

An Act

ENROLLED HOUSE
BILL NO. 1001

By: Bush and McDugle of the
House

and

Hall and Stephens of the
Senate

An Act relating to agriculture; creating the Sergeant Craig Johnson Metal Theft Act; amending 59 O.S. 2011, Sections 1422, as amended by Section 2, Chapter 230, O.S.L. 2013, and as renumbered by Section 4, Chapter 18, O.S.L. 2014, 1423, as renumbered by Section 5, Chapter 18, O.S.L. 2014, and as last amended by Section 1, Chapter 23, O.S.L. 2018 and 1424, as renumbered by Section 6, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2020, Sections 11-91, 11-92 and 11-93), which relate to the Oklahoma Scrap Metal Dealers Act; adding definitions; modifying definitions; modifying content requirements of certain scrap metal dealer records; requiring certain records be held for certain period; eliminating requirement that scrap metal with certain labels be held separate; eliminating prohibition against certain copper sales and purchase; clarifying term; modifying declaration of ownership form contents; modifying procedure for scrap metal dealer purchase of a vehicle; modifying applicability to aluminum beverage cans; expanding types of accepted proof of ownership; prohibiting purchase of regulated metals not delivered in a motor vehicle; expanding list of items regulated by the Oklahoma Scrap Metal Dealers Act; providing for noncodification; and providing an effective date.

SUBJECT: Agriculture

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Sergeant Craig Johnson Metal Theft Act".

SECTION 2. AMENDATORY 59 O.S. 2011, Section 1422, as amended by Section 2, Chapter 230, O.S.L. 2013, and as renumbered by Section 4, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2020, Section 11-91), is amended to read as follows:

Section 11-91. As used in the Oklahoma Scrap Metal Dealers Act:

1. "Aluminum material" means the metal aluminum or aluminum alloy or anything made of either aluminum or aluminum alloy, except aluminum beverage cans;

2. "Copper material" means the metal copper or copper alloy or anything made of either copper or copper alloy;

3. "Department" means the Oklahoma Department of Agriculture, Food, and Forestry and its employees, officers and divisions;

4. "Digital image" means pixels intended for display on a computer monitor or for transformation into another format, such as a printed page. For purposes of this paragraph, "pixels" shall mean raster-based, two-dimensional, rectangular arrays of static data elements;

5. ~~"Exempted seller" means any person, firm, corporation or municipal corporation which constructs, operates or maintains electric distribution and transmission or communications facilities;~~ or any person, firm or corporation, business or governmental entity that produces or otherwise acquires any scrap metal regulated by the provisions of the Oklahoma Scrap Metal Dealers Act in the normal course of business as, including, but not limited to:

- a. a mechanical, electrical or plumbing contractor currently licensed to do business in ~~this~~ any state,
- b. a scrap metal dealer (Standard Industrial Classification Codes 5051 or 5093), currently licensed pursuant to the provisions of the Oklahoma Scrap Metal Dealers Act,

- c. a holder of a current farm-use tax permit,
- d. a manufacturer,
- e. a distributor, ~~or~~
- f. a retailer with a current sales tax permit, or
- g. any state-recognized business entity including a corporation, limited liability company, partnership, limited partnership and sole proprietorship;

~~5.~~ 6. "License" means a scrap metal dealer license;

~~6.~~ 7. "Remote storage battery" means a battery commonly used in telecommunications, the oil industry or infrastructure;

8. "Scrap metal" means any copper material or aluminum material or any item listed in subsection C of Section 1424 11-93 of this title, offered for sale or resale or purchased by any person, firm or ~~corporation~~ business;

~~7.~~ 9. "Scrap metal dealer" means any person, firm or corporation being an owner, keeper or proprietor of a retail or wholesale business which buys, sells, salvages, processes or otherwise handles scrap metal materials regulated by the provisions of the Oklahoma Scrap Metal Dealers Act; and

~~8.~~ 10. "Yard" means the place where any scrap metal dealer stores scrap metal materials or keeps such materials for purpose of sale.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 1423, as renumbered by Section 5, Chapter 18, O.S.L. 2014, and as last amended by Section 1, Chapter 23, O.S.L. 2018 (2 O.S. Supp. 2020, Section 11-92), is amended to read as follows:

Section 11-92. A. Every scrap metal dealer shall keep a separate book, record or other electronic system as authorized by the Oklahoma Scrap Metal Dealers Act, to record and maintain the following data from any seller of any amount of scrap metal as defined by the Oklahoma Scrap Metal Dealers Act:

1. A legible photocopy of the seller's driver license or government-provided photo identification, issued by the United

States government, State of Oklahoma, or any other state of the United States, or any other federally recognized identification that contains his or her name, address, and date of birth, weight and height; provided, that if the photo identification does not contain an address, an address shall be provided;

2. Vehicle description and license tag number of the seller, or vehicle identification number if no state license plate is affixed, if the vehicle was used to transport the material being sold;

3. Date and place of the transaction and the transaction number as provided by the scrap metal dealer;

4. Description of the items sold and weight of the items as required by the provisions of the Oklahoma Scrap Metal Dealers Act;

5. Whether the scrap metal is in wire, cable, bar, rod, sheet or tube form; and

6. ~~If any insulation is on the scrap metal, the names and addresses of the persons, groups or corporations from whom seller purchased or obtained the materials; and~~

7. ~~If apparent on the scrap metal, the name of the manufacturer and serial number of each item of scrap metal~~ The digital image of the items purchased and the digital image of the seller. The digital image shall contain depictions that clearly identify the items sold and are captured in the common JPEG format. The digital image shall be retained by the purchaser for a minimum of ninety (90) days from the date of purchase.

