

SENATE BILL No. 429

By Committee on Assessment and Taxation

2-21

1 AN ACT concerning the regulation of scrap metal; relating to the scrap
2 metal theft reduction act; enforcement; amending K.S.A. 2017 Supp.
3 50-6,109a, 50-6,109c, 50-6,110, 50-6,111, 50-6,112a and 50-6,112b and
4 repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2017 Supp. 50-6,109a is hereby amended to read as
8 follows: 50-6,109a. (a) The attorney general is hereby given jurisdiction
9 and authority over all matters involving the implementation,
10 administration and enforcement of the provisions of the scrap metal theft
11 reduction act including to:

12 (1) Employ or appoint agents as necessary to implement, administer
13 and enforce the act;
14 (2) contract;
15 (3) expend funds;
16 (4) license and discipline;
17 (5) investigate;
18 (6) issue subpoenas;
19 (7) keep statistics; and
20 (8) conduct education and outreach programs to promote compliance
21 with the act.

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

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

1 metal theft reduction fee fund shall be expended for the administration of
2 the duties, functions and operating expenses incurred under the provisions
3 of the scrap metal theft reduction act.

4 (d) Before January 1, ~~2019~~ 2020, the attorney general shall establish
5 and maintain a database which shall be a central repository for the
6 information required to be provided under K.S.A. 2017 Supp. 50-6,110,
7 and amendments thereto. The database shall be maintained for the purpose
8 of providing information to law enforcement and for any other purpose
9 deemed necessary by the attorney general to implement and enforce the
10 provisions of the scrap metal theft reduction act.

11 (e) The information required by K.S.A. 2017 Supp. 50-6,110, and
12 amendments thereto, maintained in such database by the attorney general,
13 or by any entity contracting with the attorney general, submitted to,
14 maintained or stored as part of the system shall:

15 (1) Be confidential, shall only be used for investigatory, evidentiary
16 or analysis purposes related to criminal violations of city, state or federal
17 law and shall only be released to law enforcement in response to an
18 official investigation or as permitted in subsection (d); and

19 (2) not be a public record and shall not be subject to the Kansas open
20 records act, K.S.A. 45-215 et seq., and amendments thereto. The
21 provisions of this subsection shall expire on July 1, 2020, unless the
22 legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,
23 and amendments thereto.

24 Sec. 2. K.S.A. 2017 Supp. 50-6,109c is hereby amended to read as
25 follows: 50-6,109c. (a) Any scrap metal dealer who violates any of the
26 provisions of the scrap metal theft reduction act, in addition to any other
27 penalty provided by law, may incur a civil penalty imposed pursuant to
28 subsection (b) in an amount not less than \$100 nor more than \$5,000 for
29 each violation.

30 (b) The attorney general, upon a finding that a scrap metal dealer or
31 any employee or agent thereof or any person or entity required to be
32 registered as a scrap metal dealer has violated any of the provisions of the
33 scrap metal theft reduction act may impose a civil penalty as provided in
34 this subsection upon such scrap metal dealer.

35 (c) A civil penalty shall not be imposed pursuant to this section
36 except upon the written order of the attorney general to the scrap metal
37 dealer who is responsible for the violation. Such order is a final order for
38 purposes of judicial review and shall state the violation, the penalty to be
39 imposed and the right of such dealer to appeal as provided in the Kansas
40 judicial review act.

41 (d) This section shall be unenforceable and shall not apply from ~~the~~
42 ~~effective date of this act~~ June 1, 2017, to January 1, ~~2019~~ 2020.

43 Sec. 3. K.S.A. 2017 Supp. 50-6,110 is hereby amended to read as

1 follows: 50-6,110. (a) It shall be unlawful for any person to sell any item
2 or items of regulated scrap metal to a scrap metal dealer, or employee or
3 agent of a dealer, in this state unless such person meets the requirements of
4 this subsection.

5 (1) Such person shall present to such scrap metal dealer, or employee
6 or agent of such dealer, at or before the time of sale, the following: The
7 seller's name, address, sex, date of birth and the seller's driver's license,
8 military identification card, passport or personal identification license. An
9 official governmental document for a country other than the United States
10 may be used to meet this requirement provided that a legible fingerprint is
11 also obtained from the seller.

12 (2) Such person shall complete and sign the statement provided for in
13 subsection (b)(10).

