

SENATE BILL No. 11

By Senators Petersen, King, McGinn and O'Donnell

1-13

SB11-Balloon-Technical
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Office of Revisor of Statutes
January 26, 2015

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. 2014 Supp.
4 21-5804, 21-5813, 21-6604, 50-6,109, 50-6,110, 50-6,111, 50-6,112a,
5 50-6,112b and 50-6,112c and repealing the existing sections; also
6 repealing K.S.A. 2014 Supp. 21-6604c and 50-6,112.

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

9 New Section 1. (a) The attorney general is hereby given jurisdiction
10 and authority over all matters involving the implementation,
11 administration and enforcement of the provisions of the scrap metal theft
12 reduction act including to:

13 (1) Employ or appoint agents as necessary to implement, administer
14 and enforce the act;

15 (2) contract;

16 (3) expend funds;

17 (4) license and discipline;

18 (5) investigate;

19 (6) issue subpoenas;

20 (7) keep statistics; and

21 (8) conduct education and outreach programs to promote compliance
22 with the act.

23 (b) In accordance with the rules and regulations filing act, the
24 attorney general is hereby authorized to adopt rules and regulations
25 necessary to implement the provisions of the scrap metal theft reduction
26 act.

27 (c) There is hereby established in the state treasury the scrap metal
28 theft reduction fee fund to be administered by the attorney general. All
29 moneys received by the attorney general from fees, charges or penalties
30 collected under the provisions of the scrap metal theft reduction act shall
31 be remitted to the state treasurer in accordance with the provisions of
32 K.S.A. 75-4215, and amendments thereto, who shall deposit the entire
33 amount thereof in the state treasury to the credit of the scrap metal theft
34 reduction fee fund. All expenditures from such fund shall be made in
35 accordance with appropriation acts upon warrants of the director of
36 accounts and reports issued pursuant to vouchers approved by the attorney

1 *purpose of sale for recycling.*

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

6 ~~(c)(2) "Regulated scrap metal" shall mean wire, cable, bars, ingots,~~
7 ~~wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle~~
8 ~~parts, pipes or connectors made from aluminum, catalytic converters~~
9 ~~containing platinum, palladium or rhodium; and copper, titanium,~~
10 ~~tungsten, stainless steel and nickel in any form; for which the purchase~~
11 ~~price described in K.S.A. 2014 Supp. 50-6,110 and 50-6,111, and~~
12 ~~amendments thereto, was primarily based on the content therein of~~
13 ~~aluminum, copper, titanium, tungsten, nickel, platinum, palladium,~~
14 ~~stainless steel or rhodium; any item composed in whole or in part of any~~
15 ~~nonferrous metal other than an item composed of tin, that is purchased or~~
16 ~~otherwise acquired for the purpose of recycling or storage for later~~
17 ~~recycling. Aluminum shall not include food or beverage containers means~~
18 ~~any item, in any form, for which the purchase price described in K.S.A.~~
19 ~~2014 Supp. 50-6,110 and 50-6,111, and amendments thereto, was~~
20 ~~primarily based on the content ~~therein~~ of:~~

21 ~~(A) Aluminum, except that aluminum shall not include food or~~
22 ~~beverage containers;~~

23 ~~(B) copper;~~

24 ~~(C) brass;~~

25 ~~(D) bronze;~~

26 ~~(E) stainless steel;~~

27 ~~(F) zinc;~~

28 ~~(G) titanium;~~

29 ~~(H) tungsten;~~

30 ~~(I) nickel;~~

31 ~~(J) platinum;~~

32 ~~(K) palladium;~~

33 ~~(L) rhodium;~~

34 ~~(M) magnesium;~~

35 ~~(N) lead;~~

36 ~~(O) any other nonferrous metal; or~~

37 ~~(P) any combination of nonferrous metals listed in subsections (b)(2)~~

38 ~~(A) through (b)(2)(P).~~

39 ~~(b) (3) "Bales of regulated metal" means regulated scrap metal~~
40 ~~property processed with professional recycling equipment by compression,~~
41 ~~shearing or shredding, to a form in which it may be sold by a scrap metal~~
42 ~~dealer consistent with industry standards.~~

43 ~~(c) "Ferrous metal" means a metal that contains iron or steel.~~

Strike "therein"

1 corporation, would be ineligible to receive a license hereunder for any
2 reason.

3 (8) A person whose place of business is conducted by a manager or
4 agent unless the manager or agent possesses all of the qualifications for
5 registration.

