

SENATE BILL No. 916

March 21, 2018, Introduced by Senator KOWALL 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 sections 1, 2, 3, 4, and 5 (MCL 445.401, 445.402, 445.403, 445.404, and 445.405), sections 1 and 2 as amended by 2008 PA 432, section 3 as amended by 2006 PA 675, and sections 4 and 5 as amended by 2008 PA 428.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A person ~~, corporation, copartnership, or firm~~
2 shall not carry on the business of ~~dealer in~~ **A second hand goods**
3 **DEALER** or junk dealer in ~~any of the counties, cities, or villages~~
4 ~~of this state without having first obtained,~~ **A COUNTY, CITY, OR**
5 **VILLAGE IN THIS STATE WITHOUT FIRST OBTAINING,** from the mayor of
6 the city or the chief executive officer of the county or village

1 where the business is to be carried on, a license under this act
2 authorizing that person ~~, corporation, copartnership, or firm~~ to
3 carry on that business. **IF A SECOND HAND DEALER USES AN AUTOMATED**
4 **RECYCLING KIOSK TO RECEIVE ARTICLES, THE DEALER MUST OBTAIN A**
5 **LICENSE UNDER THIS SECTION IN THE CITY, COUNTY, OR VILLAGE IN WHICH**
6 **THE KIOSK IS INSTALLED.**

7 (2) This section does not require an internet drop-off store
8 ~~complying~~ **THAT COMPLIES** with subsection (3), or a ~~person~~ **AN**
9 **INDIVIDUAL WHO IS** engaged in the sale, purchase, consignment, or
10 trade of personal property or other valuable thing for himself or
11 herself, to obtain a license under this act.

12 (3) An internet drop-off store ~~in compliance with~~ **THAT MEETS**
13 **ALL OF** the following conditions is exempt from licensure as a
14 second hand dealer or junk dealer under this act:

15 (a) ~~Has~~ **THE INTERNET DROP-OFF STORE HAS** a fixed place of
16 business ~~within~~ **IN** this state except that ~~he or she~~ **IT** exclusively
17 transacts all purchases or sales by means of the internet and the
18 purchases and sales are not physically transacted on the premises
19 of that fixed place of business.

20 (b) ~~Has~~ **THE INTERNET DROP-OFF STORE HAS** the personal property
21 or other valuable thing available on a website for viewing by
22 photograph, if available, by the general public at no charge, ~~which~~
23 **AND THE** website ~~shall be~~ **IS** searchable by zip code or state, or
24 both. The website viewing shall include, as applicable, serial
25 number, make, model, and other unique identifying marks, numbers,
26 names, or letters appearing on the personal property or other
27 valuable thing.

1 (c) ~~Maintains~~ **THE INTERNET DROP-OFF STORE MAINTAINS** records of
2 the sale, purchase, consignment, or trade of the personal property
3 or other valuable thing for at least 2 years, ~~which~~ **AND THOSE**
4 records ~~shall~~ contain a description, including a photograph, if
5 available, and, if applicable, serial number, make, model, and
6 other unique identifying marks, numbers, names, or letters
7 appearing on the personal property or other valuable thing.

8 (d) ~~Provide~~ **THE INTERNET DROP-OFF STORE PROVIDES** the local law
9 enforcement agency with any name under which it conducts business
10 on the website and access to the business premises at any time
11 during normal business hours for purposes of inspection.

12 (e) Within 24 hours after a request from a local law
13 enforcement agency, ~~provide~~ **THE INTERNET DROP-OFF STORE PROVIDES** an
14 electronic copy of the seller's or consignor's name, address,
15 telephone number, driver license number and issuing state, the
16 buyer's name and address if applicable, and a description of the
17 personal property or other valuable thing as described in
18 subdivision (c). The ~~provision of~~ **INTERNET DROP-OFF STORE SHALL**
19 **PROVIDE THE** information ~~shall be~~ in a format **THAT IS** acceptable to
20 the local law enforcement agency but **THE INFORMATION** shall at least
21 be in a legible format and in the English language.

22 (f) ~~Provide~~ **THE INTERNET DROP-OFF STORE REQUIRES** that payment
23 for the personal property or other valuable thing is ~~executed~~ **MADE**
24 by means of **A** check or ~~other~~ **THROUGH AN** electronic payment system;
25 ~~, so long as~~ **THAT** the payment is not made in cash; ~~. No~~ **AND THAT**
26 payment ~~shall be provided~~ **IS NOT MADE** to the seller until the item
27 is sold.

1 (g) ~~Immediately remove~~ **THE INTERNET DROP-OFF STORE IMMEDIATELY**
 2 **REMOVES** the personal property or other valuable thing from the
 3 website if the local law enforcement agency determines that the
 4 personal property or other valuable thing is stolen.

