

HOUSE SUBSTITUTE FOR SENATE SUBSTITUTE FOR
HOUSE BILL NO. 4593

A bill to amend 2008 PA 429, entitled
"Nonferrous metal regulatory act,"
by amending the title and sections 1, 3, 5, 7, 11, 13, 15, and 17
(MCL 445.421, 445.423, 445.425, 445.427, 445.431, 445.433, 445.435,
and 445.437), and by adding sections 6 and 10.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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TITLE

An act to regulate the purchase and sale of ~~certain nonferrous~~
~~metals; to provide for disclosures by certain persons regarding~~
~~certain transactions; to require the creation of records for~~
~~certain purposes and for the use of certain databases by certain~~
~~persons;~~ SCRAP METAL AND OTHER ITEMS THAT CONTAIN FERROUS OR
NONFERROUS METAL TO SCRAP METAL DEALERS; TO REQUIRE SELLERS TO
PROVIDE AND SCRAP METAL DEALERS TO OBTAIN CERTAIN INFORMATION AT

1 THE TIME OF A PURCHASE TRANSACTION; TO REQUIRE THAT SCRAP METAL
2 DEALERS IMPLEMENT AND MAINTAIN RECORDS OF THEIR PURCHASE
3 TRANSACTIONS AND TO MAKE THOSE RECORDS AVAILABLE FOR LAW
4 ENFORCEMENT PURPOSES; TO PROVIDE FOR THE POWERS AND DUTIES OF
5 CERTAIN STATE AND LOCAL GOVERNMENTAL OFFICERS AND ENTITIES; and to
6 provide for penalties and remedies.

7 Sec. 1. This act shall be known and may be cited as the
8 ~~"nonferrous"~~ **SCRAP** metal regulatory act".

9 Sec. 3. As used in this act:

10 ~~—— (a) "Dealer" means any person that is not a first purchaser~~
11 ~~who purchases nonferrous metals from any seller. Dealer includes,~~
12 ~~but is not limited to, a person, whether or not licensed under~~
13 ~~state law or local ordinance, that operates a business as a scrap~~
14 ~~metal recycler, scrap processor, secondhand and junk dealer, or~~
15 ~~other person who purchases any amount of nonferrous metal on a~~
16 ~~regular, sporadic, or 1 time basis. Dealer does not include an~~
17 ~~automotive recycler regulated by and complying with section 217 of~~
18 ~~the Michigan vehicle code, 1949 PA 300, MCL 257.217; section 18 of~~
19 ~~the motor vehicle service and repair act, 1974 PA 300, MCL~~
20 ~~257.1318; or section 2 of 1986 PA 119, MCL 257.1352, when engaging~~
21 ~~in activities that meet the definition of automotive recycler as~~
22 ~~defined in section 2a of the Michigan vehicle code, 1949 PA 300,~~
23 ~~MCL 257.2a.~~

24 ~~—— (b) "Documentation" means a signed statement that indicates~~
25 ~~where the person obtained the article, that the person is~~
26 ~~authorized to sell the article, or other evidence that reasonably~~
27 ~~demonstrates ownership of the article and the source of the~~

1 ~~article.~~

2 (A) ~~(e)~~ "Ferrous metal" means a metal that contains
3 significant quantities of iron or steel.

4 (B) ~~(d)~~ "First purchaser" means the first buyer of a
5 manufactured ~~product containing~~ **ITEM THAT CONTAINS FERROUS OR**
6 nonferrous metal in a retail or business-to-business transaction.
7 ~~Persons purchasing nonferrous metal~~ **A PERSON THAT PURCHASES SCRAP**
8 **METAL, OR OTHER PROPERTY DESCRIBED IN SECTION 10,** in violation of
9 this act, ~~OR AN automotive recyclers, pawnshops, RECYCLER,~~
10 **PAWNSHOP, scrap metal recyclers, and RECYCLER, OR scrap processors**
11 ~~are~~ **PROCESSOR IS** not considered ~~A first purchasers.~~ **PURCHASER.**

12 (C) "GOVERNMENTAL UNIT" MEANS A SUBDIVISION, AGENCY,
13 DEPARTMENT, COUNTY, PARISH, MUNICIPALITY, OR OTHER UNIT OF THE
14 GOVERNMENT OF THE UNITED STATES, THIS STATE, ANOTHER STATE, OR A
15 FOREIGN COUNTRY.

16 (D) ~~(e)~~ "Industrial or commercial ~~account~~ **CUSTOMER**" means ~~any~~
17 ~~person, operating~~ **A PERSON THAT OPERATES** from a fixed location ~~-~~
18 ~~that~~ **AND** is a seller of ~~ferrous or nonferrous~~ **SCRAP** metal to a
19 scrap metal ~~recycler pursuant to~~ **DEALER UNDER** a written agreement
20 **THAT PROVIDES FOR REGULAR OR PERIODIC SALE, DELIVERY, PURCHASE, OR**
21 **RECEIVING OF SCRAP METAL.**

22 (E) ~~(f)~~ "Nonferrous metal" means a metal that does not contain
23 significant quantities of ferrous metal but contains copper, brass,
24 platinum **GROUP**-based metals, aluminum, bronze, lead, zinc, nickel,
25 or alloys of those metals.

26 (F) ~~(g)~~ "Person" means an individual, partnership,
27 corporation, limited liability company, joint venture, trust,

1 association, or other legal entity.

