 optional nonprison sentence as provided in subsection (q).

3 (h) When a firearm is used to commit any person felony, the
4 offender's sentence shall be presumed imprisonment. The court may
5 impose an optional nonprison sentence as provided in subsection (q).

6 (i) (1) The sentence for the violation of the felony provision of K.S.A.
7 2013 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of
8 K.S.A. 2013 Supp. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 2013
9 Supp. 21-5823, K.S.A. 2013 Supp. 21-6412 and K.S.A. 2013 Supp. 21-
10 6416, and amendments thereto, shall be as provided by the specific
11 mandatory sentencing requirements of that section and shall not be subject
12 to the provisions of this section or K.S.A. 2013 Supp. 21-6807, and
13 amendments thereto.

14 (2) If because of the offender's criminal history classification the
15 offender is subject to presumptive imprisonment or if the judge departs
16 from a presumptive probation sentence and the offender is subject to
17 imprisonment, the provisions of this section and K.S.A. 2013 Supp. 21-
18 6807, and amendments thereto, shall apply and the offender shall not be
19 subject to the mandatory sentence as provided in K.S.A. 2013 Supp. 21-
20 5823, and amendments thereto.

21 (3) Notwithstanding the provisions of any other section, the term of
22 imprisonment imposed for the violation of the felony provision of K.S.A.
23 2013 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of
24 K.S.A. 2013 Supp. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 2013
25 Supp. 21-5823, K.S.A. 2013 Supp. 21-6412 and K.S.A. 2013 Supp. 21-
26 6416, and amendments thereto, shall not be served in a state facility in
27 custody of the secretary of corrections, except that the term of
28 imprisonment for felony violations of K.S.A. 2013 Supp. 8-1025 or K.S.A.
29 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a
30 state correctional facility designated by the secretary of corrections if the
31 secretary determines that substance abuse treatment resources and facility
32 capacity is available. The secretary's determination regarding the
33 availability of treatment resources and facility capacity shall not be subject
34 to review. Prior to imposing any sentence pursuant to this subsection, the
35 court may consider assigning the defendant to a house arrest program
36 pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto.

37 (j) (1) The sentence for any persistent sex offender whose current
38 convicted crime carries a presumptive term of imprisonment shall be
39 double the maximum duration of the presumptive imprisonment term. The
40 sentence for any persistent sex offender whose current conviction carries a
41 presumptive nonprison term shall be presumed imprisonment and shall be
42 double the maximum duration of the presumptive imprisonment term.

43 (2) Except as otherwise provided in this subsection, as used in this

1 subsection, "persistent sex offender" means a person who:

2 (A) (i) Has been convicted in this state of a sexually violent crime, as
3 defined in K.S.A. 22-3717, and amendments thereto; and

4 (ii) at the time of the conviction under subsection (j)(2)(A)(i) has at
5 least one conviction for a sexually violent crime, as defined in K.S.A. 22-
6 3717, and amendments thereto, in this state or comparable felony under
7 the laws of another state, the federal government or a foreign government;
8 or

9 (B) (i) has been convicted of rape, as defined in K.S.A. 21-3502,
10 prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments
11 thereto; and

12 (ii) at the time of the conviction under subsection (j)(2)(B)(i) has at
13 least one conviction for rape in this state or comparable felony under the
14 laws of another state, the federal government or a foreign government.

15 (3) Except as provided in subsection (j)(2)(B), the provisions of this
16 subsection shall not apply to any person whose current convicted crime is
17 a severity level 1 or 2 felony.

18 (k) (1) If it is shown at sentencing that the offender committed any
19 felony violation for the benefit of, at the direction of, or in association with
20 any criminal street gang, with the specific intent to promote, further or
21 assist in any criminal conduct by gang members, the offender's sentence
22 shall be presumed imprisonment. The court may impose an optional
23 nonprison sentence as provided in subsection (q).

24 (2) As used in this subsection, "criminal street gang" means any
25 organization, association or group of three or more persons, whether
26 formal or informal, having as one of its primary activities:

27 (A) The commission of one or more person felonies; or

28 (B) the commission of felony violations of article 57 of chapter 21 of
29 the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010
30 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony
31 violation of any provision of the uniform controlled substances act prior to
32 July 1, 2009; and

33 (C) its members have a common name or common identifying sign or
34 symbol; and

35 (D) its members, individually or collectively, engage in or have
36 engaged in the commission, attempted commission, conspiracy to commit
37 or solicitation of two or more person felonies or felony violations of article
38 57 of chapter 21 of the Kansas Statutes Annotated, and amendments
39 thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their
40 transfer, any felony violation of any provision of the uniform controlled
41 substances act prior to July 1, 2009, or any substantially similar offense
42 from another jurisdiction.

43 (l) Except as provided in subsection (o), the sentence for a violation

1 of subsection (a)(1) of K.S.A. 2013 Supp. 21-5807, and amendments
2 thereto, or any attempt or conspiracy, as defined in K.S.A. 2013 Supp. 21-
3 5301 and 21-5302, and amendments thereto, to commit such offense, when
4 such person being sentenced has a prior conviction for a violation of
5 subsection (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716, prior
6 to its repeal, subsection (a)(1) or (a)(2) of K.S.A. 2013 Supp. 21-5807, or
7 subsection (b) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, or
8 any attempt or conspiracy to commit such offense, shall be presumptive
9 imprisonment.

10 (m) The sentence for a violation of K.S.A. 22-4903 or subsection (a)
11 (2) of K.S.A. 2013 Supp. 21-5913, and amendments thereto, shall be
12 presumptive imprisonment. If an offense under such sections is classified
13 in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional
14 nonprison sentence as provided in subsection (q).