6 (9) A person whose spouse has been convicted of a felony or other
7 crime which would disqualify a person from registration under this section
8 and such crime was committed during the time that the spouse held a
9 registration under this act.

10 (10) A person who does not own the premises for which a license is
11 sought, unless the person has a written lease for at least $\frac{3}{4}$ of the period
12 for which the license is to be issued.

13 (c) Any person filing a scrap metal dealer registration may be subject
14 to a criminal history records check and may be given a written notice that
15 a criminal history records check is required. The attorney general may
16 require such applicant to be fingerprinted and submit to a state and
17 national criminal history record check. If required, such fingerprints shall
18 be used to identify the applicant and to determine whether the applicant
19 has a record of criminal history in this state or another jurisdiction. The
20 attorney general shall submit any fingerprints provided to the Kansas
21 bureau of investigation and the federal bureau of investigation for a state
22 and national criminal history record check. Local and state law
23 enforcement officers and agencies shall assist the attorney general in the
24 taking and processing of fingerprints of applicants. The attorney general
25 may use the information obtained from fingerprinting and the criminal
26 history for purposes of verifying the identification of the applicant and in
27 the official determination of whether the scrap metal dealer registration
28 shall be accepted. If the criminal history record information is used to
29 disqualify an applicant, the applicant shall be informed in writing of that
30 decision.

31 Sec. 16. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112c
32 is hereby amended to read as follows: 50-6,112c. (a) ~~The board of county~~
33 ~~commissioners or the governing body of any city~~ attorney general, upon
34 five days notice to the persons holding a registration, may suspend the
35 scrap metal dealer's registration for up to 30 days for any one of the
36 following reasons:

37 (1) The registrant has been ~~convicted of violating~~ found to have
38 violated any of the provisions of K.S.A. 50-6,109 et seq., and amendments
39 ~~thereto the scrap metal theft reduction act~~, or any similar ordinance,
40 resolution or rules or regulations ~~made by the board or the city, as the case~~
41 ~~may be~~;

42 (2) the employment or continuation in employment of a person if the
43 registered scrap metal dealer knows such person has, within the 24 months

upon which the place of
business is located

1 prior to the notice of suspension or revocation action, been ~~convicted of~~
2 ~~violating found to have violated~~ any of the provisions of K.S.A. 50-6-109
3 ~~et seq. and amendments thereto the scrap metal theft reduction act~~, or the
4 laws of another state comparable to such provisions, or any city or county
5 ordinance or resolution, or regulation controlling scrap metal sale or
6 purchase in Kansas or any other state; or

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

10 ~~(b) (c) The board of county commissioners or the governing body of~~
11 ~~any city attorney general~~ may revoke the registration of a scrap metal
12 dealer who has had its registration suspended three or more times within a
13 24-month period.

14 ~~(e) (d) The board of county commissioners or the governing body of~~
15 ~~any city attorney general~~, upon five days' notice to the person holding the
16 registration, shall revoke or suspend the registration for any one of the
17 following reasons:

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

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

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

24 (4) ~~within 20 days after the order of the board denying, revoking or~~
25 ~~suspending any registration, the registrant may appeal to the district court~~
26 ~~and the district court shall proceed to hear such appeal as though the court~~
27 ~~had original jurisdiction of the matter. Upon request by the registrant, the~~
28 ~~district court may enjoin the revocation or suspension of a registration~~
29 ~~until final disposition of any action brought under this act the nonpayment~~
30 ~~of any civil penalty after receiving written notice that such penalty is more~~
31 ~~than 30 days past due.~~

32 ~~(d) (e) Any action brought under subsections (a), (b) or (c) this~~
33 ~~section shall be brought individually against a single registrant's site and~~
34 ~~not against any other scrap metal sites or locations registered by the same~~
35 individual, company or business entity.

36 ~~(f) Any person aggrieved by the decision of the attorney general to~~
37 ~~suspend or revoke a registration under this section may appeal by the~~
38 ~~decision in accordance with rules and regulations promulgated by the~~
39 ~~attorney general to implement the scrap metal theft reduction act.~~

40 Sec. 17. K.S.A. 2014 Supp. 21-5804, 21-5813, 21-6604, 21-6604c,
41 50-6,109, 50-6,110, 50-6,111, 50-6,112 and 50-6,112a are hereby repealed.

42 Sec. 18. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112b
43 and 50-6,112c are hereby repealed.

place of business

place of business