2 (G) ~~(h)~~ "Public fixtures **FIXTURE**" means articles containing
3 nonferrous metal that are used or located in areas open to the
4 public and include, but are not limited to, utility access covers,
5 street light and fixtures, road and bridge guard rails, highway or
6 street signs, water meter covers, traffic directional and control
7 signs, traffic light signals, telecommunications cable, utility
8 related articles, and historical markers. **AN ITEM THAT CONTAINS**
9 **FERROUS OR NONFERROUS METAL AND IS OWNED OR UNDER THE EXCLUSIVE**
10 **CONTROL OF A GOVERNMENTAL UNIT. THE TERM INCLUDES, BUT IS NOT**
11 **LIMITED TO, A STREET LIGHT POLE OR FIXTURE, ROAD OR BRIDGE**
12 **GUARDRAIL, TRAFFIC SIGN, TRAFFIC LIGHT SIGNAL, OR HISTORICAL**
13 **MARKER.**

14 (H) "PURCHASE TRANSACTION" MEANS A PURCHASE OF SCRAP METAL, OR
15 THE PURCHASE OF PROPERTY DESCRIBED IN SECTION 10 IF THE KNOWING
16 PURCHASE OR OFFER TO PURCHASE THAT PROPERTY IS NOT PROHIBITED BY
17 THAT SECTION, BY A SCRAP METAL DEALER. THE TERM DOES NOT INCLUDE
18 ANY OF THE FOLLOWING:

19 (i) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
20 OR SALVAGE VEHICLES OR VEHICLE PARTS BY A USED OR SECONDHAND
21 VEHICLE DEALER OR USED OR SECONDHAND VEHICLE PARTS DEALER THAT IS
22 LICENSED AS A DEALER UNDER SECTION 248 OF THE MICHIGAN VEHICLE
23 CODE, 1949 PA 300, MCL 257.248, AND IS ACTING WITHIN THE SCOPE OF
24 THAT DEALER'S LICENSE.

25 (ii) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
26 OR SALVAGE VEHICLES, VEHICLE PARTS, OR VEHICLE SCRAP BY A VEHICLE
27 SCRAP METAL PROCESSOR, VEHICLE SALVAGE POOL OPERATOR, OR FOREIGN

1 SALVAGE VEHICLE DEALER THAT IS LICENSED AS A DEALER UNDER SECTION
2 248 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, AND IS
3 ACTING WITHIN THE SCOPE OF THAT DEALER'S LICENSE.

4 (iii) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
5 OR SALVAGE VEHICLES, VEHICLE PARTS, OR VEHICLE SCRAP BY AN
6 AUTOMOTIVE RECYCLER THAT IS LICENSED AS A DEALER UNDER SECTION 248
7 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, IF THE
8 TRANSACTION IS AUTHORIZED UNDER SECTION 217C OF THE MICHIGAN
9 VEHICLE CODE, 1949 PA 300, MCL 257.217C; SECTION 18 OF THE MOTOR
10 VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1318; OR
11 SECTION 2 OF 1986 PA 119, MCL 257.1352.

12 (iv) THE PURCHASE OF SCRAP METAL BY A MILL, FOUNDRY, DIE
13 CASTER, OR OTHER MANUFACTURING FACILITY THAT PURCHASES SCRAP METAL
14 FROM AN INDUSTRIAL OR COMMERCIAL CUSTOMER FOR ITS OWN USE IN THE
15 PRODUCTION OF METAL ARTICLES OR MATERIALS AND DOES NOT IN THE
16 ORDINARY COURSE OF ITS BUSINESS PURCHASE SCRAP METAL FOR RESALE.

17 (v) THE PURCHASE OF SCRAP METAL FROM A GOVERNMENTAL UNIT.

18 (i) "Record" means a paper, electronic, or other generally
19 accepted method of storing information in a retrievable form.

20 (J) "SCALE OPERATOR" MEANS THE EMPLOYEE OF A SCRAP METAL
21 DEALER WHO OPERATES OR ATTENDS A SCALE THAT IS USED TO WEIGH THE
22 SCRAP METAL IN A PURCHASE TRANSACTION.

23 (K) "SCRAP METAL" MEANS FERROUS OR NONFERROUS METAL, OR ITEMS
24 THAT CONTAIN FERROUS OR NONFERROUS METAL, THAT ARE SOLD OR OFFERED
25 FOR SALE FOR THE VALUE OF THE FERROUS OR NONFERROUS METAL THEY
26 CONTAIN RATHER THAN THEIR ORIGINAL INTENDED USE; FERROUS OR
27 NONFERROUS METAL REMOVED FROM OR OBTAINED BY CUTTING, DEMOLISHING,

1 OR DISASSEMBLING A BUILDING, STRUCTURE, OR MANUFACTURED ITEM; OR
 2 OTHER METAL THAT CANNOT BE USED FOR ITS ORIGINAL INTENDED PURPOSE
 3 BUT CAN BE PROCESSED FOR REUSE IN A MILL, FOUNDRY, DIE CASTER, OR
 4 OTHER MANUFACTURING FACILITY.

5 (I) "SCRAP METAL DEALER" MEANS A PERSON OR GOVERNMENTAL UNIT
 6 THAT BUYS SCRAP METAL AND IS NOT A FIRST PURCHASER. THE TERM
 7 INCLUDES, BUT IS NOT LIMITED TO, A PERSON, WHETHER OR NOT LICENSED
 8 UNDER STATE LAW OR LOCAL ORDINANCE, THAT OPERATES A BUSINESS AS A
 9 SCRAP METAL RECYCLER, SCRAP PROCESSOR, SECONDHAND AND JUNK DEALER,
 10 OR OTHER PERSON THAT PURCHASES ANY AMOUNT OF SCRAP METAL ON A
 11 REGULAR, SPORADIC, OR 1-TIME BASIS.

12 (M) ~~(j)~~ "Scrap metal recycler" means a person that purchases
 13 FERROUS OR nonferrous metal that is intended for recycling or
 14 reuse, whether regarded as a scrap processor, core buyer, or other
 15 similar business operation.

16 (N) ~~(k)~~ "Scrap processor" means that term as defined in
 17 section 3 of 1917 PA 350, MCL 445.403.

18 (O) ~~(l)~~ "Seller" means ~~any individual or~~ A person that either
 19 regularly, sporadically, or on a 1-time basis receives
 20 consideration from any other person from the purchase by a **SCRAP**
 21 **METAL** dealer of ~~nonferrous~~ **SCRAP** metal offered by that seller.

