

Act No. 329
Public Acts of 2018
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STATE OF MICHIGAN
99TH LEGISLATURE
REGULAR SESSION OF 2018

Introduced by Senator Kowall

ENROLLED SENATE BILL No. 916

AN ACT 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:

Sec. 1. (1) A person shall not carry on the business of a second hand dealer or junk dealer in a county, city, or village in this state without first obtaining, from the mayor of the city or the chief executive officer of the county or village where the business is to be carried on, a license under this act authorizing that person to carry on that business. If a second hand dealer uses an automated recycling kiosk to receive articles, the dealer must obtain a license under this section in the city, county, or village in which the kiosk is installed.

(2) This section does not require an internet drop-off store that complies with subsection (3), or an individual who is engaged in the sale, purchase, consignment, or trade of personal property or other valuable thing for himself or herself, to obtain a license under this act.

(3) An internet drop-off store that meets all of the following conditions is exempt from licensure as a second hand dealer or junk dealer under this act:

(a) The internet drop-off store has a fixed place of business in this state except that it exclusively transacts all purchases or sales by means of the internet and the purchases and sales are not physically transacted on the premises of that fixed place of business.

(b) The internet drop-off store has the personal property or other valuable thing available on a website for viewing by photograph, if available, by the general public at no charge, and the website is searchable by zip code or state, or both. The website viewing shall include, as applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(c) The internet drop-off store maintains records of the sale, purchase, consignment, or trade of the personal property or other valuable thing for at least 2 years, and those records contain a description, including a photograph, if available, and, if applicable, serial number, make, model, and other unique identifying marks, numbers, names, or letters appearing on the personal property or other valuable thing.

(d) The internet drop-off store provides the local law enforcement agency with any name under which it conducts business on the website and access to the business premises at any time during normal business hours for purposes of inspection.

(e) Within 24 hours after a request from a local law enforcement agency, the internet drop-off store provides an electronic copy of the seller's or consignor's name, address, telephone number, driver license number and issuing state, the buyer's name and address if applicable, and a description of the personal property or other valuable thing as described in subdivision (c). The internet drop-off store shall provide the information in a format that is acceptable to the local law enforcement agency but the information shall at least be in a legible format and in the English language.

(f) The internet drop-off store requires that payment for the personal property or other valuable thing is made by means of a check or through an electronic payment system; that the payment is not made in cash; and that payment is not made to the seller until the item is sold.

(g) The internet drop-off store immediately removes the personal property or other valuable thing from the website if the local law enforcement agency determines that the personal property or other valuable thing is stolen.

(4) This section does not exempt a person that is purchasing or selling articles of scrap metal, as defined in section 3 of the scrap metal regulatory act, 2008 PA 429, MCL 445.423, from complying with that act.

Sec. 2. (1) The mayor of a city or chief executive officer of a county or village may grant a license to a person that authorizes that person to carry on the business of a second hand dealer or junk dealer in that city, county, or village, subject to the provisions of this act. For purposes of this subsection, a second hand dealer that uses an automated recycling kiosk to receive articles is considered to be carrying on the business of a second hand dealer in the city, county, or village in which the kiosk is installed.

(2) A license granted under this section must designate the particular place where the person shall carry on the business of a second hand dealer or junk dealer. The person must conduct that business only in the place designated in the license.

(3) The term of a license granted under this section is 1 year from date of issuance unless sooner revoked for cause. The license is not transferable. The legislative body of any city, or the trustees and chief executive officer of any county or village, shall establish the fee for processing and issuing a license in accordance with its charter or local ordinance, based on the cost of issuance and administration of that license.

(4) The city, village, or county may inspect the premises of a licensed second hand dealer or junk dealer during normal business hours. As used in this subsection, "premises" includes the place where an automated recycling kiosk is installed.

Sec. 3. As used in this act:

(a) "Automated recycling kiosk" means an interactive device that meets all of the following:

(i) Is installed in a secure retail space.

(ii) Has the following technological functions:

(A) Verification of a seller's identity by remote examination of a government-issued identification card by a live representative during all hours of operation.

(B) Secure storage of items accepted by the kiosk for recycling.

(C) Capture and storage of images of the seller and the article purchased during the transaction.

(D) Electronic reporting of all transactions to law enforcement.

(b) "Automotive recycler" means a person that engages in business primarily for the purpose of selling retail salvage vehicle parts and secondarily for the purpose of selling retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal or a person employed as a salvage vehicle agent as that term is defined in section 56c of the Michigan vehicle code, 1949 PA 300, MCL 257.56c.

