



Senate Fiscal Agency
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Senate Bills 468 and 469 (as introduced 9-10-13)
Sponsor: Senator Virgil Smith
Committee: Economic Development

Date Completed: 10-16-13

CONTENT

Senate Bill 468 would amend Public Act 350 of 1917, which regulates secondhand dealers and junk dealers, to do the following:

- Prohibit a person from transporting or selling nonferrous metal to a secondhand dealer, if the person did not have a permit issued by a county sheriff to transport and sell the metal.
- Establish requirements for a person to apply for and receive a permit to transport and sell nonferrous metal.
- Prohibit a person from obtaining a permit for the purpose of transporting or selling stolen nonferrous metal.
- Prescribe a criminal penalty, and permit revocation, for transporting or selling stolen nonferrous metal.
- Allow a sheriff to charge a fee for processing and issuing a permit.
- Specify that a permit would be valid for 12 months.
- Allow a person to obtain a 48-hour permit, if the person transported or sold nonferrous metal not more than twice in any 12-month period.

Senate Bill 469 would amend the Nonferrous Metal Regulatory Act to do the following:

- Require a dealer to verify that a seller of nonferrous metal had a permit issued under Public Act 350 of 1917 (as proposed by Senate Bill 468).
- Require a person who delivered nonferrous metal to a dealer to have a permit issued under Public Act 350 of 1917.
- Require a dealer to verify that an individual who delivered nonferrous metal for sale to the dealer was at least 16 years old.
- Expand the information that a dealer must include in a record of purchase transactions.

Senate Bill 468 is tie-barred to Senate Bill 469.

Senate Bill 468

Transport & Sale of Nonferrous Metal

The bill would add Section 2a to Public Act 350 of 1917 to prohibit a person from transporting or selling nonferrous metal to a secondhand dealer if the person did not have a permit to transport and sell nonferrous metal from the sheriff of the county in which the

person lived or was located or, if the person were not a resident of or located in Michigan, from the sheriff of the county in which the secondhand dealer purchasing the nonferrous metals was located. The permit requirement would not apply to a person who was any of the following:

- A contractor licensed under the Mechanical Contractors Act.
- A residential builder or residential maintenance and alteration contractor licensed under Article 24 of the Occupational Code.
- A plumbing contractor licensed under the State Plumbing Act.
- An electrical contractor, master electrician, electrical journeyman, or apprentice journeyman licensed under the Electrical Administrative Act.
- A public utility as defined in Public Act 53 of 1974 (described below).
- A public agency as defined in Public Act 53 of 1974 (described below).
- An employee of a person listed above, if acting in the scope of his or her employment.

The sheriff would have to issue a permit to a person who met all of the following:

- The person lived in or was located in the sheriff's county or, if the person did not live in or the entity were not located in Michigan, the secondhand dealer purchasing the nonferrous metal was located in the sheriff's county.
- The person certified on a form provided by the sheriff that he or she was informed of and would comply with Section 2a.
- The permit applicant, if an individual, or the employee applying for a permit on behalf of an employer, gave the sheriff a photograph of him or her and his or her driver license, military ID card, Michigan ID card, passport, or other government-issued ID containing his or her photograph, and allowed the sheriff to copy the presented ID.
- The name and address of the permit applicant.
- The license plate number of the applicant's vehicle.

(Public Act 53 of 1974 provides for the protection of public utility underground facilities. The Act defines "public utility" as a natural gas company subject to the jurisdiction of the Federal Energy Regulatory Commission; an electric, steam, gas, telephone, power, water, or pipeline company subject to the jurisdiction of the Public Service Commission; the owner or operator of a cable television facility; or a public agency that owns public service facilities for supplying water, light, heat, gas, power, telecommunications, sewage disposal, storm drains, or storm water drainage facilities.

The Act defines "public agency" as the State, a city, village, township, or county, or any other government entity or municipality.)