15 (n) The sentence for a violation of criminal deprivation of property, as
16 defined in K.S.A. 2013 Supp. 21-5803, and amendments thereto, when
17 such property is a motor vehicle, and when such person being sentenced
18 has any combination of two or more prior convictions of subsection (b) of
19 K.S.A. 21-3705, prior to its repeal, or of criminal deprivation of property,
20 as defined in K.S.A. 2013 Supp. 21-5803, and amendments thereto, when
21 such property is a motor vehicle, shall be presumptive imprisonment. Such
22 sentence shall not be considered a departure and shall not be subject to
23 appeal.

24 (o) The sentence for a felony violation of theft of property as defined
25 in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary as
26 defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments
27 thereto, when such person being sentenced has no prior convictions for a
28 violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of
29 property as defined in K.S.A. 2013 Supp. 21-5801, and amendments
30 thereto, or burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-
31 5807, and amendments thereto; or the sentence for a felony violation of
32 theft of property as defined in K.S.A. 2013 Supp. 21-5801, and
33 amendments thereto, when such person being sentenced has one or two
34 prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-
35 3716, prior to their repeal, or theft of property as defined in K.S.A. 2013
36 Supp. 21-5801, and amendments thereto, or burglary or aggravated
37 burglary as defined in K.S.A. 2013 Supp. 21-5807, and amendments
38 thereto; or the sentence for a felony violation of burglary as defined in
39 subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto,
40 when such person being sentenced has one prior felony conviction for a
41 violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or
42 theft of property as defined in K.S.A. 2013 Supp. 21-5801, and
43 amendments thereto, or burglary or aggravated burglary as defined in

1 K.S.A. 2013 Supp. 21-5807, and amendments thereto, shall be the
2 sentence as provided by this section, except that the court may order an
3 optional nonprison sentence for a defendant to participate in a drug
4 treatment program, including, but not limited to, an approved after-care
5 plan, if the court makes the following findings on the record:

6 (1) Substance abuse was an underlying factor in the commission of
7 the crime;

8 (2) substance abuse treatment in the community is likely to be more
9 effective than a prison term in reducing the risk of offender recidivism;
10 and

11 (3) participation in an intensive substance abuse treatment program
12 will serve community safety interests.

13 A defendant sentenced to an optional nonprison sentence under this
14 subsection shall be supervised by community correctional services. The
15 provisions of subsection (f)(1) of K.S.A. 2013 Supp. 21-6824, and
16 amendments thereto, shall apply to a defendant sentenced under this
17 subsection. The sentence under this subsection shall not be considered a
18 departure and shall not be subject to appeal.

19 (p) *Except as otherwise provided in this subsection*, the sentence for a
20 felony violation of theft of property as defined in K.S.A. 2013 Supp. 21-
21 5801, and amendments thereto, when such person being sentenced has any
22 combination of three or more prior felony convictions for violations of
23 K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of
24 property as defined in K.S.A. 2013 Supp. 21-5801, and amendments
25 thereto, or burglary or aggravated burglary as defined in K.S.A. 2013
26 Supp. 21-5807, and amendments thereto; or the sentence for a violation of
27 burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and
28 amendments thereto, when such person being sentenced has any
29 combination of two or more prior convictions for violations of K.S.A. 21-
30 3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as
31 defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or
32 burglary or aggravated burglary as defined in K.S.A. 2013 Supp. 21-5807,
33 and amendments thereto, shall be presumed imprisonment and the
34 defendant shall be sentenced to prison as provided by this section; ~~except~~
35 ~~that~~.

36 (1) The court may recommend that an offender be placed in the
37 custody of the secretary of corrections, in a facility designated by the
38 secretary to participate in an intensive substance abuse treatment program,
39 upon making the following findings on the record:

40 (†) (A) Substance abuse was an underlying factor in the commission
41 of the crime;

42 (‡) (B) substance abuse treatment with a possibility of an early
43 release from imprisonment is likely to be more effective than a prison term

1 in reducing the risk of offender recidivism; and

2 ~~(3)~~ (C) participation in an intensive substance abuse treatment
3 program with the possibility of an early release from imprisonment will
4 serve community safety interests by promoting offender reformation.

5 The intensive substance abuse treatment program shall be determined
6 by the secretary of corrections, but shall be for a period of at least four
7 months. Upon the successful completion of such intensive treatment
8 program, the offender shall be returned to the court and the court may
9 modify the sentence by directing that a less severe penalty be imposed in
10 lieu of that originally adjudged within statutory limits. If the offender's
11 term of imprisonment expires, the offender shall be placed under the
12 applicable period of postrelease supervision. The sentence under this
13 subsection shall not be considered a departure and shall not be subject to
14 appeal.

15 *(2) If the trier of fact makes a finding that the items, property or*
16 *materials that are the subject of the present crime of conviction are or*
17 *were, either in part or whole, a regulated scrap metal as defined by K.S.A.*
18 *2013 Supp. 50-6,109, and amendments thereto, in addition to the sentence*
19 *imposed pursuant to the Kansas sentencing guidelines act, the offender*
20 *shall be sentenced to an additional 36 months' imprisonment. The*
21 *sentence imposed pursuant to this paragraph shall be presumptive*
22 *imprisonment and shall be served consecutively to any other term or terms*
23 *of imprisonment imposed. Such sentence shall not be considered a*
24 *departure and shall not be subject to appeal. The provisions of subsection*
25 *(p)(1) shall not apply to a sentence imposed pursuant to this paragraph.*

26 (q) As used in this section, an "optional nonprison sentence" is a
27 sentence which the court may impose, in lieu of the presumptive sentence,
28 upon making the following findings on the record:

29 (1) An appropriate treatment program exists which is likely to be
30 more effective than the presumptive prison term in reducing the risk of
31 offender recidivism; and

32 (2) the recommended treatment program is available and the offender
33 can be admitted to such program within a reasonable period of time; or

34 (3) the nonprison sanction will serve community safety interests by
35 promoting offender reformation.

