

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 318

AN ACT

To repeal sections 301.227, 407.300, and 407.302, RSMo, and to enact in lieu thereof seven new sections relating to scrap metals, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 301.227, 407.300, and 407.302, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 301.227, 407.296, 407.297, 407.298, 407.299, 407.300, and 407.302, to read as follows:

301.227. 1. Whenever a vehicle is sold for salvage, dismantling or rebuilding, the purchaser shall forward to the director of revenue within ten days the certificate of ownership or salvage certificate of title and the proper application and fee of eight dollars and fifty cents, and the director shall issue a negotiable salvage certificate of title to the purchaser of the salvaged vehicle. On vehicles purchased during a year that is no more than six years after the manufacturer's model year designation for such vehicle, it shall be mandatory that the purchaser apply for a salvage title. On vehicles purchased during a year that is more than six years after the manufacturer's model year designation for such vehicle, then application for a salvage title shall be optional on the part of the purchaser.

Whenever a vehicle is sold for destruction and a salvage certificate of title, junking certificate, or certificate of ownership exists, the seller, if licensed under sections 301.217 to 301.221, shall forward the certificate to the director of revenue within ten days, with the notation of

the date sold for destruction and the name of the purchaser clearly shown on the face of the certificate.

2. Whenever a vehicle is classified as junk, as defined in section 301.010, the purchaser may forward to the director of revenue a properly completed application for a junking certificate as well as the salvage certificate of title or certificate of ownership and the director shall issue a negotiable junking certificate to the purchaser of the vehicle. The director may also issue a junking certificate to a possessor of a vehicle manufactured twenty-six years or more prior to the current model year who has a bill of sale for said vehicle but does not possess a certificate of ownership, provided no claim of theft has been made on the vehicle and the highway patrol has by letter stated the vehicle is not listed as stolen after checking the registration number through its nationwide computer system. Such junking certificate may be granted within thirty days of the submission of a request. A junking certificate shall authorize the holder to possess, transport, or, by assignment, transfer ownership in such parts, scrap, or junk.

3. For any vehicle issued a junking certificate or such similar document or classification pursuant to the laws of another state, regardless of whether such designation has been subsequently changed by law in any other state, the department shall only issue a junking certificate, and a salvage certificate of title or original certificate of ownership shall not thereafter be issued for such vehicle. Notwithstanding the provisions of this subsection, if the vehicle has not previously been classified as a junk vehicle, the applicant making the original junking certification application shall, within ninety days, be allowed to rescind his application for a junking certificate

by surrendering the junking certificate and apply for a salvage certificate of title in his name. The seller of a vehicle for which a junking certificate has been applied for or issued shall disclose such fact in writing to any prospective buyers before sale of such vehicle; otherwise the sale shall be voidable at the option of the buyer.

4. No scrap metal operator shall acquire or purchase a motor vehicle or parts thereof without, at the time of such acquisition, receiving the original certificate of ownership or salvage certificate of title or junking certificate from the seller of the vehicle or parts, unless the seller is a licensee under sections 301.219 to 301.221.

5. All titles and certificates required to be received by scrap metal operators from nonlicensees shall be forwarded by the operator to the director of revenue within ten days of the receipt of the vehicle or parts.

6. The scrap metal operator shall keep a record, for three years, of the seller's name and address, the salvage business license number of the licensee, date of purchase, and any vehicle or parts identification numbers open for inspection as provided in section 301.225.

7. Notwithstanding any other provision of this section, a motor vehicle dealer as defined in section 301.550 and licensed under the provisions of sections 301.550 to 301.572 may negotiate one reassignment of a salvage certificate of title on the back thereof.

8. Notwithstanding the provisions of subsection 1 of this section, an insurance company which settles a claim for a stolen vehicle may apply for and shall be issued a negotiable salvage certificate of title without the payment of any fee upon proper application within thirty days after settlement of the claim for such stolen vehicle. However, if the insurance company upon recovery of a stolen vehicle

determines that the stolen vehicle has not sustained damage to the extent that the vehicle would have otherwise been declared a salvage vehicle pursuant to section 301.010, then the insurance company may have the vehicle inspected by the Missouri state highway patrol, or other law enforcement agency authorized by the director of revenue, in accordance with the inspection provisions of subsection 9 of section 301.190. Upon receipt of title application, applicable fee, the completed inspection, and the return of any previously issued negotiable salvage certificate, the director shall issue an original title with no salvage or prior salvage designation. Upon the issuance of an original title the director shall remove any indication of the negotiable salvage title previously issued to the insurance company from the department's electronic records.