Transporting or Selling Stolen Nonferrous Metal

The bill would prohibit a person from obtaining a permit to transport and sell nonferrous metal under proposed Section 2a for the purpose of transporting or selling stolen nonferrous metal. A knowing violation would be a misdemeanor punishable by up to 90 days' imprisonment, a fine of not less than \$500 or more than \$1,000, or both imprisonment and a fine. If a permit holder were convicted of this violation, the permit would be considered revoked.

Permit Fee & Validity

The bill would authorize a sheriff to charge a reasonable fee, not exceeding \$25, for the processing and issuance of a permit under Section 2a. The sheriff would have to keep a record of all permits issued. The record would have to include, at a minimum, the date of issuance, the permit holder's name and address, a photocopy of the permit applicant's identification, the applicant's license plate number, and the applicant's photograph.

A permit issued under Section 2a would be valid for 12 months. If a person sold or transported nonferrous metal a maximum of twice in a 12-month period, the person could obtain a 48-hour permit from the applicable sheriff's office by calling the office, providing required information, and obtaining a permit number. A person could request a 48-hour permit only twice in any 12-month period.

Senate Bill 469

Dealer Responsibilities

The Nonferrous Metal Regulatory Act specifies certain responsibilities of dealers in nonferrous metal. The bill would require a dealer to verify that a seller of nonferrous metal had a permit issued under proposed Section 2a of Public Act 350 of 1917 or was not required to obtain a permit under that section.

Currently, if a transaction involves nonferrous metal, a dealer must verify that the seller is at least 16 years of age. Under the bill, a dealer instead would have to verify that the individual who delivered the nonferrous metal to the dealer for sale was at least 16.

Seller/Deliverer Responsibilities

The Nonferrous Metal Regulatory Act specifies certain responsibilities of a seller of nonferrous metal. The bill would refer to "an individual who delivers nonferrous metal to a dealer for sale", instead of "a seller". Under the bill, such a person would have to present to the dealer a permit issued under Section 2a of Public Act 350 of 1917.

Record of Transactions

The Nonferrous Metal Regulatory Act requires a dealer to produce and maintain an accurate and legible record of each purchase transaction. The dealer must maintain the records for at least one year; keep them in a location that is readily accessible to a local, State, or Federal law enforcement agency for inspection during normal business hours; and make the records, or copies of them, available to a law enforcement agency upon reasonable suspicion of a violation of the Act.

The Act requires certain information to be included in the record of a purchase transaction regarding nonferrous metal, including the weight, quantity, or volume of metal. The bill also would require the record to include the name of the scale operator who weighed and inspected that property, and the name of the scrap metal dealer's employee who purchased or authorized the purchase of the scrap metal on the dealer's behalf if the purchaser were not the scale operator.

The bill also would require the record to include a photograph or digital or electronic image of the scrap metal purchased. A digital or electronic image that met one of the following would be sufficient, even if each item of scrap metal were not shown in the image:

- An overhead image of the vehicle and the scrap metal in it on the scale, if the scrap metal and the vehicle in which it was delivered were weighed.
- An image of the scrap metal on the scale, if only the scrap metal were weighed.

In addition, the bill would require the transaction record to include a photocopy of the seller's permit issued under Section 2a of Public Act 350 of 1917.

FISCAL IMPACT

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The bill would have a minor fiscal impact upon county sheriff offices of the State. The bill would require these offices to receive and process applications and issue permits for the transport and sale of nonferrous metals. The offices also would be responsible for maintaining a record of permits issued. Depending upon the number of permit requests in a given county, additional administrative costs would be incurred. The bill would allow a sheriff's office to charge a "reasonable fee", which could not exceed \$25, to cover its processing costs.

The bill also would create additional requirements that, if not complied with, could result in a misdemeanor conviction punishable by up to six months' imprisonment and/or a fine of between \$500 and \$1,000. This could result in additional costs of incarceration or community supervision for State and local government. It also could result in a marginal increase in criminal fine revenue, which benefits public libraries.

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The bill would have no fiscal impact on State or local government.

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