

Regular Session, 2012

HOUSE BILL NO. 1188 (Substitute for House Bill No. 802 by Representative Anders)

BY REPRESENTATIVES ANDERS AND RICHARDSON

FEES/LICENSES/PERMITS: Provides for the Scrap Metal Recycler Law

1 AN ACT

2 To amend and reenact R.S. 37:1861(B)(introductory paragraph) and 1864.3 and to enact
3 R.S. 37:1861(B)(6) and Chapter 22 of Title 37 of the Louisiana Revised Statutes of
4 1950, to be comprised of R.S. 37:1961 through 1975, relative to used or secondhand
5 property; to provide for an exemption to the secondhand dealer law; to prohibit cash
6 payments for the purchase of copper and other metals; to establish the Louisiana
7 Scrap Metal Recyclers Law; to provide for definitions; to require an occupational
8 license to operate as a scrap metal recycler; to require changes in location to be noted
9 on a license; to provide for hours of operation; to require records of scrap metal
10 purchased; to require the records to be kept for three years; to require the records to
11 be made available for inspection by law enforcement; to require photographic
12 records of scrap metal purchased and of the sellers; to prohibit the purchase of scrap
13 metal not owned by the seller; to prohibit scrap metal purchases from person under
14 the age of eighteen; to require a statement of ownership from the seller; to provide
15 that failure to obtain the statement shall be prima facie evidence of fraud; to provide
16 for exoneration from fraudulent, willful, or criminal knowledge; to require daily
17 reports; to require the use of a national database; to provide for violations; to provide
18 for penalties; to provide for an effective date; and to provide for related matters.

19 Be it enacted by the Legislature of Louisiana:

20 Section 1. R.S. 37:1861(B)(introductory paragraph) and 1864.3 are hereby amended
21 and reenacted and R.S. 37:1861(B)(6) and Chapter 22 of Title 37 of the Louisiana Revised

1 Statutes of 1950, comprised of R.S. 37:1961 through 1975, is hereby enacted to read as
2 follows:

3 §1861. "Secondhand dealer" defined

4 * * *

5 B. Except as provided for in ~~R.S. 37:1864.3 and 1869.1~~ R.S. 37:1869.1, the
6 provisions of this Part shall not apply to:

7 * * *

8 (6) Purchases of scrap metal by persons operating as a scrap metal recycler
9 under the provisions of R.S. 37:1961 et seq.

10 * * *

11 §1864.3. Payment by check ~~or money order~~ for copper or other metals required;
12 check cashing prohibited; penalties

13 A.(1) A secondhand dealer shall not enter into any cash transactions in
14 payment for the purchase of ~~junk or used or secondhand property~~ copper. Payment
15 for copper shall be made in the form of a check, ~~electronic transfers, or money order~~
16 issued to the seller of the ~~junk or used or secondhand property~~ and made payable to
17 the name and address of the seller made payable to the seller of the metal and mailed
18 to the address recorded on the photo identification of the seller no earlier than five
19 business days after the date of the transaction.

20 (2) A secondhand dealer shall not enter into any cash transactions in excess
21 of three hundred dollars in payment for the purchase of metal property other than
22 copper. Payments in excess of three hundred dollars for metals other than copper
23 shall be made in the form of a check made payable to the name and address of the
24 seller and may be tendered to the seller at the time of the transaction. The
25 secondhand dealer, at his discretion, may make payment by either cash or other
26 method for transactions of three hundred dollars or less for all metals other than
27 copper.

28 B. All payments made by check, ~~electronic transfers, or money order~~ shall
29 be reported separately in the daily reports required by R.S. 37:1866.

1 (4) "Scrap metal recycling facility" means any physical entity that has the
2 function of recycling scrap metal.

3 (5) "Used building component" means any object produced or shaped by
4 human workmanship or tools that is an element of structural, architectural,
5 archaeological, historical, ornamental, cultural, utilitarian, decorative, or sentimental
6 significance or interest, which has been and may be used as an adjunct to or
7 component or ornament of any building or structure, regardless of monetary worth,
8 age, size, shape, or condition, that is immovable property, or fixtures or component
9 parts of immovable property of any nature or kind whatsoever.

