

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, and 17 (MCL
445.421, 445.423, 445.425, 445.427, 445.431, 445.433, and 445.437)
and by adding section 10; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to regulate the purchase and sale of ~~certain nonferrous~~
3 ~~metals; to provide for disclosures by certain persons regarding~~
4 ~~certain transactions; to require the creation of records for~~
5 ~~certain purposes and for the use of certain databases by certain~~
6 ~~persons;~~ SCRAP METAL AND OTHER ITEMS THAT CONTAIN FERROUS OR
7 NONFERROUS METAL TO SCRAP METAL DEALERS; TO REQUIRE SELLERS TO

1 PROVIDE AND SCRAP METAL DEALERS TO OBTAIN CERTAIN INFORMATION AT
2 THE TIME OF A PURCHASE TRANSACTION; TO REQUIRE THAT SCRAP METAL
3 DEALERS IMPLEMENT AND MAINTAIN RECORDS OF THEIR PURCHASE
4 TRANSACTIONS AND TO MAKE THOSE RECORDS AVAILABLE FOR LAW
5 ENFORCEMENT PURPOSES; and to provide for penalties and remedies.

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

8 Sec. 3. As used in this act:

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

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

House Bill No. 4593 (H-2) as amended October 24, 2013
as amended October 31, 2013

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

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

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

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

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

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

House Bill No. 4593 (H-2) as amended October 24, 2013

association, or other legal entity.

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

(H) "PURCHASE TRANSACTION" MEANS A PURCHASE OF SCRAP METAL[, OR THE PURCHASE OF PROPERTY DESCRIBED IN SECTION 10(A) TO (D) IF THE KNOWING PURCHASE OR OFFER TO PURCHASE THAT PROPERTY IS NOT PROHIBITED BY THAT SECTION,] BY

A SCRAP METAL DEALER. THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

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

(ii) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED, OR SALVAGE VEHICLES, VEHICLE PARTS, OR VEHICLE SCRAP BY A VEHICLE SCRAP METAL PROCESSOR, VEHICLE SALVAGE POOL OPERATOR, OR FOREIGN SALVAGE VEHICLE DEALER THAT IS LICENSED AS A DEALER UNDER SECTION 248 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, AND IS

House Bill No. 4593 (H-2) as amended October 24, 2013

1 ACTING WITHIN THE SCOPE OF THAT DEALER'S LICENSE.

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

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

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

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

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

22 (K) "SCRAP METAL" MEANS FERROUS OR NONFERROUS METAL, OR ITEMS
23 THAT CONTAIN FERROUS OR NONFERROUS METAL, THAT ARE SOLD OR OFFERED
24 FOR SALE FOR THE VALUE OF THE FERROUS OR NONFERROUS METAL THEY
25 CONTAIN RATHER THAN THEIR ORIGINAL INTENDED USE; FERROUS OR
26 NONFERROUS METAL REMOVED FROM OR OBTAINED BY CUTTING, DEMOLISHING,
27 OR DISASSEMBLING A BUILDING, STRUCTURE, OR MANUFACTURED ITEM; OR
OTHER METAL THAT CANNOT BE USED FOR ITS ORIGINAL INTENDED PURPOSE

1 BUT CAN BE PROCESSED FOR REUSE IN A MILL, FOUNDRY, DIE CASTER, OR
 2 OTHER MANUFACTURING FACILITY.

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

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

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

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

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

22 ~~—— (a) Produce and maintain records as required under section~~
 23 ~~7(2).~~

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

26 ~~—— (c) Tag and hold any nonferrous metal as provided for in~~
 27 ~~section 9.~~

~~1 (d) Pay a seller by a method capable of being traced from the~~
~~2 dealer to the seller. Payment by cash or currency of more than~~
~~3 \$50.00, barter, or trade is not considered a payment that complies~~
~~4 with the requirement of this subdivision. Payment of cash in any~~
~~5 amount in a transaction involving predominantly copper articles is~~
~~6 considered a violation of this subdivision.~~