36 Any decision made by the court regarding the imposition of an optional
37 nonprison sentence shall not be considered a departure and shall not be
38 subject to appeal.

39 (r) The sentence for a violation of subsection (c)(2) of K.S.A. 2013
40 Supp. 21-5413, and amendments thereto, shall be presumptive
41 imprisonment and shall be served consecutively to any other term or terms
42 of imprisonment imposed. Such sentence shall not be considered a
43 departure and shall not be subject to appeal.

1 (s) The sentence for a violation of K.S.A. 2013 Supp. 21-5512, and
2 amendments thereto, shall be presumptive imprisonment. Such sentence
3 shall not be considered a departure and shall not be subject to appeal.

4 (t) (1) If the trier of fact makes a finding that an offender wore or
5 used ballistic resistant material in the commission of, or attempt to
6 commit, or flight from any felony, in addition to the sentence imposed
7 pursuant to the Kansas sentencing guidelines act, the offender shall be
8 sentenced to an additional 30 months' imprisonment.

9 (2) The sentence imposed pursuant to subsection (t)(1) shall be
10 presumptive imprisonment and shall be served consecutively to any other
11 term or terms of imprisonment imposed. Such sentence shall not be
12 considered a departure and shall not be subject to appeal.

13 (3) As used in this subsection, "ballistic resistant material" means:
14 (A) Any commercially produced material designed with the purpose of
15 providing ballistic and trauma protection, including, but not limited to,
16 bulletproof vests and kevlar vests; and (B) any homemade or fabricated
17 substance or item designed with the purpose of providing ballistic and
18 trauma protection.

19 (u) The sentence for a violation of K.S.A. 2013 Supp. 21-6107, and
20 amendments thereto, or any attempt or conspiracy, as defined in K.S.A.
21 2013 Supp. 21-5301 and 21-5302, and amendments thereto, to commit
22 such offense, when such person being sentenced has a prior conviction for
23 a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2013 Supp. 21-
24 6107, and amendments thereto, or any attempt or conspiracy to commit
25 such offense, shall be presumptive imprisonment. Such sentence shall not
26 be considered a departure and shall not be subject to appeal.

27 Sec. 5. K.S.A. 2013 Supp. 50-6,109 is hereby amended to read as
28 follows: 50-6,109. As used in ~~K.S.A. 2013 Supp. 50-6,112a through 50-~~
29 ~~6,112c, and amendments thereto, and K.S.A. 2013 Supp. 50-6,109 through~~
30 ~~50-6,112 50-6,112b, and amendments thereto:~~

31 (a) "Scrap metal dealer" means any person, *firm, company,*
32 *partnership, association or corporation* that operates a business ~~out of a~~
33 ~~fixed location, and that is also either that:~~

34 (1) ~~Engaged~~ *Weights regulated scrap metal to engage* in the business
35 of buying ~~and, selling, trading, gathering, collecting, soliciting, procuring,~~
36 *receiving or dealing in regulated scrap metal; or*

37 (2) ~~purchasing, gathering, collecting, soliciting or procuring regulated~~
38 ~~scrap metal; or~~

39 (3) ~~is~~ *operating, carrying on, conducting or maintaining a regulated*
40 *scrap metal yard or place where regulated scrap metal is gathered together*
41 *and stored or kept for shipment, sale or transfer.*

42 (b) "Regulated scrap metal yard" means any yard, plot, space,
43 enclosure, building or any other place where regulated scrap metal is

1 collected, gathered together and stored or kept for shipment, sale or
2 transfer.

3 (c) "Regulated scrap metal" shall mean wire, cable, bars, ingots, wire
4 scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts,
5 pipes or connectors made from aluminum; catalytic converters containing
6 platinum, palladium or rhodium; and copper, titanium, tungsten, stainless
7 steel and nickel in any form; for which the purchase price described in
8 K.S.A. 2013 Supp. 50-6,110 and 50-6,111, and amendments thereto, was
9 primarily based on the content therein of aluminum, copper, titanium,
10 tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item
11 composed in whole or in part of any nonferrous metal other than an item
12 composed of tin, that is purchased or otherwise acquired for the purpose of
13 recycling or storage for later recycling. *Regulated scrap metal also*
14 *includes tungsten alloy tooling, water or irrigation valves, plaques,*
15 *statuary, bells with a diameter of eight inches or more, works of art made*
16 *of copper, brass, bronze, aluminum or stainless steel, urns, cemetery*
17 *ornaments including vases or markers made of any type of metal,*
18 *historical markers made of any type of metal, automotive catalytic*
19 *converters, kegs capable of holding more than ten gallons of liquid and*
20 *non-ferrous cutting by-products, coated or insulated wire or stripped wire*
21 *or burnt wire, refrigeration condensing units or air conditioning coils of*
22 *any type, copper tubing, bars, plate, buss bar and sheet copper.* Aluminum
23 shall not include food or beverage containers.