22 Sec. 5. (1) ~~A dealer shall do all~~ **ALL** of the following **APPLY**
 23 **TO A SCRAP METAL DEALER:**

24 ~~— (a) Produce and maintain records as required under section~~
 25 ~~7(2).~~

26 ~~— (b) Participate in a database meeting the requirements of~~
 27 ~~section 11.~~

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~~1 (c) Tag and hold any nonferrous metal as provided for in
2 section 9.~~

~~3 (d) Pay a seller by a method capable of being traced from the
4 dealer to the seller. Payment by cash or currency of more than
5 \$50.00, barter, or trade is not considered a payment that complies
6 with the requirement of this subdivision. Payment of cash in any
7 amount in a transaction involving predominantly copper articles is
8 considered a violation of this subdivision.~~

~~9 (e) In the case of a transaction involving nonferrous metal,
10 verify that the seller is at least 16 years of age.~~

11 (A) UNLESS SECTION 6 APPLIES, AND EXCEPT AS PROVIDED IN
12 SUBDIVISION (B), [] A SCRAP METAL DEALER
13 SHALL ONLY PAY A SELLER USING 1 OF THE FOLLOWING METHODS OF PAYMENT
14 IN A PURCHASE TRANSACTION AND SHALL NOT PAY THE SELLER IN CASH OR
15 USING ANY OTHER METHOD OF PAYMENT:

16 (i) A CHECK OR MONEY ORDER. A SCRAP METAL DEALER SHALL MAKE AND
17 RETAIN A PHOTOGRAPH OR DIGITAL OR ELECTRONIC IMAGE OF THE DELIVERY
18 OF THE CHECK OR MONEY ORDER TO THE SELLER OR INDIVIDUAL ACTING ON
19 BEHALF OF THE SELLER IN THE PURCHASE TRANSACTION THAT INCLUDES THE
20 FACE OF THAT SELLER OR INDIVIDUAL.

21 (ii) AN ELECTRONIC PAYMENT CARD OR ENCRYPTED RECEIPT THAT MAY
22 ONLY BE CONVERTED TO CASH IN AN AUTOMATED TELLER MACHINE THAT IS
23 LOCATED ON THE SCRAP METAL DEALER'S PREMISES; IS USED FOR THE SOLE
24 PURPOSE OF DISPENSING CASH IN CONNECTION WITH PURCHASE
25 TRANSACTIONS; AND PROVIDES A DIGITAL OR ELECTRONIC IMAGE OF THE
26 DISPENSING OF THE CASH TO THE SELLER OR INDIVIDUAL ACTING ON BEHALF
27 OF THE SELLER IN THE PURCHASE TRANSACTION THAT INCLUDES THE FACE OF

1 THAT SELLER OR INDIVIDUAL. FOR PURPOSES OF THIS SECTION AND SECTION
2 6, PAYMENT USING AN ELECTRONIC PAYMENT CARD OR ENCRYPTED RECEIPT
3 DESCRIBED IN THIS SUBPARAGRAPH IS NOT CONSIDERED A PAYMENT IN CASH.

4 (B) ALL OF THE FOLLOWING APPLY IN A PURCHASE TRANSACTION WITH
5 AN INDUSTRIAL OR COMMERCIAL CUSTOMER:

6 (i) THE SCRAP METAL DEALER MAY PAY USING ANY OF THE FOLLOWING
7 METHODS OF PAYMENT, AS AGREED TO BY THE SCRAP METAL DEALER AND THE
8 INDUSTRIAL OR COMMERCIAL CUSTOMER, AND EXCEPT AS PROVIDED IN
9 SUBDIVISION (C), SHALL NOT PAY THE SELLER IN CASH OR USING ANY
10 OTHER METHOD OF PAYMENT:

11 (A) BY CHECK, MONEY ORDER, OR PAYMENT CARD OR RECEIPT
12 DESCRIBED IN SUBDIVISION (A) (ii). IF A PAYMENT DESCRIBED IN THIS
13 SUB-SUBPARAGRAPH IS MAILED TO THE INDUSTRIAL OR COMMERCIAL
14 CUSTOMER, THE SCRAP METAL DEALER MAY MAIL THAT PAYMENT TO THE
15 STREET ADDRESS OR POST OFFICE BOX OF THE INDUSTRIAL OR COMMERCIAL
16 CUSTOMER OR TO ANOTHER PERSON OR POST OFFICE BOX AS DIRECTED BY THE
17 INDUSTRIAL OR COMMERCIAL CUSTOMER.

18 (B) BY BANK WIRE TRANSFER OR OTHER ELECTRONIC DELIVERY TO AN
19 ACCOUNT OF THE INDUSTRIAL OR COMMERCIAL CUSTOMER.

20 (ii) THE PAYMENT REQUIREMENTS DESCRIBED IN SECTION 6(1) DO NOT
21 APPLY TO THE PURCHASE OF ANY OF THE ITEMS DESCRIBED IN SECTION
22 6(1) (A) TO (C) BY AN INDUSTRIAL OR COMMERCIAL CUSTOMER.

23 (C) A SCRAP METAL DEALER MAY ACCEPT BARTER OR A TRADE OR
24 EXCHANGE OF SCRAP METAL OR OTHER PROPERTY IN A PURCHASE TRANSACTION
25 AS ALL OR PART OF THE CONSIDERATION FOR THAT TRANSACTION.

26 (D) A SCRAP METAL DEALER IN A PURCHASE TRANSACTION SHALL
27 EXAMINE THE IDENTIFICATION PRESENTED UNDER SUBSECTION (2) (A) BY THE

1 SELLER OR INDIVIDUAL ACTING ON BEHALF OF THE SELLER, AND IF THE
2 IDENTIFICATION PRESENTED DISPLAYS THE DATE OF BIRTH OF THE
3 INDIVIDUAL, CONFIRM THAT THE INDIVIDUAL IS AT LEAST 16 YEARS OLD
4 BASED ON THAT DATE OF BIRTH.

