

SENATE BILL No. 487

September 12, 2013, Introduced by Senator HUNTER and referred to the Committee on Government Operations.

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:

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; and to provide for penalties and remedies.

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

7 Sec. 3. As used in this act:

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

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

27 (A) ~~(c)~~ "Ferrous metal" means a metal that contains

1 significant quantities of iron or steel.

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

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

15 (D) ~~(e)~~-"Industrial or commercial ~~account~~ **CUSTOMER**" means ~~any~~
16 ~~person, operating~~ **A PERSON THAT OPERATES** from a fixed location ~~7~~
17 ~~that~~ **AND** is a seller of ~~ferrous or nonferrous~~ **SCRAP** metal to a
18 scrap metal ~~recycler pursuant to~~ **DEALER UNDER** a written agreement.

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

23 (F) ~~(g)~~-"Person" means an individual, partnership,
24 corporation, limited liability company, joint venture, trust,
25 association, or other legal entity.

26 (G) ~~(h)~~-"Public ~~fixtures~~ **FIXTURE**" means ~~articles containing~~
27 ~~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 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
ACTING WITHIN THE SCOPE OF THAT DEALER'S LICENSE.

(iii) THE PURCHASE OF 1 OR MORE USED OR SECONDHAND, DISTRESSED,
OR SALVAGE VEHICLES, VEHICLE PARTS, OR VEHICLE SCRAP BY AN

1 AUTOMOTIVE RECYCLER THAT IS LICENSED AS A DEALER UNDER SECTION 248
2 OF THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.248, IF THE
3 TRANSACTION IS AUTHORIZED UNDER SECTION 217C OF THE MICHIGAN
4 VEHICLE CODE, 1949 PA 300, MCL 257.217C; SECTION 18 OF THE MOTOR
5 VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1318; OR
6 SECTION 2 OF 1986 PA 119, MCL 257.1352.

7 (iv) THE PURCHASE OF SCRAP METAL BY A MILL, FOUNDRY, DIE
8 CASTER, OR OTHER MANUFACTURING FACILITY THAT PURCHASES SCRAP METAL
9 FOR ITS OWN USE IN THE PRODUCTION OF METAL ARTICLES OR MATERIALS
10 AND DOES NOT IN THE ORDINARY COURSE OF ITS BUSINESS PURCHASE SCRAP
11 METAL FOR RESALE.

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

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

17 (K) "SCRAP METAL" MEANS FERROUS OR NONFERROUS METAL, OR ITEMS
18 THAT CONTAIN FERROUS OR NONFERROUS METAL, THAT ARE SOLD OR OFFERED
19 FOR SALE FOR THE VALUE OF THE FERROUS OR NONFERROUS METAL THEY
20 CONTAIN RATHER THAN THEIR ORIGINAL INTENDED USE; FERROUS OR
21 NONFERROUS METAL REMOVED FROM OR OBTAINED BY CUTTING, DEMOLISHING,
22 OR DISASSEMBLING A BUILDING, STRUCTURE, OR MANUFACTURED ITEM; OR
23 OTHER METAL THAT CANNOT BE USED FOR ITS ORIGINAL INTENDED PURPOSE
24 BUT CAN BE PROCESSED FOR REUSE IN A MILL, FOUNDRY, DIE CASTER, OR
25 OTHER MANUFACTURING FACILITY.

26 (I) "SCRAP METAL DEALER" MEANS A PERSON THAT BUYS OR SELLS
27 SCRAP METAL AND IS NOT A FIRST PURCHASER. THE TERM INCLUDES, BUT IS

1 NOT LIMITED TO, A PERSON, WHETHER OR NOT LICENSED UNDER STATE LAW
 2 OR LOCAL ORDINANCE, THAT OPERATES A BUSINESS AS A SCRAP METAL
 3 RECYCLER, SCRAP PROCESSOR, SECONDHAND AND JUNK DEALER, OR OTHER
 4 PERSON THAT PURCHASES ANY AMOUNT OF SCRAP METAL ON A REGULAR,
 5 SPORADIC, OR 1-TIME BASIS. THE TERM DOES NOT INCLUDE A GOVERNMENTAL
 6 UNIT THAT BUYS OR SELLS SCRAP METAL.