10 (6) "Water utility materials" shall include but not be limited to water meters,
11 valves, pipes, and fittings.

12 §1963. License required; application; bond

13 No person shall do business as a scrap metal recycler in this state without
14 having first obtained the occupational license required by law. Any person desiring
15 a license as a scrap metal recycler shall make application in writing, specifying the
16 street number and house number of the building where the business is to be carried
17 on. He shall also submit with his application a bond in favor of the city or parish, as
18 the case may be, where the business is to be established in the sum of two thousand
19 five hundred dollars with security conditioned for the due observance of all
20 provisions of this Chapter.

21 §1964. Exemptions

22 The provisions of this Chapter shall not apply to:

23 (1) Dealers in coins and currency, dealers in antiques, nor to gun and knife
24 shows or other trade and hobby shows.

25 (2) Persons solely engaged in the business of buying, selling, trading in, or
26 otherwise acquiring or disposing of motor vehicles and used parts of motor vehicles,
27 excluding tires and rims, and shall not apply to wreckers or dismantlers of motor
28 vehicles who are licensed pursuant to the provisions of R.S. 32:783 et seq.

1 (3) Private residential sales commonly known as "garage sales" or "yard
2 sales" as long as such sales take place at a residential address.

3 (4) Any bona fide charity possessing a valid exemption under Section
4 501(c)(3) of the Internal Revenue Code.

5 (5) The operations of a company that has received a permit, registration, or
6 other authorization from the Department of Environmental Quality for the collection,
7 transportation, treatment, storage, processing, or disposal of solid waste as defined
8 in R.S. 30:2153.

9 (6) Persons operating as pawnbrokers pursuant to R.S. 37:1785.

10 (7) The purchase of firearms for disposal from a law enforcement agency.

11 (8) The purchase of materials from any manufacturing, industrial, or other
12 commercial vendor that generates, as a byproduct or recyclable waste, or sells such
13 materials in the ordinary course of its business.

14 §1965. Change in location to be noted on license

15 If after issuance and delivery of a license under the provisions of this Chapter
16 any change is made in the location of the place of business designated therein, the
17 business shall not be conducted at the new location or under such license, until the
18 official issuing the license notes the change on the license, and the superintendent
19 of police of the city or the sheriff of the parish in which the scrap metal recycling
20 facility is doing business is notified in writing of the change.

21 §1966. Hours of business

22 An operator shall not enter into any transactions for the purchase of scrap
23 metal before the hour of 7:00 a.m. nor after the hour of 7:00 p.m. except on
24 Saturdays and during the month of December, during which time the hour of 7:00
25 p.m. shall be extended to 10:00 p.m.

26 §1967. Record of scrap metal purchased required; exceptions; retention period;
27 inspections by law enforcement; violations; penalty

28 A. Every operator shall either keep a register and file reports or
29 electronically maintain data and be capable of readily providing reports, as specified

1 in Subsection B of this Section, in the form prescribed by the Department of Public
2 Safety and Corrections which shall contain the following information:

3 (1) The name and address of the residence or place of business of the person
4 required to either keep the register and file reports or electronically maintain the data
5 and generate the requested reports.

6 (2) The date and place of each such purchase.

7 (3) The name and address of the person or persons from whom the material
8 was purchased, including the distinctive number of the person's or persons' Louisiana
9 driver's license, driver's license from another state, passport, military identification,
10 or identification issued by a governmental agency or the United States Postal
11 Service. If the person cannot produce any of the above forms of identification at the
12 time of purchase, the purchaser shall not complete the transaction.

13 (4) The motor vehicle license number of the vehicle or conveyance on which
14 such material was delivered.

15 (5) A full description of all such material purchased, including the weight of
16 the material and whether it consists of bars, kegs, cable, ingots, rods, tubing wire,
17 wire scraps, clamps, connectors, or other appurtenances or some combination
18 thereof.

