

Regular Session, 2012

HOUSE BILL NO. 689

BY REPRESENTATIVE JAY MORRIS

SECONDHAND DEALERS: Provides for the regulation of scrap metal dealers

1

AN ACT

2 To amend and reenact the title of Part II of Chapter 21 of Title 37 of the Louisiana Revised
3 Statutes of 1950, R.S. 37:1861(A) and (B)(introductory paragraph), 1861.1, 1862(A),
4 1862.1, 1863, 1864(A)(1)(introductory paragraph), 1864.1(A), 1864.2, 1864.3,
5 1864.4, 1865, 1866, 1867(A), 1869, 1869.1, and 1870(A), to enact R.S.
6 37:1861(B)(6), and to repeal R.S. 37:1861.2 and 1868, relative to scrap metal
7 dealers; to define "scrap metal dealer"; to define "scrap metal"; to provide for an
8 exemption for the purchase of aluminum in the form of cans; to prohibit certain
9 purchases of scrap metal; to require an occupational license to do business as a scrap
10 metal dealer; to provide for an exemption for pawnbrokers; to require changes in
11 location of scrap metal dealers to be noted on the occupational license; to require a
12 record of scrap metal purchased; to require photographic or other record of persons
13 selling scrap metal; to prohibit the purchase of scrap metal from minors; to prohibit
14 cash payment for the purchase of copper; to establish a maximum cash payment for
15 metals other than copper; to require a statement of ownership from the seller; to
16 provide that failure to obtain the statement shall be prima facie evidence of fraud; to
17 provide for exoneration from fraudulent, willful, or criminal knowledge; to require
18 records to be made available for inspection by law enforcement; to require daily
19 reporting of non-personally identifiable information to law enforcement; to require
20 the release of information pursuant to an investigation by law enforcement; to
21 prohibit the immediate disposal of scrap metal by a dealer unless ownership has been
22 proven; to prohibit the resale of law enforcement and utility company uniforms and
23 insignia; to provide for violations; to provide for penalties; to repeal the limit on the

1 location of secondhand dealer facilities; to repeal the limit on hours of business for
2 secondhand dealers; and to provide for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. The title of Part II of Chapter 21 of Title 37 of the Louisiana Revised
5 Statutes of 1950, R.S. 37:1861(A) and (B)(introductory paragraph), 1861.1, 1862(A),
6 1862.1, 1863, 1864(A)(1)(introductory paragraph), 1864.1(A), 1864.2, 1864.3, 1864.4,
7 1865, 1866, 1867(A), 1869, 1869.1, and 1870(A) are hereby amended and reenacted and
8 R.S. 37:1861(B)(6) is hereby enacted to read as follows:

9 PART II. ~~SECONDHAND~~ SCRAP METAL DEALERS

10 §1861. "~~Secondhand~~ Scrap metal dealer" defined

11 A.(1) Every person in this state engaged in the business of buying, selling,
12 trading in, or otherwise acquiring or disposing of ~~junk or used or secondhand~~
13 ~~property, including but not limited to jewelry, silverware, diamonds, precious metals,~~
14 ~~ferrous materials, catalytic converters, auto hulks, copper, copper wire, copper alloy,~~
15 ~~bronze, zinc, aluminum, stainless steel, nickel alloys, or brass, whether in the form~~
16 ~~of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps or connectors, railroad~~
17 ~~track materials, water utility materials, furniture, pictures, objects of art, clothing,~~
18 ~~mechanic's tools, carpenter's tools, automobile hubcaps, automotive batteries,~~
19 ~~automotive sound equipment such as radios, CB radios, stereos, speakers, cassettes,~~
20 ~~compact disc players, and similar automotive audio supplies, used building~~
21 ~~components, and items defined as cemetery artifacts is a secondhand dealer.~~
22 ~~Anyone, other than a nonprofit entity, who buys, sells, trades in, or otherwise~~
23 ~~acquires or disposes of junk or used or secondhand property more frequently than~~
24 ~~once per month from any other person, other than a nonprofit entity, shall be~~
25 ~~deemed as being engaged in the business of a secondhand dealer~~ scrap metal is a
26 scrap metal dealer.