5 (4) This section does not exempt a person **THAT IS** purchasing
 6 or selling articles of ~~nonferrous metals from compliance with the~~
 7 ~~nonferrous metal regulatory act.~~ **SCRAP METAL, AS DEFINED IN SECTION**
 8 **3 OF THE SCRAP METAL REGULATORY ACT, 2008 PA 429, MCL 445.423, FROM**
 9 **COMPLYING WITH THAT ACT.**

10 Sec. 2. (1) The mayor of a city or chief executive officer of
 11 a county or village may grant ~~to any person, corporation,~~
 12 ~~copartnership, or firm, a license authorizing~~ **A LICENSE TO A PERSON**
 13 **THAT AUTHORIZES** that person ~~, corporation, copartnership, or firm~~
 14 to carry on the business of a second hand dealer or junk dealer **IN**
 15 **THAT CITY, COUNTY, OR VILLAGE,** subject to the provisions of this
 16 act. **FOR PURPOSES OF THIS SUBSECTION, A SECOND HAND DEALER THAT**
 17 **USES AN AUTOMATED RECYCLING KIOSK TO RECEIVE ARTICLES IS CONSIDERED**
 18 **TO BE CARRYING ON THE BUSINESS OF A SECOND HAND DEALER IN THE CITY,**
 19 **COUNTY, OR VILLAGE IN WHICH THE KIOSK IS INSTALLED.**

20 (2) ~~The~~ ~~A license shall~~ **GRANTED UNDER THIS SECTION MUST**
 21 designate the particular place where ~~that~~ ~~THE~~ ~~person, corporation,~~
 22 ~~copartnership, or firm~~ shall carry on ~~that~~ ~~THE~~ **business OF A SECOND**
 23 **HAND DEALER OR JUNK DEALER.** ~~The business shall be conducted~~ **PERSON**
 24 **MUST CONDUCT THAT BUSINESS** only in the place designated in the
 25 license.

26 (3) The **TERM OF A** license ~~shall be for the period of~~ **GRANTED**
 27 **UNDER THIS SECTION IS** 1 year from date of issuance unless sooner

1 revoked for cause. ~~and~~ **THE LICENSE** is not transferable. The
 2 legislative body of any city, or the trustees and chief executive
 3 officer of any county or village, shall establish the fee for ~~the~~
 4 ~~processing and issuance of the~~ **PROCESSING AND ISSUING A** license in
 5 accordance with its charter or local ordinance, based ~~upon~~ **ON** the
 6 cost of issuance and administration of that license.

7 (4) The city, village, or county may inspect the premises of a
 8 licensed second hand **DEALER** or junk dealer during normal business
 9 hours. **AS USED IN THIS SUBSECTION, "PREMISES" INCLUDES THE PLACE**
 10 **WHERE AN AUTOMATED RECYCLING KIOSK IS INSTALLED.**

11 Sec. 3. As used in this act:

12 (A) **"AUTOMATED RECYCLING KIOSK" MEANS AN INTERACTIVE DEVICE**
 13 **THAT MEETS ALL OF THE FOLLOWING:**

14 (i) **IS INSTALLED IN A SECURE RETAIL SPACE.**

15 (ii) **HAS THE FOLLOWING TECHNOLOGICAL FUNCTIONS:**

16 (A) **VERIFICATION OF A SELLER'S IDENTITY BY REMOTE EXAMINATION**
 17 **OF A GOVERNMENT-ISSUED IDENTIFICATION CARD BY A LIVE REPRESENTATIVE**
 18 **DURING ALL HOURS OF OPERATION.**

19 (B) **SECURE STORAGE OF ITEMS ACCEPTED BY THE KIOSK FOR**
 20 **RECYCLING.**

21 (C) **CAPTURE AND STORAGE OF IMAGES OF THE SELLER AND THE**
 22 **ARTICLE PURCHASED DURING THE TRANSACTION.**

23 (D) **ELECTRONIC REPORTING OF ALL TRANSACTIONS TO LAW**
 24 **ENFORCEMENT.**

25 (B) ~~(a)~~ **"Automotive recycler"** means a person ~~who~~ **THAT** engages
 26 in business primarily for the purpose of selling retail salvage
 27 vehicle parts and secondarily for the purpose of selling retail

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

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

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

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

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

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

1 and other scrap processors.

2 (H) ~~(f)~~ "Second hand dealer" or "junk dealer" means ~~any~~ **A**
 3 ~~person, corporation, or member or members of a copartnership or~~
 4 ~~firm~~ whose principal business is that of purchasing, selling,
 5 exchanging, storing, or receiving second hand articles of any kind,
 6 scrap metals, cast iron, old iron, old steel, tool steel, aluminum,
 7 copper, brass, lead pipe or tools, or lighting and plumbing
 8 fixtures. **SECOND HAND DEALER INCLUDES A PERSON THAT IS ENGAGED IN**
 9 **THE BUSINESS OF RECEIVING TANGIBLE PERSONAL PROPERTY FOR RECYCLING**
 10 **BY MEANS OF AN AUTOMATED RECYCLING KIOSK.** Second hand dealer or
 11 junk dealer does not include a scrap processor, an automotive
 12 recycler, or a junkyard that deals principally in industrial scrap
 13 and is licensed by a city, village, or county.