19 (6) A full description of railroad track materials purchased, including the
20 weight and whether it consists of rail, switch components, spikes, angle bars, tie
21 plates, or bolts of the type used to construct railroads or other appurtenances or some
22 combination thereof.

23 B. Each operator shall keep either one copy of such completed form in a
24 separate register or book or maintain the information in electronic format as provided
25 in Subsection A of this Section which shall be kept for a period of three years at his
26 place of business and shall be made available for inspection by any peace officer or
27 law enforcement official at any time during the three-year period.

28 C. Failure to maintain the information or the register or to produce a report
29 requested by any peace officer or law enforcement official as required by this

1 Section shall be prima facie evidence that the person receiving such material
2 described in this Section and not registered or reported, received it knowing it to be
3 stolen, in violation of R.S. 14:69.

4 §1968. Photographic and other records; exceptions

5 In addition to the information required in R.S. 37:1967, every operator shall
6 be required to obtain a photograph of a person selling or delivering scrap metal to the
7 facility. The quality of such photograph shall be sufficient to readily identify the
8 person depicted. In lieu of the photograph of the person selling or delivering the
9 scrap metal, the operator may obtain either a thumbprint of such person, the quality
10 of which thumbprint shall be sufficient to identify the person, or a photocopy of the
11 person's Louisiana driver's license, driver's license from another state, passport,
12 military identification, or identification issued by a governmental agency or the
13 United States Postal Service. Each photograph, thumbprint, or photocopy, as the
14 case may be, shall be cross-referenced with the ledger entry required by R.S.
15 37:1967. The photograph, thumbprint, or photocopy shall be preserved for a period
16 of at least a year. Photographs shall be made available to the law enforcement
17 agency within twenty-four hours after the request.

18 §1969. Scrap metal; purchase when forbidden

19 A. No operator shall willfully or knowingly purchase scrap metal unpaid for
20 by the seller or not owned by the seller.

21 B. No operator shall purchase scrap metal, other than aluminum in the form
22 of cans, from a person under the age of eighteen. Lack of knowledge of age shall not
23 be a defense to a violation of this Subsection.

24 C. No operator shall purchase precious metals.

25 §1970. Statement by seller required; failure to exact statement evidence of
26 fraudulent intent; exoneration from criminal knowledge

27 A. Every operator shall obtain a signed statement from the seller that the
28 scrap metal has been paid for or is owned by the seller, and a failure of the operator
29 to exact a statement from the seller shall be prima facie evidence of the fraudulent

1 intent and guilty knowledge on the part of the operator within the meaning of this
2 Chapter, sufficient to warrant a conviction.

3 B. In transactions involving railroad track materials, an operator shall require
4 the party seeking to sell or dispose of the materials to furnish a signed statement
5 from the appropriate railroad company consenting to the sale of the railroad track
6 materials identified in the statement, which shall be retained by the operator. The
7 statement shall include the name of the railroad company consenting to the sale and
8 the name, employee number, and phone number of the person signing the statement
9 authorizing the sale. The operator shall attempt to verify the authenticity of the
10 statement authorizing the sale of the railroad track materials.

11 C.(1) An operator shall not purchase any of the following materials without
12 first receiving a signed statement from the appropriate company or governmental
13 entity consenting to the sale of the materials identified in the statement:

14 (a) Infrastructure grade regulated material that has been burned to remove
15 insulation, unless the seller can produce written proof that the regulated material was
16 lawfully burned.

17 (b) Burnt wire.

18 (c) Regulated material where the manufacturer's make, model, serial or
19 personal identification number, or other identifying marks engraved or etched upon
20 the material have been conspicuously removed or altered.

21 (d) Regulated material marked with the name, initials, or otherwise identified
22 as the property of an electrical company, a telephone company, a cable company, a
23 water company or other utility company, or a governmental entity.

24 (e) A utility access cover.

25 (f) A water meter cover.

26 (g) A road or bridge guard rail.

27 (h) A highway or street sign.

28 (i) A traffic directional or control sign or signal.

