

SENATE BILL No. 720

September 4, 2007, Introduced by Senators THOMAS, JACOBS, SCHAUER, GLEASON, HUNTER, SCOTT and CLARK-COLEMAN and referred to the Committee on Economic Development and Regulatory Reform.

A bill to amend 1917 PA 350, entitled

"An act to regulate and license second hand dealers and junk dealers; and to prescribe penalties for the violation of the provisions of this act,"

by amending sections 1, 2, 4, 5, 7, and 8 (MCL 445.401, 445.402, 445.404, 445.405, 445.407, and 445.408), sections 1, 2, 4, 5, and 8 as amended by 2006 PA 675.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A person, corporation, copartnership, or firm
2 shall not carry on the business of ~~dealer in second hand goods or~~
3 **DEALER**, junk dealer, **OR SCRAP PROCESSOR** in any of the counties,
4 cities, or villages of this state without having first obtained,
5 from the mayor of the city or the chief executive officer of the

1 county or village where the business is to be carried on, a license
2 under this act authorizing that person, corporation, copartnership,
3 or firm to carry on that business.

4 (2) This ~~subsection~~**SECTION** does not require an internet drop-
5 off store complying with subsection (3), or a person engaged in the
6 sale, purchase, consignment, or trade of personal property or other
7 valuable thing for himself or herself, to obtain a license under
8 this act.

9 (3) An internet drop-off store in compliance with the
10 following conditions is exempt from licensure as a second hand
11 dealer or junk dealer under this act:

12 (a) Has a fixed place of business within this state except
13 that he or she exclusively transacts all purchases or sales by
14 means of the internet and the purchases and sales are not
15 physically transacted on the premises of that fixed place of
16 business.

17 (b) Has the personal property or other valuable thing
18 available on a website for viewing by photograph, if available, by
19 the general public at no charge, which website shall be searchable
20 by zip code or state, or both. The website viewing shall include,
21 as applicable, serial number, make, model, and other unique
22 identifying marks, numbers, names, or letters appearing on the
23 personal property or other valuable thing.

24 (c) Maintains records of the sale, purchase, consignment, or
25 trade of the personal property or other valuable thing for at least
26 2 years, which records shall contain a description, including a
27 photograph, if available, and, if applicable, serial number, make,

1 model, and other unique identifying marks, numbers, names, or
2 letters appearing on the personal property or other valuable thing.

3 (d) Provide the local law enforcement agency with any name
4 under which it conducts business on the website and access to the
5 business premises at any time during normal business hours for
6 purposes of inspection.

7 (e) Within 24 hours after a request from a local law
8 enforcement agency, provide an electronic copy of the seller's or
9 consignor's name, address, telephone number, driver license number
10 and issuing state, the buyer's name and address if applicable, and
11 a description of the personal property or other valuable thing as
12 described in subdivision (c). The provision of information shall be
13 in a format acceptable to the local law enforcement agency but
14 shall at least be in a legible format and in the English language.

15 (f) Provide that payment for the personal property or other
16 valuable thing is executed by means of check or other electronic
17 payment system, so long as the payment is not made in cash. No
18 payment shall be provided to the seller until the item is sold.

19 (g) Immediately remove the personal property or other valuable
20 thing from the website if the local law enforcement agency
21 determines that the personal property or other valuable thing is
22 stolen.

23 Sec. 2. (1) The mayor of a city or chief executive officer of
24 a county or village may grant to any person, corporation,
25 copartnership, or firm, a license authorizing that person,
26 corporation, copartnership, or firm to carry on the business of a
27 second hand dealer, ~~ex-junk dealer~~, **OR SCRAP PROCESSOR** subject to

1 the provisions of this act.

2 (2) The license shall designate the particular place where
3 that person, corporation, copartnership, or firm shall carry on
4 that business. The business shall be conducted only in the place
5 designated in the license.

6 (3) A license shall not be issued to any person, firm, or
7 corporation desiring to conduct a junk business **OR SCRAP PROCESSOR**
8 in any residential community where 65% or more of the property
9 owners within a radius of 1 city block of the contemplated junk
10 business **OR SCRAP PROCESSOR** petition the issuing officer not to do
11 so.

12 (4) The license shall be for the period of 1 year from date of
13 issuance unless sooner revoked for cause and is not transferable.
14 The legislative body of any city, or the trustees and chief
15 executive officer of any county or village, shall establish the fee
16 for the processing and issuance of the license in accordance with
17 its charter or local ordinance, based upon the cost of issuance and
18 administration of that license.