24 (d) "Bales of regulated metal" means regulated scrap metal property
25 processed with professional recycling equipment by compression, shearing
26 or shredding, to a form in which it may be sold by a scrap metal dealer
27 consistent with industry standards.

28 (e) "Ferrous metal" means a metal that contains iron or steel.

29 (f) "Junk vehicle" means a vehicle not requiring a title as provided in
30 chapter 8 of the Kansas Statutes Annotated, and amendments thereto,
31 aircraft, boat, farming implement, industrial equipment, trailer or any other
32 conveyance used on the highways and roadways, which has no use or
33 resale value except as scrap.

34 (g) "Nonferrous metal" means a metal that does not contain iron or
35 steel, including but not limited to: Copper, brass, aluminum, bronze, lead,
36 zinc, nickel and their alloys.

37 (h) "Tin" means a metal consisting predominantly of light sheet metal
38 ferrous scrap, including large and small household appliances, construction
39 siding and construction roofing.

40 (i) "Vehicle part" means the front clip consisting of the two front
41 fenders, hood, grill and front bumper of an automobile assembled as one
42 unit; or the rear clip consisting of those body parts behind the rear edge of
43 the back doors, including both rear quarter panels, the rear window, trunk

1 lid, trunk floor panel and rear bumper, assembled as one unit; or any other
2 vehicle part.

3 (j) *"Cutting by-products" means borings, turnings, shavings, filings*
4 *or other particulate matter produced by the cutting or machining of non-*
5 *ferrous metal either in loose or compacted form.*

6 (k) *"Automotive catalytic converter" means a device used in*
7 *automotive exhaust systems to convert carbon monoxide into carbon*
8 *dioxide and other compounds.*

9 (l) *"Person" means any individual, scrap metal dealer manager or*
10 *employee, owner, operator, corporation, partnership or association.*

11 (m) *"Property" means vehicle parts, catalytic converters and*
12 *regulated scrap metal.*

13 Sec. 6. K.S.A. 2013 Supp. 50-6,110 is hereby amended to read as
14 follows: 50-6,110. (a) *Every scrap metal dealer shall keep a register in*
15 *which the dealer, employee or agent of the dealer shall, at the time of*
16 *purchase or receipt of any item for which such information is required to*
17 *be presented, accurately and legibly record at the time of sale the*
18 *information required by subsection (b).*

19 (b) ~~Except as provided in subsection (d),~~ It shall be unlawful for any
20 person to sell any item or items of regulated scrap metal to a scrap metal
21 dealer, or employee or agent of a dealer, in this state unless such person
22 presents to such scrap metal dealer, or employee or agent of such dealer, at
23 or before the time of sale, the following information: ~~The seller's name,~~
24 ~~address, sex, date of birth and the identifying number from the seller's~~
25 ~~driver's license, military identification card, passport or personal~~
26 ~~identification license. The identifying number from an official~~
27 ~~governmental document for a country other than the United States may be~~
28 ~~used to meet this requirement provided that a legible fingerprint is also~~
29 ~~obtained from the seller.~~

30 (b) ~~Every scrap metal dealer shall keep a register in which the dealer,~~
31 ~~or employee or agent of the dealer, shall at the time of purchase or receipt~~
32 ~~of any item for which such information is required to be presented, cross-~~
33 ~~reference to previously received information, or accurately and legibly~~
34 ~~record at the time of sale the following information:~~

35 (1) The time, date and place of transaction;

36 (2) the seller's name, address, sex, date of birth and the identifying
37 number from the seller's driver's license, military identification card,
38 passport or personal identification license; the identifying number from an
39 official governmental document for a country other than the United States
40 may be used to meet this requirement provided that a legible fingerprint is
41 also obtained from the seller;

42 (3) a copy of the identification card or document containing such
43 identifying number;

- 1 (4) the license number, color and style or make of any motor vehicle
2 in which the junk vehicle or other regulated scrap metal property is
3 delivered in a purchase transaction;
- 4 (5) a general description, made in accordance with the custom of the
5 trade, of the predominant types of junk vehicle or other regulated scrap
6 metal property purchased in the transaction;
- 7 (6) the weight, quantity or volume, made in accordance with the
8 custom of the trade, of the regulated scrap metal property purchased;
- 9 (7) if a junk vehicle or vehicle part is being bought or sold, a
10 description of the junk vehicle or vehicle part, including the make, model,
11 color, vehicle identification number and serial number if applicable;
- 12 (8) the ~~amount of consideration given in a purchase price paid in a~~
13 transaction for the junk vehicle or other regulated scrap metal property;
14 ~~and~~
- 15 (9) the *full* name of the individual acting on behalf of the regulated
16 scrap metal dealer in making the purchase;
- 17 (10) *the serial number, or any identifying markings on any property*
18 *purchased, if any; and*
- 19 (11) *a signed statement from the seller indicating from where the*
20 *property was obtained and that: (A) Each item is the seller's own personal*
21 *property, is free of encumbrances and is not stolen; or (B) the seller is*
22 *acting for the owner and has permission to sell each item. If the seller is*
23 *not the owner, such statement shall include the name and address of the*
24 *owner of the property.*
- 25 (c) *The scrap metal dealer shall also photograph both the seller and*
26 *the item or lot of items being sold at the time of the transaction, and keep*
27 *the photographs with the record of the transaction, register and copies of*
28 *the identification cards.*
- 29 (e) (d) The scrap metal dealer's register, including copies of
30 identification cards, *signed statements by the seller and photographs*, may
31 be kept in electronic format.
- 32 (e) *The scrap metal dealer shall forward the information required by*
33 *subsection (b) to the Kansas bureau of investigation database described in*
34 *section 1, and amendments thereto.*
- 35 (d) ~~Notwithstanding the foregoing, this section shall not apply to:~~
- 36 (1) ~~Transactions involving regulated scrap metal, except for catalytic~~
37 ~~converters, for which the total sale price for all regulated scrap metal is~~
38 ~~\$50.00 or less;~~
- 39 (2) ~~transactions involving only catalytic converters for which the total~~
40 ~~sale price is \$30.00 or less;~~
- 41 (3) ~~transactions in which the seller is also a scrap metal dealer; or~~
- 42 (4) ~~transactions for which the seller is known to the purchasing scrap~~
43 ~~metal dealer to be an established business that operates out of a fixed~~