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

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

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

26 (3) a copy of the identification card or document containing such
27 identifying number. Failure to comply with the provisions of this
28 paragraph ~~between the effective date of this act June 1 2017, and January~~
29 ~~1, 2019~~ 2020, may result in an assessment of a civil penalty by the
30 attorney general of not less than \$100 nor more than \$5,000 for each
31 violation;

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

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

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

40 (7) if a junk vehicle or vehicle part is being bought or sold, a
41 description of the junk vehicle or vehicle part, including the make, model,
42 color, vehicle identification number and serial number if applicable;

43 (8) the price paid for, traded for or dealt for in a transaction for the

1 junk vehicle or other regulated scrap metal property;

2 (9) the full name of the individual acting on behalf of the regulated
3 scrap metal dealer in making the purchase; and

4 (10) a signed statement from the seller indicating from where the
5 property was obtained and that: (A) Each item is the seller's own personal
6 property, is free of encumbrances and is not stolen; or (B) the seller is
7 acting for the owner and has permission to sell each item. If the seller is
8 not the owner, such statement shall include the name and address of the
9 owner of the property.

10 (c) Every scrap metal dealer shall photograph the item or lot of items
11 being sold at the time of purchase or receipt of any item for which such
12 information is required to be presented. Such photographs shall be kept
13 with the record of the transaction and the scrap metal dealer's register of
14 information required by subsection (b). Failure to comply with the
15 provisions of this subsection ~~between the effective date of this act June 1,~~
16 ~~2017, and January 1, 2019~~ 2020, may result in an assessment of a civil
17 penalty by the attorney general of not less than \$100 nor more than \$5,000
18 for each violation.

19 (d) The scrap metal dealer's register of information required by
20 subsection (b), including copies of identification cards and signed
21 statements by sellers, and photographs required by subsection (c) may be
22 kept in electronic format.

23 (e) Every scrap metal dealer shall forward the information required
24 by this section to the database described in K.S.A. 2017 Supp. 50-6,109a,
25 and amendments thereto.

26 (f) Notwithstanding any other provision to the contrary, this section
27 shall not apply to transactions in which the seller is a:

28 (1) Registered scrap metal dealer;

29 (2) vehicle dealer licensed under chapter 8 of the Kansas Statutes
30 Annotated, and amendments thereto; or

31 (3) scrap metal dealer or vehicle dealer registered or licensed in
32 another state.

33 (g) (1) Except as provided in subsection (g)(2), this section shall not
34 apply to transactions in which the seller is known to the purchasing scrap
35 metal dealer to be a licensed business that operates out of a fixed business
36 location and that can reasonably be expected to generate regulated scrap
37 metal.

38 (2) The attorney general may determine, by rules and regulations,
39 which of the requirements of this section shall apply to transactions
40 described in subsection (g)(1).

41 (h) The amendments made to subsection (e) by section 13 of chapter
42 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall
43 not apply from ~~the effective date of this act June 1, 2017,~~ to January 1,

1 2019 2020.

2 Sec. 4. K.S.A. 2017 Supp. 50-6,111 is hereby amended to read as
3 follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer,
4 or employee or agent of the dealer, to purchase any item or items of
5 regulated scrap metal in a transaction for which K.S.A. 2017 Supp. 50-
6 6,110, and amendments thereto, requires information to be presented by
7 the seller, without demanding and receiving from the seller that
8 information. Every scrap metal dealer shall file and maintain a record of
9 information obtained in compliance with the requirements in K.S.A. 2017
10 Supp. 50-6,110, and amendments thereto. All records kept in accordance
11 with the provisions of the scrap metal theft reduction act shall be open at
12 all times to law enforcement officers and shall be kept for two years. If the
13 required information is maintained in electronic format, the scrap metal
14 dealer shall provide a printout of the information to law enforcement
15 officers upon request.

16 (b) It shall be unlawful for any scrap metal dealer, or employee or
17 agent of the dealer, to purchase any junk vehicle in a transaction for which
18 K.S.A. 2017 Supp. 50-6,110, and amendments thereto, requires
19 information to be presented by the seller, without:

20 (1) Inspecting the vehicle offered for sale and recording the vehicle
21 identification number; and

22 (2) obtaining an appropriate bill of sale issued by a governmentally
23 operated vehicle impound facility if the vehicle purchased has been
24 impounded by such facility or agency.

25 (c) It shall be unlawful for any scrap metal dealer, or employee or
26 agent of the dealer, to purchase or receive any regulated scrap metal from a
27 minor unless such minor is accompanied by a parent or guardian or such
28 minor is a licensed scrap metal dealer.

