

# SENATE AMENDMENT NO. \_\_\_\_\_

Offered by \_\_\_\_\_ of \_\_\_\_\_

Amend SS/Senate Bill No. 46, Page 5, Section 307.380, Line 32,

2 by inserting after all of said line the following:

3 "407.296. As used in sections 407.296 to 407.303, the  
 4 following terms mean:

5 (1) "Catalytic converter", a device designed for use  
 6 in a vehicle for purposes of chemically converting harmful  
 7 exhaust gases, produced by the internal combustion engine,  
 8 into harmless carbon dioxide and water vapor;

9 (2) "Copper property", any insulated copper wire,  
 10 copper tubing, copper guttering and downspouts, or any item  
 11 composed completely of copper;

12 (3) "Copper property peddler", any person who sells or  
 13 attempts to sell copper property and who is not either a  
 14 licensed or certified tradesperson or does not hold a  
 15 business license issued by a city, municipality, or county;

16 (4) "Ferrous metals", metals which contain iron and  
 17 are magnetic;

18 (5) "HVAC component", any air conditioner evaporator  
 19 coil or condenser used in connection with a residential,  
 20 commercial, or industrial building;

21 (6) "Nonferrous metals", metals which do not contain  
 22 significant amounts of iron and are not magnetic, such as  
 23 aluminum, brass, lead, zinc, and copper;

24 (7) "Scrap metal dealer", any entity, including any  
 25 person, firm, company, partnership, association, or

26 corporation, located in this state who purchases products  
27 containing ferrous or nonferrous metals for recycling;

28 (8) "Vehicle repair shop", any commercial facility  
29 engaged in the repair or replacement of car, truck, van,  
30 motorcycle, or other motorized mechanical and exhaust  
31 components, whether as a primary or ancillary activity.

32 407.297. 1. No person shall engage in the business of  
33 a copper property peddler in a city not within a county  
34 without first obtaining a license from the governing  
35 municipality and complying with the provisions of this  
36 section.

37 2. The municipality issuing the license shall  
38 determine the license fee. The license shall expire June  
39 thirtieth of each year. Each license shall bear a separate  
40 number, the name and address of the licensee, and telephone  
41 number of the licensee. The license shall be available only  
42 to the person in whose name it is issued and shall not be  
43 used by any person other than the original licensee. Any  
44 licensee who shall permit his or her license to be used by  
45 any other person, and any other person who shall use a  
46 license granted to another person, shall each be deemed  
47 guilty of a violation of this section.

48 3. Application for a license under this section shall  
49 be made in writing to the governing municipality and shall  
50 state the name, age, description, and address of the  
51 applicant. The application shall include a sworn statement  
52 setting forth each and every conviction of the applicant for  
53 violations of federal, state, or municipal laws, statutes,  
54 or ordinances. In addition, the applicant shall, at his or  
55 her expense, obtain a complete copy of the applicant's  
56 criminal record as indicated by the records of a law  
57 enforcement agency and submit such record as part of the  
58 application. No license shall be granted to any person who

59 has been convicted of burglary, robbery, stealing, theft, or  
60 possession or receiving stolen goods in the last twenty-four  
61 months prior to the date of the application.

62 4. The municipality shall have the power and authority  
63 to revoke any license under this section for any willful  
64 violation of this section, section 407.298, or section  
65 407.299 by a copper property peddler, provided the licensee  
66 has been notified in writing at his or her place of business  
67 of the violations complained of and shall have been afforded  
68 a reasonable opportunity to have a hearing.

69 407.298. 1. A scrap metal dealer shall pay for any  
70 copper property or HVAC component as follows:

71 (1) A scrap metal dealer shall not pay cash for any  
72 copper property or HVAC component unless the seller  
73 presents, or the scrap metal dealer has on file, a valid  
74 business license, or a valid trade license or trade  
75 certificate recognized by a national trade association or  
76 organization;

77 (2) Payment to any seller of copper property or HVAC  
78 component who presents a valid copper property peddler's  
79 license shall be by check. Checks shall be written to the  
80 licensee or certified tradesperson and may be delivered to  
81 the seller at the time of the sale;

82 (3) Payment to any seller of copper property or HVAC  
83 component who does not present or have on file a valid  
84 business license, valid trade license, or certificate or  
85 valid copper peddler's license shall be by check. Checks  
86 shall be payable only to the person whose name was recorded  
87 as delivering the copper property or HVAC component to the  
88 scrap metal dealer; provided, however, that if such person  
89 is delivering the copper property or HVAC component on  
90 behalf of a governmental entity or a nonprofit or for profit  
91 business entity, the check may be payable to such entity.