27 (2) For purposes of this Part, "~~cemetery artifacts~~" "scrap metal" means any
28 ~~object produced or shaped by human workmanship or tools, including ornaments of~~
29 ~~archaeological, historical, cultural, or sentimental significance or interest, which may~~

1 be used to memorialize the dead and shall include but not be limited to all cemetery
2 items, objects, and properties including but not limited to any type of religious or
3 sentimental addition or adornment, inside or outside of a tomb, gravesite, plot,
4 mausoleum, vault or interment location, whether placed privately or by assignment,
5 regardless of monetary worth, age, size, shape, or condition including but not limited
6 to statues, bricks, signage, plaques, tablets, urns, pots, planters, benches, chairs,
7 crosses or other religious symbols, vases, gates, fences, or any portions thereof shall
8 include but not be limited to copper, copper wire, copper alloy, bronze, zinc,
9 aluminum, stainless steel, nickel alloys, or brass, whether in the form of bars, cable,
10 ingots, rods, tubing, wire, wire scraps, clamps or connectors, ferrous materials,
11 catalytic converters, auto hulks, railroad track materials, water utility materials, and
12 gold, silver, platinum, or other precious metals including jewelry or objects
13 composed of such precious metals.

14 (3) For purposes of this Part, a "used building component" shall mean any
15 object produced or shaped by human workmanship or tools that is an element of
16 structural, architectural, archaeological, historical, ornamental, cultural, utilitarian,
17 decorative, or sentimental significance or interest, which has been and may be used
18 as an adjunct to, or component or ornament of any building or structure, regardless
19 of monetary worth, age, size, shape, or condition, that is immovable property or
20 fixture, including but not limited to bricks, siding, gutters, downspouts, lightning
21 rods, chimney roofs, lights, chandeliers, stoves, tubs, sinks, faucets, faucet handles,
22 toilets, bidets, showers, fans, furnaces, air conditioners, water heaters, sprinkling
23 systems, shelving, countertops, cabinets, built-in speakers, shutters, trim, rafters, roof
24 tiles, roofing, studs, foundation, barge boards, paneling, stairs, risers, banisters,
25 wiring, plumbing, hinges, door latches, door knobs, medallions, mantles, flooring,
26 carpet, tiles, molding, wainscoting, pavers, doors, windows, sills, transoms, joists,
27 mailboxes, signage, fountains, decking, gates, fences, planters, landscaping,
28 plantings or portions thereof, or component parts of immovable property of any
29 nature or kind whatsoever.

1 §1862.1. Record and reporting requirements; application

2 The provisions of R.S. 37:1864, 1864.1, 1864.3, 1865, and 1866 shall not
3 apply to a person operating as a ~~secondhand~~ scrap metal dealer pursuant to R.S.
4 37:1785. Persons operating as ~~secondhand~~ scrap metal dealers pursuant to R.S.
5 37:1785 shall be subject to the record acquisition, maintenance, and reporting
6 requirements of R.S. 37:1796, 1797, and 1798.

7 §1863. Change in location to be noted on license

8 If after issuance and delivery of a license under the provisions of this Part any
9 change is made in the location of the place of business designated therein, the
10 business shall not be conducted at the new location or under such license, until the
11 official issuing the licenses notes the change on the license, and the superintendent
12 of police of the city or the sheriff of the parish in which the ~~second-hand~~ scrap metal
13 dealer is doing business is notified in writing of the change.