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

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

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

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

19 ~~— (a) Produce and maintain records as required under section~~
 20 ~~7(2).~~

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

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

25 ~~— (d) Pay a seller by a method capable of being traced from the~~
 26 ~~dealer to the seller. Payment by cash or currency of more than~~
 27 ~~\$50.00, barter, or trade is not considered a payment that complies~~

1 ~~with the requirement of this subdivision. Payment of cash in any~~
2 ~~amount in a transaction involving predominantly copper articles is~~
3 ~~considered a violation of this subdivision.~~

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

6 (A) UNLESS SUBDIVISION (B) APPLIES, AND EXCEPT AS PROVIDED IN
7 SUBDIVISION (C), A SCRAP METAL DEALER SHALL ONLY PAY A SELLER WITH
8 1 OF THE FOLLOWING IN A PURCHASE TRANSACTION:

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

13 (ii) AN ELECTRONIC PAYMENT CARD OR ENCRYPTED RECEIPT THAT MAY
14 ONLY BE CONVERTED TO CASH IN AN AUTOMATED TELLER MACHINE THAT IS
15 LOCATED ON THE SELLER'S PREMISES; IS USED FOR THE SOLE PURPOSE OF
16 DISPENSING CASH IN CONNECTION WITH PURCHASE TRANSACTIONS; AND
17 PROVIDES A DIGITAL OR ELECTRONIC IMAGE OF THE DISPENSING OF THE
18 CASH TO THE SELLER.

19 (B) EXCEPT AS PROVIDED IN SUBDIVISION (C), IN A PURCHASE
20 TRANSACTION OF ANY OF THE FOLLOWING ITEMS, A SCRAP METAL DEALER
21 SHALL NOT PAY THE SELLER UNTIL 3 BUSINESS DAYS AFTER THE DATE OF
22 THE TRANSACTION, AND SHALL ONLY PAY THE SELLER AFTER THAT PERIOD BY
23 MAKING A DIRECT DEPOSIT OR ELECTRONIC TRANSFER TO THE SELLER'S
24 ACCOUNT AT A FINANCIAL INSTITUTION OR MAILING A CHECK OR MONEY
25 ORDER, PAYABLE TO THE SELLER, TO A STREET ADDRESS PROVIDED TO THE
26 DEALER BY THE SELLER AND NOT TO A POST OFFICE BOX:

27 (i) VEHICLES OR VEHICLE PARTS, INCLUDING CATALYTIC CONVERTERS,

1 UNLESS THE SELLER HAS PROOF OF OWNERSHIP OR UNLESS THE SELLER IS AN
2 AUTOMOTIVE RECYCLER AS DEFINED IN SECTION 2A OF THE MICHIGAN
3 VEHICLE CODE, 1949 PA 300, MCL 257.2A.

4 (ii) AIR CONDITIONERS, AIR CONDITIONER EVAPORATOR COILS OR
5 CONDENSERS, OR PARTS OF AIR CONDITIONER EVAPORATOR COILS AND
6 CONDENSERS.

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

9 (C) IN A PURCHASE TRANSACTION WITH AN INDUSTRIAL OR BUSINESS
10 CUSTOMER, A SCRAP METAL DEALER MAY PAY THAT CUSTOMER IN ANY MANNER
11 DESCRIBED IN SUBDIVISION (A) OR (B).

12 (D) UNLESS THE TRANSACTION IS WITH AN INDUSTRIAL OR COMMERCIAL
13 CUSTOMER, A SCRAP METAL DEALER SHALL NOT ACCEPT BARTER OR A TRADE
14 OR EXCHANGE OF SCRAP METAL OR OTHER PERSONAL PROPERTY.

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

21 (F) A SCRAP METAL DEALER SHALL NOT PURCHASE SCRAP METAL THAT
22 IS NOT DELIVERED IN OR ON A VEHICLE LICENSED AND TITLED FOR USE ON
23 PUBLIC HIGHWAYS.

24 (G) A SCRAP METAL DEALER SHALL ENSURE THAT IT TRAINS EACH
25 SCALE OPERATOR, PURCHASER, AND SUPERVISOR EMPLOYED BY THE DEALER
26 CONCERNING THE LEGAL REQUIREMENTS OF THIS ACT AND THE
27 RESPONSIBILITIES OF THE SCRAP METAL DEALER UNDER THIS ACT.

