

HOUSE BILL No. 6003

April 22, 2008, Introduced by Rep. Sak and referred to the Committee on Commerce.

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 sections 1, 2, 3, 4, and 5 (MCL 445.401, 445.402, 445.403, 445.404, and 445.405), sections 1, 2, 3, 4, and 5 as amended by 2006 PA 675.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6

TITLE

An act to regulate and license ~~second hand~~ **SECONDHAND** dealers and junk dealers; **TO PROVIDE FOR CERTAIN POWERS AND DUTIES TO CERTAIN STATE AGENCIES AND DEPARTMENTS;** and to prescribe penalties for the violation of the provisions of this act.

Sec. 1. (1) A person ~~, corporation, copartnership, or firm~~

1 shall not ~~carry on~~ **ENGAGE IN** the business of dealer in ~~second hand~~
2 **SECONDHAND** goods or junk dealer in any of the counties, cities, or
3 villages of this state without ~~having first obtained,~~ **OBTAINING**
4 from the **DEPARTMENT OR THE** mayor of the city or the chief executive
5 officer of the county or village where the business is to be
6 ~~carried on,~~ **CONDUCTED** a license under this act authorizing that
7 person, ~~corporation, copartnership, or firm~~ to ~~carry on~~ **ENGAGE IN**
8 that business.

9 (2) IN THE CASE OF A COUNTY, CITY, OR VILLAGE THAT HAS NOT
10 ADOPTED AN ORDINANCE PROVIDING FOR THE LICENSURE OF SECONDHAND
11 DEALERS OR JUNK DEALERS, THE DEPARTMENT IS RESPONSIBLE FOR
12 LICENSURE OF ANY SECONDHAND DEALERS AND JUNK DEALERS WITHIN THAT
13 COUNTY, CITY, OR VILLAGE. UNDER SUCH CIRCUMSTANCES, THE DEPARTMENT
14 SHALL ACCEPT APPLICATIONS FOR LICENSURE IN A WRITTEN OR ELECTRONIC
15 FORMAT AS IT DETERMINES APPROPRIATE. THE DEPARTMENT SHALL REQUIRE
16 THE APPLICANT TO DEMONSTRATE COMPLIANCE WITH ANY APPLICABLE STATE
17 LAWS OR LOCAL ORDINANCES REGARDING THE CONDUCT OF A BUSINESS WITHIN
18 THIS STATE AND THE COUNTY, CITY, OR VILLAGE. THE DEPARTMENT IS ONLY
19 REQUIRED TO ACCEPT APPLICATIONS FOR INITIAL AND RENEWAL LICENSURE
20 AND ISSUE INITIAL AND RENEWAL LICENSES TO QUALIFIED APPLICANTS. ANY
21 ADMINISTRATIVE, CIVIL, OR CRIMINAL PROCEEDINGS REGARDING LICENSEES
22 ARE CONSIDERED TO BE WITHIN THE JURISDICTION OF THE COUNTY, CITY,
23 OR VILLAGE OR THE LOCAL PROSECUTOR. THE DEPARTMENT MAY REQUEST THE
24 ATTORNEY GENERAL TO PROCEED AGAINST A LICENSEE.

25 (3) THE DEPARTMENT MAY PROMULGATE RULES UNDER THE
26 ADMINISTRATIVE PROCEDURES ACT OF 1969, 1969 PA 306, MCL 24.201 TO
27 24.328, TO ENFORCE AND ADMINISTER SUBSECTION (2).

1 (4) ~~(2)~~—This ~~subsection~~ **SECTION** does not require an internet
2 drop-off store complying with subsection ~~(3)~~ **(5)**, or a person
3 engaged in the sale, purchase, consignment, or trade of personal
4 property or other valuable thing for himself or herself, to obtain
5 a license under this act.

6 (5) ~~(3)~~—An internet drop-off store in compliance with the
7 following conditions is exempt from licensure as a ~~second-hand~~
8 **SECONDHAND** dealer or junk dealer under this act:

9 (a) Has a fixed place of business within this state except
10 that he or she exclusively transacts all purchases or sales by
11 means of the internet and the purchases and sales are not
12 physically transacted on the premises of that fixed place of
13 business.

14 (b) Has the personal property or other valuable thing
15 available on a website for viewing by photograph, if available, by
16 the general public at no charge, which website shall be searchable
17 by zip code or state, or both. The website viewing shall include,
18 as applicable, serial number, make, model, and other unique
19 identifying marks, numbers, names, or letters appearing on the
20 personal property or other valuable thing.