14 §1864. Record of ~~secondhand goods or objects~~ scrap metal purchased required;
15 exceptions; retention period; inspections by law enforcement; violations;
16 penalty

17 A.(1) Every individual, firm, corporation, entity, or partnership, except
18 municipalities, political subdivisions, and public utility companies, engaged in the
19 business of purchasing and reselling ~~any of the materials provided for in this Part~~
20 scrap metal located either at a permanently established place of business or in
21 connection with a business of an itinerant nature, including junk shops, junk yards,
22 junk stores, auto wreckers, scrap metal dealers or processors, salvage yards,
23 collectors of or dealers in junk or secondhand property, and junk trucks, shall either
24 keep a register and file reports or electronically maintain data and be capable of
25 readily providing reports, as specified in Subsection B of this Section, in the form
26 prescribed by the Department of Public Safety and Corrections which shall contain
27 the following information:

28 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §1864.1. Photographic and other records; exceptions

2 A.(1) In addition to the information required in R.S. 37:1864, every
3 ~~secondhand~~ scrap metal dealer shall be required to obtain a photograph of a person
4 selling or delivering merchandise or articles to the dealer. The quality of such
5 photograph shall be sufficient readily to identify the person depicted. In lieu of the
6 photograph of the person selling or delivering the merchandise, the dealer may
7 obtain either a thumbprint of such person, the quality of which thumbprint shall be
8 sufficient to identify the person, or a photocopy of the person's Louisiana driver's
9 license, driver's license from another state, passport, military identification, or
10 identification issued by a governmental agency or the United States Postal Service.
11 Each photograph, thumbprint, or photocopy, as the case may be, shall be
12 cross-referenced with the ledger entry required by R.S. 37:1864. The photograph,
13 thumbprint, or photocopy shall be preserved for a period of at least a year.

14 (2) Pursuant to a request from a law enforcement agency, a ~~secondhand~~ scrap
15 metal dealer shall be required to capture photographically used merchandise or
16 articles purchased pursuant to R.S. 37:1864(A). Photographs shall be made available
17 to the law enforcement agency within twenty-four hours after the request.

18 * * *

19 §1864.2. Purchase of ~~precious~~ scrap metals ~~and stones~~ from minors; ~~purchase of~~
20 ~~junk from minors~~ prohibited; penalty

21 A. No ~~secondhand~~ scrap metal dealer shall purchase ~~gold, silver, copper,~~
22 ~~brass, aluminum other than in the form of cans, or other precious metals, jewelry,~~
23 ~~precious stones, or objects composed of such precious~~ scrap metals ~~or stones~~ from
24 a person under the age of eighteen. Lack of knowledge of age shall not be a defense
25 to a violation of this Section.

26 B. ~~No owner, employee, keeper, or proprietor of a junk shop, junk store or~~
27 ~~yard, of a junk cart or other vehicle or boat, or collector of or dealer in junk, scrap~~
28 ~~metal dealer shall receive or purchase from any minor under seventeen years of age,~~

1 ~~any goods, chattels, wares, or other merchandise, including any material defined in~~
2 ~~R.S. 37:1861.~~

3 ~~C.~~ The provisions of this Section shall not apply to the sale or purchase of
4 manufactured registered bullion bars, coins, or other numismatic items. The
5 provisions of this Section shall not apply to a retail tire outlet or an automobile dealer
6 dealing in tires.

7 ~~D. C.~~ Whoever violates this Section shall be fined not less than twenty-five
8 dollars nor more than one hundred dollars, or imprisoned for not less than fifteen
9 days nor more than three months, or both.

10 §1864.3. Payment by electronic transfer, check, or money order required for certain
11 metal transactions

12 A ~~secondhand~~ scrap metal dealer shall not enter into any cash transactions in
13 ~~payment for the purchase of junk or used or secondhand~~ for copper or in excess of
14 five hundred dollars for all other metals in payment for the purchase of the metal
15 property. Payment for copper or in excess of five hundred dollars for all other metals
16 ~~shall be made in the form of check, electronic transfers~~ transfer, or money order
17 ~~issued to the seller of the junk or used or secondhand property and made payable to~~
18 ~~the name and address of the seller~~ or check issued to the seller of the metal and
19 mailed to the recorded address of the seller or picked up in person by the seller. The
20 scrap metal dealer, at his discretion, may make payment by either cash or other
21 method for transactions of five hundred dollars or less for all metals other than
22 copper. All payments made by check, electronic transfers, or money order shall be
23 reported separately in the daily reports required by R.S. 37:1866.