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

17 (2) A second hand **DEALER** or junk dealer shall make and
 18 maintain a separate book or other written or electronic record,
 19 numbered consecutively, and open to inspection by a member of a
 20 local law enforcement agency and the Michigan state police, in
 21 which ~~shall be written or entered~~ **THE DEALER WRITES OR ENTERS** in
 22 the English language at the time of the purchase or exchange of any
 23 article, ~~a~~ **ALL OF THE FOLLOWING:**

24 (A) **A** description of the article., ~~and all of the following:~~

25 (B) ~~(a)~~ The name, description, fingerprint, operator's or
 26 chauffeur's license or state identification number, registration
 27 plate number, and address of the ~~person~~ **INDIVIDUAL** from whom the

1 article ~~was~~ **IS** purchased and received. The second hand dealer or
 2 junk dealer shall make a copy of the operator's license,
 3 chauffeur's license, or state identification card as part of the
 4 book or record.

5 (C) ~~(b)~~ The day and hour the purchase or exchange ~~was~~ **IS** made.

6 (D) ~~(e)~~ The location from which the item ~~was~~ **IS** obtained.

7 (E) ~~(d)~~ ~~Payment~~ **SUBJECT TO SUBSECTION (3), THE METHOD OF**
 8 **PAYMENT.**

9 (3) **A SECOND HAND DEALER OR JUNK DEALER MUST PAY** for an item
 10 ~~shall be made only by check or by an electronic payment system,~~
 11 **EXCEPT THAT IF PAYMENT IS MADE BY AN AUTOMATED RECYCLING KIOSK, THE**
 12 **SECOND HAND DEALER MAY PAY CASH FOR THE ITEM.** ~~The record shall~~
 13 ~~indicate the method of payment.~~

14 Sec. 5. (1) ~~The articles purchased or exchanged shall be~~
 15 ~~retained by the purchaser~~ **EXCEPT AS PROVIDED IN SUBSECTION (2), A**
 16 **SECOND HAND DEALER OR JUNK DEALER SHALL RETAIN EACH ARTICLE IT**
 17 **PURCHASES OR RECEIVES IN EXCHANGE** for at least 15 days before
 18 disposing of them, ~~IT,~~ in an accessible place in the building where
 19 the articles are ~~ARTICLE IS~~ purchased and received. ~~A THE DEALER~~
 20 **SHALL ATTACH A tag shall be attached to the articles in some TO THE**
 21 **ARTICLE IN A** visible and convenient place, ~~with the number written~~
 22 ~~thereupon, to correspond~~ **AND WRITE ON THE TAG THE NUMBER THAT**
 23 **CORRESPONDS** with the entry number in the book or other record.

24 (2) **A SECOND HAND DEALER THAT OPERATES AN AUTOMATED RECYCLING**
 25 **KIOSK MAY STORE ARTICLES ACQUIRED AT THE KIOSK IN A SECURE OFF-SITE**
 26 **LOCATION. A DEALER MUST RETAIN AN ARTICLE STORED UNDER THIS**
 27 **SUBSECTION FOR 30 DAYS, AND UPON REQUEST RETURN THAT ARTICLE TO A**

1 **LAW ENFORCEMENT OFFICER OF THIS STATE WITHOUT COST.**

2 (3) ~~(2) The purchaser~~ **A SECOND HAND DEALER OR JUNK DEALER**
 3 shall prepare and deliver on Monday of each week to the ~~chief of~~
 4 ~~police or chief law enforcement officer~~ **LOCAL LAW ENFORCEMENT**
 5 **AGENCY** of the local unit of government in which ~~that~~ **THE DEALER'S**
 6 business is carried on, before 12 noon, a legible and correct paper
 7 or electronic copy, in the English language, from the book or other
 8 written or electronic record, ~~containing~~ **THAT CONTAINS** a
 9 description of each article purchased or received **IN EXCHANGE**
 10 during the preceding week, the hour and day when the purchase **OR**
 11 **EXCHANGE** was made, ~~the~~ **A** description of the ~~person~~ **INDIVIDUAL** from
 12 whom it was purchased **OR RECEIVED IN EXCHANGE**, and a copy of the
 13 documentation required under section 4 ~~regarding the person~~
 14 **CONCERNING THE INDIVIDUAL** from whom it was purchased **OR RECEIVED IN**
 15 **EXCHANGE**. The statement shall be verified in a manner acceptable to
 16 the chief of police or chief law enforcement officer **OF THE LOCAL**
 17 **LAW ENFORCEMENT AGENCY**.

18 (4) ~~(3)~~ This section does not apply to old rags, waste paper,
 19 and household goods except radios, televisions, record players, and
 20 electrical appliances and does not require ~~the purchaser~~ **A SECOND**
 21 **HAND DEALER OR JUNK DEALER** to retain articles purchased from
 22 ~~individuals, firms, or corporations having~~ **A PERSON THAT HAS** a
 23 fixed place of business after those articles ~~shall have been~~
 24 ~~reported~~ **ARE REPORTED UNDER SUBSECTION (3)**.

25 Enacting section 1. This amendatory act takes effect 90 days
 26 after the date it is enacted into law.