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May 2, 2019

**Testimony Regarding Substitute for Senate Bill 219
Submitted by Morgan Koon, Member of Allmetal Recycling, LLC**

Honorable Chairman Patton and Members of the House Judiciary Committee:

Allmetal Recycling, LLC (“Allmetal” or “We” or “we”) appreciates the opportunity to address you regarding Substitute for Senate Bill 2019 (“SB 219”). Allmetal opposes SB 219 as written.

Allmetal worked to help draft SB 11 and was pleased with the outcome of SB 11. Allmetal was disappointed to learn that certain provisions had been delayed. Allmetal believes a database is necessary to help law enforcement combat the criminal element that permeates our industry, but Allmetal also wants to make sure that all law enforcement across the State of Kansas is committed to utilizing the database and thoroughly investigating reported scrap metal crimes. Allmetal also wants to insure the database is properly funded and will not create an excess burden on the scrap industry.

Allmetal opposes Section 2(b), which is codified at K.S.A. 50-6,110 as written. Subsection b has always read, “Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of an item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:” This language was acceptable when each scrap metal dealer in the State of Kansas might have to pay up to \$1,500.00 per yard to fund the database. Currently, without guaranteed funding from the State of Kansas, this language now possibly imposes a significant burden on small scrap metal dealers by forcing them to retain a register with the required information.

Section 3(d), which is codified at K.S.A. 50-6,112a, now limits the registration fee for a scrap metal dealer to \$500.00 for each place of business. While this might seem great on its face, as we look deeper into the matter, if this fee is not enough to fund the database, and the State of Kansas refuses to assist in funding the database, all SB 219 does is mandate that every scrap metal dealer maintain its own register with all of the information required.

One way to rectify this problem would be to revise Section 2(b) to read, “Upon the establishment of a database pursuant to K.S.A. 2018 Supp. 50-6,109a(f), Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of an item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:”

Allmetal then suggests revising Section 2(e) to read, “Every scrap metal dealer shall forward the information required by this section for each transaction to the database described in K.S.A. 2018 Supp. 50-6,109a, and amendments thereto, within 72 hours after the transaction. After the scrap metal dealer has forwarded the information required by this section to the database, the scrap metal dealer may delete this information from its register required under K.S.A. 2018 Supp. 50-6,110(b).”

These suggested revisions now do not create an extensive burden on scrap metal dealers. Scrap metal dealers are only required to begin keeping their registers when the database is operational and they can delete the information in their registers once the information is forwarded to the database. The ability to delete the information forwarded to the database prevents scrap metal dealers from having to maintain extensive storage facilities, whether electronic or otherwise. As written, the scrap metal dealer would have to also maintain their register in perpetuity. That was never the intent of the original committee. The original committee wanted scrap metal dealers to be able to send their information immediately to the database and never have to maintain any records unless they wanted to do so.

Furthermore, K.S.A. 2018 Supp. 50-6,110(b)(10) should be revised to eliminate the need that the name and address of the owner of the property, if the seller is not the owner, be included in the statement. Allmetal uses ScrapRight as its sale software. ScrapRight has the ability to include a statement when the seller signs their ticket, however, there is no way to include the name of the owner and the owners address if the seller is not the owner. Allmetal's statement reads as follows:

“Ownership: I hereby state, under penalty of perjury and prosecution, that I am the lawful owner of the material described herein; that I am an employee, agent, or person, authorized to sell the material on behalf of the individual; governmental entity; utility provider; railroad; cemetery; civic organization; manufacturing; industrial, or other commercial vendor, who is the lawful owner of the material and that generates or sells the material in the regular course of business; that I am a scrap metal dealer, that I have a right to sell same and that for payment received in full, hereby acknowledge, I sell and convey title of the material to Allmetal Recycling, LLC.”

The intent of this statement is to have the seller sign, under penalty of perjury, that he or she has the ability to sell regulated scrap metal to a scrap metal dealer. If the seller does not have the authority to sell the regulated scrap metal to the scrap metal dealer, adding a name and address, that will likely be false, is not helpful for law enforcement. During the course of an investigation, law enforcement will inquire with the seller so the lawful owner was, and then, depending on the information the seller provides, law enforcement can investigate or inquire further. This requirement in the electronic formatting is impossible.

With these revisions, Allmetal believes SB 219 is fair to all scrap metal dealers in the State of Kansas and is ready for a vote.

Thank you for your time, attention and consideration in this matter.

Respectfully submitted,

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Oral Testimony Requested