1 (j) A metal beer keg that is clearly marked as being the property of the beer
2 manufacturer.

3 (k) A catalytic converter that is not part of an entire motor vehicle.

4 (2) The statement shall include the name of the company or governmental
5 entity consenting to the sale and the name, employee number, and phone number of
6 the person signing the statement authorizing the sale. The operator shall attempt to
7 verify the authenticity of the statement authorizing the sale of the materials. The
8 statement shall be retained by the operator.

9 D. An operator who obtains the required statement from the seller shall be
10 exonerated from any fraudulent, willful, or criminal knowledge within the meaning
11 of this Chapter.

12 §1971. Book to be open for inspection

13 The book containing the record of purchase as provided for in R.S. 37:1967
14 and the various articles purchased and referred to therein shall at all times be open
15 to the inspection of law enforcement officers of the office of state police, or the
16 superintendent of police or sheriff of the parish or anyone designated by them of the
17 city, town, or parish in which the operator does business.

18 §1972. Daily report of entries

19 A.(1) Every operator licensed pursuant to this Chapter shall make out and
20 deliver to the chief of police of the city or town or to the sheriff of the parish in
21 which he is doing business, every day before the hour of twelve noon, a legible and
22 correct copy of the entries in the book mentioned in R.S. 37:1967 during the previous
23 day. The means for providing the transactional information required under this
24 Section shall be by electronic transmission.

25 (2) The appropriate law enforcement official may, for purposes of an
26 investigation of a crime relating to a particular scrap metal transaction, request the
27 operator to mail or fax such official the personally identifiable information relating
28 to such transaction under investigation. The operator shall deliver the personally

1 identifiable information relating to the identified transaction to the appropriate law
2 enforcement official within twenty-four hours of the request.

3 B. In addition to the daily report required in Subsection A of this Section,
4 every operator licensed pursuant to this Chapter shall, every day before the hour of
5 twelve noon, transmit the information contained in the entries in the book mentioned
6 in R.S. 37:1967 during the previous day to an electronic database accessible by law
7 enforcement.

8 C. The operator shall have the responsibility of tendering the information
9 provided for in Subsections A and B of this Section regardless of its use or nonuse
10 by the chief of police in the city or town in which he is doing business or,
11 alternatively, to the sheriff of the parish in which he is doing business. The tender
12 of this information is a courtesy mandated by state law and which provides a benefit
13 to the general public. The chief of police or sheriff shall not be mandated to take any
14 particular action concerning the information tendered.

15 §1973. Payment by check for copper or other metals required; check cashing
16 prohibited

17 A.(1) An operator shall not enter into any cash transactions in payment for
18 the purchase of copper. Payment for copper shall be made in the form of a check
19 made payable to the seller of the metal and mailed to the address recorded on the
20 photo identification of the seller no earlier than five business days after the date of
21 the transaction.

22 (2) An operator shall not enter into any cash transactions in excess of three
23 hundred dollars in payment for the purchase of metal property other than copper.
24 Payments in excess of three hundred dollars for metals other than copper shall be
25 made in the form of a check made payable to the name and address of the seller and
26 may be tendered to the seller at the time of the transaction. The operator, at his
27 discretion, may make payment by either cash or other method for transactions of
28 three hundred dollars or less for all metals other than copper.

1 B. All payments made by check shall be reported separately in the daily
2 reports required by R.S. 37:1967.

3 C.(1) No operator shall allow a seller to engage in multiple small
4 transactions for the purpose of circumventing this Section.

5 (2) No operator shall cash, offer to cash, or provide the means for
6 exchanging for cash a check issued to a seller pursuant to this Section on the
7 premises of the operator's place of business, including but not limited to the use of
8 an automatic teller machine.

9 D. Violations of this Section shall be subject to the penalties provided for in
10 R.S. 37:1974 and 1975.

11 §1974. Violations; penalty

12 A. Any licensed operator who violates, neglects, or refuses to comply with
13 any provision of this Chapter, shall be fined not less than one thousand dollars, nor
14 more than ten thousand dollars or be imprisoned for not less than thirty days nor
15 more than sixty days, or both.

