

HOUSE BILL No. 5494

March 20, 2012, Introduced by Reps. Ananich, Tlaib, Stanley, Smiley, Irwin, Liss, Kandrevas, Bauer and Rutledge and referred to the Committee on Regulatory Reform.

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 sections 1 and 3 (MCL 445.401 and 445.403), section 1 as amended by 2008 PA 432 and section 3 as amended by 2006 PA 675.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) ~~A person, corporation, copartnership, EXCEPT AS~~
2 **OTHERWISE PROVIDED IN THIS SECTION, AN INDIVIDUAL** or firm shall not
3 carry on the business of ~~dealer in~~**A second hand goods DEALER** or
4 junk dealer in ~~any of the counties, cities, or villages of~~**A**
5 **COUNTY, CITY, OR VILLAGE IN** this state without ~~having first~~
6 ~~obtained,~~**OBTAINING A LICENSE THAT AUTHORIZES THE INDIVIDUAL OR**
7 **FIRM TO CARRY ON THAT BUSINESS** from the mayor of the city or the
8 chief executive officer of the county or village. ~~where the~~
9 ~~business is to be carried on, a license under this act authorizing~~

1 ~~that person, corporation, copartnership, or firm to carry on that~~
2 ~~business.~~

3 (2) ~~This section does not require an internet drop off store~~
4 ~~complying with subsection (3), or a person~~ **AN INDIVIDUAL** engaged in
5 the sale, purchase, consignment, or trade of ~~personal property or~~
6 ~~other valuable thing~~ **AN ITEM** for himself or herself, ~~to~~ **IS NOT**
7 **REQUIRED TO** obtain a license under this act.

8 (3) An internet drop-off store ~~in compliance with~~ **THAT MEETS**
9 **ALL OF** the following conditions ~~is exempt from licensure as a~~
10 ~~second hand dealer or junk dealer~~ **NOT REQUIRED TO OBTAIN A LICENSE**
11 under this act:

12 (a) Has a fixed place of business ~~within~~ **IN** this state, ~~except~~
13 ~~that he or she exclusively transacts~~ **AND** all purchases or sales **OF**
14 **ITEMS ARE EXCLUSIVELY TRANSACTED** by means of the internet and ~~the~~
15 ~~purchases and sales are not physically transacted on the premises~~
16 of that fixed place of business.

17 (b) Has ~~the personal property or other valuable thing~~ **AN ITEM**
18 **IT OFFERS** available on a website for viewing by photograph, if
19 available, by the general public at no charge, ~~which~~ **AND THE**
20 website ~~shall be~~ **IS** searchable by zip code, ~~or~~ state, or both. The
21 website ~~viewing shall include,~~ **MUST ALSO DISPLAY**, as applicable,
22 **ANY** serial number, make, model, and other unique identifying marks,
23 numbers, names, or letters ~~appearing~~ **THAT APPEAR** on the ~~personal~~
24 ~~property or other valuable thing.~~ **ITEM.**

25 (c) Maintains records of the sale, purchase, consignment, or
26 trade of ~~the personal property or other valuable thing~~ **AN ITEM IT**
27 **OFFERS** for at least 2 years. ~~, which records shall~~ **THE RECORDS MUST**

1 contain a description, including a photograph, if available, and,
2 if applicable, serial number, make, model, and other unique
3 identifying marks, numbers, names, or letters appearing on the
4 ~~personal property or other valuable thing~~.**ITEM.**

5 (d) ~~Provide~~**PROVIDES** the local law enforcement agency with any
6 name under which it conducts business on the website and access to
7 the business premises at any time during normal business hours for
8 purposes of inspection.

9 (e) Within 24 hours after a request from a local law
10 enforcement agency **CONCERNING AN ITEM IT OFFERS OR OFFERED**, ~~provide~~
11 **PROVIDES** an electronic copy of the seller's or consignor's name,
12 address, telephone number, **AND** driver license number and issuing
13 state; ~~the buyer's name and address, if applicable;~~ ~~and a~~
14 description of the ~~personal property or other valuable thing as~~
15 **ITEM THAT INCLUDES THE INFORMATION** described in subdivision (c).
16 The ~~provision of~~**STORE SHALL PROVIDE THE** information ~~shall be in a~~
17 format acceptable to the local law enforcement agency but shall at
18 least be in a legible format and in the English language.

19 (f) ~~Provide~~**PROVIDES** that payment for ~~the personal property or~~
20 ~~other valuable thing is executed~~**AN ITEM IT OFFERS IS MADE** by means
21 of **A** check or other electronic payment system, ~~so long as the~~
22 ~~payment~~**AND** is not made in cash. ~~No payment shall be provided to~~
23 ~~the~~**A STORE SHALL NOT PAY A** seller **FOR AN ITEM** until the item is
24 sold.

25 (g) Immediately ~~remove the personal property or other valuable~~
26 ~~thing~~**REMOVES AN ITEM IT OFFERS** from the website if the local law
27 enforcement agency determines that the ~~personal property or other~~

1 ~~valuable thing~~ ITEM is stolen.

2 (4) AN INDIVIDUAL OR FIRM IS NOT REQUIRED TO OBTAIN A LICENSE
3 FROM A CITY, COUNTY, OR VILLAGE UNDER THIS ACT IF ALL OF THE
4 FOLLOWING ARE MET:

5 (A) THE INDIVIDUAL'S OR FIRM'S BUSINESS AS A SECOND HAND
6 DEALER OR JUNK DEALER IN THE CITY, COUNTY, OR VILLAGE IS ACTING AS
7 A SCRAP METAL DEALER.

