

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 58th Legislature (2021)

4 ENGROSSED SENATE

5 BILL NO. 1

By: Hall, Stephens, Rogers and
Bullard of the Senate

6 and

7 Bush of the House

8
9
10 An Act relating to the Oklahoma Scrap Metal Dealers
11 Act; amending 59 O.S. 2011, Sections 1421, as
12 renumbered by Section 3, Chapter 18, O.S.L. 2014,
13 1422, as amended by Section 2, Chapter 230, O.S.L.
14 2013, and as renumbered by Section 4, Chapter 18,
15 O.S.L. 2014, 1423, as renumbered by Section 5,
16 Chapter 18, O.S.L. 2014, and as last amended by
17 Section 1, Chapter 23, O.S.L. 2018, 1424, as
18 renumbered by Section 6, Chapter 18, O.S.L. 2014,
19 1425, as amended by Section 4, Chapter 230, O.S.L.
20 2013, and as renumbered by Section 7, Chapter 18,
21 O.S.L. 2014 and 1426, as renumbered by Section 8,
22 Chapter 18, O.S.L. 2014, (2 O.S. Supp. 2020, Sections
23 11-90, 11-91, 11-92, 11-93, 11-94 and 11-95), which
24 relate to short title, definitions, records of data,
prohibited items, penalties and revocation or
suspension of licenses; modifying name of 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; removing exception for the
purchase or sale of aluminum beverage cans; expanding
types of accepted proof of ownership; providing
exemptions; prohibiting purchase of regulated metals

1 not delivered in or on a motor vehicle; expanding
2 list of items regulated by the Oklahoma Scrap Metal
3 Dealers Act; and updating statutory references;
4 amending Section 7, Chapter 230, O.S.L. 2013, as
5 amended by Section 2, Chapter 18, O.S.L. 2014, and as
6 renumbered by Section 12, Chapter 18, O.S.L. 2014 (2
7 O.S. Supp. 2020, Section 11-99), which relates to
8 license hearings; modifying name of act; and
9 providing an effective date.

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

11 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1421, as
12 renumbered by Section 3, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2020,
13 Section 11-90), is amended to read as follows:

14 Section 11-90. This act shall be known and may be cited as the
15 "Sergeant Craig Johnson Oklahoma Scrap Metal Dealers Act".

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

20 Section 11-91. As used in the Sergeant Craig Johnson Oklahoma
21 Scrap Metal Dealers Act:

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

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

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

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

8 5. "Exempted seller" means any person, firm, corporation or
9 municipal corporation which constructs, operates or maintains
10 electric distribution and transmission or communications facilities;
11 or any person, firm or corporation, business or governmental entity
12 that produces or otherwise acquires any scrap metal regulated by the
13 provisions of the Sergeant Craig Johnson Oklahoma Scrap Metal
14 Dealers Act in the normal course of business as. An exempted seller
15 includes, but is not limited to:

- 16 a. a mechanical, electrical or plumbing contractor
17 currently licensed to do business in ~~this~~ any state,
18 b. a scrap metal dealer (Standard Industrial
19 Classification Codes 5051 or 5093), currently licensed
20 pursuant to the provisions of the Sergeant Craig
21 Johnson Oklahoma Scrap Metal Dealers Act,
22 c. holder of a current farm-use tax permit,
23 d. manufacturer,
24 e. distributor, ~~or~~

1 f. retailer with a current sales tax permit, or
2 g. any state-recognized business entity including a
3 corporation, limited liability company, partnership,
4 limited partnership and sole proprietorship;

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

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

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

12 ~~7.~~ 9. "Scrap metal dealer" means any person, firm or
13 ~~corporation~~ business being an owner, keeper or proprietor of a
14 retail or wholesale business which buys, sells, salvages, processes
15 or otherwise handles scrap metal materials regulated by the
16 provisions of the Sergeant Craig Johnson Oklahoma Scrap Metal
17 Dealers Act; and

18 ~~8.~~ 10. "Yard" means the place where any scrap metal dealer
19 stores scrap metal materials or keeps such materials for purpose of
20 sale.

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

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

7 1. A legible photocopy of the seller's driver license or
8 government provided photo identification, issued by the United
9 States government, State of Oklahoma, or any other state of the
10 United States, or any other federally recognized identification that
11 contains his or her name, ~~address,~~ and date of birth, ~~weight and~~
12 ~~height;~~ however, if the photo identification does not contain an
13 address, an address must be provided;

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

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

19 4. Description of the items sold and weight of the items as
20 required by the provisions of the Sergeant Craig Johnson Oklahoma
21 Scrap Metal Dealers Act;

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

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

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

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

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

22 D. ~~Purchases of thirty-five (35) pounds or more of scrap metal~~
23 ~~containing a manufacturer's serial number or other unique label or~~
24 ~~mark shall be held separate and apart so that the purchased scrap~~

1 ~~metal may be readily identifiable from all other purchases for a~~
2 ~~period of not less than ten (10) days from the date of purchase.~~
3 ~~During the holding period the scrap metal dealer may not change the~~
4 ~~form of the purchased scrap metal and shall permit any person~~
5 ~~authorized by law to make inspection of such materials.~~

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

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

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

13 ~~H.~~ It shall be unlawful for any scrap metal dealer to purchase
14 any item from a ~~minor~~ person under the age of sixteen (16) without
15 having first obtained the consent, in writing, of a parent or
16 guardian of such minor. Such written consent shall be kept with the
17 book, record or other electronic recording system required by
18 subsection A of this section and, if requested by a law enforcement
19 agency where the purchase was made, shall be transmitted to the law
20 enforcement agency and may be kept as a permanent record and made
21 available for public inspection.

