

AN ACT relating to automotive recycling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Automotive recycling dealer" has the same meaning as in KRS 190.010(8);

(b) "Motor vehicle" has the same meaning as in KRS 189.010(19), but does not include a vehicle which has been crushed or flattened by mechanical means such that it is less than fifty percent (50%) of its original volume; and

(c) "Secondary metals recycler" has the same meaning as in KRS 433.900.

(2) Notwithstanding KRS 186A.215, a secondary metals recycler or an automotive recycling dealer may purchase a motor vehicle without a certificate of title, if the motor vehicle is ten (10) model years or older.

(3) For purchases made under subsection (2) of this section, a secondary metals recycler, an automotive recycling dealer, or an agent of the secondary metals recycler or automotive recycling dealer shall maintain a statement signed by the seller of the motor vehicle or the seller's agent, that contains the following information:

(a) The name, address, and operator's license number of the seller;

(b) A description of the vehicle, including the year, make, model, and vehicle identification number (VIN);

(c) The date of the transaction;

(d) Certification that the vehicle is at least ten (10) years old and is not subject to any secured interest or lien;

(e) Certification that the seller or the seller's agent has the right to sell and dispose of the motor vehicle;

- (f) Certification that the seller:
1. Never obtained a title to the vehicle in his or her name; or
 2. Was issued a title, but that title has been lost or stolen;
- (g) An acknowledgement that knowingly giving false, fraudulent, or erroneous information in connection with this statement or falsely certifying the truthfulness and accuracy of information supplied in connection with this statement, or knowingly selling a vehicle subject to an unsatisfied lien, shall be considered forgery in the second degree;
- (h) The name and address of the secondary metals recycler or automotive recycling dealer;
- (i) The names of the individuals or entities from whom the vehicle was obtained, for use by law enforcement personnel and government agencies only;
- (j) A photocopy or an electronic scan of the seller's or seller's agent's valid operator's license or identification card issued by a state or federal agency of the United States;
- (k) The National Motor Vehicle Title Information System identification number of the business acquiring the vehicle; and
- (l) The state, license plate number, and the description of the motor vehicle used to transport the motor vehicle being purchased, including the year, make, and model to the extent practicable.
- (4) Motor vehicles purchased under this section shall not be titled again or registered for highway use and shall be dismantled or scrapped.
- (5) A purchaser under this section may maintain a copy of the seller's photo identification on file and may reference the identification on file without making a separate photocopy for each transaction for subsequent purchases.
- (6) Statements required under subsection (3) of this section shall be maintained for a

period of not less than two (2) years.

- (7) The Transportation Cabinet shall develop an electronic system for automotive recycling dealers and secondary metals recyclers to verify at the time of transaction, that a motor vehicle offered for sale has not been stolen. This service shall be offered at no cost.
- (8) Prior to purchasing a motor vehicle under this section, the automotive recycling dealer or secondary metals recycler shall first verify with the Transportation Cabinet that the motor vehicle offered for sale has not been reported stolen. An automotive recycling dealer or secondary metals recycler shall not purchase a motor vehicle that has been reported stolen, but shall notify the appropriate law enforcement agency.
- (9) An automotive recycling dealer or secondary metals recycler shall not be required to apprehend any person that attempts to sell a motor vehicle that has been determined to be stolen.
- (10) An automotive recycling dealer or secondary metals recycler shall not be liable for vehicles purchased if, at the time of transaction, a check using the system outlined in subsection (7) of this section initially determined that the vehicle had not been reported as stolen, but at a later date, the motor vehicle was determined to be stolen.
- (11) The information obtained by the Transportation Cabinet from verification made under of subsection (8) of this section shall be made available only to law enforcement agencies or to county clerks for the purposes of cancelling certificates of title and shall not be a public record.
- (12) An automotive recycling dealer or a secondary metals recycler shall report vehicles purchased under this section to the National Motor Vehicle Title Information System at the time of the transaction or no later than twenty-four (24) hours after the close of business on the day of the transaction.

(13) An automotive recycling dealer or a secondary metals recycler that purchases or otherwise acquires a vehicle pursuant to this section, shall not wreck, dismantle, demolish, or otherwise dispose of the motor vehicle until at least two (2) full business weekdays after completion of the purchase.

(14) The Transportation Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to set forth standards for the transfer of a vehicle under this section, including but not limited to the development of forms required. The Transportation Cabinet may consult with representatives of the secondary metals recycling and automotive recycling dealers industries when developing the forms required under this section.

➔Section 2. KRS 186A.990 is amended to read as follows:

- (1) Any person who knowingly gives false, fraudulent, or erroneous information in connection with an application for the registration, and when required, titling of a vehicle, or any application for assignment of a vehicle identification number, or replacement documents, or gives information in connection with his review of applications, or falsely certifies the truthfulness and accuracy of information supplied in connection with the registration and when required, titling of a vehicle, shall be guilty of forgery in the second degree.
- (2) Any person who violates KRS 186A.260 or KRS 186A.275 to 186A.285 shall be guilty of a Class D felony.
- (3) Any person who violates KRS 186A.300 to 186A.315 shall be guilty of a Class D felony.
- (4) Any person who operates a motor vehicle or trailer upon the highways of this state without a temporary tag when one is required, or with one that is expired, improperly executed, or displayed on a vehicle other than the one (1) to which it was legitimately and lawfully issued, shall be guilty of a Class B misdemeanor.
- (5) Any person who violates the disclosure provisions of KRS 186A.530(8) shall be

guilty of a Class A misdemeanor.