16 B. For the second offense, his occupational license shall be suspended for
17 a thirty-day period. For a third offense, his occupational license shall be revoked and
18 he shall not thereafter be permitted to engage in the business of scrap metal recycling
19 in the state of Louisiana.

20 C. Any operator convicted of selling stolen goods shall have his occupational
21 license revoked.

22 D. The occupational license tax collector is hereby vested with the authority,
23 upon motion in a court of competent jurisdiction, to rule the noncomplying operator
24 to show cause in not less than two nor more than ten days, exclusive of holidays, as
25 to why the noncomplying operator's retail occupational license should not be
26 suspended or revoked as prescribed under this Chapter. This rule may be tried out
27 of term and in chambers and shall be tried with preference and priority. If the rule
28 is made absolute, the order rendered therein shall be considered a judgment in favor
29 of the municipality or parish.

1 §1975. Failure to comply; penalty

2 A. Anyone acting as an unlicensed operator without complying with the
3 provisions of this Chapter shall be fined not less than one thousand dollars or be
4 imprisoned not less than thirty days nor more than sixty days, or both.

5 B. For a second offense, the offender shall be fined not less than five
6 thousand dollars or be imprisoned with or without hard labor for not more than two
7 years, or both.

8 C. For a third or subsequent offense, the offender shall be fined not less than
9 ten thousand dollars or be imprisoned with or without hard labor for not more than
10 five years, or both.

11 Section 2. This Act shall become effective upon signature by the governor or, if not
12 signed by the governor, upon expiration of the time for bills to become law without signature
13 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
14 vetoed by the governor and subsequently approved by the legislature, this Act shall become
15 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Anders

HB No. 1188

Abstract: Establishes the "Louisiana Scrap Metal Recyclers Law".

Present law provides for the regulation of secondhand dealers.

Proposed law retains present law but adds an exemption for scrap metal recyclers licensed under proposed law.

Present law prohibits a secondhand dealer from entering into any cash transactions in payment for the purchase of junk or used or secondhand property. Payment shall be made in the form of check, electronic transfers, or money order issued to the seller of the junk or used or secondhand property and made payable to the name and address of the seller. All payments made by check, electronic transfers, or money order shall be reported separately in the daily reports required by present law.

Proposed law prohibits a secondhand dealer from entering into any cash transactions in payment for the purchase of copper. Proposed law requires payment for copper to be made in the form of a check issued to the seller of the metal and mailed to the address recorded on the photo identification of the seller no earlier than five business days after the date of the transaction.

Proposed law prohibits a secondhand dealer from entering into any cash transactions in excess of \$300 for the purchase of metal property other than copper. Payments in excess of \$300 for metals other than copper are to be made in the form of a check issued to the seller of the metal and may be tendered to the seller at the time of the transaction. The secondhand dealer, at his discretion, may make payment by either cash or other method for transactions of \$300 or less for all metals other than copper.

Proposed law requires all payments made by check to be reported separately in the daily reports required by proposed law.

Proposed law prohibits a secondhand dealer from allowing a seller to engage in multiple small transactions for the purpose of circumventing proposed law.

Proposed law prohibits a secondhand dealer from cashing, offering to cash, or providing the means for exchanging for cash a check issued to a seller on the premises of the secondhand dealer's place of business, including but not limited to the use of an automatic teller machine.

Proposed law provides that violations shall be subject to the penalties provided for in proposed law.

Proposed law enacts and may be cited as the "Louisiana Scrap Metal Recyclers Law".

Proposed law defines "operator" as any person employed in responsible charge of operating all or any portion of a scrap metal recycling facility.

Proposed law defines "railroad track materials" as steel in the form of railroad tracks or in the form of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used in constructing railroads, or any combination of such materials.