29 (d) It shall be unlawful for any scrap metal dealer, or employee or
30 agent of the dealer, to purchase any of the following items without
31 obtaining proof that the seller is an employee, agent or person who is
32 authorized to sell the item on behalf of the governmental entity; utility
33 provider; railroad; cemetery; civic organization; manufacturing, industrial
34 or other commercial vendor that generates or sells such items in the
35 regular course of business; or scrap metal dealer:

36 (1) Utility access cover;

37 (2) street light poles or fixtures;

38 (3) road or bridge guard rails;

39 (4) highway or street sign;

40 (5) water meter cover;

41 (6) traffic directional or traffic control signs;

42 (7) traffic light signals;

43 (8) any metal marked with any form of the name or initials of a

- 1 governmental entity;
- 2 (9) property owned and marked by a telephone, cable, electric, water
3 or other utility provider;
- 4 (10) property owned and marked by a railroad;
- 5 (11) funeral markers or vases;
- 6 (12) historical markers;
- 7 (13) bales of regulated metal;
- 8 (14) beer kegs;
- 9 (15) manhole covers;
- 10 (16) fire hydrants or fire hydrant caps;
- 11 (17) junk vehicles with missing or altered vehicle identification
12 numbers;
- 13 (18) real estate signs;
- 14 (19) bleachers or risers, in whole or in part;
- 15 (20) twisted pair copper telecommunications wiring of 25 pair or
16 greater existing in 19, 22, 24 or 26 gauge; and
- 17 (21) burnt wire.
- 18 (e) It shall be unlawful for any scrap metal dealer, or employee or
19 agent of the dealer, to sell, trade, melt or crush, or in any way dispose of,
20 alter or destroy any regulated scrap metal, junk vehicle or vehicle part
21 upon notice from any law enforcement agency, or any of their agents or
22 employees, that they have cause to believe an item has been stolen. A scrap
23 metal dealer shall hold any of the items that are designated by or on behalf
24 of the law enforcement agency for 30 days, exclusive of weekends and
25 holidays.
- 26 (f) Failure to comply with the provisions of this section between ~~the~~
27 ~~effective date of this act~~ *June 1, 2017*, and January 1, ~~2019~~ *2020*, may
28 result in an assessment of a civil penalty by the attorney general of not less
29 than \$100 nor more than \$5,000 for each violation.
- 30 Sec. 5. K.S.A. 2017 Supp. 50-6,112a is hereby amended to read as
31 follows: 50-6,112a. (a) A scrap metal dealer shall not purchase any
32 regulated scrap metal without having first registered each place of business
33 with the attorney general as herein provided.
- 34 (b) The attorney general shall establish a system for the public to
35 confirm scrap metal dealer registration certificates. Such system shall
36 include a listing of valid registration certificates and such other
37 information collected pursuant to the scrap metal theft reduction act, as the
38 attorney general may determine is appropriate. Disclosure of any
39 information through use of the system established by the attorney general
40 shall not be deemed to be an endorsement of any scrap metal dealer or
41 determination of any facts, qualifications, information or reputation of any
42 scrap metal dealer by the attorney general, the state, or any of their
43 respective agents, officers, employees or assigns.

1 (c) A registration for a scrap metal dealer shall be verified and upon a
2 form approved by the attorney general and contain:

3 (1) (A) The name and residence of the applicant, including all
4 previous names and aliases; or

5 (B) if the applicant is a: Corporation, the name and address of each
6 manager, officer or director thereof, and each stockholder owning in the
7 aggregate more than 25% of the stock of such corporation; or partnership
8 or limited liability company, the name and address of each partner or
9 member;

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

13 (3) the particular place of business for which a registration is desired,
14 the name of the business, the address where the business is to be
15 conducted, the hours of operation and the days of the week during which
16 the applicant proposes to engage in business;

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

19 (5) the applicant shall disclose any prior convictions within 10 years
20 immediately preceding the date of making the registration for: A violation
21 of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their
22 repeal, or K.S.A. 2017 Supp. 21-5801 through 21-5839 or K.S.A. 2017
23 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805,
24 prior to its repeal, or K.S.A. 2017 Supp. 21-5903, and amendments
25 thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal;
26 obstructing legal process or official duty, K.S.A. 21-3808, prior to its
27 repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal;
28 interference with law enforcement, K.S.A. 2017 Supp. 21-5904, and
29 amendments thereto; interference with judicial process, K.S.A. 2017 Supp.
30 21-5905, and amendments thereto; or any crime involving dishonesty or
31 false statement or any substantially similar offense pursuant to the laws of
32 any city, state or of the United States.

33 (d) Each registration for a scrap metal dealer to purchase regulated
34 scrap metal shall be accompanied by a fee of not less than \$500 nor more
35 than \$1,500, as prescribed by the attorney general for each particular place
36 of business for which a registration is desired.

37 (e) The attorney general shall accept a registration for a scrap metal
38 dealer as otherwise provided for herein, from any scrap metal dealer
39 qualified to file such registration, to purchase regulated scrap metals. Such
40 registration shall be issued for a period of one year.

41 (f) If an original registration is accepted, the attorney general shall
42 grant and issue renewals thereof upon application of the registration
43 holder, if the registration holder is qualified to receive the same and the

1 registration has not been revoked as provided by law. The renewal fee
2 shall be not more than \$1,500, as prescribed by the attorney general.

