

SENATE BILL No. 468

September 10, 2013, Introduced by Senators SMITH and KOWALL and referred to the Committee on Economic Development.

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 the title and section 8 (MCL 445.408), section 8 as amended by 2008 PA 428, and by adding section 2a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

TITLE

An act to regulate and license second hand dealers and junk dealers; **TO REQUIRE PERMITS TO TRANSPORT AND SELL SCRAP METAL TO A SECOND HAND DEALER; TO PRESCRIBE THE POWERS AND DUTIES OF CERTAIN LOCAL AGENCIES AND OFFICIALS;** and to prescribe penalties for the violation of the provisions of this act.

SEC. 2A. (1) SUBJECT TO SUBSECTION (2), A PERSON SHALL NOT

1 TRANSPORT OR SELL NONFERROUS METAL TO A SECOND HAND DEALER IF THE
2 PERSON DOES NOT HAVE A PERMIT TO TRANSPORT AND SELL NONFERROUS
3 METAL FROM THE SHERIFF OF 1 OF THE FOLLOWING:

4 (A) THE COUNTY IN WHICH THE PERSON RESIDES OR IS LOCATED.

5 (B) IF THE PERSON IS NOT A RESIDENT OF OR LOCATED IN THIS
6 STATE, THE COUNTY IN WHICH THE SECOND HAND DEALER THAT IS
7 PURCHASING THE NONFERROUS METALS IS LOCATED.

8 (2) SUBSECTION (1) DOES NOT APPLY TO A PERSON THAT IS ANY OF
9 THE FOLLOWING:

10 (A) A CONTRACTOR THAT IS LICENSED UNDER THE FORBES MECHANICAL
11 CONTRACTORS ACT, 1984 PA 192, MCL 338.971 TO 338.988.

12 (B) A RESIDENTIAL BUILDER OR RESIDENTIAL MAINTENANCE AND
13 ALTERATION CONTRACTOR THAT IS LICENSED UNDER ARTICLE 24 OF THE
14 OCCUPATIONAL CODE, 1980 PA 299, MCL 339.2401 TO 339.2412.

15 (C) A PLUMBING CONTRACTOR THAT IS LICENSED UNDER THE STATE
16 PLUMBING ACT, 2002 PA 733, MCL 338.3511 TO 338.3569.

17 (D) AN ELECTRICAL CONTRACTOR, MASTER ELECTRICIAN, ELECTRICAL
18 JOURNEYMAN, OR APPRENTICE JOURNEYMAN THAT IS LICENSED UNDER THE
19 ELECTRICAL ADMINISTRATIVE ACT, 1956 PA 217, MCL 338.881 TO 338.892.

20 (E) A PUBLIC UTILITY AS DEFINED IN SECTION 1 OF 1974 PA 53,
21 MCL 460.701.

22 (F) A PUBLIC AGENCY AS DEFINED IN SECTION 1 OF 1974 PA 53, MCL
23 460.701.

24 (G) AN EMPLOYEE OF A PERSON DESCRIBED IN SUBDIVISIONS (A) TO
25 (F), IF HE OR SHE IS ACTING IN THE SCOPE OF HIS OR HER EMPLOYMENT.

26 (3) THE SHERIFF SHALL ISSUE THE PERMIT UNDER THIS SECTION TO A
27 PERSON THAT MEETS ALL OF THE FOLLOWING:

1 (A) THE PERSON RESIDES IN OR IS LOCATED IN THE SHERIFF'S
2 COUNTY, OR, IF THE PERSON IS NOT A RESIDENT OF OR THE ENTITY IS NOT
3 LOCATED IN THIS STATE, THE SECOND HAND DEALER THAT IS PURCHASING
4 THE NONFERROUS METALS IS LOCATED IN THE SHERIFF'S COUNTY.

5 (B) THE PERSON CERTIFIES ON A FORM PROVIDED BY THE SHERIFF
6 THAT THE PERSON IS INFORMED OF AND WILL COMPLY WITH THE PROVISIONS
7 OF THIS SECTION.

8 (C) THE NAME AND ADDRESS OF THE PERMIT APPLICANT.

9 (D) THE PERMIT APPLICANT, IF THE APPLICANT IS AN INDIVIDUAL,
10 OR THE EMPLOYEE APPLYING FOR A PERMIT ON BEHALF OF HIS OR HER
11 EMPLOYER, PROVIDES A PHOTOGRAPH OF HIM OR HER AND HIS OR HER
12 OPERATOR'S OR CHAUFFEUR'S LICENSE, MILITARY IDENTIFICATION CARD,
13 MICHIGAN IDENTIFICATION CARD, PASSPORT, OR OTHER GOVERNMENT-ISSUED
14 IDENTIFICATION CONTAINING HIS OR HER PHOTOGRAPH TO THE SHERIFF AND
15 ALLOWS THE SHERIFF TO MAKE A COPY OF THE IDENTIFICATION PRESENTED.