5 (E) A SCRAP METAL DEALER SHALL ENSURE THAT IT TRAINS EACH
6 SCALE OPERATOR, PURCHASER, AND SUPERVISOR EMPLOYED BY THE DEALER
7 CONCERNING THE LEGAL REQUIREMENTS OF THIS ACT AND THE
8 RESPONSIBILITIES OF THE SCRAP METAL DEALER UNDER THIS ACT.

9 (2) ~~A seller shall do all of the following.~~ IN A PURCHASE
10 TRANSACTION, ALL OF THE FOLLOWING APPLY TO A SELLER, IF THE SELLER
11 IS AN INDIVIDUAL, OR TO AN INDIVIDUAL ACTING AS AN AGENT OR
12 REPRESENTATIVE OF A SELLER:

13 (a) ~~Present to the dealer an~~ HE OR SHE MUST PRESENT HIS OR HER
14 operator's or chauffeur's license, military identification card,
15 Michigan identification card, passport, or other government-issued
16 identification containing a ~~HIS OR HER~~ photograph TO THE SCRAP
17 METAL DEALER and allow the SCRAP METAL dealer to make a photocopy
18 or electronic copy of the identification.

19 (b) ~~Allow~~ HE OR SHE MUST ALLOW the SCRAP METAL dealer to make
20 a ~~TAKE HIS OR HER~~ thumbprint, to be used only for identification
21 purposes by the SCRAP METAL dealer and for investigation purposes
22 by a law enforcement agency.

23 (c) ~~Execute~~ HE OR SHE MUST PROVIDE THE SCRAP METAL DEALER WITH
24 a signed statement ~~indicating that the seller~~ CERTIFIES THAT HE OR
25 SHE is the owner of, or is otherwise authorized to sell, the
26 ~~nonferrous SCRAP metal offered for purchase to the~~ SCRAP METAL
27 dealer AND IS AT LEAST 16 YEARS OLD.

SEC. 6. (1) [IN] A PURCHASE TRANSACTION OF ANY OF THE FOLLOWING ITEMS, THE ONLY METHODS OF PAYMENT A SCRAP METAL DEALER MAY USE TO PAY A SELLER ARE A DIRECT DEPOSIT OR ELECTRONIC TRANSFER TO THE SELLER'S ACCOUNT AT A FINANCIAL INSTITUTION; SUBJECT TO SUBSECTION (5), PAYMENT WITH A CHECK OR MONEY ORDER DESCRIBED IN SECTION 5(1)(A)(i); OR, SUBJECT TO SUBSECTION (5), PAYMENT WITH AN ELECTRONIC PAYMENT CARD OR ENCRYPTED RECEIPT DESCRIBED IN SECTION 5(1)(A)(ii):

(B) AIR CONDITIONERS, AIR CONDITIONER EVAPORATOR COILS OR CONDENSERS, OR PARTS OF AIR CONDITIONER EVAPORATOR COILS AND CONDENSERS.

(2) REPRESENTATIVES OF A GROUP OF COMPANIES IN THE SCRAP METAL INDUSTRY, AT THEIR EXPENSE, MAY IN CONSULTATION WITH THE DEPARTMENT

1 OF STATE POLICE DEVELOP OR CONTRACT FOR THE DEVELOPMENT OF, AND IF
2 SELECTED BY THE DEPARTMENT OF STATE POLICE UNDER SUBSECTION (3) MAY
3 IMPLEMENT, OPERATE, AND MAINTAIN, AN ELECTRONIC DATABASE THAT MEETS
4 ALL OF THE FOLLOWING:

5 (A) IS AVAILABLE TO ALL SCRAP METAL DEALERS IN THIS STATE.

6 (B) IS WEB-BASED.

7 (C) HAS THE CAPABILITY TO CONDUCT STATEWIDE REAL-TIME SEARCHES
8 BY ITEM DESCRIPTION OR SELLER.

9 (D) IS ACCESSIBLE TO LAW ENFORCEMENT AGENCIES THROUGH A
10 PASSWORD SUPPORTED, INTERNET-BASED PLATFORM.

11 (E) ALLOWS A SCRAP METAL DEALER TO REPORT ALL OF THE FOLLOWING
12 INFORMATION CONCERNING THE PURCHASE OF 1 OR MORE OF THE ITEMS
13 DESCRIBED IN SUBSECTION (1) (A) TO (C) BY NOON OF THE NEXT BUSINESS
14 DAY AFTER THE PURCHASE TRANSACTION OF THE ITEM OR ITEMS:

15 (i) NAME AND ADDRESS OF THE SCRAP METAL DEALER AND SELLER.

16 (ii) DATE AND TIME OF THE PURCHASE TRANSACTION.

17 (iii) A DESCRIPTION OF THE ITEM OR ITEMS PURCHASED.

18 (iv) THE WEIGHT OR VOLUME OF THE ITEM OR ITEMS PURCHASED.

19 (F) ALLOWS A LAW ENFORCEMENT AGENCY TO FLAG THE NAME OF ANY
20 SELLER THAT APPEARS IN THE DATABASE AND WHO IS AN INDIVIDUAL WHO
21 HAS BEEN CONVICTED OF A CRIME INVOLVING THE THEFT, CONVERSION, OR
22 SALE OF SCRAP METAL; AND, IF A LAW ENFORCEMENT AGENCY HAS FLAGGED
23 THE NAME OF THAT CONVICTED SELLER, TO NOTIFY THE LAW ENFORCEMENT
24 AGENCY IF HE OR SHE IS THE SELLER IN SUBSEQUENT PURCHASE
25 TRANSACTIONS AND PROVIDE THE AGENCY ALL OF THE INFORMATION ABOUT
26 THAT CONVICTED SELLER AND HIS OR HER PURCHASE TRANSACTIONS THAT
27 SCRAP METAL DEALERS HAVE REPORTED TO THE DATABASE.