24 §1864.4. Statement by seller required; failure to exact statement evidence of
25 fraudulent intent; exoneration from criminal knowledge

26 A.(1) Every ~~secondhand~~ scrap metal dealer shall obtain a signed statement
27 from the seller that the ~~junk or used or secondhand property~~ scrap metal has been
28 paid for or is owned by the seller, and a failure of the dealer to exact a statement
29 from the seller shall be prima facie evidence of the fraudulent intent and guilty

1 knowledge on the part of the dealer within the meaning of this Part, sufficient to
2 warrant a conviction.

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

12 B. A ~~secondhand~~ scrap metal dealer who obtains the required statement from
13 the seller shall be exonerated from any fraudulent, willful, or criminal knowledge
14 within the meaning of this Part.

15 §1865. Book to be open for inspection

16 The book containing the record of purchase as provided for in R.S. 37:1864
17 and the various articles purchased and referred to therein shall at all times be open
18 to the inspection of law enforcement officers of the ~~Office of State Police~~ office of
19 state police, or the superintendent of police or sheriff of the parish or anyone
20 designated by them of the city, town, or parish in which the ~~second-hand~~ scrap metal
21 dealer does business.

22 §1866. Daily report of entries

23 A.(1) Every ~~secondhand~~ scrap metal dealer licensed under the provisions of
24 this Part shall make out and deliver to the chief of police of the city or town or to the
25 sheriff of the parish in which he is doing business, every day before the hour of
26 twelve noon, a legible and correct copy of the entries not containing personally
27 identifiable information in the book mentioned in R.S. 37:1864 during the previous
28 day. The means for providing the transactional information required under this
29 Section shall be by electronic transmission.

1 §1869. Violations; penalty

2 A. Any licensed ~~secondhand~~ scrap metal dealer who violates, neglects, or
3 refuses to comply with any provision of this Part, shall be fined not less than two
4 hundred fifty dollars, nor more than five hundred dollars or be imprisoned for not
5 less than thirty days nor more than sixty days, or both.

6 B. For the second offense, his occupational license shall be suspended for
7 a thirty-day period. For a third offense, his license shall be revoked and he shall not
8 thereafter be permitted to engage in the business of ~~secondhand~~ scrap metal dealer
9 in the state of Louisiana.

10 C. Any ~~secondhand~~ scrap metal dealer convicted of selling stolen goods shall
11 have his occupational retail license revoked.

12 D. The occupational license tax collector is hereby vested with the authority,
13 upon motion in a court of competent jurisdiction, to rule the noncomplying
14 ~~secondhand~~ scrap metal dealer to show cause in not less than two nor more than ten
15 days, exclusive of holidays, as to why the noncomplying ~~secondhand~~ scrap metal
16 dealer's retail occupational license should not be suspended or revoked as prescribed
17 under this Part. This rule may be tried out of term and in chambers and shall be tried
18 with preference and priority. If the rule is made absolute, the order rendered therein
19 shall be considered a judgment in favor of the municipality or parish.

20 §1869.1. Prohibitions; sale of certain uniforms

21 No ~~secondhand dealer~~ person in this state engaged in the business of buying,
22 selling, trading in, or otherwise acquiring or disposing of junk or used or secondhand
23 property, including those ~~secondhand dealers~~ persons exempted by R.S. 37:1861(B)
24 shall sell or offer for sale any article of clothing, including but not limited to hats,
25 shirts, pants, or jackets, which exhibits or displays the insignia of any law
26 enforcement agency or public utility.

27 §1870. Failure to comply; penalty

28 A. Anyone acting as an unlicensed ~~secondhand~~ scrap metal dealer without
29 complying with the provisions of this Part shall be fined not less than two hundred

1 fifty dollars or be imprisoned not less than thirty days nor more than sixty days, or
2 both.

3 * * *

4 Section 2. R.S. 37:1861.2 and 1868 are hereby repealed in their entirety.

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)]

Jay Morris

HB No. 689

Abstract: Narrows the scope of the secondhand dealer law to apply to only scrap metal dealers.