~~7 (e) In the case of a transaction involving nonferrous metal,~~
~~8 verify that the seller is at least 16 years of age.~~

9 (A) UNLESS SUBDIVISION (B) APPLIES, AND EXCEPT AS PROVIDED IN
10 SUBDIVISION (C), BEGINNING 120 DAYS AFTER THE EFFECTIVE DATE OF THE
11 AMENDATORY ACT THAT ADDED THIS SUBDIVISION, A SCRAP METAL DEALER
12 SHALL ONLY PAY A SELLER WITH 1 OF THE FOLLOWING IN A PURCHASE
13 TRANSACTION:

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

18 (ii) AN ELECTRONIC PAYMENT CARD OR ENCRYPTED RECEIPT THAT MAY
19 ONLY BE CONVERTED TO CASH IN AN AUTOMATED TELLER MACHINE THAT IS
20 LOCATED ON THE SCRAP METAL DEALER'S PREMISES; IS USED FOR THE SOLE
21 PURPOSE OF DISPENSING CASH IN CONNECTION WITH PURCHASE
22 TRANSACTIONS; AND PROVIDES A DIGITAL OR ELECTRONIC IMAGE OF THE
23 DISPENSING OF THE CASH TO THE SELLER.

24 (B) EXCEPT AS PROVIDED IN SUBDIVISION (C), IN A PURCHASE
25 TRANSACTION OF ANY OF THE FOLLOWING ITEMS, A SCRAP METAL DEALER
26 SHALL NOT PAY THE SELLER UNTIL 3 BUSINESS DAYS AFTER THE DATE OF
27 THE TRANSACTION, AND SHALL PAY THE SELLER AFTER THAT PERIOD BY

1 MAKING A DIRECT DEPOSIT OR ELECTRONIC TRANSFER TO THE SELLER'S
2 ACCOUNT AT A FINANCIAL INSTITUTION; BY MAILING A CHECK, MONEY
3 ORDER, PAYMENT CARD, OR RECEIPT DESCRIBED IN SUBDIVISION (A) TO THE
4 SELLER, AT THE ADDRESS SHOWN ON THE IDENTIFICATION PRESENTED UNDER
5 SUBSECTION (2) (A); OR BY DELIVERING A CHECK, MONEY ORDER, PAYMENT
6 CARD, OR RECEIPT DESCRIBED IN SUBDIVISION (A) TO THE SELLER AT THE
7 SCRAP METAL DEALER'S PREMISES:

8 (i) CATALYTIC CONVERTERS, UNLESS THE SELLER IS AN AUTOMOTIVE
9 RECYCLER AS DEFINED IN SECTION 2A OF THE MICHIGAN VEHICLE CODE,
10 1949 PA 300, MCL 257.2A; A MANUFACTURER OR WHOLESALE OF CATALYTIC
11 CONVERTERS; OR A MUFFLER SHOP, TIRE STORE, OR OTHER RETAIL BUSINESS
12 THAT SELLS CONVERTERS SEPARATELY OR AS PART OF AN EXHAUST SYSTEM.

13 (ii) AIR CONDITIONERS, AIR CONDITIONER EVAPORATOR COILS OR
14 CONDENSERS, OR PARTS OF AIR CONDITIONER EVAPORATOR COILS AND
15 CONDENSERS.

16 (iii) COPPER WIRE, INCLUDING COPPER WIRE THAT IS BURNED IN WHOLE
17 OR IN PART TO REMOVE THE INSULATION.