21 (c) Maintains records of the sale, purchase, consignment, or
22 trade of the personal property or other valuable thing for at least
23 2 years, which records shall contain a description, including a
24 photograph, if available, and, if applicable, serial number, make,
25 model, and other unique identifying marks, numbers, names, or
26 letters appearing on the personal property or other valuable thing.

27 (d) Provide the local law enforcement agency with any name

1 under which it conducts business on the website and access to the
2 business premises at any time during normal business hours for
3 purposes of inspection.

4 (e) Within 24 hours after a request from a local law
5 enforcement agency, provide an electronic copy of the seller's or
6 consignor's name, address, telephone number, driver license number
7 and issuing state, the buyer's name and address if applicable, and
8 a description of the personal property or other valuable thing as
9 described in subdivision (c). The provision of information shall be
10 in a format acceptable to the local law enforcement agency but
11 shall at least be in a legible format and in the English language.

12 (f) Provide that payment for the personal property or other
13 valuable thing is executed by means of check or other electronic
14 payment system, so long as the payment is not made in cash. No
15 payment shall be provided to the seller until the item is sold.

16 (g) Immediately remove the personal property or other valuable
17 thing from the website if the local law enforcement agency
18 determines that the personal property or other valuable thing is
19 stolen.

20 Sec. 2. (1) The **DEPARTMENT OR THE** mayor of a city or chief
21 executive officer of a county or village may grant to any person ~~or~~
22 ~~corporation, copartnership, or firm,~~ a license authorizing that
23 person ~~, corporation, copartnership, or firm~~ to ~~carry on~~ **ENGAGE IN**
24 the business of a ~~second hand~~ **SECONDHAND** dealer or junk dealer
25 ~~subject to~~ **IN COMPLIANCE WITH** the provisions of this act **IF THAT**
26 **PERSON QUALIFIES FOR LICENSURE UNDER THIS ACT.**

27 (2) The license shall designate the particular place where

1 that person ~~, corporation, copartnership, or firm shall carry on~~
2 **ENGAGES IN** that business. The business shall be conducted only in
3 the place designated in the license.

4 (3) A license shall not be issued to any person ~~, firm, or~~
5 ~~corporation~~ desiring to conduct a junk business in any residential
6 community where 65% or more of the property owners within a radius
7 of 1 city block of the contemplated junk business petition the
8 **DEPARTMENT OR THE** issuing officer not to do so.

9 (4) The license shall be for the period of 1 year from date of
10 issuance unless sooner revoked for cause and is not transferable **AS**
11 **TO OWNERSHIP OR LOCATION**. The legislative body of any city, or the
12 trustees and chief executive officer of any county or village,
13 shall establish the fee for the processing and issuance of the
14 license in accordance with its charter or local ordinance, based
15 upon the cost of issuance and administration of that license. **THE**
16 **DEPARTMENT SHALL CHARGE A FEE OF NOT MORE THAN \$50.00, BASED UPON**
17 **THE ACTUAL COST OF THE DEPARTMENT IN ISSUING THE LICENSE. THE**
18 **DEPARTMENT MAY CHARGE AN INITIAL APPLICATION FEE OF \$50.00 TO COVER**
19 **THE COST OF PROCESSING THE APPLICATION.**

20 (5) The city, village, or county may inspect the premises of a
21 licensed ~~second hand~~-**SECONDHAND** or junk dealer during normal
22 business hours.

23 Sec. 3. As used in this act:

24 (a) "Automotive recycler" means a person who engages in
25 business primarily for the purpose of selling retail salvage
26 vehicle parts and secondarily for the purpose of selling retail
27 salvage motor vehicles or manufacturing or selling a product of

1 gradable scrap metal or a person employed as a salvage vehicle
2 agent as that term is defined in section 56c of the Michigan
3 vehicle code, 1949 PA 300, MCL 257.56c.

4 (B) "DEPARTMENT" MEANS THE DEPARTMENT OF LABOR AND ECONOMIC
5 GROWTH.

6 (C) ~~(b)~~-"Industrial scrap" means materials that are a direct
7 product or by-product of any form of manufacturing, shaping, or
8 cutting process from a person ~~, company, corporation,~~
9 ~~copartnership, or firm~~ whose principal business is the
10 manufacturing, shaping, or cutting of materials at a fixed place of
11 business.

12 (D) ~~(e)~~-"Internet drop-off store" means a person ~~,~~
13 ~~corporation, or firm~~ that contracts with other persons ~~,~~
14 ~~corporations, or firms~~ to offer its personal property or other
15 valuable thing for sale, purchase, consignment, or trade through
16 means of an internet website and meets the conditions described in
17 section 1(3).

18 (E) ~~(d)~~-"Local law enforcement agency" means the police agency
19 of the city, village, or township, or if none, the county sheriff
20 of the county in which the internet drop-off store conducts
21 business.