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

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

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

15 ~~(c) Execute~~ **HE OR SHE MUST PROVIDE THE SCRAP METAL DEALER WITH**
16 a signed statement ~~indicating that the seller~~ **CERTIFIES THAT HE OR**
17 **SHE** is the owner of, or is otherwise authorized to sell, the
18 ~~nonferrous~~ **SCRAP** metal offered for purchase to the **SCRAP METAL**
19 dealer.

20 ~~(d) Attest to the lack of any criminal convictions~~ **AN**
21 **INDIVIDUAL WHO HAS BEEN CONVICTED OF A CRIME** involving the theft,
22 conversion, or sale of ~~nonferrous metals~~ **SCRAP METAL MAY NOT ENTER**
23 **INTO A PURCHASE TRANSACTION. AS PART OF A PURCHASE TRANSACTION, THE**
24 **INDIVIDUAL SHALL CERTIFY THAT HE OR SHE HAS NOT BEEN CONVICTED OF A**
25 **CRIME DESCRIBED IN THIS SUBDIVISION.**

26 Sec. 7. (1) ~~Except~~ **SUBJECT TO SUBSECTION (4), AND EXCEPT** as
27 otherwise provided in this ~~subsection,~~ **SECTION, a SCRAP METAL**

1 dealer shall ~~produce~~ **PREPARE** and maintain ~~an~~ **A SEPARATE**, accurate,
 2 and legible record of each purchase transaction. The dealer shall
 3 maintain the records ~~produced under~~ **DESCRIBED IN** this section for
 4 at least 1 year; ~~7~~ **THE DEALER** shall keep the records in a location
 5 that is readily accessible to a local, state, or federal law
 6 enforcement agency for inspection during normal business hours; ~~7~~
 7 and **THE DEALER** shall make the records, or copies of those records,
 8 available to any local, state, or federal law enforcement agency
 9 ~~upon~~ **THAT HAS A** reasonable suspicion ~~of~~ **THAT A** violation of this
 10 act **HAS OCCURRED**.

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

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

21 (B) ~~(a)~~ The name, address, and identifying number from the
 22 ~~seller's operator's or chauffeur's license, military identification~~
 23 ~~card, Michigan identification card, passport, or other government~~
 24 ~~issued identification containing a photograph.~~ **PRESENTED UNDER**
 25 **SECTION 5(2) (A).** A legible scan or photocopy of the identification
 26 ~~is considered satisfactory in fulfilling~~ **MEETS** the requirement of
 27 this subdivision. ~~In the case of a repeat seller, a copy of the~~

1 ~~information may be kept on file with the dealer and be used for~~ IF
2 AN INDIVIDUAL IS A SELLER OR REPRESENTATIVE OF A SELLER IN MORE
3 THAN 1 PURCHASE TRANSACTION, THE SCRAP METAL DEALER MAY RETAIN A
4 COPY OF THE INFORMATION OR DOCUMENT DESCRIBED IN THIS SUBDIVISION
5 IN A SEPARATE FILE AND USE THAT INFORMATION IN future PURCHASE
6 transactions.

7 (C) ~~(b)~~ The license plate number of the vehicle ~~delivering the~~
8 ~~nonferrous metal.~~ THAT DELIVERED THE SCRAP METAL.

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

10 (E) ~~(d)~~ A description of the predominant types of SCRAP metal
11 ~~purchases,~~ PURCHASED, made in accordance with the custom of the
12 trade.

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

20 (G) A PHOTOGRAPH OR DIGITAL OR ELECTRONIC IMAGE OF THE SCRAP
21 METAL PURCHASED. A DIGITAL OR ELECTRONIC IMAGE THAT MEETS 1 OF THE
22 FOLLOWING IS SUFFICIENT FOR PURPOSES OF THIS SUBDIVISION EVEN IF
23 EACH ITEM OF SCRAP METAL IS NOT SHOWN IN THE IMAGE:

24 (i) IF THE SCRAP METAL AND THE VEHICLE IN WHICH IT IS DELIVERED
25 ARE WEIGHED, AN OVERHEAD IMAGE OF THE VEHICLE AND THE SCRAP METAL
26 IN THE VEHICLE ON THE SCALE.