92 All checks issued to a seller of copper property or HVAC  
93 component who does not present or have on file a valid  
94 business license, valid trade license, or valid copper  
95 peddler's license shall be mailed via the United States mail  
96 to the address provided on the driver's license or photo  
97 identification issued by the state provided by the seller;

98 (4) Checks shall not be converted to cash by a scrap  
99 metal dealer or by any related entity.

100 2. This section shall not apply to any transaction for  
101 which the seller has an existing business relationship with  
102 the scrap metal dealer and is known to the scrap metal  
103 dealer making the purchase to be an established business  
104 with a fixed location that can be reasonably expected to  
105 generate regulated scrap metal and can be reasonably  
106 identified as such a business or is a political subdivision.

107 407.299. 1. If a scrap metal dealer has actual  
108 knowledge that copper property or a HVAC component in its  
109 possession has been stolen, the dealer shall notify a law  
110 enforcement agency via 911 and provide any information in  
111 its possession relative to the seller or the sale  
112 transaction.

113 2. Following notice from the scrap metal dealer, or if  
114 the law enforcement agency has reasonable suspicion that the  
115 scrap metal dealer is in possession of stolen property, the  
116 law enforcement agency may issue to the scrap metal dealer a  
117 written notice placing a ten-day hold order on the property.

118 3. (1) It is unlawful for any person to knowingly  
119 present for sale to a scrap metal dealer stolen ferrous or  
120 nonferrous metal, including but not limited to, copper  
121 property or HVAC components. Any person who knowingly  
122 presents for sale stolen ferrous or nonferrous metal shall  
123 be guilty of a separate offense for each item of scrap metal  
124 and shall upon conviction be subject to a fine of not less

125 than five hundred dollars or by imprisonment for a period  
126 not to exceed ninety days or both fine and imprisonment.

127 (2) It is unlawful for a person to willfully and  
128 maliciously cut, mutilate, deface, or otherwise injure any  
129 personal or real property owned by a third party, including  
130 any fixtures or improvements, for the purpose of obtaining  
131 ferrous or nonferrous metals in any amount. Any person who  
132 willfully and maliciously cuts, mutilates, defaces, or  
133 otherwise injures any personal or real property owned by a  
134 third party for the purpose of obtaining ferrous or  
135 nonferrous metal shall be guilty of a separate offense for  
136 each item of scrap metal derived from such actions and shall  
137 upon conviction be subject to a fine of not less than five  
138 hundred dollars or by imprisonment for a period not to  
139 exceed ninety days or both fine and imprisonment.

140 (3) In addition to the penalties described in this  
141 subsection, a copper property peddler's license shall be  
142 revoked if he or she knowingly violates sections 407.296 to  
143 407.300.

144 407.300. 1. Every purchaser or collector of, or  
145 dealer in, junk, scrap metal, or any secondhand property  
146 shall keep a register containing a written or electronic  
147 record for each purchase or trade in which each type of  
148 material subject to the provisions of this section is  
149 obtained for value. There shall be a separate record for  
150 each transaction involving any:

151 (1) Copper, brass, or bronze;

152 (2) Aluminum wire, cable, pipe, tubing, bar, ingot,  
153 rod, fitting, or fastener;

154 (3) Material containing copper or aluminum that is  
155 knowingly used for farming purposes as farming is defined in  
156 section 350.010; whatever may be the condition or length of  
157 such metal;

- 158 (4) Catalytic converter; or  
159 (5) Motor vehicle, heavy equipment, or tractor battery.

160 2. The record required by this section shall contain  
161 the following data:

162 (1) A copy of the driver's license or photo  
163 identification issued by the state or by the United States  
164 government or agency thereof to the person from whom the  
165 material is obtained;

166 (2) The current address, gender, birth date, and a  
167 photograph of the person from whom the material is obtained  
168 if not included or are different from the identification  
169 required in subdivision (1) of this subsection;

170 (3) The date, time, and place of the transaction;

171 (4) The license plate number of the vehicle used by  
172 the seller during the transaction;

173 (5) A full description of the material, including the  
174 weight and purchase price.

175 3. The records required under this section shall be  
176 maintained for a minimum of twenty-four months from when  
177 such material is obtained and shall be available for  
178 inspection by any law enforcement officer.

179 4. Anyone convicted of violating [this section]  
180 subsections 1 to 5 of this section shall be guilty of a  
181 class B misdemeanor. Subsections 1 to 5 of this section  
182 shall not apply to a city not within a county.