1 ~~business location and that can reasonably be expected to generate~~
2 ~~regulated scrap metal.~~

3 ~~(e) The exceptions contained in subsections (d)(1) and (d)(2) shall not~~
4 ~~apply to any purchase from any seller of the following materials:~~

5 ~~(1) Catalytic converters purchased separate from a vehicle;~~

6 ~~(2) coated or insulated wire or stripped wire or burnt wire;~~

7 ~~(3) refrigeration condensing units or air conditioning coils of any~~
8 ~~type; or~~

9 ~~(4) copper tubing, bars, plate, buss bar and sheet copper.~~

10 ~~(f) Information required by subsection (b) may be provided to the~~
11 ~~dealer on a form supplied by the dealer, but shall be completed by the~~
12 ~~seller.~~

13 ~~(f) (g) It shall be unlawful for any scrap metal dealer, or employee or~~
14 ~~agent of the dealer, to pay, transfer or exchange for any of the items~~
15 ~~described in subsections (c)(1) through (4) items of regulated scrap metal~~
16 ~~by any means other than:~~

17 ~~(1) A prenumbered check drawn on a regular bank account in the~~
18 ~~name of the scrap metal dealer and with such check made payable to the~~
19 ~~person documented as the seller in accordance with subsection (b) (a); or~~

20 ~~(2) a system for automated cash or electronic payment distribution~~
21 ~~which photographs or videotapes the payment recipient and identifies the~~
22 ~~payment with a distinct transaction in the register maintained in~~
23 ~~accordance with subsection (b) (a).~~

24 ~~(h) Notwithstanding any other provision to the contrary, this section~~
25 ~~shall not apply to transactions in which the seller is a registered scrap~~
26 ~~metal dealer.~~

27 Sec. 7. K.S.A. 2013 Supp. 50-6,111 is hereby amended to read as
28 follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer,
29 or employee or agent of the dealer, to purchase any item or items of
30 regulated scrap metal in a transaction for which K.S.A. 2013 Supp. 50-
31 6,110, and amendments thereto, requires information to be presented by
32 the seller, without demanding and receiving from the seller that
33 information. Every scrap metal dealer shall file and maintain a record of
34 information obtained in compliance with the requirements in K.S.A. 2013
35 Supp. 50-6,110, and amendments thereto. All records kept in accordance
36 with the provisions of this act shall be open at all times to peace or law
37 enforcement officers and shall be kept for two five years. If the required
38 information is maintained in electronic format, the scrap metal dealer shall
39 provide a printout of the information to peace or law enforcement officers
40 upon request.

41 ~~(b) It shall be unlawful for any scrap metal dealer, or employee or~~
42 ~~agent of the dealer, to purchase any item or items of regulated scrap metal~~
43 ~~in a transaction for which K.S.A. 2013 Supp. 50-6,110, and amendments~~

1 ~~thereto, requires information to be presented by the seller, without~~
2 ~~obtaining from the seller a signed statement that: (1) Each item is the~~
3 ~~seller's own personal property, is free of encumbrances and is not stolen; or~~
4 ~~(2) that the seller is acting for the owner and has permission to sell each~~
5 ~~item.~~

6 ~~(e)~~ (b) It shall be unlawful for any scrap metal dealer, or employee or
7 agent of the dealer, to purchase any junk vehicle in a transaction for which
8 K.S.A. 2013 Supp. 50-6,110, and amendments thereto, requires
9 information to be presented by the seller, without: (1) Inspecting the
10 vehicle offered for sale and recording the vehicle identification number;
11 and (2) obtaining an appropriate vehicle title or bill of sale issued by a
12 governmentally operated vehicle impound facility if the vehicle purchased
13 has been impounded by such facility or agency.

14 ~~(d)~~ (c) It shall be unlawful for any scrap metal dealer, or employee or
15 agent of the dealer, to purchase or receive any regulated scrap metal from a
16 minor unless such minor is accompanied by a parent or guardian or such
17 minor is a licensed scrap metal dealer.

18 ~~(e)~~ (d) It shall be unlawful for any scrap metal dealer, or employee or
19 agent of the dealer, to purchase any of the following items of regulated
20 scrap metal property without obtaining proof that the seller is an
21 employee, agent or person who is authorized to sell the item of regulated
22 scrap metal property on behalf of the governmental entity, utility provider,
23 railroad, cemetery, civic organization or scrap metal dealer:

- 24 (1) Utility access cover;
- 25 (2) street light poles or fixtures;
- 26 (3) road or bridge guard rails;
- 27 (4) highway or street sign;
- 28 (5) water meter cover;
- 29 (6) traffic directional or traffic control signs;
- 30 (7) traffic light signals;
- 31 (8) any metal marked with any form of the name or initials of a
32 governmental entity;
- 33 (9) property owned and marked by a telephone, cable, electric, water
34 or other utility provider;
- 35 (10) property owned and marked by a railroad;
- 36 (11) funeral markers or vases;
- 37 (12) historical markers;
- 38 (13) bales of regulated metal;
- 39 (14) beer kegs;
- 40 (15) manhole covers;
- 41 (16) fire hydrants or fire hydrant caps;
- 42 (17) junk vehicles with missing or altered vehicle identification
43 numbers;

- 1 (18) real estate signs;
2 (19) bleachers or risers, in whole or in part; and
3 (20) twisted pair copper telecommunications wiring of 25 pair or
4 greater existing in 19, 22, 24 or 26 gauge.