27 (ii) IF ONLY THE SCRAP METAL IS WEIGHED, AN IMAGE OF THE SCRAP

1 METAL ON THE SCALE.

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

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

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

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 dealer and conforms to a written description of the type
20 of ~~nonferrous~~ SCRAP metal ~~or articles~~ customarily purchased by the
21 SCRAP METAL dealer from that seller, ~~and the information~~ CUSTOMER.

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

25 (4) A SCRAP METAL DEALER MAY UTILIZE AN ELECTRONIC RECORD-
26 KEEPING SYSTEM FOR PURPOSES OF SUBSECTION (1) IF THAT SYSTEM ALLOWS
27 FOR IMMEDIATE ACCESS TO EACH SELLER'S PURCHASE TRANSACTION

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

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

9 (A) PUBLIC FIXTURES.

10 (B) NEW METAL ARTICLES OR MATERIALS, SUCH AS THOSE USED IN A
11 MANUFACTURING PROCESS OR CONSTRUCTION.

12 (C) EQUIPMENT OR TOOLS USED BY CONTRACTORS.

13 (D) METAL ARTICLES OR MATERIALS THAT ARE CLEARLY MARKED AS
14 PROPERTY BELONGING TO A PERSON OTHER THAN THE SELLER.

15 (E) A COMMEMORATIVE, DECORATIVE, OR OTHER CEMETERY-RELATED OR
16 APPARENTLY CEREMONIAL ARTICLE.

17 (F) METAL ARTICLES OR MATERIALS REMOVED FROM PROPERTY OWNED BY
18 A RAILROAD COMPANY OR FROM A RAILROAD RIGHT-OF-WAY.

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

27 (2) The existing database established by the institute of

1 scrap recycling industries, inc., referred to as the ISRI theft
2 alert system, is considered an appropriate internet-based database.
3 A **SCRAP METAL** dealer may register with or subscribe to any other
4 database that provides substantially the same services as ~~the~~ **A**
5 database described in subsection (1).

6 (3) **A SCRAP METAL DEALER SHALL ENSURE THAT IT MAKES AVAILABLE**
7 **TO EACH OF ITS EMPLOYEES ENGAGED IN PURCHASING OR WEIGHING SCRAP**
8 **METAL SOLD OR OFFERED FOR SALE TO THE SCRAP METAL DEALER EACH THEFT**
9 **ALERT, OR SIMILAR NOTICE THAT A SCRAP METAL THEFT HAS OCCURRED,**
10 **THAT THE SCRAP METAL DEALER RECEIVES FROM THE DATABASE SERVICE**
11 **DESCRIBED IN THIS SECTION, AND THAT THOSE EMPLOYEES REVIEW THE**
12 **ALERTS OR SIMILAR NOTICES ON A DAILY BASIS.**

13 Sec. 13. (1) ~~A person who violates section 7(1) or section 9~~
14 ~~knowing or having reason to know that he or she is violating those~~
15 ~~sections~~ **IF A PERSON VIOLATES SECTION 7, AND KNOWS OR HAS REASON TO**
16 **KNOW THAT SECTION 7 WAS VIOLATED, THE PERSON** is guilty of a
17 misdemeanor punishable by a fine of not more than \$500.00 or
18 imprisonment for not more than 93 days, or both.

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

26 (A) **A SCRAP METAL DEALER THAT PURCHASES SCRAP METAL OR AN ITEM**
27 **OF PERSONAL PROPERTY DESCRIBED IN SECTION 10 AND KNOWS OR HAS**

1 REASON TO KNOW THAT IT WAS STOLEN.

2 (B) A PERSON THAT SELLS SCRAP METAL OR AN ITEM OF PERSONAL
3 PROPERTY DESCRIBED IN SECTION 10 TO A SCRAP METAL DEALER AND KNOWS
4 OR HAS REASON TO KNOW THAT IT WAS STOLEN.

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

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

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

17 (b) The cost of repairing the damage caused by the larceny of
18 ~~that article~~ THE PROPERTY.

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

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

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

24 Enacting section 2. This amendatory act does not take effect
25 unless Senate Bill No. 488

26 of the 97th Legislature is enacted into law.