

HOUSE BILL No. 4107

January 26, 2017, Introduced by Rep. LaFave 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, 2, 3, and 6 (MCL 445.401, 445.402, 445.403, and 445.406), sections 1 and 2 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, or firm~~
2 shall not carry on the business of dealer in second hand goods or
3 junk dealer in any of the counties, cities, ~~or~~ villages, **OR**
4 **TOWNSHIPS** of this state without having first obtained, from the
5 mayor of the city or the chief executive officer of the county, ~~or~~
6 village, **OR TOWNSHIP** where the business is to be carried on, a

1 license under this act authorizing that person ~~, corporation,~~
2 ~~partnership, or firm~~ to carry on that business.

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

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

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

23 (c) Maintains records of the sale, purchase, consignment, or
24 trade of the personal property or other valuable thing for at least
25 2 years, ~~which~~ **AND THOSE** records ~~shall~~ contain a description,
26 including a photograph, if available, and, if applicable, serial
27 number, make, model, and other unique identifying marks, numbers,

1 names, or letters appearing on the personal property or other
2 valuable thing.

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

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

16 (f) ~~Provide~~**PROVIDES** that payment for the personal property or
17 other valuable thing is executed by means of check or other
18 electronic payment system; ~~so long as~~**THAT** the payment is not
19 made in cash; ~~No~~**AND THAT** payment shall be provided **IS NOT MADE**
20 to the seller until the item is sold.

21 (g) Immediately ~~remove~~**REMOVES** the personal property or other
22 valuable thing from the website if the local law enforcement agency
23 determines that the personal property or other valuable thing is
24 stolen.

25 (4) This section does not exempt a person **THAT IS** purchasing
26 or selling articles of nonferrous metals from compliance with the
27 ~~nonferrous metal regulatory act.~~**SCRAP METAL REGULATORY ACT, 2008 PA**

1 429, MCL 445.421 TO 445.443.

2 Sec. 2. (1) The mayor of a city or chief executive officer of
 3 a county, ~~or~~ village, **OR TOWNSHIP** may grant to any person ~~,~~
 4 ~~corporation, copartnership, or firm,~~ a license authorizing ~~THAT~~
 5 **AUTHORIZES** that person ~~,~~ ~~corporation, copartnership, or firm~~ to
 6 carry on the business of a second hand dealer or junk dealer **IN**
 7 **THAT CITY, COUNTY, VILLAGE, OR TOWNSHIP**, subject to the provisions
 8 of this act.

9 (2) ~~The~~ **A** license **GRANTED UNDER THIS SECTION** shall designate
 10 the particular place where ~~that~~ **THE** person ~~,~~ ~~corporation,~~
 11 ~~copartnership, or firm~~ shall carry on ~~that~~ **THE** business **OF A SECOND**
 12 **HAND DEALER OR JUNK DEALER**. The **DEALER SHALL ONLY CONDUCT THAT**
 13 business ~~shall be conducted only in~~ **AT** the place designated in the
 14 license.

15 (3) The **TERM OF A** license ~~shall be for the period of~~ **GRANTED**
 16 **UNDER THIS SECTION EXPIRES** 1 year ~~from~~ **AFTER THE** date of issuance,
 17 unless sooner revoked for cause, and is not transferable. The
 18 legislative body of any city **OR TOWNSHIP**, or the trustees and chief
 19 executive officer of any county or village, shall establish the fee
 20 for the processing and issuance of the license in accordance with
 21 its charter or local ordinance, based ~~upon~~ **ON** the cost of issuance
 22 and administration of that license.

23 (4) ~~The~~ **A** city, village, **TOWNSHIP**, or county may inspect the
 24 premises of a licensed second hand or junk dealer during normal
 25 business hours.

26 Sec. 3. As used in this act:

27 (a) "Automotive recycler" means a person ~~who~~ **THAT** engages in

1 business primarily for the purpose of selling retail salvage
2 vehicle parts and secondarily for the purpose of selling retail
3 salvage motor vehicles or manufacturing or selling a product of
4 gradable scrap metal or a person employed as a salvage vehicle
5 agent as that term is defined in section 56c of the Michigan
6 vehicle code, 1949 PA 300, MCL 257.56c.

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

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

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

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

23 **(F)** ~~(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 (G) ~~(f)~~ "Second hand dealer" or "junk dealer" means any person
 3 ~~, corporation, or member or members of a copartnership or firm~~
 4 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 or junk dealer does not include a
 9 scrap processor, an automotive recycler, or a junkyard that deals
 10 principally in industrial scrap and is licensed by a city, village,
 11 **TOWNSHIP**, or county.

12 Sec. 6. If the purchaser or receiver, by exchange or
 13 otherwise, ~~as OF AN ARTICLE~~ described in section 3 ~~is~~ a peddler
 14 or goes about with a wagon to purchase or obtain by exchange or
 15 otherwise, any of ~~such~~ **THOSE** articles, and does not have a place of
 16 business in a building, he **OR SHE** need not retain ~~such~~ **THOSE**
 17 articles for 15 days before selling them, ~~provided IF~~ on Monday of
 18 each week he **OR SHE** files with the chief of police or chief police
 19 officer of the city, ~~or~~ village, **OR TOWNSHIP** in which he **OR SHE** is
 20 located a report showing the place of business of the person to
 21 ~~whom such~~ **WHICH THE** sale was made; **AND** a copy of the record
 22 required by ~~such section to be~~ **UNDER SECTION 3 IS** kept in a
 23 separate book of the articles purchased or received during the
 24 preceding week, including a description of ~~such~~ **THE** articles sold,
 25 ~~to whom sold and his~~ **THE PERSON TO WHICH THEY WERE SOLD, AND THAT**
 26 **PERSON'S** place of business.

27 Enacting section 1. This amendatory act takes effect 90 days

1 after the date it is enacted into law.