5 (f) (e) It shall be unlawful for any scrap metal dealer, or employee or
6 agent of the dealer, to sell, trade, melt or crush, or in any way dispose of,
7 alter or destroy any regulated scrap metal, junk vehicle or vehicle part
8 upon notice from any law enforcement agency, or any of their agents or
9 employees, that they have cause to believe an item has been stolen. A scrap
10 metal dealer shall hold any of the items that are designated by or on behalf
11 of the law enforcement agency for 30 days, exclusive of weekends and
12 holidays.

13 Sec. 8. K.S.A. 2013 Supp. 50-6,112 is hereby amended to read as
14 follows: 50-6,112. (a) (1) Except as provided in subsections (b) and (c),
15 ~~any person~~ for every transaction or sale wherein any person is found
16 intentionally violating the provisions of K.S.A. 2013 Supp. 50-6,109
17 through 50-6,111, and amendments thereto, *such person* shall be guilty of
18 a class C misdemeanor for which the minimum fine is \$200.

19 (2) *In addition to the penalty set forth in subsection (a)(1), the board*
20 *of county commissioners or the governing body of any city where the*
21 *scrap metal dealer is registered, or any state scrap metal dealer*
22 *regulatory authority, as the case may be, upon five days' notice to the*
23 *person or persons holding a registration, may suspend the scrap metal*
24 *dealer's registration for up to five days and issue a fine of up to \$1,000 for*
25 *any one of the following reasons:*

26 (A) *The scrap metal dealer, an employee or manager thereof, or*
27 *agent of the dealer acting in a representative capacity, has been convicted,*
28 *as a first offense, of violating any of the provisions of K.S.A. 2013 Supp.*
29 *50-6,109 et seq., and amendments thereto, or any similar ordinance,*
30 *resolution or rules or regulations made by the board or the city, as the*
31 *case may be; or*

32 (B) *the employment or continuation of employment of a person if the*
33 *registered scrap metal dealer knows such person has, within the 24*
34 *months prior to the notice of suspension or revocation action, been*
35 *convicted of violating any of the provisions of K.S.A. 2013 Supp. 50-6,109*
36 *et seq., and amendments thereto, or the laws of another state comparable*
37 *to such provisions, or any city or county ordinance or resolution, or*
38 *regulation controlling scrap metal sale or purchase in Kansas or any*
39 *other state, as a first offense.*

40 (b) (1) *For every transaction or sale wherein any person is convicted*
41 *of violating the provisions of K.S.A. 2013 Supp. 50-6,109 through 50-*
42 *6,111, and amendments thereto, for the second time within a ~~two-year~~ 12-*
43 *month period shall be guilty of a class B misdemeanor for which the*

1 minimum fine is \$500.

2 (2) *In addition to the penalty set forth in subsection (b)(1), the board*
3 *of county commissioners or the governing body of any city where the*
4 *scrap metal dealer is registered, or any state scrap metal dealer*
5 *regulatory authority, as the case may be, upon five days' notice to the*
6 *person or persons holding a registration, may suspend the scrap metal*
7 *dealer's registration for up to 30 days and issue a fine of up to \$2,500 for*
8 *any one of the following reasons:*

9 (A) *The scrap metal dealer, an employee or manager thereof, or*
10 *agent of the dealer acting in a representative capacity, has been convicted,*
11 *as a second offense, of violating any of the provisions of K.S.A. 2013 Supp.*
12 *50-6,109 et seq., and amendments thereto, or any similar ordinance,*
13 *resolution or rules or regulations made by the board or the city, as the*
14 *case may be; or*

15 (B) *the employment or continuation of employment of a person if the*
16 *registered scrap metal dealer knows such person has, within the 24*
17 *months prior to the notice of suspension or revocation action, been*
18 *convicted of violating any of the provisions of K.S.A. 2013 Supp. 50-6,109*
19 *et seq., and amendments thereto, or the laws of another state comparable*
20 *to such provisions, or any city or county ordinance or resolution, or*
21 *regulation controlling scrap metal sale or purchase in Kansas or any*
22 *other state, as a second offense.*

23 (c) (1) *For every transaction or sale wherein any person is convicted*
24 *of violating the provisions of K.S.A. 2013 Supp. 50-6,109 through 50-*
25 *6,111, and amendments thereto, for the third and subsequent times within a*
26 *two-year 12-month period shall be guilty of a class A misdemeanor for*
27 *which the minimum fine is \$1,000.*

28 (2) *In addition to the penalty set forth in subsection (c)(1), the board*
29 *of county commissioners or the governing body of any city where the*
30 *scrap metal dealer is registered, or any state scrap metal dealer*
31 *regulatory authority, as the case may be, upon five days' notice to the*
32 *person or persons holding a registration, shall revoke the scrap metal*
33 *dealer's registration and issue a fine of up to \$5,000 for any one of the*
34 *following reasons:*