B. Municipalities or other political subdivisions may designate the reporting methods and the format of the information required by subsection A of this section, either written, electronic or Internet-based. The Oklahoma Department of Agriculture, Food, and Forestry shall designate an Internet-based reporting method that applies to all geographic areas of the state that are not subject to a local designation for Internet reporting.

C. Records required by this section shall be retained for no less than two (2) years from the date of transaction and shall be made available at any time to any person authorized by law for such inspection.

~~D. Purchases of thirty-five (35) pounds or more of scrap metal containing a manufacturer's serial number or other unique label or mark shall be held separate and apart so that the purchased scrap metal may be readily identifiable from all other purchases for a period of not less than ten (10) days from the date of purchase. During the holding period the scrap metal dealer may not change the form of the purchased scrap metal and shall permit any person authorized by law to make inspection of such materials.~~

~~E. Purchases of thirty-five (35) pounds or more of scrap metal which does not contain a manufacturer's serial number or other unique label or mark shall either be held for the same time and in the same manner as required by subsection D of this section; or in the alternative, the scrap metal dealer shall be required to obtain a digital image of the items purchased, the seller of the items, a copy of the bill of sale and a copy of the seller's photo identification. The digital image shall contain a depiction that clearly identifies the seller and the items sold and is captured in the common JPEG format. The digital image shall be retained by the purchaser for a minimum of ninety (90) days from the date of purchase. For the purpose of this section a "digital image" means a raster-based two-dimensional, rectangular array of static data elements called pixels, intended for display on a computer monitor or for transformation into another format, such as a printed page.~~

~~F. No purchase of any amount of scrap metal from an exempted seller, as defined by Section 11-91 of this title, shall be subject to any holding period or digital imaging identification required by subsection D or E of this section.~~

~~G. It shall be unlawful for any person to sell or purchase copper material or copper wire from which the actual or apparent insulation or other coating has been burned, melted or exposed to heat or fire resulting in melting some or all of the insulation or coating. It shall be unlawful for any person to sell or purchase copper wire that is four-gauge or larger in size. This subsection shall not apply to sales by or purchases from an exempted seller as defined by Section 11-91 of this title. Documentation of exempt seller status shall be provided to the scrap metal dealer and, if requested by a law enforcement agency where the purchase was made, shall be transmitted to the law enforcement agency and may be kept as permanent record and made available for public inspection.~~

~~H. It shall be unlawful for any scrap metal dealer to purchase any item from a minor under the age of sixteen (16) without having~~

first obtained the consent, in writing, of a parent or guardian of such minor. Such written consent shall be kept with the book, record or other electronic recording system required by subsection A of this section and, if requested by a law enforcement agency where the purchase was made, shall be transmitted to the law enforcement agency and may be kept as a permanent record and made available for public inspection.

~~I. E.~~ A scrap metal dealer shall obtain from each seller of a scrap metal item regulated by the Oklahoma Scrap Metal Dealers Act, or a parent or guardian on behalf of a minor, a written declaration of ownership containing a legible signature of the seller. The declaration of ownership shall be in the following form and shall appear on the bill of sale or transaction ticket to be completed by the seller in the presence of the purchaser at the time of the transaction:

"I hereby affirm ~~under penalty of prosecution~~ that I am the rightful owner of the hereon described merchandise; or I am an authorized representative of the rightful owner and affirm that I have been given authority by the rightful owner to sell the hereon described merchandise.

I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

Signature"

Date and Place"

~~J. F.~~ If requested by a law enforcement agency, a scrap metal dealer shall report in writing all purchases of scrap metal as defined by the Oklahoma Scrap Metal Dealers Act within forty-eight (48) hours following such purchase. The report shall contain all the information required by this section.