Present law provides that every person in this state engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of junk or used or secondhand property is a secondhand dealer. Present law further provides that anyone, other than a nonprofit entity, who buys, sells, trades in, or otherwise acquires or disposes of junk or used or secondhand property more frequently than once per month from any other person, other than a nonprofit entity, shall be deemed as being engaged in the business of a secondhand dealer.

Proposed law provides that every person in this state engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of scrap metal is a scrap metal dealer.

Present law defines "cemetery artifacts" as any object produced or shaped by human workmanship or tools, including ornaments of archaeological, historical, cultural, or sentimental significance or interest, which may be used to memorialize the dead and shall include but not be limited to all cemetery items, objects, and properties, including but not limited to any type of religious or sentimental addition or adornment, inside or outside of a tomb, gravesite, plot, mausoleum, vault, or interment location, whether placed privately or by assignment, regardless of monetary worth, age, size, shape, or condition, including but not limited to statues, bricks, signage, plaques, tablets, urns, pots, planters, benches, chairs, crosses, or other religious symbols, vases, gates, fences, or any portions thereof.

Proposed law repeals present law.

Present 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 repeals present law.

Present law defines "lot of used building components" as a group of like used building components.

Proposed law repeals present law.

Present law defines "junk" as any property or material commonly known as "junk".

Proposed law repeals present law.

Proposed law provides that "scrap metal" shall include but not be limited to copper, copper wire, copper alloy, bronze, zinc, aluminum, stainless steel, nickel alloys, or brass, whether in the form of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps or connectors, ferrous materials, catalytic converters, auto hulks, railroad track materials, water utility materials, and gold, silver, platinum, or other precious metals including jewelry or objects composed of such precious metals.

Present law provides that, except for the prohibition against cash payments and the prohibition against selling uniforms of law enforcement and utilities, the provisions of present law shall not apply to the following:

- (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, and shall not apply to wreckers or dismantlers of motor vehicles who are licensed under the provisions of present law (R.S. 32:783 et seq.)
- (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) Collectors, transporters, or disposers of waste whose waste collection, transportation, and disposal activities are regulated by the Dept. of Environmental Quality, or persons who collect, transport, or manage recyclable materials pursuant to a residential collection, recycling, or disposal contract with a municipality or political subdivision.

Proposed law retains present law but removes the exception for the prohibition against cash payments and adds an exemption for the purchase of aluminum in the form of cans.

Present law prohibits a person from willfully or knowingly purchasing junk or used or secondhand property, unpaid for by the seller, or not owned by the seller.

Proposed law prohibits a person from willfully or knowingly purchasing scrap metal, unpaid for by the seller, or not owned by the seller.

Present law provides that the provisions of present law shall not apply to retail jewelry, automobile, furniture, and antique businesses.

Proposed law retains present law.

Present law prohibits a person from doing business as a secondhand dealer in this state without having first obtained the license required by law.

Proposed law prohibits a person from doing business as a scrap metal dealer in this state without having first obtained the occupational license required by law.

Present law requires any person desiring a license as secondhand dealer to make application in writing, specifying the street number and house number of the building where the business

is to be carried on and signed by at least three property taxpayers of the city or parish where the business is to be established certifying that the applicant is of good moral character.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law requires the applicant to submit 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 present law.

Proposed law retains present law.

Present law provides that record acquisition, maintenance, and reporting requirements of present law shall not apply to a person operating as a pawnbroker licensed by the office of financial institutions.

Proposed law retains present law.

Present law provides that, if after issuance and delivery of a license under the provisions of present law, any change is made in the location of the place of business designated therein, the business shall not be conducted at the new location or under such license, until the official issuing the licenses notes the change on the license, and the superintendent of police of the city or the sheriff of the parish in which the secondhand dealer is doing business is notified in writing of the change.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law requires every individual, firm, corporation, entity, or partnership, except municipalities, political subdivisions, and public utility companies, engaged in the business of purchasing and reselling any of the materials provided for in present law located either at a permanently established place of business or in connection with a business of an itinerant nature, to either keep a register and file reports or electronically maintain data and be capable of readily providing reports, as specified in present law, in the form prescribed by the Dept. of Public Safety and Corrections.