35 (A) *The scrap metal dealer, an employee or manager thereof, or*
36 *agent of the dealer acting in a representative capacity, has been convicted,*
37 *as a third or subsequent offense, of violating any of the provisions of*
38 *K.S.A. 2013 Supp. 50-6,109 et seq., and amendments thereto, or any*
39 *similar ordinance, resolution or rules or regulations made by the board or*
40 *the city, as the case may be; or*

41 (B) *the employment or continuation of employment of a person if the*
42 *registered scrap metal dealer knows such person has, within the 24*
43 *months prior to the notice of suspension or revocation action, been*

1 convicted of violating any of the provisions of K.S.A. 2013 Supp. 50-6,109
2 et seq., and amendments thereto, or the laws of another state comparable
3 to such provisions, or any city or county ordinance or resolution, or
4 regulation controlling scrap metal sale or purchase in Kansas or any
5 other state, as a third or subsequent offense.

6 (d) The board of county commissioners or the governing body of any
7 city where the scrap metal dealer is registered, or any state designated
8 scrap metal dealer regulatory authority, as the case may be, shall revoke
9 the scrap metal dealer's registration for any one of the following reasons:

10 (1) The registrant has fraudulently registered by knowingly giving
11 materially false information on the registration form;

12 (2) the registrant has become ineligible to obtain a registration under
13 the provisions of K.S.A. 2013 Supp. 50-6,109 et seq., and amendments
14 thereto; or

15 (3) the nonpayment of any registration fees after receiving written
16 notice that such registration fees are more than 30 days past due.

17 (e) Within 20 days after the order of the board of county
18 commissioners, governing body of the city, or state designated scrap metal
19 dealer regulatory authority denying, revoking or suspending any
20 registration, the registrant may appeal to the district court. The district
21 court shall proceed to hear such appeal as though the court had original
22 jurisdiction of the matter. Upon request by the registrant, the district court
23 may enjoin the revocation or suspension of a registration until final
24 disposition of any action brought under this section.

25 (f) Any action brought under subsection (a), (b), (c) or (d) shall be
26 brought against all of a registrant's sites and locations registered by the
27 same individual, company or business entity.

28 (g) If an action is brought under subsection (c) or (d) and a dealer's
29 registration is revoked, the registrant shall not thereafter, directly or
30 indirectly, engage or invest in, own, manage, operate, finance, control or
31 participate in the ownership, management, operation, financing or control
32 of, be employed by, associated with or in any manner connected with, lend
33 any credit to or render services or advice to, any business, firm,
34 corporation, partnership, association, joint venture, individual or other
35 entity that engages in, conducts, owns, operates, manages or has any
36 aspect of, or association with, any entity governed by K.S.A. 50-6,109 et
37 seq., and amendments thereto.

38 (h) In a prosecution under subsection (a), (b) or (c), the omission of
39 recorded information as required by K.S.A. 2013 Supp. 50-6,110, and
40 amendments thereto, shall be prima facie evidence of the scrap metal
41 dealer's intent to violate the provisions of K.S.A. 50-6,109 et seq., and
42 amendments thereto.

43 Sec. 9. K.S.A. 2013 Supp. 50-6,112a is hereby amended to read as

1 follows: 50-6,112a. (a) No business shall purchase any regulated scrap
2 metal without having first registered each place of business as herein
3 provided. *All registrations shall be made to any state-designated scrap*
4 *metal dealer regulatory authority. Additionally,* in case such place of
5 business is located within the corporate limits of a city, the registration
6 shall *also* be made to the governing body of such city. In all other cases,
7 the registration shall *also* be made to the board of county commissioners in
8 the county in which such place of business is to be located.

9 ~~(b) A board of county commissioners shall provide the clerk of the~~
10 ~~township with written notice of the filing of a registration by a scrap metal~~
11 ~~dealer within 10 days of registration or renewal.~~

12 (e) The governing body of any city and the board of county
13 commissioners shall provide the sheriff, chief of police or director of all
14 law enforcement agencies in the county written notice of the filing of
15 registration by a scrap metal dealer within 10 days of registration or
16 renewal.

17 ~~(d)~~ (c) A registration for a scrap metal dealer shall be verified and
18 upon a form approved by the attorney general and contain:

19 (1) The name and residence of the applicant, *including all previous*
20 *names and aliases and place of residence of each partner; and if the*
21 *applicant is a corporation, then the name and address of each stockholder*
22 *possessing 20% or more of the stock of the corporation;*

23 (2) the length of time that the applicant has resided within the state of
24 Kansas and a list of all residences outside the state of Kansas during the
25 previous 10 years;

26 (3) the particular place of business for which a registration is desired,
27 *the name of the business, the address where the business is to be*
28 *conducted, the hours of operation and the days of the week during which*
29 *the applicant proposes to engage in business;*

30 (4) the name of the owner of the premises upon which the place of
31 business is located; and

32 (5) the applicant shall disclose any prior convictions within 10 years
33 immediately preceding the date of making the registration for theft, as
34 defined in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2013 Supp. 21-
35 5801, and amendments thereto, theft of property lost, mislaid or delivered
36 by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A.
37 2013 Supp 21-5802, and amendments thereto, theft of services, as defined
38 in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as
39 defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. 2013 Supp. 21-
40 5803, and amendments thereto, or any other crime involving possession of
41 stolen property.

42 (e) (d) Each registration for a scrap metal dealer to purchase regulated
43 scrap metal shall be accompanied by a fee of not less than \$100 nor more

1 than \$400, as prescribed by the board of county commissioners or the
2 governing body of the city, as the case may be.

