

HOUSE DOCKET, NO.

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FILED ON: 09/23/2011

HOUSE No. 03723

The Commonwealth of Massachusetts

PRESENTED BY:

Theodore C. Speliotis

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act regulating secondary metals dealings.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

HOUSE No. 03723

By Mr. Speliotis of Danvers, for the committee on Consumer Protection and Professional Licensure, on Senate, No. 145 and House, Nos. 1021 and 3226, a Bill regulating secondary metals dealings (House, No. 3723). September 26, 2011

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act regulating secondary metals dealings.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 140B, the
2 following chapter:-

3 CHAPTER 140B½ SECONDARY METAL DEALING

4 For the purposes of this chapter, the following terms shall have the following meanings unless
5 the context clearly requires otherwise:

6 “Engaging in a business”, a regular occupation or constant employment; not an isolated or
7 occasional transaction.

8 “Metal” or “metal article”, any substance or article consisting of metal or a metal alloy but
9 excluding aluminum beverage containers if such containers have a refund value pursuant to
10 section 322 of chapter 94.

11 “Registration”, process by which the scrap metal dealer will file a form at the local municipal
12 police station which will be addressed to the local police chief which will include basic
13 information regarding the scrap metal facility. Such form shall list the name of the registrant,
14 nature of the business and address and contact information.

15 “Secondary metals dealer”, any business, individual, corporation, association or organization
16 engaged in secondary metals dealing for profit.

17 “Secondary metals dealing”, engaging in a business , from a fixed location or otherwise, of
18 gathering or obtaining metal or metal articles that are no longer in use and the economic value
19 thereof is based upon the metal or article’s potential for re-use or upon the worth of the raw
20 material of which such article is made.

21 SECTION 2. (a) In accordance with Section 4 of Chapter 140 of the General Laws, no person
22 shall carry on the business of being a scrap metal processor, collector of, dealer in or keeper of a
23 shop for the purchase, sale, and barter of junk, scrap metal commodities, old metals or second
24 hand articles without filing a registration form with the municipality’s chief of police or
25 designee.

26 (b) All registrations under this section shall be made on a form or forms to be prescribed by the
27 licensing authority, as prescribed in Section 1 of this Act and shall set forth the name of the
28 registrant, the nature of the business and the building or place in the city or town in which it is to
29 be carried on.

30 (c) The fee for such registration shall be determined by the chief of police or his designee .
31 Societies, associations or corporations organized solely for religious or charitable purposes shall
32 not be required to pay a fee for such registration . No registrations shall be transferred without

33 prior consent of the chief of police and all registrations shall be posted on the registrant's
34 premises in a conspicuous place and manner.

35 (d) Every registration issued under this section shall expire on May first following the date of
36 issue.

37 (e) The chief of police or designee may grant an exemption to any one or more of the
38 requirements in sub-section (c) for a particular transaction. A request for an exemption must be
39 made by the registrant in writing to the chief of police or designee stating the reason for the
40 request. The chief of police or designee shall approve or disapprove the request and send written
41 notification of the decision to the registrant. The chief of police or designee, in his/her
42 discretion may impose any terms, conditions, restrictions on any exemption granted under this
43 section.

44 (f) Any person carrying on the business of being a collector of, dealer in or keeper of a shop for
45 the purchase, sale, barter of junk, old metals or second hand articles without registration or in
46 violation of this section shall be assessed a fine in the amount established by the Secretary of
47 Public Safety.