9. (1) Notwithstanding subsection 4 of this section or any other provision of the law to the contrary, if a motor vehicle is inoperable and is at least ten model years old, or the parts are from a motor vehicle that is inoperable and is at least ten model years old, a scrap metal operator may purchase or acquire such motor vehicle or parts without receiving the original certificate of ownership, salvage certificate of title, or junking certificate from the seller of the vehicle or parts, provided the scrap metal operator verifies with the department of revenue, via the department's online record access, that the motor vehicle is not subject to any recorded security interest or lien and the scrap metal operator complies with the requirements of this subsection. In lieu of forwarding certificates of title or ownership for such motor vehicles as required by subsection 5 of this section, the scrap metal operator shall forward a copy of the seller's state identification card along with a bill of

sale to the department of revenue. The bill of sale form shall be designed by the director and such form shall include, but not be limited to, a certification that the motor vehicle is at least ten model years old, is inoperable, is not subject to any recorded security interest or lien, and a certification by the seller that the seller has the legal authority to sell or otherwise transfer the seller's interest in the motor vehicle or parts. Upon receipt of the information required by this subsection, the department of revenue shall cancel any certificate of title or ownership and registration for the motor vehicle. If the motor vehicle is inoperable and at least twenty model years old, then the scrap metal operator shall not be required to verify with the department of revenue whether the motor vehicle is subject to any recorded security interests or liens. As used in this subsection, the term "inoperable" means a motor vehicle that is in a rusted, wrecked, discarded, worn out, extensively damaged, dismantled, and mechanically inoperative condition and the vehicle's highest and best use is for scrap purposes.

(2) The provisions of this subsection shall not apply in any city not within a county, any county with a charter form of government and with more than nine hundred fifty thousand inhabitants, any home rule city with more than four hundred thousand inhabitants and located in more than one county, any county of the first classification with more than two hundred thousand but fewer than two hundred sixty thousand inhabitants, any county of the first classification with more than eighty-three thousand but fewer than ninety-two thousand inhabitants and with a city of the fourth classification with more than four thousand five hundred but fewer than five thousand inhabitants as the county seat, and any county with a charter form of government and with more

than six hundred thousand but fewer than seven hundred thousand inhabitants.

10. If a scrap metal operator has knowledge that a motor vehicle or parts thereof described under subsection 9 of this section is registered in any of the locations set forth in subdivision (2) of subsection 9 of this section, such operator shall not acquire or purchase a motor vehicle or parts thereof without, at the time of such acquisition, receiving the original certificate of ownership or salvage certificate of title, junking certificate from the seller of the vehicle or parts, or a bill of sale under subsection 12 of section 304.155, unless the seller is a licensee under sections 301.219 to 301.221. The provisions of this subsection shall not apply to any person licensed under sections 301.550 to 301.580.

11. The director of the department of revenue is directed to promulgate rules and regulations to implement and administer the provisions of this section, including but not limited to, the development of a uniform bill of sale. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2012, shall be invalid and void.

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

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

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

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

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

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

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

(7) "Scrap metal dealer", any entity, including any person, firm, company, partnership, association, or corporation, located in this state who purchases products containing ferrous or nonferrous metals for recycling;

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

407.297. 1. No person shall engage in the business of a copper property peddler in any home rule city with more than four hundred thousand inhabitants and located in more than one county or any city not within a county without first obtaining a license from the governing municipality and complying with the provisions of this section.

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

3. Application for a license under this section shall be made in writing to the governing municipality and shall state the name, age, description, and address of the applicant. The application shall include a sworn statement setting forth each and every conviction of the applicant for violations of federal, state, or municipal laws, statutes, or ordinances. In addition, the applicant shall, at his or her expense, obtain a complete copy of the applicant's criminal record as indicated by the records of a law enforcement agency and submit such record as part of the application. No license shall be granted to any person who has been convicted of burglary, robbery, stealing, theft, or possession or receiving stolen goods in the last twenty-four months prior to the date of the application.