(c) "Industrial scrap" means materials that are a direct product or by-product of any form of manufacturing, shaping, or cutting process from a person whose principal business is the manufacturing, shaping, or cutting of materials at a fixed place of business.

(d) "Internet drop-off store" means a person that contracts with other persons to offer its personal property or other valuable thing for sale, purchase, consignment, or trade through means of an internet website and meets the conditions described in section 1(3).

(e) "Local law enforcement agency" means the police agency of the city, village, or township, or if none, the county sheriff of the county, in which a second hand dealer, junk dealer, or internet drop-off store conducts business.

(f) "Person" means an individual, corporation, limited liability company, partnership, or other legal entity.

(g) "Scrap processor" means a person, utilizing machinery and equipment and operating from a fixed location, whose principal business is the processing and manufacturing of iron, steel, nonferrous metals, paper, plastic, or glass, into prepared grades of products suitable for consumption by recycling mills, foundries, and other scrap processors.

(h) "Second hand dealer" or "junk dealer" means a person whose principal business is that of purchasing, selling, exchanging, storing, or receiving second hand articles of any kind, scrap metals, cast iron, old iron, old steel, tool steel, aluminum, copper, brass, lead pipe or tools, or lighting and plumbing fixtures. Second hand dealer includes a person that is engaged in the business of receiving tangible personal property for recycling by means of an automated recycling kiosk. Second hand dealer or junk dealer does not include a scrap processor, an automotive recycler, or a junkyard that deals principally in industrial scrap and is licensed by a city, village, or county.

Sec. 4. (1) A second hand dealer or junk dealer shall post in a conspicuous place in or on its place of business a sign that states its name and occupation.

(2) A second hand dealer or junk dealer shall make and maintain a separate book or other written or electronic record, numbered consecutively, and open to inspection by a member of a local law enforcement agency and the Michigan state police, in which the dealer writes or enters in the English language at the time of the purchase or exchange of any article, all of the following:

(a) A description of the article.

(b) The name, description, fingerprint, operator's or chauffeur's license or state identification number, registration plate number, and address of the individual from whom the article is purchased and received. The second hand dealer or junk dealer shall make a copy of the operator's license, chauffeur's license, or state identification card as part of the book or record.

(c) The day and hour the purchase or exchange is made.

(d) The location from which the item is obtained.

(e) Subject to subsection (3), the method of payment.

(3) A second hand dealer or junk dealer must pay for an item by check or by an electronic payment system, except that if payment is made by an automated recycling kiosk, the second hand dealer may pay cash for the item.

Sec. 5. (1) Except as provided in subsection (2), a second hand dealer or junk dealer shall retain each article it purchases or receives in exchange for at least 15 days before disposing of it, in an accessible place in the building where the article is purchased and received. The dealer shall attach a tag to the article in a visible and convenient place, and write on the tag the number that corresponds with the entry number in the book or other record.

(2) A second hand dealer that operates an automated recycling kiosk may store articles acquired at the kiosk in a secure off-site location. A dealer must retain an article stored under this subsection for 30 days, and upon request return that article to a law enforcement officer of this state without cost.

(3) A second hand dealer or junk dealer shall prepare and deliver on Monday of each week to the local law enforcement agency of the local unit of government in which the dealer's business is carried on, before 12 noon, a legible and correct paper or electronic copy, in the English language, from the book or other written or electronic record, that contains a description of each article purchased or received in exchange during the preceding week, the hour and day when the purchase or exchange was made, a description of the individual from whom it was purchased or received in exchange, and a copy of the documentation required under section 4 concerning the individual from whom it was purchased or received in exchange. The statement shall be verified in a manner acceptable to the chief of police or chief law enforcement officer of the local law enforcement agency.

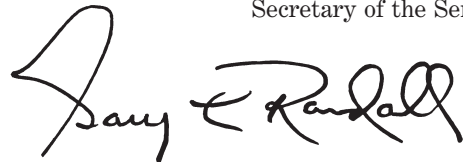
(4) This section does not apply to old rags, waste paper, and household goods except radios, televisions, record players, and electrical appliances and does not require a second hand dealer or junk dealer to retain articles purchased from a person that has a fixed place of business after those articles are reported under subsection (3).

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

This act is ordered to take immediate effect.



Secretary of the Senate



Clerk of the House of Representatives

Approved

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Governor