183 5. [This section] Subsections 1 to 4 of this section  
184 shall not apply to any of the following transactions:

185 (1) Any transaction for which the total amount paid  
186 for all regulated material purchased or sold does not exceed  
187 fifty dollars, unless the material is a catalytic converter;

188 (2) Any transaction for which the seller, including a  
189 farm or farmer, has an existing business relationship with  
190 the scrap metal dealer and is known to the scrap metal

191 dealer making the purchase to be an established business or  
192 political subdivision that operates a business with a fixed  
193 location that can be reasonably expected to generate  
194 regulated scrap metal and can be reasonably identified as  
195 such a business; or

196 (3) Any transaction for which the type of metal  
197 subject to subsection 1 of this section is a minor part of a  
198 larger item, except for equipment used in the generation and  
199 transmission of electrical power or telecommunications.

200 6. Every purchaser or collector of, or dealer in,  
201 junk, scrap metal, or any secondhand property shall keep a  
202 register containing a written or electronic record for each  
203 purchase or trade in which each type of material, which  
204 includes ferrous and nonferrous metals, subject to the  
205 provisions of this section is obtained for value. There  
206 shall be a separate record for each transaction involving  
207 any:

208 (1) Copper, brass, or bronze;

209 (2) Aluminum wire, cable, pipe, tubing, bar, ingot,  
210 rod, fitting, or fastener;

211 (3) Material containing copper or aluminum that is  
212 knowingly used for farming purposes as farming is defined in  
213 section 350.010; whatever may be the condition or length of  
214 such metal;

215 (4) Catalytic converter; or

216 (5) Motor vehicle, heavy equipment, or tractor battery.

217 7. The record required by subsections 6 to 18 of this  
218 section shall contain the following data:

219 (1) A copy of the driver's license or photo  
220 identification issued by the state or by the United States  
221 government or agency thereof to the person from whom the  
222 material is obtained;

223           (2) The current address, gender, birth date, and a  
224 photograph of the person from whom the material is obtained  
225 if not included or are different from the identification  
226 required in subdivision (1) of this subsection;

227           (3) The date, time, and place of the transaction;

228           (4) The license plate number of the vehicle used by  
229 the seller during the transaction;

230           (5) A full description of the material, including the  
231 weight and purchase price, any business license number or  
232 the copper property peddler's license (including the name of  
233 the issuing municipality), amount paid, and license plate  
234 number of the vehicle delivering the material. The  
235 information shall be completed in full without any missing  
236 data or information described in this subsection.

237           8. The records required under subsections 6 to 18 of  
238 this section shall be maintained for a period of three years  
239 from when such material is obtained and shall be available  
240 for inspection by any law enforcement officer. All records  
241 required under subsections 6 to 18 of this section shall be  
242 photocopied and maintained for three years from the date of  
243 the transaction.

244           9. Any person selling copper property who holds a  
245 valid business license or copper property peddler's license  
246 shall present a copy of such license to the scrap metal  
247 dealer.

248           10. A transaction receipt shall be issued and consist  
249 of the same information required under subsection 6 of this  
250 section and shall include the following statement: "By  
251 accepting payment from (insert name of scrap metal dealer),  
252 seller represents and warrants that the material documented  
253 by this receipt is owned by the seller or was lawfully  
254 obtained, and the seller has the legal right to sell the  
255 material to (insert name of scrap metal dealer)." If the

256 seller provides any documentation indicating that the seller  
257 is in lawful possession of the scrap metal, or was otherwise  
258 lawfully acquired, including without limitation a bill of  
259 sale or receipt, the scrap metal dealer shall photocopy such  
260 documentation and maintain it with the transaction  
261 information otherwise required by this section.

262 11. A scrap metal dealer, the agent employee, or  
263 representative of a scrap metal dealer shall not disclose  
264 personal information concerning a customer under this  
265 section without the consent of the customer unless the  
266 disclosure is made in response to a request from a law  
267 enforcement agency. A scrap metal dealer shall implement  
268 reasonable safeguards:

269 (1) To protect the security of the personal  
270 information required under subsection 7 of this section; and

271 (2) To prevent unauthorized access to or disclose of  
272 that information.

273 12. A scrap metal dealer shall not be liable to any  
274 customer for a disclosure of personal information if the  
275 scrap metal dealer has met the requirements set forth in  
276 subsection 10 of this section.

277 13. Anyone convicted of violating subsections 6 to 18  
278 of this section shall be guilty of a class B misdemeanor.