Proposed law defines "scrap metal" as metal materials which are purchased for resale to be recycled, including but not limited to ferrous materials, catalytic converters, auto hulks, copper, copper wire, copper alloy, bronze, zinc, aluminum other than in the form of cans, stainless steel, nickel alloys, or brass, whether in the form of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps or connectors, railroad track materials, water utility materials, and used building components. The term shall not include precious metals, including but not limited to gold, silver, and platinum.

Proposed law defines "scrap metal recycling facility" as any physical entity that has the function of recycling scrap metal.

Proposed law defines "used building component" as any object produced or shaped by human workmanship or tools that is an element of structural, architectural, archaeological, historical, ornamental, cultural, utilitarian, decorative, or sentimental significance or interest, which has been and may be used as an adjunct to or component or ornament of any building or structure, regardless of monetary worth, age, size, shape, or condition, that is immovable property, or fixture or component parts of immovable property of any nature or kind whatsoever.

Proposed law defines "water utility materials" to include but not be limited to water meters, valves, pipes, and fittings.

Proposed law provides that no person shall do business as a scrap metal recycler in this state without having first obtained the occupational license required by law. Proposed law further provides that any person desiring a license as a scrap metal recycler shall make application in writing, specifying the street number and house number of the building where the business is to be carried on.

Proposed law requires an applicant to also submit with his application a bond in favor of the city or parish, as the case may be, where the business is to be established in the sum of \$2,500 with security conditioned for the due observance of all provisions of proposed law.

Proposed law provides that the provisions of proposed law shall not apply to:

- (1) Dealers in coins and currency, dealers in antiques, nor to gun and knife shows or other trade and hobby shows.
- (2) Persons solely engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of motor vehicles and used parts of motor vehicles, excluding tires and rims, and shall not apply to wreckers or dismantlers of motor vehicles who are licensed pursuant to present law.
- (3) Private residential sales commonly known as "garage sales" or "yard sales" as long as such sales take place at a residential address.
- (4) Any bona fide charity possessing a valid exemption under Section 501(c)(3) of the Internal Revenue Code.
- (5) The operations of a company that has received a permit, registration, or other authorization from the Dept. of Environmental Quality for the collection, transportation, treatment, storage, processing, or disposal of solid waste as defined in R.S. 30:2153.
- (6) Persons operating as licensed pawnbrokers.
- (7) The purchase of firearms for disposal from a law enforcement agency.
- (8) The purchase of materials from any manufacturing, industrial, or other commercial vendor that generates, as a byproduct or recyclable waste, or sells such materials in the ordinary course of its business.

Proposed law provides that if any change is made in the location of the place of business designated on a license, the business shall not be conducted at the new location or under such license, until the official issuing the license notes the change on the license, and the superintendent of police of the city or the sheriff of the parish in which the operator is doing business is notified in writing of the change.

Proposed law prohibits an operator from entering into any transactions for the purchase of scrap metal before the hour of 7:00 a.m. nor after the hour of 7:00 p.m. except on Saturdays and during the month of Dec., during which time the hour of 7:00 p.m. shall be extended to 10:00 p.m.

Proposed law requires every operator to either keep a register and file reports or electronically maintain data and be capable of readily providing reports, in the form prescribed by the Dept. of Public Safety and Corrections, which shall contain the following information:

- (1) The name and address of the residence or place of business of the person required to either keep the register and file reports or electronically maintain the data and generate the requested reports.
- (2) The date and place of each such purchase.
- (3) The name and address of the person or persons from whom the material was purchased, including the distinctive number of the person's or persons' La. driver's license, driver's license from another state, passport, military identification, or

- identification issued by a governmental agency or the U.S. Postal Service. If the person cannot produce any of the above forms of identification at the time of purchase, the purchaser shall not complete the transaction.
- (4) The motor vehicle license number of the vehicle or conveyance on which such material was delivered.
 - (5) A full description of all such material purchased, including the weight of the material and whether it consists of bars, kegs, cable, ingots, rods, tubing wire, wire scraps, clamps, connectors, or other appurtenances or some combination thereof.
 - (6) A full description of railroad track materials purchased, including the weight and whether it consists of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used to construct railroads or other appurtenances or some combination thereof.