18 (C) ALL OF THE FOLLOWING APPLY IN A PURCHASE TRANSACTION WITH
19 AN INDUSTRIAL OR COMMERCIAL CUSTOMER:

20 (i) THE SCRAP METAL DEALER MAY PAY USING ANY OF THE FOLLOWING
21 FORMS OF PAYMENT, AS AGREED TO BY THE SCRAP METAL DEALER AND THE
22 INDUSTRIAL OR COMMERCIAL CUSTOMER:

23 (A) BY CHECK, MONEY ORDER, OR PAYMENT CARD OR RECEIPT
24 DESCRIBED IN SUBDIVISION (A) (ii). IF A PAYMENT DESCRIBED IN THIS
25 SUB-SUBPARAGRAPH IS MAILED TO THE INDUSTRIAL OR COMMERCIAL
26 CUSTOMER, THE SCRAP METAL DEALER MAY MAIL THAT PAYMENT TO THE
27 STREET ADDRESS OR POST OFFICE BOX OF THE INDUSTRIAL OR COMMERCIAL

House Bill No. 4593 (H-2) as amended October 24, 2013

1 CUSTOMER OR TO ANOTHER PERSON OR POST OFFICE BOX AS DIRECTED BY THE
2 INDUSTRIAL OR COMMERCIAL CUSTOMER.

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

5 (ii) THE 3-DAY WAITING PERIOD DESCRIBED IN SUBDIVISION (B) DOES
6 NOT APPLY TO THE PURCHASE OF ANY OF THE ITEMS DESCRIBED IN THAT
7 SUBDIVISION BY AN INDUSTRIAL OR COMMERCIAL CUSTOMER.

8 (D) A SCRAP METAL DEALER MAY ACCEPT BARTER OR A TRADE OR
9 EXCHANGE OF SCRAP METAL OR OTHER [] PROPERTY IN A PURCHASE
10 TRANSACTION AS ALL OR PART OF THE CONSIDERATION FOR THAT
11 TRANSACTION.

12 (E) A SCRAP METAL DEALER IN A PURCHASE TRANSACTION SHALL
13 EXAMINE THE IDENTIFICATION PRESENTED UNDER SUBSECTION (2) (A) BY THE
14 SELLER OR INDIVIDUAL ACTING ON BEHALF OF THE SELLER, AND IF THE
15 IDENTIFICATION PRESENTED DISPLAYS THE DATE OF BIRTH OF THE
16 INDIVIDUAL, CONFIRM THAT THE INDIVIDUAL IS AT LEAST 16 YEARS OLD
17 BASED ON THAT DATE OF BIRTH.

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House Bill No. 4593 (H-2) as amended October 24, 2013

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2 **(F)] A SCRAP METAL DEALER SHALL ENSURE THAT IT TRAINS EACH**
3 **SCALE OPERATOR, PURCHASER, AND SUPERVISOR EMPLOYED BY THE DEALER**
4 **CONCERNING THE LEGAL REQUIREMENTS OF THIS ACT AND THE**
5 **RESPONSIBILITIES OF THE SCRAP METAL DEALER UNDER THIS ACT.**

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

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

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

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

25 (d) ~~Attest to the lack of any criminal convictions~~ **AN**
26 **INDIVIDUAL WHO HAS BEEN CONVICTED OF A CRIME involving the theft,**
27 **conversion, or sale of** ~~nonferrous metals~~ **SCRAP METAL MAY NOT ENTER**

1 INTO A PURCHASE TRANSACTION. AS PART OF A PURCHASE TRANSACTION, THE
 2 INDIVIDUAL SHALL CERTIFY THAT HE OR SHE HAS NOT BEEN CONVICTED OF A
 3 CRIME DESCRIBED IN THIS SUBDIVISION.