- (6) Any person who violates any provisions of this chapter, or regulations promulgated pursuant thereto, and for which a specific penalty is not prescribed by statute, shall be guilty of a Class A misdemeanor.
- (7) Criminal remedies or sanctions provided in this chapter are in addition to, and not exclusive of, any other criminal remedies or sanctions provided elsewhere in the statutes.
- (8) Any person who knowingly gives false, fraudulent, or erroneous information in connection with the signed statement as outlined in subsection (3) of Section 1 of this Act from the seller of a motor vehicle described in Section 1 of this Act or falsely certifies the truthfulness and accuracy of information supplied in connection with the statement, or knowingly sells a vehicle subject to an unsatisfied lien, shall be guilty of forgery in the second degree.**
- (9) Any person who violates subsection (3), (6), or (12) of Section 1 of this Act, shall be assessed a fine of one thousand dollars (\$1,000) per violation.**

➔Section 3. KRS 433.890 is amended to read as follows:

- (1) Every recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, collector of or dealer in articles found in ashes, garbage, or other refuse, whether such dealers, collectors, or vendors have established places of business or operate a business of an itinerant nature, shall, with regard to any catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rails, nonferrous metal or an alloy thereof, or an object containing nonferrous metal or an alloy thereof:
- (a) Keep a register that contains:
1. A photocopy of a valid driver's license or other government-issued identification card or document which contains the name, photograph,

and signature of the seller. If the purchaser has a copy of the seller's valid photo identification on file, it shall not be necessary for the purchaser to make another copy of the identification document for each purchase if the purchaser references the number on the identification document in the register at the time of each purchase; and

2. The state and license number of the motor vehicle used to transport the purchased catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, nonferrous metal or an alloy thereof, or object containing nonferrous metal or an alloy thereof, to the place of purchase, which shall be provided by the seller of the items;
 3. The time and date of the transaction;
 4. A description in the usage of the trade of the kind and weight of the railroad rail, nonferrous metal or an alloy thereof, or object containing the nonferrous metal or an alloy thereof purchased; and
 5. The amount paid for the material and the unit basis of the purchase, such as by ounce or pound, etc.;
- (b) Not purchase any metal that has been smelted, burned, or melted unless, in addition to the other requirements of this subsection, the seller provides the following, and the purchaser maintains a copy thereof:
1. A signed certificate of ownership stating that he or she is the owner of the metal and is entitled to sell it; or
 2. A signed certificate from the owner of the metal stating that he or she is the owner of the metal, and that the person selling the metal is authorized to sell the metal on behalf of the owner;
- (c) Not purchase any catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable,

railroad rail, nonferrous metal or an alloy thereof, or an object containing nonferrous metal or an alloy thereof from a person who:

1. Is less than eighteen (18) years of age; or
 2. Is unable or refuses to provide the identification and information required in paragraph (a) of this subsection;
- (d) Retain the information required by this section for a period of two (2) years, after which time, the information may be retained, destroyed in a manner that protects the identity of the owner of the property and the seller of the property, or transferred to a law enforcement agency specified in paragraph (g) of this subsection;
- (e) If the purchaser ceases business, transfer all records and information required by this section to a law enforcement agency specified in paragraph (g) of this subsection;
- (f) Permit any peace officer to inspect the register, and if the peace officer deems it necessary to locate specific stolen property, may inspect the catalytic converter, metal beverage and container that is capable of holding more than two (2) liters of beverage is marketed as returnable, railroad rail, nonferrous metal or an alloy thereof, or object containing nonferrous metal or an alloy thereof received during business hours;
- (g) Upon written request of the sheriff or chief of police, as appropriate, make a report containing the information required to be retained in the register under paragraph (a) of this subsection in person, in digital format, in writing, or by electronic means within twenty-four (24) hours of the transaction to:
1. The sheriff of the county in which the purchase was made and the sheriff of the county in which the business is located; and
 2. When the purchase was made in a city, county, urban-county, charter county, consolidated local government, or unified local government, to

the police department of the city, county, urban-county, charter county, consolidated local government, or unified local government in which the purchase is made and the police department of the city, county, urban-county, charter county, consolidated local government, or unified local government in which the business is located, unless there is no police department in that jurisdiction;