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1 (3) IF 1 OR MORE ELECTRONIC DATABASES ARE DEVELOPED UNDER
2 SUBSECTION (2), THE DEPARTMENT OF STATE POLICE SHALL DETERMINE, AND
3 SHALL NOTIFY EACH GROUP OF COMPANIES IN THE SCRAP METAL INDUSTRY
4 THAT DEVELOPED A DATABASE OR CONTRACTED FOR ITS DEVELOPMENT,
5 WHETHER THE FEATURES OF THE ELECTRONIC DATABASE MEET THE
6 REQUIREMENTS OF SUBSECTION (2) (A) TO (F); AND SHALL SELECT A SINGLE
7 SHARED ELECTRONIC DATABASE THAT MEETS THE REQUIREMENTS OF
8 SUBSECTION (2) (A) TO (F) FOR IMPLEMENTATION AND OPERATION IN THIS
9 STATE FOR PURPOSES OF SUBSECTION (4). A PERSON THAT OBJECTS TO A
10 DETERMINATION OR SELECTION BY THE DEPARTMENT OF STATE POLICE UNDER
11 THIS SUBSECTION MAY FILE A PETITION WITH THE DEPARTMENT THAT
12 DESCRIBES THE BASIS OF THE PERSON'S OBJECTION. IF A PERSON FILES A
13 PETITION UNDER THIS SUBSECTION, THE DEPARTMENT OF STATE POLICE
14 SHALL PROVIDE THAT PERSON AN OPPORTUNITY FOR AN ADMINISTRATIVE
15 HEARING. THE HEARING SHALL BE CONDUCTED AS A CONTESTED CASE UNDER
16 THE ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201
17 TO 24.328.

18 (4) IF A SINGLE SHARED ELECTRONIC DATABASE SELECTED BY THE
19 DEPARTMENT OF STATE POLICE IS IMPLEMENTED UNDER SUBSECTION (3),
20 BEGINNING NOT LATER THAN 30 DAYS AFTER THE DATABASE IS IMPLEMENTED
21 AND IN OPERATION, AS DETERMINED BY THE DEPARTMENT OF STATE POLICE, [AND
22 AFTER THE DEPARTMENT OF STATE POLICE PUBLISHES NOTICE THAT THE DATABASE
23 IS IMPLEMENTED AND IN OPERATION,]

24 A SCRAP METAL DEALER SHALL DO ALL OF THE FOLLOWING:

25 (A) REGISTER OR SUBSCRIBE TO THE DATABASE AND PAY A REASONABLE
26 FEE FOR THAT REGISTRATION OR SUBSCRIPTION.

27 (B) BY NOON OF THE NEXT BUSINESS DAY AFTER A PURCHASE
28 TRANSACTION OF 1 OR MORE ITEMS DESCRIBED IN SUBSECTION (1) (A) TO
29 (C) OCCURS, ELECTRONICALLY REPORT THE PURCHASE OF THE ITEM OR ITEMS

1 TO THE DATABASE. THE REPORT DESCRIBED IN THIS SUBDIVISION SHALL
 2 INCLUDE ALL OF THE INFORMATION DESCRIBED IN SUBSECTION (2) (E). A
 3 SCRAP METAL DEALER IS NOT REQUIRED TO REPORT THE CONSIDERATION PAID
 4 FOR THE ITEM OR ITEMS OR OTHER PRICING INFORMATION FOR INCLUSION IN
 5 THE DATABASE.

6 (5) IF THE PURCHASE PRICE IN A PURCHASE TRANSACTION DESCRIBED
 7 IN SUBSECTION (1) IS \$25.00 OR MORE, OR IF THE PURCHASE PRICE FOR
 8 ALL OF A SELLER'S PURCHASE TRANSACTIONS IN A BUSINESS DAY IS \$25.00
 9 OR MORE, THE SCRAP METAL DEALER MUST PAY THE SELLER BY MAILING 1 OF
 10 THE FOLLOWING ITEMS TO THE SELLER AT THE ADDRESS SHOWN ON THE
 11 IDENTIFICATION CARD PRESENTED UNDER SECTION 5(2) (A), AND SHALL NOT
 12 DELIVER THAT PAYMENT IN PERSON OR USING ANY OTHER FORM OF DELIVERY:

13 (A) A CHECK OR MONEY ORDER DESCRIBED IN SECTION 5(1) (A) (i) .

14 (B) AN ELECTRONIC PAYMENT CARD OR ENCRYPTED RECEIPT DESCRIBED
 15 IN SECTION 5(1) (A) (ii) .

16 (C) A NONTRANSFERABLE RECEIPT THAT THE SELLER MAY REDEEM AT
 17 THE SCRAP DEALER'S PREMISES FOR 1 OF THE ITEMS DESCRIBED IN
 18 SUBDIVISION (A) OR (B) .

19 Sec. 7. (1) ~~Except~~ SUBJECT TO SUBSECTION (4), AND EXCEPT as
 20 otherwise provided in this subsection, SECTION, a SCRAP METAL
 21 dealer shall ~~produce~~ PREPARE and maintain an A SEPARATE, accurate,
 22 and legible record of each purchase transaction. The dealer shall
 23 maintain the records ~~produced under~~ DESCRIBED IN this section for
 24 at least 1 year; ~~THE DEALER~~ shall keep the records in a location
 25 that is readily accessible to a local, state, or federal law
 26 enforcement agency, OR TO RAILROAD POLICE IN INVESTIGATION OF
 27 STOLEN RAILROAD PROPERTY, for inspection during normal business

1 hours; ~~and~~ **THE DEALER** shall make the records, or copies of those
2 records, available **ON REQUEST** to any local, state, or federal law
3 enforcement agency. ~~upon reasonable suspicion of violation of this~~
4 ~~act.~~

5 (2) The record of a purchase transaction ~~regarding nonferrous~~
6 ~~metal shall contain~~ **DESCRIBED IN SUBSECTION (1) MUST INCLUDE** all of
7 the following:

8 (A) **THE NAME AND ADDRESS OF THE SELLER AND THE NAME AND**
9 **ADDRESS OF THE INDIVIDUAL WHO IS DELIVERING THE SCRAP METAL IF HE**
10 **OR SHE IS NOT THE SELLER. IF AN INDIVIDUAL IS A SELLER OR**
11 **REPRESENTATIVE OF A SELLER IN MORE THAN 1 PURCHASE TRANSACTION, THE**
12 **SCRAP METAL DEALER MAY RETAIN A COPY OF THE INDIVIDUAL'S**
13 **INFORMATION OR DOCUMENT DESCRIBED IN THIS SUBDIVISION IN A SEPARATE**
14 **FILE AND USE THAT INFORMATION IN FUTURE PURCHASE TRANSACTIONS.**

15 (B) ~~(a) The name, address, and identifying number from the~~
16 ~~seller's operator's or chauffeur's license, military identification~~
17 ~~card, Michigan identification card, passport, or other government~~
18 ~~issued identification containing a photograph. PRESENTED UNDER~~
19 **SECTION 5(2) (A).** A legible scan or photocopy of the identification
20 ~~is considered satisfactory in fulfilling~~ **MEETS** the requirement of
21 this subdivision. ~~In the case of a repeat seller, a copy of the~~
22 ~~information may be kept on file with the dealer and be used for~~ **IF**
23 **AN INDIVIDUAL IS A SELLER OR REPRESENTATIVE OF A SELLER IN MORE**
24 **THAN 1 PURCHASE TRANSACTION, THE SCRAP METAL DEALER MAY RETAIN A**
25 **COPY OF THE INFORMATION OR DOCUMENT DESCRIBED IN THIS SUBDIVISION**
26 **IN A SEPARATE FILE AND USE THAT INFORMATION IN** future **PURCHASE**
27 transactions.

1 (C) ~~(b) The~~ **IF THE SCRAP METAL IS DELIVERED BY LICENSED**
2 **VEHICLE, THE** license plate number of the vehicle. ~~delivering the~~
3 ~~nonferrous metal.~~

4 (D) ~~(e) The~~ date and time of the **PURCHASE** transaction.

5 (E) ~~(d) A~~ description of the predominant types of **SCRAP** metal
6 ~~purchases, PURCHASED,~~ made in accordance with the custom of the
7 trade.

8 (F) ~~(e) The~~ weight, quantity, or volume of metal, ~~made THE~~
9 **SCRAP METAL PURCHASED, DESCRIBED AND CALCULATED** in accordance with
10 the custom of the trade; **THE NAME OF THE SCALE OPERATOR WHO WEIGHS**
11 **AND INSPECTS THAT PROPERTY; AND THE NAME OF THE EMPLOYEE OF THE**
12 **SCRAP METAL DEALER WHO PURCHASED OR AUTHORIZED THE PURCHASE OF THE**
13 **SCRAP METAL ON THE DEALER'S BEHALF IF THE PURCHASER WAS NOT THE**
14 **SCALE OPERATOR.**

15 (G) A PHOTOGRAPH OR DIGITAL, ELECTRONIC, OR VIDEO IMAGE OF THE
16 **SCRAP METAL PURCHASED. A PHOTOGRAPH OR DIGITAL, ELECTRONIC, OR**
17 **VIDEO IMAGE THAT MEETS 1 OF THE FOLLOWING IS SUFFICIENT FOR**
18 **PURPOSES OF THIS SUBDIVISION EVEN IF EACH ITEM OF SCRAP METAL IS**
19 **NOT SHOWN IN THE IMAGE:**

20 (i) **IF THE SCRAP METAL AND THE VEHICLE IN WHICH IT IS DELIVERED**
21 **ARE WEIGHED, AN OVERHEAD PHOTOGRAPH OR IMAGE OF THE VEHICLE AND THE**
22 **SCRAP METAL IN THE VEHICLE ON THE SCALE.**

23 (ii) **IF ONLY THE SCRAP METAL IS WEIGHED, A PHOTOGRAPH OR IMAGE**
24 **OF THE SCRAP METAL ON THE SCALE.**

25 (H) ~~(f) The~~ consideration paid and the method of payment.

26 (I) ~~(g) A THE~~ signed statement ~~from the seller that the seller~~
27 ~~is the owner of the metal or is otherwise authorized to sell the~~

1 ~~metal subject to the transaction.~~ DESCRIBED IN SECTION 5(2)(C).

2 (J) ~~(h) A~~ LEGIBLE thumbprint ~~of the seller.~~ DESCRIBED IN
3 SECTION 5(2)(B).

4 (K) A DIGITAL PHOTOGRAPH OF THE SELLER, OR THE INDIVIDUAL WHO
5 IS DELIVERING THE SCRAP METAL IF HE OR SHE IS NOT THE SELLER, THAT
6 INCLUDES HIS OR HER FACE AND IS TAKEN AT THE TIME THE SCRAP METAL
7 IS DELIVERED TO THE SCRAP METAL DEALER.

8 (3) ~~In the case of a seller that is~~ A SCRAP METAL DEALER IS
9 NOT REQUIRED TO OBTAIN THE INFORMATION DESCRIBED IN SUBSECTION (2)
10 FOR A PURCHASE TRANSACTION WITH an industrial or commercial account
11 ~~where payment is made by a method capable of being traced from the~~
12 ~~dealer to the seller and payment is made~~ CUSTOMER THAT MEETS ALL OF
13 THE FOLLOWING:

14 (A) PAYMENT IS MADE directly to the business, ~~the dealer is~~
15 ~~not required to produce the record described in subsection (2) so~~
16 ~~long as the~~ INDUSTRIAL OR COMMERCIAL CUSTOMER.

17 (B) THE personal and business identifying information of the
18 industrial or commercial account ~~seller~~ CUSTOMER is on file with
19 the SCRAP METAL dealer and conforms to a written description of the
20 type of ~~nonferrous~~ SCRAP metal ~~or articles~~ customarily purchased by
21 the SCRAP METAL dealer from that ~~seller, and the information~~
22 CUSTOMER.