4 Sec. 7. (1) ~~Except~~ **SUBJECT TO SUBSECTION (4), AND EXCEPT** as
 5 otherwise provided in this ~~subsection,~~ **SECTION,** a **SCRAP METAL**
 6 dealer shall ~~produce~~ **PREPARE** and maintain ~~an~~ **A SEPARATE,** accurate,
 7 and legible record of each purchase transaction. The dealer shall
 8 maintain the records ~~produced under~~ **DESCRIBED IN** this section for
 9 at least 1 year; ~~THE DEALER~~ shall keep the records in a location
 10 that is readily accessible to a local, state, or federal law
 11 enforcement agency for inspection during normal business hours; ~~THE~~
 12 and **THE DEALER** shall make the records, or copies of those records,
 13 available **ON REQUEST** to any local, state, or federal law
 14 enforcement agency. ~~upon reasonable suspicion of violation of this~~
 15 ~~act.~~

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

19 (A) **THE NAME AND ADDRESS OF THE SELLER AND THE NAME AND**
 20 **ADDRESS OF THE INDIVIDUAL WHO IS DELIVERING THE SCRAP METAL IF HE**
 21 **OR SHE IS NOT THE SELLER. IF AN INDIVIDUAL IS A SELLER OR**
 22 **REPRESENTATIVE OF A SELLER IN MORE THAN 1 PURCHASE TRANSACTION, THE**
 23 **SCRAP METAL DEALER MAY RETAIN A COPY OF THE INDIVIDUAL'S**
 24 **INFORMATION OR DOCUMENT DESCRIBED IN THIS SUBDIVISION IN A SEPARATE**
 25 **FILE AND USE THAT INFORMATION IN FUTURE PURCHASE TRANSACTIONS.**

26 (B) ~~(a)~~ The name, address, and identifying number from the
 27 ~~seller's operator's or chauffeur's license, military identification~~

1 ~~card, Michigan identification card, passport, or other government~~
2 ~~issued identification containing a photograph. PRESENTED UNDER~~
3 **SECTION 5(2)(A).** A legible scan or photocopy of the identification
4 ~~is considered satisfactory in fulfilling~~ **MEETS** the requirement of
5 this subdivision. ~~In the case of a repeat seller, a copy of the~~
6 ~~information may be kept on file with the dealer and be used for IF~~
7 **AN INDIVIDUAL IS A SELLER OR REPRESENTATIVE OF A SELLER IN MORE**
8 **THAN 1 PURCHASE TRANSACTION, THE SCRAP METAL DEALER MAY RETAIN A**
9 **COPY OF THE INFORMATION OR DOCUMENT DESCRIBED IN THIS SUBDIVISION**
10 **IN A SEPARATE FILE AND USE THAT INFORMATION IN future PURCHASE**
11 **transactions.**

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

15 (D) ~~(c) The~~ date and time of the **PURCHASE** transaction.

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

19 (F) ~~(e) The~~ weight, quantity, or volume of metal, ~~made~~ **THE**
20 **SCRAP METAL PURCHASED, DESCRIBED AND CALCULATED** in accordance with
21 the custom of the trade; **THE NAME OF THE SCALE OPERATOR WHO WEIGHS**
22 **AND INSPECTS THAT PROPERTY; AND THE NAME OF THE EMPLOYEE OF THE**
23 **SCRAP METAL DEALER WHO PURCHASED OR AUTHORIZED THE PURCHASE OF THE**
24 **SCRAP METAL ON THE DEALER'S BEHALF IF THE PURCHASER WAS NOT THE**
25 **SCALE OPERATOR.**

26 (G) **A PHOTOGRAPH OR DIGITAL, ELECTRONIC, OR VIDEO IMAGE OF THE**
27 **SCRAP METAL PURCHASED. A PHOTOGRAPH OR DIGITAL, ELECTRONIC, OR**

1 VIDEO IMAGE THAT MEETS 1 OF THE FOLLOWING IS SUFFICIENT FOR
 2 PURPOSES OF THIS SUBDIVISION EVEN IF EACH ITEM OF SCRAP METAL IS
 3 NOT SHOWN IN THE IMAGE:

4 (i) IF THE SCRAP METAL AND THE VEHICLE IN WHICH IT IS DELIVERED
 5 ARE WEIGHED, AN OVERHEAD PHOTOGRAPH OR IMAGE OF THE VEHICLE AND THE
 6 SCRAP METAL IN THE VEHICLE ON THE SCALE.