16 (E) THE LICENSE PLATE NUMBER OF THE APPLICANT'S VEHICLE.

17 (4) THE SHERIFF MAY CHARGE A REASONABLE FEE, IN AN AMOUNT THAT
18 DOES NOT EXCEED \$25.00, FOR THE PROCESSING AND ISSUANCE OF A PERMIT
19 UNDER THIS SECTION. THE SHERIFF SHALL KEEP A RECORD OF ALL PERMITS
20 ISSUED UNDER THIS SECTION THAT INCLUDES, AT A MINIMUM, THE DATE OF
21 ISSUANCE, THE NAME AND ADDRESS OF THE PERMIT HOLDER, A PHOTOCOPY OF
22 THE PERMIT APPLICANT'S IDENTIFICATION, THE LICENSE PLATE NUMBER OF
23 THE PERMIT APPLICANT, AND THE PERMIT APPLICANT'S PHOTOGRAPH.

24 (5) A PERMIT ISSUED UNDER THIS SECTION IS VALID FOR 12 MONTHS.
25 IF A PERSON ONLY SELLS OR TRANSPORTS NONFERROUS METALS A MAXIMUM OF
26 2 TIMES IN A 12-MONTH PERIOD, THE PERSON MAY OBTAIN A 48-HOUR
27 PERMIT FROM THE APPLICABLE SHERIFF'S OFFICE BY CALLING THE

1 SHERIFF'S OFFICE, PROVIDING THE REQUIRED INFORMATION, AND OBTAINING
2 A PERMIT NUMBER. A PERSON MAY ONLY REQUEST A 48-HOUR PERMIT 2 TIMES
3 IN ANY 12-MONTH PERIOD.

4 (6) A PERSON SHALL NOT OBTAIN A PERMIT TO TRANSPORT AND SELL
5 NONFERROUS METALS UNDER THIS SECTION FOR THE PURPOSE OF
6 TRANSPORTING OR SELLING STOLEN NONFERROUS METALS.

7 (7) AS USED IN THIS SECTION:

8 (A) "NONFERROUS METAL" MEANS THAT TERM AS DEFINED IN SECTION 3
9 OF THE NONFERROUS METAL REGULATORY ACT, 2008 PA 429, MCL 445.423.

10 (B) "PERSON" MEANS AN INDIVIDUAL, PARTNERSHIP, CORPORATION,
11 LIMITED LIABILITY COMPANY, LIMITED PARTNERSHIP, OR OTHER LEGAL
12 ENTITY.

13 Sec. 8. (1) Except as otherwise provided ~~for~~ in this section,
14 a person ~~who~~ **THAT** violates this act is guilty of a misdemeanor ~~and~~
15 ~~shall be imprisoned~~ **PUNISHABLE BY IMPRISONMENT** for not more than 6
16 months ~~and shall be fined~~ **OR A FINE OF** not less than \$500.00 or
17 more than \$1,000.00, **OR BOTH**.

18 (2) A second hand or junk dealer ~~who~~ **THAT** buys or sells scrap
19 metal, knowing that it is stolen, is guilty of a felony punishable
20 by imprisonment for not more than 5 years or a fine of not more
21 than \$5,000.00, or both. The penalties imposed under this
22 subsection apply only to a first violation of this subsection.

23 (3) A second hand or junk dealer ~~who~~ **THAT** buys or sells stolen
24 scrap metal knowing that it was stolen is guilty of a felony
25 punishable by imprisonment for not more than 5 years or a fine of
26 not more than \$10,000.00, or both. The penalties imposed under this
27 subsection apply to a second or subsequent violation.

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

9 (5) **A PERSON THAT KNOWINGLY VIOLATES SECTION 2A(6) IS GUILTY**
10 **OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 90**
11 **DAYS OR A FINE OF NOT LESS THAN \$500.00 OR MORE THAN \$1,000.00, OR**
12 **BOTH. IF A PERSON THAT HOLDS A PERMIT UNDER SECTION 2A IS CONVICTED**
13 **OF A CRIME UNDER THIS SUBSECTION, THE PERMIT IS CONSIDERED REVOKED.**

14 (6) ~~(5)~~ The remedies under this act are independent and
15 cumulative. The use of 1 remedy by a person does not bar the use of
16 other lawful remedies by that person or the use of a lawful remedy
17 by another person.

18 (7) **AS USED IN THIS SECTION, "PERSON" MEANS THAT TERM AS**
19 **DEFINED IN SECTION 2A.**

20 Enacting section 1. This amendatory act does not take effect
21 unless Senate Bill No. ____ or House Bill No. ____ (request no.
22 02545'13) of the 97th Legislature is enacted into law.