Proposed law requires each operator to keep either one copy of such completed form in a separate register or book or maintain the information in electronic format, which shall be kept for a period of three years at his place of business and shall be made available for inspection by any peace officer or law enforcement official at any time during the three-year period.

Proposed law provides that failure to maintain the information or the register or to produce a report requested by any peace officer or law enforcement official shall be prima facie evidence that the person receiving the scrap metal not registered or reported, received it knowing it to be stolen.

Proposed law requires every operator to obtain a photograph of a person selling or delivering scrap metal to the facility. Proposed law further requires the quality of the photograph to be sufficient to readily identify the person depicted.

Proposed law provides that, in lieu of the photograph of the person selling or delivering the scrap metal, the operator may obtain either a thumbprint of such person, the quality of which thumbprint shall be sufficient to identify the person, or a photocopy of the person's La. driver's license, driver's license from another state, passport, military identification, or identification issued by a governmental agency or the U.S. Postal Service.

Proposed law requires each photograph, thumbprint, or photocopy to be cross-referenced with the ledger entry required by proposed law. Proposed law further requires the photograph, thumbprint, or photocopy to be preserved for a period of at least a year.

Proposed law requires photographs to be made available to a law enforcement agency within 24 hours after the request.

Proposed law prohibits an operator from willfully or knowingly purchasing scrap metal unpaid for by the seller or not owned by the seller.

Proposed law prohibits an operator from purchasing scrap metal, other than aluminum in the form of cans, from a person under the age of 18.

Proposed law provides that a lack of knowledge of age shall not be a defense to a violation of proposed law.

Proposed law prohibits an operator from purchasing precious metals.

Proposed law requires every operator to obtain a signed statement from the seller that the scrap metal has been paid for or is owned by the seller, and a failure of the operator to exact

a statement from the seller shall be prima facie evidence of the fraudulent intent and guilty knowledge on the part of the operator, sufficient to warrant a conviction.

Proposed law requires, in transactions involving railroad track materials, an operator to require the party seeking to sell or dispose of the materials to furnish a signed statement from the appropriate railroad company consenting to the sale of the railroad track materials identified in the statement, which shall be retained by the operator.

Proposed law requires the statement to include the name of the railroad company consenting to the sale and the name, employee number, and phone number of the person signing the statement authorizing the sale.

Proposed law requires the operator to attempt to verify the authenticity of the statement authorizing the sale of the railroad track materials.

Proposed law prohibits an operator from purchasing any of the following materials without a signed statement from the appropriate company or governmental entity consenting to the sale of the materials identified in the statement:

- (1) Infrastructure grade regulated material that has been burned to remove insulation, unless the seller can produce written proof that the regulated material was lawfully burned.
- (2) Burnt wire.
- (3) Regulated material where the manufacturer's make, model, serial or personal identification number, or other identifying marks engraved or etched upon the material have been conspicuously removed or altered.
- (4) Regulated material marked with the name, initials, or otherwise identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company, or a governmental entity.
- (5) A utility access cover.
- (6) A water meter cover.
- (7) A road or bridge guard rail.
- (8) A highway or street sign.
- (9) A traffic directional or control sign or signal.
- (10) A metal beer keg that is clearly marked as being the property of the beer manufacturer.
- (11) A catalytic converter that is not part of an entire motor vehicle.

Proposed law requires the statement to include the name of the company or governmental entity consenting to the sale and the name, employee number, and phone number of the person signing the statement authorizing the sale.

Proposed law requires the operator to attempt to verify the authenticity of the statement authorizing the sale of the materials. Proposed law further requires the operator to retain the statement.

Proposed law provides that an operator who obtains the required statement from the seller shall be exonerated from any fraudulent, willful, or criminal knowledge.

Proposed law requires the book containing the record of purchase and the various articles purchased and referred to therein to be open at all times to the inspection of law enforcement officers of the office of state police, or the superintendent of police or sheriff of the parish or anyone designated by them of the city, town, or parish in which the operator does business.