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

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

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

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

(3) Payment to any seller of copper property or HVAC component who does not present or have on file a valid business license, valid trade license, or certificate or valid copper peddler's license shall be by check. Checks shall be payable only to the person whose name was recorded as delivering the copper property or HVAC component to the scrap metal dealer; provided, however, that if such person is delivering the copper property or HVAC component on behalf of a governmental entity or a nonprofit or for profit business entity, the check may be payable to such entity. All checks issued to a seller of copper property or HVAC component who does not present or have on file a valid business license, valid trade license, or valid copper peddler's license shall be mailed via the United States mail to the address provided on the driver's license or photo identification issued by the state provided by the seller;

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

2. This section shall not apply to any transaction for which the seller has an existing business relationship with

the scrap metal dealer and is known to the scrap metal dealer making the purchase to be an established business with a fixed location that can be reasonably expected to generate regulated scrap metal and can be reasonably identified as such a business or is a political subdivision.

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

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

3. (1) It is unlawful for any person to knowingly present for sale to a scrap metal dealer stolen ferrous or nonferrous metal, including but not limited to, copper property or HVAC components. Any person who knowingly presents for sale stolen ferrous or nonferrous metal shall be guilty of a separate offense for each item of scrap metal and shall upon conviction be subject to a fine of not less than five hundred dollars or by imprisonment for a period not to exceed ninety days or both fine and imprisonment.

(2) It is unlawful for a person to willfully and maliciously cut, mutilate, deface, or otherwise injure any personal or real property owned by a third party, including any fixtures or improvements, for the purpose of obtaining ferrous or nonferrous metals in any amount. Any person who willfully and maliciously cuts, mutilates, defaces, or otherwise injures any personal or real property owned by a third party for the purpose of obtaining ferrous or

nonferrous metal shall be guilty of a separate offense for each item of scrap metal derived from such actions and shall upon conviction be subject to a fine of not less than five hundred dollars or by imprisonment for a period not to exceed ninety days or both fine and imprisonment.

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

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

- (1) Copper, brass, or bronze;
- (2) Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener;
- (3) Material containing copper or aluminum that is knowingly used for farming purposes as farming is defined in section 350.010; whatever may be the condition or length of such metal;
- (4) Catalytic converter; or
- (5) Motor vehicle, heavy equipment, or tractor battery.

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

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

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

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

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

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

3. The records required under this section shall be maintained for a [minimum of twenty-four months] period of three years from when such material is obtained and shall be available for inspection by any law enforcement officer. All records required under this section shall be photocopied and maintained for three years from the date of the transaction.

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

5. A transaction receipt shall be issued and consist of the same information required under subsection 1 of this section and shall include the following statement: "By accepting payment from (insert name of scrap metal dealer), seller represents and warrants that the material documented by this receipt is owned by the seller or was lawfully obtained, and the seller has the legal right to sell the material to (insert name of scrap metal dealer)". If the

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

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

(1) To protect the security of the personal information required under subsection 2 of this section; and

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

7. A scrap metal dealer shall not be liable to any customer for a disclosure of personal information if the scrap metal dealer has met the requirements set forth in subsection 5 of this section.

[4.] 8. Anyone convicted of violating this section shall be guilty of a class B misdemeanor.

[5.] 9. This section shall not apply to any of the following transactions:

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

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

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

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

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

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

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

407.302. 1. No scrap yard shall purchase any metal that can be identified as belonging to a public or private cemetery, political subdivision, telecommunications provider, cable provider, wireless service or other communications-related provider, electrical cooperative, water utility, municipal utility, or utility regulated under chapter 386 or 393, including bleachers, guardrails, signs, street and traffic lights or signals, certain cables used in high voltage transmission lines, historical markers, and manhole cover or covers, whether broken or unbroken, from anyone other than the cemetery or monument owner, political subdivision, telecommunications provider, cable provider, wireless service or other communications-related provider, electrical cooperative, water utility, municipal utility, utility regulated under chapter 386 or 393, or manufacturer

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

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

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

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

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

3. Anyone convicted of violating this section shall be guilty of a class B misdemeanor.