3 ~~(f)~~ (e) The board of county commissioners or the governing body of a
4 city shall accept a registration for a scrap metal dealer as otherwise
5 provided for herein, from any scrap metal dealer engaged in business in
6 such county or city and qualified to file such registration, to purchase
7 regulated scrap metals. Such registration shall be issued for a period of ~~10~~
8 ~~years~~ one year.

9 ~~(g)~~ (f) If an original registration is accepted, the governing body of
10 the city or the board of county commissioners shall grant and issue
11 renewals thereof upon application of the registration holder, if the
12 registration holder is qualified to receive the same and the registration has
13 not been revoked as provided by law. ~~The registration fee for such renewal~~
14 ~~shall be not less than \$25 nor more than \$50~~ *The renewal fee shall be the*
15 *same as the original registration fee.*

16 ~~(h)~~ (g) No registration issued under this act shall be transferable.

17 ~~(i)~~ (h) Violation of subsection (a) is a class A nonperson
18 misdemeanor.

19 ~~(j)~~ (i) This section shall not apply to a business licensed under the
20 provisions of K.S.A. 8-2404, and amendments thereto, unless such
21 business buys or recycles regulated scrap metal that are not motor vehicle
22 components.

23 Sec. 10. K.S.A. 2013 Supp. 50-6,112b is hereby amended to read as
24 follows: 50-6,112b. (a) After examining the information contained in a
25 filing for a scrap metal dealer registration and determining the registration
26 meets the statutory requirements for such registration, the governing body
27 of the city or the board of county commissioners shall accept such filing
28 and the scrap metal dealer shall be deemed to be properly registered.

29 (b) No scrap metal registration shall be accepted for:

30 (1) *Any person who is not a citizen or legal permanent resident of the*
31 *United States.*

32 (2) A person who is under 18 years of age and whose parents or legal
33 guardians have been convicted of a felony or other crime which would
34 disqualify a person from registration under this section and such crime was
35 committed during the time that such parents or legal guardians held a
36 registration under this act.

37 ~~(2)~~ (3) A person who, within ~~five~~ ten years immediately preceding the
38 date of filing, has pled guilty to, been convicted of, released from
39 incarceration for or released from probation or parole for committing,
40 attempting to commit, or conspiring to commit a violation of article 37 of
41 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or
42 K.S.A. 2013 Supp. 21-5801 through 21-5839 and subsection (a)(6) of
43 K.S.A. 2013 Supp. 21-6412, perjury, K.S.A. 21-3805, prior to its repeal, or

1 K.S.A. 2013 Supp. 21-5903, compounding a crime, K.S.A. 21-3807, prior
2 to its repeal, obstructing legal process or official duty, K.S.A. 21-3808,
3 prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its
4 repeal, interference with law enforcement, K.S.A. 2013 Supp. 21-5904,
5 interference with judicial process, K.S.A. 2013 Supp. 21-5905, or any
6 crime involving ~~moral turpitude~~ *truth or dishonesty or any substantially*
7 *similar offense pursuant to the laws of any city, state or of the United*
8 *States.*

9 ~~(3)~~ (4) A person who, within the ~~five~~ *ten* years immediately preceding
10 the date of registration, has pled guilty to, been found guilty of, or entered
11 a diversion agreement for violating the provisions of K.S.A. 2013 Supp.
12 50-6,112a, and amendments thereto, K.S.A. 50-6,109 et seq., and
13 amendments thereto, the laws of another state comparable to such
14 provisions or laws of any county or city regulating the sale or purchase of
15 regulated scrap metal three or more times.

16 ~~(4)~~ (5) A person who within the ~~three~~ *ten* years immediately
17 preceding the date of registration held a scrap metal dealer registration
18 which was revoked, or managed a facility for a scrap metal dealer whose
19 registration was revoked, or was an employee whose conduct led to or
20 contributed to the revocation of such registration.

21 ~~(5)~~ (6) A person who makes a materially false statement on the
22 registration application or has made a materially false statement on a
23 registration or similar filing within the last ~~three~~ *ten* years.

24 ~~(6)~~ (7) A partnership or limited liability company, unless all members
25 of the partnership or limited liability company are otherwise qualified to
26 file a registration.

27 ~~(7)~~ (8) A corporation, if any manager, officer or director thereof, or
28 any stockholder owning in the aggregate more than 25% of the stock of
29 such corporation, would be ineligible to receive a license hereunder for
30 any reason.

31 ~~(8)~~ (9) A person whose place of business is conducted by a manager
32 or agent unless the manager or agent possesses all of the qualifications for
33 registration.

34 ~~(9)~~ (10) A person whose spouse has been convicted of a felony or
35 other crime which would disqualify a person from registration under this
36 section and such crime was committed during the time that the spouse held
37 a registration under this act.

38 ~~(10)~~ (11) *Any person who does not own the premises for which a license is*
39 *sought, unless the person has a written lease for at least ¾ of the period*
40 *for which the license is to be issued.*

41 ~~(11)~~ (12) *Any person whose business does not comply with the health and*
42 *environmental codes of the governing body of the city or the board of*
43 *county commissioners, the state of Kansas and of the United States.*

1 Sec. 11. K.S.A. 2013 Supp. 21-5804, 21-6804, 50-6,109, 50-6,110,
2 50-6,111, 50-6,112, 50-6,112a, 50-6,112b and 50-6,112c are hereby
3 repealed.

4 Sec. 12. This act shall take effect and be in force from and after its
5 publication in the statute book.