23 (C) THE INFORMATION ON FILE WITH THE SCRAP METAL DEALER UNDER
24 SUBDIVISION (B) is periodically reviewed at least every 2 years and
25 validated as current or updated by the SCRAP METAL dealer.

26 (4) A SCRAP METAL DEALER MAY UTILIZE AN ELECTRONIC RECORD-
27 KEEPING SYSTEM FOR PURPOSES OF SUBSECTION (1) IF THAT SYSTEM ALLOWS

1 FOR IMMEDIATE ACCESS TO EACH SELLER'S PURCHASE TRANSACTION
2 ACTIVITIES, DOCUMENTS, AND IMAGES, INCLUDING, BUT NOT LIMITED TO,
3 ELECTRONIC COPIES OF THE RECORDS DESCRIBED IN SUBSECTION (2) OR
4 (3), THE PAYMENT INFORMATION CONTAINED IN THE CARD OR RECEIPT, AND
5 THE IMAGE DESCRIBED IN SECTION 5(1)(A)(i) OR (ii).

6 SEC. 10. A PERSON SHALL NOT KNOWINGLY SELL OR ATTEMPT TO SELL
7 TO A SCRAP METAL DEALER, AND A SCRAP METAL DEALER SHALL NOT
8 KNOWINGLY PURCHASE OR OFFER TO PURCHASE, ANY OF THE FOLLOWING TYPES
9 OF PROPERTY:

10 (A) PUBLIC FIXTURES. THIS SUBDIVISION DOES NOT APPLY IF THE
11 SELLER IS A GOVERNMENTAL UNIT OR THE SELLER HAS WRITTEN
12 AUTHORIZATION FROM THE GOVERNMENTAL UNIT THAT OWNED THE PROPERTY TO
13 SELL THE PROPERTY.

14 (B) METAL ARTICLES OR MATERIALS THAT ARE CLEARLY MARKED AS
15 PROPERTY BELONGING TO A PERSON OTHER THAN THE SELLER. THIS
16 SUBDIVISION DOES NOT APPLY IF THE SELLER HAS AUTHORIZATION FROM
17 THAT PERSON TO SELL THE PROPERTY.

18 (C) A COMMEMORATIVE, DECORATIVE, OR OTHER CEMETERY-RELATED OR
19 APPARENTLY CEREMONIAL ARTICLE. THIS SUBDIVISION DOES NOT APPLY IF
20 THE SELLER IS THE OWNER OF THE ARTICLE; IF THE SELLER IS AUTHORIZED
21 BY THE OWNER OF THE ARTICLE TO SELL THE ARTICLE; OR IF THE SELLER
22 OF A CEMETERY-RELATED ARTICLE IS THE CEMETERY IN WHICH THE ARTICLE
23 WAS LOCATED.

24 (D) METAL ARTICLES OR MATERIALS REMOVED FROM PROPERTY OWNED BY
25 A RAILROAD COMPANY OR FROM A RAILROAD RIGHT-OF-WAY. THIS
26 SUBDIVISION DOES NOT APPLY IF THE SELLER IS THE OWNER OF THE METAL
27 ARTICLES OR MATERIALS; IS THE MANUFACTURER OF THE METAL ARTICLES OR

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1 MATERIALS; IS A CONTRACTOR ENGAGED IN THE BUSINESS OF REPAIRING
2 RAILROAD EQUIPMENT; OR IS A PERSON THAT HAS WRITTEN AUTHORIZATION
3 FROM THAT OWNER, MANUFACTURER, OR CONTRACTOR TO SELL THOSE METAL
4 ARTICLES OR MATERIALS.

[(E) A SILVER ALLOY TELECOMMUNICATION BATTERY WITH A THREADED
INSERT TERMINAL CONNECTION. THIS SUBDIVISION DOES NOT APPLY TO A BATTERY
USED IN AUTO OR MOBILE EQUIPMENT. THIS SUBDIVISION DOES NOT APPLY IF THE
SELLER IS A PROVIDER OF TELECOMMUNICATION SERVICE OR IF THE SELLER HAS
WRITTEN AUTHORIZATION FROM THE PROVIDER OF TELECOMMUNICATION SERVICE THAT
OWNED THE PROPERTY TO SELL THE PROPERTY.]

5 Sec. 11. (1) A **SCRAP METAL** dealer shall register with or
6 subscribe to, ~~and~~ maintain that registration or subscription with,
7 **AND USE IN THE CONDUCT OF ITS BUSINESS**, an internet-based database
8 available to **SCRAP METAL** dealers, law enforcement agencies, and the
9 general public that lists and tracks, at a minimum, thefts of
10 ~~nonferrous-**SCRAP** metal. and articles containing nonferrous metals.~~
11 The database may be reasonably limited in terms of time and
12 geographical area.

13 (2) The existing database established by the institute of
14 scrap recycling industries, inc., referred to as the ISRI theft
15 alert system, is considered an appropriate internet-based database.
16 A **SCRAP METAL** dealer may register with or subscribe to any other
17 database that provides substantially the same services as ~~the~~ A
18 database described in subsection (1).

19 (3) A **SCRAP METAL DEALER SHALL ENSURE THAT IT MAKES AVAILABLE**
20 **TO EACH OF ITS EMPLOYEES ENGAGED IN PURCHASING OR WEIGHING SCRAP**
21 **METAL SOLD OR OFFERED FOR SALE TO THE SCRAP METAL DEALER EACH THEFT**
22 **ALERT, OR SIMILAR NOTICE THAT A SCRAP METAL THEFT HAS OCCURRED,**
23 **THAT THE SCRAP METAL DEALER RECEIVES FROM THE DATABASE SERVICE**
24 **DESCRIBED IN THIS SECTION, AND THAT THOSE EMPLOYEES REVIEW ANY**
25 **RECENT ALERTS OR SIMILAR NOTICES THAT THEY HAVE NOT PREVIOUSLY**
26 **REVIEWED ON A DAILY BASIS.**