3 (g) Any registration issued under the scrap metal theft reduction act
4 shall not be transferable.

5 (h) This section shall not apply to a business licensed under the
6 provisions of K.S.A. 8-2404, and amendments thereto, unless such
7 business buys or recycles regulated scrap metal that are not motor vehicle
8 components.

9 (i) The amendments made to subsections (d) and (f) by section 15 of
10 chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and
11 shall not apply from ~~the effective date of this act June 1, 2017~~, to January
12 1, ~~2019~~ 2020.

13 Sec. 6. K.S.A. 2017 Supp. 50-6,112b is hereby amended to read as
14 follows: 50-6,112b. (a) After examining the information contained in a
15 filing for a scrap metal dealer registration and determining the registration
16 meets the statutory requirements for such registration, the attorney general
17 shall accept such filing and the scrap metal dealer shall be deemed to be
18 properly registered.

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

20 (1) A person who is not a citizen or legal permanent resident of the
21 United States.

22 (2) A person who is under 18 years of age and whose parents or legal
23 guardians have been convicted of a felony or other crime which would
24 disqualify a person from registration under this section and such crime was
25 committed during the time that such parents or legal guardians held a
26 registration under the scrap metal theft reduction act.

27 (3) A person who, within 10 years immediately preceding the date of
28 filing, has pled guilty to, entered into a diversion agreement for, been
29 convicted of, released from incarceration for or released from probation or
30 parole for committing, attempting to commit, or conspiring to commit a
31 violation of: Article 37 of chapter 21 of the Kansas Statutes Annotated,
32 prior to their repeal, or K.S.A. 2017 Supp. 21-5801 through 21-5839 or
33 K.S.A. 2017 Supp. 21-6412(a)(6), and amendments thereto; perjury,
34 K.S.A. 21-3805, prior to its repeal, or K.S.A. 2017 Supp. 21-5903, and
35 amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its
36 repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to
37 its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal;
38 interference with law enforcement, K.S.A. 2017 Supp. 21-5904, and
39 amendments thereto; interference with judicial process, K.S.A. 2017 Supp.
40 21-5905, and amendments thereto; or any crime involving dishonesty or
41 false statement or any substantially similar offense pursuant to the laws of
42 any city, state or of the United States.

43 (4) A person who within the 10 years immediately preceding the date

1 of registration held a scrap metal dealer registration which was revoked, or
2 managed a facility for a scrap metal dealer whose registration was
3 revoked, or was an employee whose conduct led to or contributed to the
4 revocation of such registration.

5 (5) A person who makes a materially false statement on the
6 registration application or has made a materially false statement on a
7 registration or similar filing within the last 10 years.

8 (6) A partnership or limited liability company, unless all partners or
9 members of the partnership or limited liability company are otherwise
10 qualified to file a registration.

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

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

18 (9) A person whose spouse has been convicted of a felony or other
19 crime which would disqualify a person from registration under this section
20 and such crime was committed during the time that the spouse held a
21 registration under the scrap metal theft reduction act.

22 (10) A person who does not own the premises upon which the place
23 of business is located for which a license is sought, unless the person has a
24 written lease for at least $\frac{3}{4}$ of the period for which the license is to be
25 issued.

26 (c) Any person filing a scrap metal dealer registration may be subject
27 to a criminal history records check and may be given a written notice that
28 a criminal history records check is required. The attorney general may
29 require such applicant to be fingerprinted and submit to a state and
30 national criminal history record check. If required, such fingerprints shall
31 be used to identify the applicant and to determine whether the applicant
32 has a record of criminal history in this state or another jurisdiction. The
33 attorney general shall submit any fingerprints provided to the Kansas
34 bureau of investigation and the federal bureau of investigation for a state
35 and national criminal history record check. Local and state law
36 enforcement officers and agencies shall assist the attorney general in the
37 taking and processing of fingerprints of applicants. The attorney general
38 may use the information obtained from fingerprinting and the criminal
39 history for purposes of verifying the identification of the applicant and in
40 the official determination of whether the scrap metal dealer registration
41 shall be accepted. If the criminal history record information is used to
42 disqualify an applicant, the applicant shall be informed in writing of that
43 decision.

1 (d) The amendments made to subsections (b)(10) and (c) by section
2 16 of chapter 96 of the 2015 Session Laws of Kansas shall be
3 unenforceable and shall not apply from ~~the effective date of this act June~~
4 ~~1, 2017~~ to January 1, 2020.

5 Sec. 7. K.S.A. 2017 Supp. 50-6,109a, 50-6,109c, 50-6,110, 50-6,111,
6 50-6,112a and 50-6,112b are hereby repealed.

7 Sec. 8. This act shall take effect and be in force from and after its
8 publication in the statute book.