19 (5) The city, village, or county may inspect the premises of a
20 licensed second hand ~~or~~ **DEALER**, junk dealer, **OR SCRAP PROCESSOR**
21 during normal business hours.

22 Sec. 4. (1) A second hand dealer, ~~or~~ junk dealer, **OR SCRAP**
23 **PROCESSOR** shall post in a conspicuous place in or upon its place of
24 business a sign having its name and occupation.

25 (2) A second hand ~~or~~ **DEALER**, junk dealer, **OR SCRAP PROCESSOR**
26 shall keep a separate book or other record open to inspection by a
27 member of a local law enforcement agency, in which shall be written

1 or entered in the English language at the time of the purchase or
2 exchange of any article a description of the article, the name,
3 description, fingerprint, operator's or chauffeur's license or
4 state identification number, registration plate number, and address
5 of the person from whom the article was purchased and received, and
6 the day and hour when the purchase or exchange was made as well as
7 the location from which the item was obtained, if applicable. Each
8 entry shall be numbered consecutively.

9 Sec. 5. (1) The articles purchased or exchanged shall be
10 retained by the purchaser for at least 15 days before **PROCESSING OR**
11 disposing of them, in an accessible place in the building where the
12 articles are purchased and received. A tag shall be attached to the
13 articles in some visible and convenient place, with the number
14 written thereupon, to correspond with the entry number in the book
15 or other record.

16 (2) The purchaser shall prepare and deliver on Monday of each
17 week to the chief of police or chief law enforcement officer of the
18 local unit of government in which such business is carried on,
19 before 12 o'clock noon, a legible and correct copy written in the
20 English language from the book or other record, containing a
21 description of each article purchased or received during the
22 preceding week, the hour and day when the purchase was made, and
23 the description of the person from whom it was purchased. The
24 statement shall be verified by the person subscribing his or her
25 name thereto.

26 (3) This section does not apply to old rags, waste paper, and
27 household goods except radios, televisions, record players, and

1 electrical appliances and does not require the purchaser to retain
2 articles purchased from individuals, firms, or corporations having
3 a fixed place of business after those articles shall have been
4 reported.

5 Sec. 7. ~~No~~**A** person shall **NOT** purchase or receive by sale,
6 barter or exchange, or otherwise, any article ~~mentioned in~~
7 **CUSTOMARILY RECEIVED BY A PERSON LICENSED UNDER** this act from any
8 person between the hours of 9 p.m. and 7 a.m., ~~nor~~**INCLUDING** from
9 any person who is, at the time, intoxicated, ~~or~~from an habitual
10 drunkard, or from any person known by ~~said~~**THE** second hand dealer,
11 ~~or~~junk dealer, **OR SCRAP PROCESSOR** to be a thief, ~~or~~any associate
12 of thieves, ~~or~~receiver of stolen property, or from any person he
13 has reason to suspect of being such.

14 Sec. 8. (1) Except as otherwise provided for in this section,
15 a person who violates this act is guilty of a misdemeanor and shall
16 be imprisoned for not more than 6 months and shall be fined not
17 less than \$500.00 or more than \$1,000.00.

18 (2) A second hand ~~or~~**DEALER**, junk dealer, **OR SCRAP PROCESSOR**
19 who buys or sells scrap metal, knowing that it is stolen, is guilty
20 of a felony punishable by imprisonment for not more than 3 years or
21 a fine of not more than \$2,000.00, or both.

22 (3) A second hand ~~or~~**DEALER**, junk dealer, **OR SCRAP PROCESSOR**
23 who buys or sells stolen scrap metal that he or she has reason to
24 believe was unlawfully removed from a utility pole,
25 telecommunication company property, government property, or utility
26 property or jobsite is guilty of a felony punishable by
27 imprisonment for not more than 5 years or a fine of not more than

1 \$10,000.00, or both.

2 (4) The license of a person, corporation, copartnership, or
3 firm that is found guilty of violating any of the provisions of
4 this act shall be considered to be revoked upon entry of a
5 conviction and such person, corporation, copartnership, or firm
6 shall not be permitted to carry on the business of being a second
7 hand ~~or~~ **DEALER**, junk dealer, **OR SCRAP PROCESSOR** within this state
8 for a period of 1 year after that conviction.

9 (5) The remedies under this act are independent and
10 cumulative. The use of 1 remedy by a person does not bar the use of
11 other lawful remedies by that person or the use of a lawful remedy
12 by another person.