8 (B) THE INDIVIDUAL OR FIRM IS LICENSED AS A SCRAP METAL DEALER
9 UNDER THE SCRAP METAL LICENSING ACT.

10 (C) THE CITY, COUNTY, OR VILLAGE ELECTS TO EXEMPT SCRAP METAL
11 DEALERS FROM THE OBLIGATION TO OBTAIN A LICENSE AS A SECOND HAND
12 DEALER OR JUNK DEALER.

13 (5) ~~(4)~~ This section does not exempt ~~a person purchasing or~~
14 ~~selling articles of nonferrous metals from compliance with~~ AN
15 INDIVIDUAL OR FIRM ENGAGED IN PURCHASING OR SELLING SCRAP METAL
16 FROM COMPLYING WITH THE SCRAP METAL LICENSING ACT OR the nonferrous
17 metal regulatory act.

18 Sec. 3. As used in this act:

19 (a) "Automotive recycler" means ~~a person who~~ AN INDIVIDUAL OR
20 FIRM THAT engages in business primarily for the purpose of selling
21 retail salvage vehicle parts and secondarily for the purpose of
22 selling retail salvage motor vehicles or manufacturing or selling a
23 product of gradable scrap metal; or ~~a person~~ AN INDIVIDUAL employed
24 as a salvage vehicle agent as that term is defined in section 56c
25 of the Michigan vehicle code, 1949 PA 300, MCL 257.56c.

26 (B) "FIRM" MEANS A CORPORATION, LIMITED LIABILITY COMPANY,
27 PARTNERSHIP, OR OTHER LEGAL ENTITY.

1 (C) ~~(b)~~ "Industrial scrap" means materials that are a direct
2 product or by-product of any form of manufacturing, shaping, or
3 cutting process from ~~a person, company, corporation, copartnership,~~
4 **AN INDIVIDUAL** or firm whose principal business is the
5 manufacturing, shaping, or cutting of materials at a fixed place of
6 business.

7 (D) ~~(e)~~ "Internet drop-off store" means ~~a person, corporation,~~
8 **AN INDIVIDUAL** or firm that contracts with other ~~persons,~~
9 ~~corporations, INDIVIDUALS~~ or firms to offer ~~its personal property~~
10 ~~or other valuable thing~~ **AN ITEM** for sale, purchase, consignment, or
11 trade through means of an internet website and meets the conditions
12 described in section 1(3).

13 (E) **"ITEM" MEANS AN ITEM OF PERSONAL PROPERTY OR ANY OTHER**
14 **VALUABLE THING.**

15 (F) ~~(d)~~ "Local law enforcement agency" means the police agency
16 of the city, village, or township, or if none, the county sheriff
17 of the county in which ~~the~~ **AN** internet drop-off store conducts
18 business.

19 (G) **"SCRAP METAL" MEANS THAT TERM AS DEFINED IN SECTION 3 OF**
20 **THE SCRAP METAL REGULATORY ACT, MCL 445.423.**

21 (H) **"SCRAP METAL DEALER" MEANS THAT TERM AS DEFINED IN SECTION**
22 **3 OF THE SCRAP METAL REGULATORY ACT, MCL 445.423.**

23 (I) **"SCRAP METAL REGULATORY ACT" MEANS THE SCRAP METAL**
24 **REGULATORY ACT, 2008 PA 429, MCL 445.421 TO 445.443.**

25 (J) ~~(e)~~ "Scrap processor" means ~~a person, utilizing~~ **AN**
26 **INDIVIDUAL OR FIRM THAT UTILIZES** machinery and equipment, ~~and~~
27 ~~operating~~ **THAT OPERATES** from a fixed location, **AND** whose principal

1 business is the processing and manufacturing of iron, steel,
 2 nonferrous metals, paper, plastic, or glass, into prepared grades
 3 of products suitable for consumption by recycling mills, foundries,
 4 ~~and~~ OR other scrap processors.

5 (K) ~~(f)~~—"Second hand dealer" or "junk dealer" means ~~any~~
 6 ~~person, corporation, or member or members of a copartnership~~ AN
 7 INDIVIDUAL or firm whose principal business is that of purchasing,
 8 selling, exchanging, storing, or receiving second hand articles of
 9 any kind, scrap metals, cast iron, old iron, old steel, tool steel,
 10 aluminum, copper, brass, lead pipe or tools, or lighting and
 11 plumbing fixtures. Second hand dealer or junk dealer does not
 12 include a scrap processor, an automotive recycler, or a junkyard
 13 that deals principally in industrial scrap and is licensed TO
 14 CONDUCT THAT BUSINESS by a city, village, or county.

15 Enacting section 1. This amendatory act does not take effect
 16 unless all of the following bills of the 96th Legislature are
 17 enacted into law:

18 (a) Senate Bill No. ____ or House Bill No. 5490 (request no.
 19 03482'11 *).

20 (b) Senate Bill No. ____ or House Bill No. 5491 (request no.
 21 03565'11 *).

22 (c) Senate Bill No. ____ or House Bill No. 5493 (request no.
 23 04629'11).