48 SECTION 3. Chapter 140 of the General Laws is hereby amended by inserting after section 54A
49 the following new section:- Section 54B. A dealer registered under section 54 shall comply with
50 the following procedures when purchasing any metal product. 1. The Dealer shall keep a daily
51 transaction log, in the English language. The log information will include: a. Name, date of birth
52 and residence of the person with whom such a transaction was made, or company or organization
53 name and principal address with whom such a transaction was made; b. The date and time when
54 such a transaction occurred; c. The price paid for the article; d. A description of the article,

55 including type, weight and quantity; e. The license plate number and state of issue of the vehicle
56 being used by the person offering the article to transport the article to the registrant's place of
57 business. f. A written statement from the person offering the article stating that he or she is in
58 lawful possession of the article being offered. 2. A secondary metals dealer may not accept or
59 purchase new production scrap or new materials that are part of a manufacturing process, from
60 any individual, who is not company affiliated or an authorized contractor of the manufacturer,
61 municipality, government or utility. Other items that cannot be accepted by a secondary metals
62 dealer are: 1. materials used only by governments, utilities, or for very specific purposes; 2.
63 guardrails, 3. manhole covers, 4. cables used only in high voltage transmission lines, 5. historical
64 markers, 6. cemetery plaques, 7. full sized new materials, such as those used in construction and
65 8. equipment tools used by contractors 9. bleachers from an athletic field 10. traffic signs, 11.
66 beer kegs, and 12. materials that have been reported stolen through the ISRI alert system. A list
67 of the materials named above which are deemed unacceptable shall be prominently posted on a
68 large sign at every registered facility in the Commonwealth. 3. The record file shall be retained
69 by the Dealer for a period of one (1) year from the date of the transaction. Accompanying
70 documentation may be destroyed following the one year period. If documentation is stored
71 electronically said documents must be stored or backed-up by any current electronic means and
72 may be deleted at the completion of the one year period. 4. The Dealer shall ascertain the identity
73 of an individual selling the metal s by requiring him to produce a Massachusetts or state-issued
74 photo identification, and maintaining a copy of the same in the record of transaction. 5. The
75 Dealer shall ascertain the identity of any business, organization, society, corporation etc., selling
76 the metals by requiring him to provide a Massachusetts or state-issued identification number, and
77 maintaining a copy of the same in the record of transaction. 6. During the one year period, the

78 log shall be open for inspection by the state and local police upon reasonable request. 7. Failure
79 to comply with the above procedures shall be cause for the revocation of the dealer's registration.

80 SECTION 4. (a) Following notification, either verbally or in writing, from a law enforcement
81 officer that certain scrap materials have been reported as stolen, a scrap processor or recycling
82 facility operator that is in possession of the scrap material in question shall hold that scrap
83 material intact and safe from alteration, damage or commingling and shall place an identifying
84 tag or other suitable identification upon the scrap material.

85 (b) A law enforcement officer making a verbal request shall provide the scrap processor or
86 recycling facility operator, upon request, with the officer's name, badge number and department
87 contact telephone number so that the scrap processor or recycling facility operator may call back
88 to confirm the identity of the law enforcement officer.

89 (c) Within 24 hours of notification by the law enforcement officer or 24 hours of the receipt of
90 the material, whichever is later, the scrap processor or recycling facility operator shall notify the
91 law enforcement officer that scrap material matching the law enforcement officer's description is
92 on the premises.

93 (d) The scrap processor or recycling facility shall hold the scrap material for a period of time as
94 directed by the applicable law enforcement agency, up to a maximum of 48 hours following
95 notification, unless extended pursuant to sub-section (f) of Section 4 of this section.

96 (e) A law enforcement officer shall not place a hold on any scrap material unless that law
97 enforcement officer reasonably suspects that the scrap material is lost or stolen. The request to
98 hold scrap material shall be as specific as possible by using descriptive language, including, but
99 not limited to, the type and style of the material, length or weight or any other such description to

100 identify the material to be held. Any hold that is placed on scrap material shall not exceed 48
101 hours, and the scrap material must be returned to the owner or released when the hold has been
102 released or has expired.

103 (f) A holding period may be extended beyond 48 hours only upon the order of a magisterial
104 district judge after the magisterial district judge has determined that probable cause exists that
105 the scrap material is lost or stolen.

106 (g) A scrap processor or recycling facility operator that receives material that does not meet the
107 description materials being sought by a law enforcement officer may dispose of that material at
108 its discretion.