Proposed law requires every individual, firm, corporation, entity, or partnership, except municipalities, political subdivisions, and public utility companies, engaged in the business of purchasing and reselling scrap metal located either at a permanently established place of business or in connection with a business of an itinerant nature, to either keep a register and file reports or electronically maintain data and be capable of readily providing reports, as specified in proposed law, in the form prescribed by the Dept. of Public Safety and Corrections.

Present law requires every secondhand dealer to obtain a photograph of a person selling or delivering merchandise or articles to the dealer.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law provides that, pursuant to a request from a law enforcement agency, a secondhand dealer shall be required to capture photographically used merchandise or articles purchased and make the photographs shall be made available to the law enforcement agency within 24 hours after the request.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law prohibits a secondhand dealer from purchasing gold, silver, copper, brass, aluminum other than in the form of cans, or other precious metals, jewelry, precious stones, or objects composed of such precious metals or stones from a person under the age of 18.

Proposed law prohibits a scrap metal dealer from purchasing scrap metals from a person under the age of 18.

Present law provides that lack of knowledge of age shall not be a defense to a violation of present law.

Proposed law retains present law.

Present law prohibits the owner, employee, keeper, or proprietor of a junk shop, junk store or yard, of a junk cart or other vehicle or boat, or collector of or dealer in junk, from receiving or purchasing from any minor under 17 years of age, any goods, chattels, wares, or other merchandise.

Proposed law repeals present law.

Present law provides that the provisions of present law shall not apply to the sale or purchase of manufactured registered bullion bars, coins, or other numismatic item or to a retail tire outlet or an automobile dealer dealing in tires.

Proposed law retains present law.

Present law provides that whoever violates present law shall be fined not less than \$25 nor more than \$100, or imprisoned for not less than 15 days nor more than three months, or both.

Proposed law retains present 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.

Proposed law prohibits a scrap metal dealer from entering into any cash transactions for copper or in excess of \$500 for all other metals in payment for the purchase of the metal property.

Present law requires payment to be made in the form of check, money order, or electronic transfer, issued to the seller of the junk or used or secondhand property and made payable to the name and address of the seller.

Proposed law requires payment for copper or in excess of \$500 for all other metals to be made by electronic transfer or money order or check issued to the seller of the metal and mailed to the recorded address of the seller or picked up in person by the seller.

Proposed law authorizes the scrap metal dealer, at his or her discretion, to make payment by either cash or other method for transactions of \$500 or less for all metals other than copper.

Present law requires the transactions to be reported separately in the daily reports required by present law.

Proposed law retains present law.

Present law requires every secondhand dealer to obtain a signed statement from the seller that the junk or used or secondhand property has been paid for or is owned by the seller, and a failure of the dealer to exact a statement from the seller shall be prima facie evidence of the fraudulent intent and guilty knowledge on the part of the dealer, sufficient to warrant a conviction.

Proposed law requires every scrap metal dealer 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 dealer

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

Present law provides that, in transactions involving railroad track materials, a secondhand dealer shall 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 and containing 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. Present law further requires the secondhand dealer to attempt to verify the authenticity of the statement authorizing the sale of the railroad track materials.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law provides that a secondhand dealer who obtains the required statement from the seller shall be exonerated from any fraudulent, willful, or criminal knowledge.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law requires the book containing the record of purchase and the various articles purchased 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 secondhand dealer does business.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer

Present law requires every secondhand dealer licensed under the provisions of present law 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 required record book during the previous day.

Proposed law requires every scrap metal dealer licensed under the provisions of proposed law 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 not containing personally identifiable information in the required record book during the previous day.

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

Present law provides that the secondhand dealer 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 retains present law but changes secondhand dealer to scrap metal dealer.

Present law prohibits a secondhand dealer from selling or disposing of or changing or destroying the identity of any goods, articles, or things purchased by him before an interval of 30 calendar days from the date of purchase has elapsed.