27 Sec. 13. (1) ~~A person who violates section 7(1) or section 9~~
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~~1 knowing or having reason to know that he or she is violating these~~
~~2 sections~~ IF A PERSON VIOLATES SECTION 7, OR SECTION 9, AND KNOWS OR
3 SHOULD HAVE KNOWN THAT THE PERSON HAS VIOLATED THAT SECTION, THE
4 PERSON is guilty of a misdemeanor punishable by a fine of not more
5 than \$500.00 or imprisonment for not more than 93 days, or both. IF
6 A VIOLATION OF SECTION 7 IS THE RESULT OF A MALFUNCTION OF AN
7 ELECTRONIC RECORD-KEEPING SYSTEM DESCRIBED IN SECTION 7(4), IT IS
8 AN AFFIRMATIVE DEFENSE IN AN ACTION AGAINST THE SCRAP METAL DEALER
9 THAT UTILIZES THAT SYSTEM THAT THE DEALER DILIGENTLY PURSUED REPAIR
10 OF THE ELECTRONIC RECORD-KEEPING SYSTEM AFTER THE MALFUNCTION
11 OCCURRED, AND IMPLEMENTED AND MAINTAINED A MANUAL RECORD-KEEPING
12 SYSTEM FOR PURCHASE TRANSACTIONS THAT OCCURRED WHILE THE ELECTRONIC
13 RECORD-KEEPING SYSTEM WAS MALFUNCTIONING.

14 (2) ~~A person who buys or sells nonferrous metal articles~~
15 ~~knowing or having reason to know that they are stolen~~ IN CONNECTION
16 WITH A PURCHASE TRANSACTION, EACH OF THE FOLLOWING is guilty of a
17 felony punishable by imprisonment for not more than 5 years or a
18 fine of not more than \$5,000.00, or both, for a first offense and
19 is guilty of a felony punishable by imprisonment for not more than
20 5 years or a fine of not more than \$10,000.00, or both, for a
21 second or subsequent offense: -

22 (A) A SCRAP METAL DEALER THAT PURCHASES SCRAP METAL OR AN ITEM
23 OF PROPERTY DESCRIBED IN SECTION 10 AND KNEW OR SHOULD HAVE KNOWN
24 THAT IT WAS STOLEN.

25 (B) A PERSON THAT SELLS SCRAP METAL OR AN ITEM OF PROPERTY
26 DESCRIBED IN SECTION 10 TO A SCRAP METAL DEALER AND KNEW OR SHOULD
27 HAVE KNOWN THAT IT WAS STOLEN.

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1 (3) BY [JULY] 1, 2016, THE DEPARTMENT OF STATE POLICE SHALL
2 PROVIDE A WRITTEN REPORT TO THE GOVERNOR, THE SPEAKER OF THE HOUSE
3 OF REPRESENTATIVES, AND THE SENATE MAJORITY LEADER CONCERNING THAT
4 DEPARTMENT'S ASSESSMENT OF THE EFFECTIVENESS OF THIS ACT IN
5 REDUCING SCRAP METAL THEFT AND ASSISTING IN THE INVESTIGATION AND
6 PROSECUTION OF SCRAP METAL THEFT. THE REPORT SHALL ALSO INCLUDE ANY
7 RECOMMENDATIONS THE DEPARTMENT OF STATE POLICE MAY HAVE FOR FURTHER
8 LEGISLATIVE ACTION.

9 Sec. 15. (1) ~~A-EXCEPT AS PROVIDED IN SUBSECTION (2), A person~~
10 ~~violating-THAT VIOLATES~~ this act knowing or having reason to know
11 that ~~he or she~~ THE PERSON is violating this act is responsible for
12 a state civil infraction and may be ordered to pay a civil fine of
13 not more than \$5,000.00.

14 (2) A SCRAP METAL DEALER THAT KNOWINGLY VIOLATES SECTION 6(4)
15 IS RESPONSIBLE FOR A STATE CIVIL INFRACTION AND SHALL PAY A CIVIL
16 FINE OF \$500.00 FOR THE FIRST VIOLATION, \$1,000.00 FOR A SECOND
17 VIOLATION, AND \$5,000.00 FOR A THIRD OR SUBSEQUENT VIOLATION.

18 Sec. 17. (1) A person may bring a private cause of action
19 AGAINST A SELLER OR A SCRAP METAL DEALER, in a court of competent
20 jurisdiction, for monetary damages suffered from violation of this
21 act. ~~by a seller or a dealer, or both.~~

22 (2) ~~The~~ IF THE COURT IN AN ACTION DESCRIBED IN SUBSECTION (1)
23 FINDS THAT THE VIOLATION INCLUDED THE PURCHASE OR SALE OF STOLEN
24 PROPERTY AND FINDS THAT THE PURCHASER IN AN ACTION AGAINST THE
25 PURCHASER, OR THE SELLER IN AN ACTION AGAINST THE SELLER, KNEW OR
26 SHOULD HAVE KNOWN THAT THE PROPERTY WAS STOLEN, THE court shall
27 award treble damages for the value of the ~~nonferrous metal article~~

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1 **PROPERTY** stolen. ~~The court may award costs regarding any aspect of~~
2 ~~an action brought under subsection (1).~~ As used in this subsection,
3 "value of the ~~nonferrous metal article~~ **PROPERTY** stolen" means the
4 greatest of the following:

5 (a) The replacement cost of the stolen ~~article~~. **PROPERTY.**

6 (b) The cost of repairing the damage caused by the larceny of
7 ~~that article~~. **THE PROPERTY.**

8 (c) The total of subdivisions (a) and (b).

9 (3) **THE COURT MAY AWARD COSTS AND REASONABLE ATTORNEY FEES IN**
10 **AN ACTION BROUGHT UNDER SUBSECTION (1).**

[Enacting section 1. This amendatory act takes effect July 1,
2014.]

11 Enacting section [2]. This amendatory act does not take effect
12 unless House Bill No. 4595 of the 97th Legislature is enacted into
13 law.