7 (ii) IF ONLY THE SCRAP METAL IS WEIGHED, A PHOTOGRAPH OR IMAGE
 8 OF THE SCRAP METAL ON THE SCALE.

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

10 (I) ~~(g)~~ A ~~THE~~ signed statement ~~from the seller that the seller~~
 11 ~~is the owner of the metal or is otherwise authorized to sell the~~
 12 ~~metal subject to the transaction.~~ DESCRIBED IN SECTION 5(2)(C).

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

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

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

24 (B) THE personal and business identifying information of the
 25 industrial or commercial account ~~seller~~ CUSTOMER is on file with
 26 the SCRAP METAL dealer and conforms to a written description of the
 27 type of ~~nonferrous~~ SCRAP metal ~~or articles~~ customarily purchased by

House Bill No. 4593 (H-2) as amended October 24, 2013

1 the **SCRAP METAL** dealer from that seller, and the information
2 **CUSTOMER**.

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

6 (4) A **SCRAP METAL DEALER** MAY UTILIZE AN **ELECTRONIC RECORD-**
7 **KEEPING SYSTEM** FOR PURPOSES OF **SUBSECTION (1)** IF THAT SYSTEM ALLOWS
8 FOR IMMEDIATE ACCESS TO EACH SELLER'S PURCHASE TRANSACTION
9 ACTIVITIES, DOCUMENTS, AND IMAGES, INCLUDING, BUT NOT LIMITED TO,
10 **ELECTRONIC COPIES** OF THE RECORDS DESCRIBED IN **SUBSECTION (2)** OR
11 (3), THE PAYMENT INFORMATION CONTAINED IN THE CARD OR RECEIPT, AND
12 THE IMAGE OF THE SELLER DESCRIBED IN **SECTION 5(1)(A)(ii)**.

13 **SEC. 10. A PERSON SHALL NOT KNOWINGLY SELL OR ATTEMPT TO SELL**
14 **TO A SCRAP METAL DEALER, AND A SCRAP METAL DEALER SHALL NOT**
15 **KNOWINGLY PURCHASE OR OFFER TO PURCHASE, ANY OF THE FOLLOWING TYPES**
16 **OF [] PROPERTY:**

17 (A) **PUBLIC FIXTURES. THIS SUBDIVISION DOES NOT APPLY IF THE**
18 **SELLER IS A GOVERNMENTAL UNIT OR THE SELLER HAS WRITTEN**
19 **AUTHORIZATION FROM THE GOVERNMENTAL UNIT THAT OWNED THE PROPERTY TO**
20 **SELL THE PROPERTY.**

21 (B) **METAL ARTICLES OR MATERIALS THAT ARE CLEARLY MARKED AS**
22 **PROPERTY BELONGING TO A PERSON OTHER THAN THE SELLER[. THIS SUBDIVISION**
23 **DOES NOT APPLY IF] THE**
24 **SELLER HAS AUTHORIZATION FROM THAT PERSON TO SELL THE PROPERTY.**

25 (C) **A COMMEMORATIVE, DECORATIVE, OR OTHER CEMETERY-RELATED OR**
26 **APPARENTLY CEREMONIAL ARTICLE. THIS SUBDIVISION DOES NOT APPLY IF**
27 **THE SELLER IS THE OWNER OF THE ARTICLE; IF THE SELLER IS AUTHORIZED**
28 **BY THE OWNER OF THE ARTICLE TO SELL THE ARTICLE; OR IF THE SELLER**