- (h) Comply with a written request pursuant to paragraph (g) of this subsection until a written notice to cease sending the reports required by paragraph (g) of this subsection is received by the purchaser. A request may relate to:
 - 1. All records of purchases;
 - 2. Records of a specific class of metals or items purchased;
 - 3. Records of purchases during a specific period of time; or
 - 4. Records of a specific purchase or purchases; and
 - (i) Retain the property in its original form or a photograph or digital image of the property for a period of three (3) business days from the date of purchase unless notified by a peace officer having reasonable cause to believe that the property may be stolen property, in which case, the property may be seized as evidence by the peace officer or, if not seized, shall be retained for an additional thirty (30) days unless earlier notified by a peace officer that the property may be sold.
- (2) A sheriff or police department receiving records pursuant to this section shall retain the records for two (2) years, after which time, it may either retain or destroy the records in a manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.
 - (3) Any record required to be made or reported pursuant to this section may be kept and reported in hard copy or digital or in electronic format.
 - (4) This section shall not apply to the purchase, sale, or transfer of:

- (a) A motor vehicle, aircraft, or other item that is licensed by the state or federal government pursuant to a legitimate transfer of title or issuance of a junk title, *or to the sale of a motor vehicle under Section 1 of this Act;*
- (b) A firearm, part of a firearm, firearm accessory, ammunition, or ammunition component;
- (c) A knife, knife parts, accessory or sheath for a knife, or knifemaking products;
- (d) A nonreturnable used beverage container or food container;
- (e) Jewelry, household goods containing metal, garden tools, and similar household items, except for a catalytic converter or metal beverage container that is capable of holding more than two (2) liters of liquid and which is marketed as returnable, which takes place at a flea market or yard sale;
- (f) A single transaction involving a purchase price of ten dollars (\$10) or less, but more than two (2) transactions with the same person involving a purchase price of ten dollars (\$10) or less in one (1) seven (7) day period shall be reportable transactions;
- (g) Material disposed of as trash or refuse that contains or may contain a catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, nonferrous metals or an alloy thereof, or an object that contains or may contain a railroad rail or nonferrous metals or an alloy thereof, which is collected by a municipal waste department or by a licensed waste hauler and no payment is made to the person from whom the material is collected by the person or agency collecting the material;
- (h) A catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and marketed as returnable, railroad rail, nonferrous metal or alloy thereof, or an object containing railroad rail, nonferrous metal, or an alloy thereof from a person who has maintained a

record pursuant to this section to a person who is to further recycle the metal or object containing the metal;

- (i) A catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and marketed as returnable, railroad rail, nonferrous metal or an alloy thereof, or object containing nonferrous metal or an alloy thereof under a written contract with an organization, corporation, or association registered with the Commonwealth as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school sponsored organization;
- (j) A purchase, pursuant to a written contract, from a manufacturing, industrial or other commercial vendor that generates catalytic converters, metal beverage containers capable of holding more than two (2) liters of beverage and which are marketed as returnable, railroad rail, nonferrous metal or an alloy thereof, or object containing nonferrous metal in the ordinary course of business;
- (k) An item purchased by, pawned to, or sold by a pawnbroker licensed pursuant to KRS Chapter 226, engaging in the business authorized by that chapter; or
- (l) Any ferrous metal item, except for a catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marked as returnable, or railroad rails.

➔Section 4. KRS 186A.215 is amended to read as follows:

- (1) If an owner transfers his interest in a vehicle, he shall, at the time of the delivery of the vehicle, execute an assignment and warranty of title to the transferee in the space provided therefor on the certificate of title, except if the space provided therefor on the owner's certificate of title fails to meet the Kentucky requirements for lawful conveyance of title or if the space provided therefor on the owner's certificate of title fails to meet the requirements for the owner to execute an odometer disclosure statement as required by federal law in effect at the time transferor executes an assignment and warranty of title. Pursuant to the exceptions

provided by this subsection and in other cases where applicable, the transferor shall execute an assignment and warranty of title to the transferee by executing the application as provided by the Department of Vehicle Regulation and available from the county clerk. The transferor shall cause the application with the certificate of title attached to be delivered to the transferee.

- (2) Except as otherwise provided in this chapter, the transferee shall, promptly after delivery to him of the vehicle, execute the application for a new certificate of title and registration. If an application is required by subsection (1) of this section, the transferee shall execute the applicable portions provided to him by his transferor. Any unexpired registration shall remain valid upon transfer of said vehicle to the transferee.
- (3) The application with its supporting documentation attached shall promptly be submitted to the county clerk as provided in KRS 186A.115, together with the required fees.
- (4) If it comes to the attention of a transferor that a transferee did not promptly submit the necessary document within fifteen (15) calendar days to the county clerk as required by law in order to complete the transfer transaction, a transferor shall submit to the county clerk, in his county of residence, an affidavit that he has transferred his interest in a specific vehicle, and the clerk shall enter appropriate data into the AVIS system which shall restrict any registration transaction from occurring on that vehicle until the transfer has been processed. The Transportation Cabinet may adopt administrative regulations governing this subsection. This subsection shall not apply to any transactions involving licensed Kentucky motor vehicle dealers.

~~[(5) This section shall not apply to a vehicle which has had the title surrendered to a county clerk or a hulk vehicle. Hulk vehicle shall mean a vehicle or part thereof that is:~~

- ~~(a) In a rusted, wrecked, discarded, worn out, extensively damaged, dismantled, and mechanically inoperative condition; or~~
- ~~(b) Of an apparent value of less than two hundred dollars (\$200).]~~