Proposed law prohibits a scrap metal dealer from selling or disposing of or changing or destroying the identity of any scrap metal purchased by him before an interval of 30 calendar days from the date of purchase has elapsed.

Present law requires a secondhand dealer, during the 30 calendar days after purchase, to keep the purchased goods, articles, or things on the premises of the secondhand dealer's business location or at such other location within the parish where the secondhand dealer's business is located and the item was purchased. Present law further requires, in all instances, a secondhand dealer to make the item immediately available upon request by a law enforcement agency.

Proposed law requires a scrap metal dealer, during the 30 calendar days after purchase, to keep the purchased scrap metal on the premises of the scrap metal dealer's business location or at such other location within the parish where the scrap metal dealer's business is located and the item was purchased. Proposed law further requires, in all instances, a scrap metal dealer to make the item immediately available upon request by a law enforcement agency.

Present law authorizes a secondhand dealer to sell, dispose of, change, or destroy any goods, article, or thing purchased by him from a client without any delay, provided that the dealer can prove that the client had valid title to the goods, article, or thing of which he intends to dispose.

Proposed law authorizes a scrap metal dealer to sell, dispose of, change, or destroy any scrap metal purchased by him from a client without any delay, provided that the dealer can prove that the client had valid title to the scrap metal of which he intends to dispose.

Present law provides that any licensed secondhand dealer who violates, neglects, or refuses to comply with any provision of present law, shall be fined not less than \$250, nor more than \$500 or be imprisoned for not less than 30 days nor more than 60 days, or both.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law provides that, for the second offense, a secondhand dealer's occupational license shall be suspended for a 30-day period.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law provides that, for a third offense, a secondhand dealer's license shall be revoked and he shall not thereafter be permitted to engage in the business of secondhand dealer in the state of La.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law provides that any secondhand dealer convicted of selling stolen goods shall have his occupational retail license revoked.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law provides that the occupational license tax collector is vested with the authority, upon motion in a court of competent jurisdiction, to rule the noncomplying secondhand dealer to show cause in not less than two nor more than 10 days, exclusive of holidays, as to why the noncomplying secondhand dealer's retail occupational license should not be suspended or revoked.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law prohibits a secondhand dealer, including those secondhand dealers exempted by present law, from selling or offering for sale any article of clothing, including but not limited to hats, shirts, pants, or jackets, which exhibits or displays the insignia of any law enforcement agency or public utility.

Proposed law prohibits any person in this state engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of junk or used or secondhand property, including those persons exempted from proposed law, from selling or offering for sale any article of clothing, including but not limited to hats, shirts, pants, or jackets, which exhibits or displays the insignia of any law enforcement agency or public utility.

Present law provides that anyone acting as an unlicensed secondhand dealer without complying with the provisions of present law shall be fined not less than \$250 or be imprisoned not less than 30 days nor more than 60 days, or both.

Proposed law retains present law but changes secondhand dealer to scrap metal dealer.

Present law provides that no license shall be granted for the operation of a secondhand dealer facility which will be situated within 300 feet or less of any official gaming establishment or designated docking facility of a riverboat licensed to conduct gaming activities or gaming operations. Present law further provides that, as to official gaming establishments, this distance shall be measured as a person walks using the sidewalk from the nearest point of the property line of the official gaming establishment to the nearest point of the dealer's location. As to docking facilities, this distance shall be measured in a straight line from the nearest point of the docking facility to the nearest point of the dealer's location.

Proposed law repeals present law.

Present law provides that a secondhand dealer shall neither open his place of business before the hour of 7:00 a.m. nor keep it open 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 repeals present law.

(Amends the title of Part II of Chapter 21 of Title 37 of the L.R.S. of 1950, R.S. 37:1861(A) and (B)(intro. para.), 1861.1, 1862(A), 1862.1, 1863, 1864(A)(1)(intro. para.), 1864.1(A), 1864.2, 1864.3, 1864.4, 1865, 1866, 1867(A), 1869, 1869.1, and 1870(A); Adds R.S. 37:1861(B)(6); Repeals R.S. 37:1861.2 and 1868)