~~K. A scrap metal dealer purchasing a vehicle from any person shall be required to record the information required in subsection A of this section and the make, model, license tag number and vehicle identification number of the purchased vehicle. A person selling a vehicle to a scrap metal dealer shall be required to present to the dealer the title of the vehicle or a certificate of ownership form, as approved by the Oklahoma Tax Commission and available at the Oklahoma Tax Commission or through a motor license agent, in addition to signing a declaration of ownership as required by~~

~~subsection I of this section. The scrap metal dealer shall not provide payment for the vehicle until the certificate of ownership has been submitted to the Oklahoma Tax Commission or a motor license agent, and the vehicle is determined not to be stolen. The provisions of this subsection shall not apply to sales, purchases or other transfer of vehicles between scrap metal dealers and licensed automotive dismantlers and parts recyclers.~~

~~L. The provisions of the Oklahoma Scrap Metal Dealers Act shall not apply to the sale or purchase of aluminum beverage cans for recycling purposes.~~

M. G. Prior to the purchase of a used motor vehicle, trailer or nonmotorized recreational vehicle, the scrap metal dealer shall require one of the following forms of proof of ownership from the person selling the used motor vehicle, trailer or nonmotorized recreational vehicle:

1. A certificate of title that matches the vehicle identification number of the vehicle being sold;

2. A notarized power of attorney from the individual on the certificate of title authorizing the seller to dispose of the vehicle on behalf of the owner; or

3. A statement of ownership from the seller stating that the vehicle was purchased from the lawful owner, accompanied by a bill of sale from the lawful owner including a statement that there are no outstanding liens on the vehicle, and a statement that the vehicle is inoperable or incapable of operation or use on the highway and has no resale value except as scrap.

The provisions of this subsection shall not apply to sales, purchases or other transfers of vehicles between scrap metal dealers and licensed automotive dismantlers and parts recyclers, licensed crushers, salvage dealers, used car dealers and licensed wreckers.

H. A scrap metal dealer shall not enter into any cash transactions in excess of One Thousand Dollars (\$1,000.00) in payment for the purchase of scrap metal that is listed in subsection ~~B~~ C of Section 11-93 of this title unless the transaction is made with an exempted seller. Payment by check shall be issued and made payable only to the seller of the scrap metal whose identification information has been obtained pursuant to the provisions of this section.

I. The following shall be exempt from this section:

1. Scrap metal hauled by a scrap metal dealer for an exempted seller in a motor vehicle registered with the Oklahoma Department of Transportation; and

2. Material delivered by an exempted seller with a check made payable to the company of the exempted seller.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 1424, as renumbered by Section 6, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2020, Section 11-93), is amended to read as follows:

Section 11-93. A. ~~Scrap~~ It shall be unlawful for scrap metal dealers permitted to do business in this state as required by the Oklahoma Scrap Metal Dealers Act shall not to purchase any item listed in subsection B C of this section without:

1. Obtaining proof that the seller owns or is authorized to sell the property, by evidence of a receipt of purchase ~~or~~, a bill of sale for the property, contract or other documentation; and

2. Requiring the seller to sign a written declaration in the form required by subsection ~~F~~ E of Section ~~3~~ 11-92 of this ~~act~~ title; or

3. Obtaining proof that the seller is an exempted seller or an employee of an exempted seller, as defined in Section ~~2~~ 11-91 of this ~~act~~ title.

B. Scrap metal dealers shall not purchase any regulated items which are not delivered in a motor vehicle.

C. The following items are regulated by the provisions of this act:

1. Manhole covers, street signs, traffic signs, traffic signals, including their fixtures and hardware, and highway guard rails, or any other identifiable public property;

2. Electric light poles, including their fixtures and hardware, electric transmission or distribution cable and wires, and any other hardware associated with electric utility or telecommunication systems;

~~3. Highway guard rails~~ Any copper wire, braided or single strand, insulated or not insulated, that is four (4) gauge or larger in size;

~~4. Copper wire from which the actual or apparent insulation or other coating has been burned, melted or exposed to heat or fire resulting in melting some or all other insulation or coating;~~

~~5.~~ Funeral markers, plaques or funeral vases;

~~5.~~ 6. Historical markers or public artifacts;

~~6.~~ 7. Railroad equipment;

~~7.~~ 8. Any metal item marked with any form of the name, initials or logo of a governmental entity, utility, cemetery or railroad;

~~8.~~ 9. Condensing or evaporating coil from a heating or air conditioning unit including copper coil ends;

~~9.~~ 10. Aluminum or stainless steel containers or bottles designed to contain fuel;

~~10.~~ 11. Metal beer kegs that are clearly marked as being the property of the beer manufacturer;

~~11.~~ 12. Metal bleachers or other seating facilities used in recreational areas or sporting arenas;

~~12.~~ 13. Automotive catalytic converters;

~~13.~~ Plumbing or electrical fixtures;

~~14.~~ Tools;

~~15.~~ 14. Machinery or supplies commonly used in the drilling, completing, operating or repairing of oil or gas wells; and

~~16.~~ 15. Stainless steel fittings and fixtures commonly used in the operation of car wash facilities; and

16. Remote storage batteries.

SECTION 5. This act shall become effective November 1, 2021.

Passed the House of Representatives the 18th day of February, 2021.

Presiding Officer of the House
of Representatives

Passed the Senate the 19th day of April, 2021.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____

Approved by the Governor of the State of Oklahoma this _____

day of _____, 20_____, at _____ o'clock _____ M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this _____

day of _____, 20_____, at _____ o'clock _____ M.

By: _____