1 OF A CEMETERY-RELATED ARTICLE IS THE CEMETERY IN WHICH THE ARTICLE
2 WAS LOCATED.

3 (D) METAL ARTICLES OR MATERIALS REMOVED FROM PROPERTY OWNED BY
4 A RAILROAD COMPANY OR FROM A RAILROAD RIGHT-OF-WAY. THIS
5 SUBDIVISION DOES NOT APPLY IF THE SELLER IS THE OWNER OF THE METAL
6 ARTICLES OR MATERIALS; IS THE MANUFACTURER OF THE METAL ARTICLES OR
7 MATERIALS; IS A CONTRACTOR ENGAGED IN THE BUSINESS OF REPAIRING
8 RAILROAD EQUIPMENT; OR IS A PERSON THAT HAS WRITTEN AUTHORIZATION
9 FROM THAT OWNER, MANUFACTURER, OR CONTRACTOR TO SELL THOSE METAL
10 ARTICLES OR MATERIALS.

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

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

25 (3) A **SCRAP METAL DEALER SHALL ENSURE THAT IT MAKES AVAILABLE**
26 **TO EACH OF ITS EMPLOYEES ENGAGED IN PURCHASING OR WEIGHING SCRAP**
27 **METAL SOLD OR OFFERED FOR SALE TO THE SCRAP METAL DEALER EACH THEFT**

House Bill No. 4593 (H-2) as amended October 24, 2013

1 ALERT, OR SIMILAR NOTICE THAT A SCRAP METAL THEFT HAS OCCURRED,
2 THAT THE SCRAP METAL DEALER RECEIVES FROM THE DATABASE SERVICE
3 DESCRIBED IN THIS SECTION, AND THAT THOSE EMPLOYEES REVIEW ANY
4 RECENT ALERTS OR SIMILAR NOTICES THAT THEY HAVE NOT PREVIOUSLY
5 REVIEWED ON A DAILY BASIS.

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

20 (2) ~~A person who buys or sells nonferrous metal articles~~
21 ~~knowing or having reason to know that they are stolen~~ [IN CONNECTION
22 WITH A PURCHASE TRANSACTION, EACH] OF THE
23 FOLLOWING is guilty of a felony punishable by imprisonment for not
24 more than 5 years or a fine of not more than \$5,000.00, or both,
25 for a first offense and is guilty of a felony punishable by
26 imprisonment for not more than 5 years or a fine of not more than
27 \$10,000.00, or both, for a second or subsequent offense:-

(A) A SCRAP METAL DEALER THAT PURCHASES SCRAP METAL OR AN ITEM

House Bill No. 4593 (H-2) as amended October 24, 2013

1 OF [] PROPERTY DESCRIBED IN SECTION 10 AND KNEW OR SHOULD
2 HAVE KNOWN THAT IT WAS STOLEN.

3 (B) A PERSON THAT SELLS SCRAP METAL OR AN ITEM OF []
4 PROPERTY DESCRIBED IN SECTION 10 TO A SCRAP METAL DEALER AND KNEW
5 OR SHOULD HAVE KNOWN THAT IT WAS STOLEN.

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

10 (2) ~~The~~ IF THE COURT IN AN ACTION DESCRIBED IN SUBSECTION (1)
11 FINDS THAT THE VIOLATION INCLUDED THE PURCHASE OR SALE OF STOLEN
12 PROPERTY AND FINDS THAT THE PURCHASER IN AN ACTION AGAINST THE
13 PURCHASER, OR THE SELLER IN AN ACTION AGAINST THE SELLER, KNEW OR
14 SHOULD HAVE KNOWN THAT THE PROPERTY WAS STOLEN, THE court shall
15 award treble damages for the value of the ~~nonferrous metal article~~
16 **PROPERTY** stolen. ~~The court may award costs regarding any aspect of~~
17 ~~an action brought under subsection (1).~~ As used in this subsection,
18 "value of the ~~nonferrous metal article~~ **PROPERTY** stolen" means the
19 greatest of the following:

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

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

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

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

26 Enacting section 1. Section 9 of the nonferrous metal
27 regulatory act, 2008 PA 429, MCL 445.429, is repealed.

1 Enacting section 2. This amendatory act does not take effect
2 unless House Bill No. 4595 of the 97th Legislature is enacted into
3 law.