Proposed law requires every operator to make out and deliver by electronic transmission to the chief of police of the city or town or to the sheriff of the parish in which he is doing business, every day before the hour of 12:00 noon, a legible and correct copy of the entries in the book during the previous day.

Proposed law authorizes the appropriate law enforcement official, for purposes of an investigation of a crime relating to a particular scrap metal transaction, to request the operator to mail or fax such official the personally identifiable information relating to such transaction under investigation. Proposed law further requires the operator to deliver the personally identifiable information relating to the identified transaction to the appropriate law enforcement official within 24 hours of the request.

Proposed law requires every operator, in addition to the daily report required by proposed law, to transmit, every day before the hour of 12:00 noon, the information contained in the entries in the book mentioned in proposed law during the previous day to an electronic database accessible by law enforcement.

Proposed law provides that the operator shall have the responsibility of tendering the information regardless of its use or nonuse by the chief of police in the city or town in which he is doing business or, alternatively, to the sheriff of the parish in which he is doing business. Proposed law further provides that the tender of this information is a courtesy mandated by state law and which provides a benefit to the general public and the chief of police or sheriff shall not be mandated to take any particular action concerning the information tendered.

Proposed law prohibits a scrap metal recycler from entering into any cash transactions for copper. Proposed law requires payment for copper to be made in the form of a check issued to the seller of the metal and mailed to the address recorded on the photo identification of the seller no earlier than five business days after the date of the transaction.

Proposed law prohibits a scrap metal recycler from entering into any cash transactions in excess of \$300 for the purchase of metal property other than copper. Payments in excess of \$300 for metals other than copper are to be made in the form of a check issued to the seller of the metal and may be tendered to the seller at the time of the transaction. The scrap metal recycler, at his discretion, may make payment by either cash or other method for transactions of \$300 or less for all metals other than copper.

Proposed law requires all payments made by check to be reported separately in the daily reports required by proposed law.

Proposed law prohibits a scrap metal recycler from allowing a seller to engage in multiple small transactions for the purpose of circumventing proposed law.

Proposed law prohibits a scrap metal recycler from cashing, offering to cash, or providing the means for exchanging for cash a check issued to a seller on the premises of the scrap metal recycler's place of business, including but not limited to the use of an automatic teller machine.

Proposed law provides that violations shall be subject to the penalties provided for in proposed law.

Proposed law provides that any licensed operator who violates, neglects, or refuses to comply with any provision of proposed law, shall be fined not less than \$1,000, nor more than \$10,000 or be imprisoned for not less than 30 days nor more than 60 days, or both.

Proposed law provides that, for the second offense, the operator's license shall be suspended for a 30-day period.

Proposed law provides that, for a third offense, the operator's license shall be revoked and he shall not thereafter be permitted to engage in the business of scrap metal recycling in the state of La.

Proposed law authorizes the occupational license tax collector to rule, upon motion in a court of competent jurisdiction, the noncomplying operator to show cause in not less than two nor more than 10 days, exclusive of holidays, as to why the noncomplying operator's retail occupational license should not be suspended or revoked.

Proposed law provides that this rule may be tried out of term and in chambers and shall be tried with preference and priority. If the rule is made absolute, the order rendered therein shall be considered a judgment in favor of the municipality or parish.

Proposed law provides that any operator convicted of selling stolen goods shall have his license revoked.

Proposed law provides that anyone acting as an unlicensed operator without complying with the provisions of proposed law shall be fined not less than \$1,000 or be imprisoned not less than 30 days nor more than 60 days, or both.

Proposed law provides that, for a second offense, the unlicensed operator shall be fined not less than \$5,000 or be imprisoned with or without hard labor for not more than two years, or both.

Proposed law provides that, for a third or subsequent offense, the unlicensed operator shall be fined not less than \$10,000 or be imprisoned with or without hard labor for not more than five years, or both.

Effective upon signature of governor or upon lapse of time for gubernatorial action.

(Amends R.S. 37:1861(B)(intro. para.) and 1864.3; Adds R.S. 37:1861(B)(6) and 1961-1975)