279 14. This section shall not apply to any of the  
280 following transactions:

281 (1) Any transaction for which the total amount paid  
282 for all regulated material purchased or sold does not exceed  
283 fifty dollars, unless the material is a catalytic converter;

284 (2) Any transaction for which the seller, including a  
285 farm or farmer, has an existing business relationship with  
286 the scrap metal dealer and is known to the scrap metal  
287 dealer making the purchase to be an established business or  
288 political subdivision that operates a business with a fixed

289 location that can be reasonably expected to generate  
290 regulated scrap metal and can be reasonably identified as  
291 such a business; or

292 (3) Any transaction for which the type of metal  
293 subject to subsection 6 of this section is a minor part of a  
294 larger item, except for equipment used in the generation and  
295 transmission of electrical power or telecommunications.

296 15. Hours of retail operation for scrap metal dealers  
297 shall be no earlier than 6:00 a.m. and no later than 7:00  
298 p.m.

299 16. No scrap metal dealer shall purchase or otherwise  
300 receive from a person under the age of eighteen any ferrous  
301 or nonferrous metal other than aluminum cans.

302 17. A scrap metal dealer shall register with or  
303 subscribe to the alert system established by the Institute  
304 of Scrap Recycling Industries, Inc., referred to as the ISRI  
305 Scrap Theft Alert system or successor system, and maintain  
306 that registration or subscription.

307 18. Subsections 6 to 18 of this section shall only  
308 apply to a city not within a county.

309 407.302. 1. No scrap yard shall purchase any metal  
310 that can be identified as belonging to a public or private  
311 cemetery, political subdivision, telecommunications  
312 provider, cable provider, wireless service or other  
313 communications-related provider, electrical cooperative,  
314 water utility, municipal utility, or utility regulated under  
315 chapter 386 or 393, including bleachers, guardrails, signs,  
316 street and traffic lights or signals, and manhole cover or  
317 covers, whether broken or unbroken, from anyone other than  
318 the cemetery or monument owner, political subdivision,  
319 telecommunications provider, cable provider, wireless  
320 service or other communications-related provider, electrical  
321 cooperative, water utility, municipal utility, utility

322 regulated under chapter 386 or 393, or manufacturer of the  
323 metal or item described in this section unless such person  
324 is authorized in writing by the cemetery or monument owner,  
325 political subdivision, telecommunications provider, cable  
326 provider, wireless service or other communications-related  
327 provider, electrical cooperative, water utility, municipal  
328 utility, utility regulated under chapter 386 or 393, or  
329 manufacturer to sell the metal.

330 2. Anyone convicted of violating subsection 1 of this  
331 section shall be guilty of a class B misdemeanor.  
332 Subsections 1 and 2 of this section shall not apply in a  
333 city not within a county.

334 3. No scrap yard shall purchase any metal that can be  
335 identified as belonging to a public or private cemetery,  
336 political subdivision, telecommunications provider, cable  
337 provider, wireless service or other communications-related  
338 provider, electrical cooperative, water utility, municipal  
339 utility, or utility regulated under chapter 386 or 393,  
340 including bleachers, guardrails, signs, street and traffic  
341 lights or signals, certain cables used in high voltage  
342 transmission lines, historical markers, and manhole cover or  
343 covers, whether broken or unbroken, from anyone other than  
344 the cemetery or monument owner, political subdivision,  
345 telecommunications provider, cable provider, wireless  
346 service or other communications-related provider, electrical  
347 cooperative, water utility, municipal utility, utility  
348 regulated under chapter 386 or 393, or manufacturer of the  
349 metal or item described in this subsection unless such  
350 person is authorized in writing by the cemetery or monument  
351 owner, political subdivision, telecommunications provider,  
352 cable provider, wireless service or other communications-  
353 related provider, electrical cooperative, water utility,

354 municipal utility, utility regulated under chapter 386 or  
355 393, or manufacturer to sell the metal.

356 4. No person shall knowingly sell or attempt to sell  
357 to a scrap metal dealer and no scrap metal dealer shall  
358 knowingly and willfully purchase the following:

359 (1) New materials, such as those used in construction,  
360 or equipment or tools used by contractors, unless  
361 accompanied by proof of ownership or authorization to sell  
362 the materials on behalf of the owner;

363 (2) HVAC components unless accompanied by written  
364 authorization from the business or property owner evidencing  
365 the seller has the legal right to sell the material;

366 (3) Catalytic converters removed from a motor vehicle  
367 unless purchased from a vehicle repair business.

368 5. Anyone convicted of violating subsections 3 and 4  
369 of this section shall be guilty of a class B misdemeanor.  
370 Subsections 3 to 5 of this section shall only apply to a  
371 city not within a county."; and

372 Further amend the title and enacting clause accordingly.