22 (F) "PERSON" MEANS AN INDIVIDUAL, CORPORATION, PARTNERSHIP,
23 COPARTNERSHIP, LIMITED LIABILITY COMPANY, OR OTHER LEGAL ENTITY.

24 (G) ~~(e)~~-"Scrap processor" means a person, utilizing machinery
25 and equipment and operating from a fixed location, whose principal
26 business is the processing and manufacturing of iron, steel,
27 nonferrous metals, paper, plastic, or glass, into prepared grades

1 of products suitable for consumption by recycling mills, foundries,
2 and other scrap processors.

3 (H) ~~(f) "Second hand"~~ **SECONDHAND** dealer" or "junk dealer"
4 means any person, ~~corporation, or member or members of a~~
5 ~~partnership or firm~~ whose principal business is that of
6 purchasing, selling, exchanging, storing, or receiving ~~second hand~~
7 **SECONDHAND** articles of any kind, scrap metals, cast iron, old iron,
8 old steel, tool steel, aluminum, copper, brass, lead pipe or tools,
9 **STAINLESS STEEL**, or lighting and plumbing fixtures. ~~Second hand~~
10 **SECONDHAND** dealer or junk dealer does not include a scrap
11 processor, an automotive recycler, or a junkyard that deals
12 principally in industrial scrap ~~and THAT~~ is **SPECIFICALLY** licensed
13 by a city, village, or county **AS A JUNKYARD**.

14 Sec. 4. (1) A ~~second hand~~ **SECONDHAND** dealer or junk dealer
15 shall post in a conspicuous place in or upon its place of business
16 a sign having its name and occupation.

17 (2) A ~~second hand~~ **SECONDHAND** or junk dealer shall keep a
18 separate book or other record, **WRITTEN OR ELECTRONIC IN A FORMAT**
19 **ACCEPTABLE TO THE LOCAL LAW ENFORCEMENT AGENCY**, open to inspection
20 by a member of a local law enforcement agency, in which shall be
21 written or entered in the English language at the time of the
22 purchase or exchange of any article a description of the article
23 **AND THE WEIGHT, AMOUNT, AND NUMBER OF THOSE ARTICLES REGARDING THE**
24 **TRANSACTION**, the name, description, fingerprint, operator's or
25 chauffeur's license or state identification number, registration
26 plate number, and address of the person from whom the article was
27 purchased and received, **THE PERSON OR PLACE FROM WHICH THE ARTICLE**

1 **WAS OBTAINED**, and the day and hour when the purchase or exchange
2 was made as well as the location from which the item was obtained.
3 ~~, if applicable.~~ **THE RECORD SHALL INDICATE THE METHOD OF PAYMENT.**
4 Each entry shall be numbered consecutively.

5 (3) **WITHIN 24 HOURS AFTER A REQUEST FROM A LOCAL LAW**
6 **ENFORCEMENT AGENCY, A LICENSEE SHALL PROVIDE A COPY OF THE**
7 **INFORMATION RECORDED IN SUBSECTION (1).**

8 Sec. 5. (1) The articles purchased or exchanged shall be
9 retained by the purchaser **OR LICENSEE** for at least 15 days before
10 disposing of them, in an accessible place in the building where the
11 articles are purchased and received. A tag shall be attached to the
12 articles in some visible and convenient place, with the number
13 written thereupon, to correspond with the entry number in the book
14 or other record. **PAYMENT FOR AN ITEM SHALL BE MADE ONLY BY A CHECK**
15 **OR AN ELECTRONIC PAYMENT SYSTEM.**

16 (2) The purchaser **OR LICENSEE** shall prepare and deliver on
17 Monday of each week to the chief of police or chief law enforcement
18 officer of the local unit of government in which such business is
19 carried on, before ~~12 o'clock~~ **12 noon**, a legible and correct copy
20 written in the English language from the book or other record,
21 containing a description of each article purchased or received
22 during the preceding week, the hour and day when the purchase was
23 made, ~~and~~ the description of the person from whom it was purchased,
24 **AND THE AMOUNT, WEIGHT, AND NUMBER OF ARTICLES REGARDING THE**
25 **TRANSACTION.** The statement shall be verified by the person
26 subscribing his or her name ~~thereto~~ **TO THE STATEMENT.**

27 (3) This section does not apply to old rags, waste paper, and

1 household goods except radios, televisions, record players, and
2 electrical appliances and does not require the purchaser to retain
3 articles purchased from ~~individuals, firms, or corporations~~ **A**
4 **PERSON** having a fixed place of business after those articles ~~shall~~
5 have been reported.

6 Enacting section 1. This amendatory act takes effect 120 days
7 after the date it is enacted into law.