22 ~~I.~~ E. A scrap metal dealer shall obtain from each seller of a
23 scrap metal item regulated by the Sergeant Craig Johnson Oklahoma
24 Scrap Metal Dealers Act, or a parent or guardian on behalf of a

1 minor, a written declaration of ownership containing a legible
2 signature of the seller. The declaration of ownership shall be in
3 the following form and shall appear on the bill of sale or
4 transaction ticket to be completed by the seller in the presence of
5 the purchaser at the time of the transaction:

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

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

13 _____
14 Signature Date and Address"

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

20 ~~K. A scrap metal dealer purchasing a vehicle from any person~~
21 ~~shall be required to record the information required in subsection A~~
22 ~~of this section and the make, model, license tag number and vehicle~~
23 ~~identification number of the purchased vehicle. A person selling a~~
24 ~~vehicle to a scrap metal dealer shall be required to present to the~~

1 ~~dealer the title of the vehicle or a certificate of ownership form,~~
2 ~~as approved by the Oklahoma Tax Commission and available at the~~
3 ~~Oklahoma Tax Commission or through a motor license agent, in~~
4 ~~addition to signing a declaration of ownership as required by~~
5 ~~subsection I of this section. The scrap metal dealer shall not~~
6 ~~provide payment for the vehicle until the certificate of ownership~~
7 ~~has been submitted to the Oklahoma Tax Commission or a motor license~~
8 ~~agent, and the vehicle is determined not to be stolen. The~~
9 ~~provisions of this subsection shall not apply to sales, purchases or~~
10 ~~other transfer of vehicles between scrap metal dealers and licensed~~
11 ~~automotive dismantlers and parts recyclers.~~

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

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

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

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

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

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

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

19 I. The following are exempt from the provisions of the Sergeant
20 Craig Johnson Oklahoma Scrap Metal Dealers Act:

21 1. Scrap metal transported by a scrap metal dealer for an
22 exempted seller using a commercial motor vehicle; and
23
24

1 2. Scrap metal delivered by an exempt seller to a scrap metal
2 dealer that is paid for by the scrap metal dealer with a check made
3 payable to the exempt seller's company or entity.

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

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

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

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

17 3. Obtaining proof that the seller is an exempted seller or an
18 employee of an exempted seller, as defined in Section ~~2 of this act~~
19 11-91 of this title.

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

22 C. The following items are regulated by the provisions of ~~this~~
23 act the Sergeant Craig Johnson Oklahoma Scrap Metal Dealers Act:

- 1 1. Manhole covers, street signs, traffic signs, traffic signals
2 including their fixtures and hardware, and highway guard rails, or
3 any other identifiable public property;
- 4 2. Electric light poles, including their fixtures and hardware,
5 electric transmission or distribution cable and wires, and any other
6 hardware associated with electric utility or telecommunication
7 systems;
- 8 3. ~~Highway guard rails~~ Any copper wire, braided or single
9 strand, insulated or not insulated, that is four gauge or larger in
10 size;
- 11 4. Copper wire from which the actual or apparent insulation or
12 other coating has been burned, melted or exposed to heat or fire
13 resulting in melting some or all other insulation or coating;
- 14 5. Funeral markers, plaques or funeral vases;
- 15 ~~5.~~ 6. Historical markers or public artifacts;
- 16 ~~6.~~ 7. Railroad equipment;
- 17 ~~7.~~ 8. Any metal item marked with any form of the name, initials
18 or logo of a governmental entity, utility, cemetery or railroad;
- 19 ~~8.~~ 9. Condensing or evaporating coil from a heating or air
20 conditioning unit including copper coil ends;
- 21 ~~9.~~ 10. Aluminum or stainless steel containers or bottles
22 designed to contain fuel;
- 23 ~~10.~~ 11. Metal beer kegs that are clearly marked as being the
24 property of the beer manufacturer;

1 ~~11.~~ 12. Metal bleachers or other seating facilities used in
2 recreational areas or sporting arenas;

3 ~~12.~~ 13. Automotive catalytic converters;

4 ~~13.~~ ~~Plumbing or electrical fixtures;~~

5 14. ~~Tools;~~

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

8 ~~16.~~ 15. Stainless steel fittings and fixtures commonly used in
9 the operation of car wash facilities; and

10 16. Remote storage batteries.

11 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1425, as
12 amended by Section 4, Chapter 230, O.S.L. 2013, and as renumbered by
13 Section 7, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2020, Section 11-
14 94), is amended to read as follows:

15 Section 11-94. A. Any person found in violation of any
16 provision of the Sergeant Craig Johnson Oklahoma Scrap Metal Dealers
17 Act, with the exceptions as provided by subsections B, C and D of
18 this section, shall, upon conviction, be guilty of a misdemeanor and
19 punished by a fine of not more than Two Thousand Five Hundred
20 Dollars (\$2,500.00) per offense. Any person convicted of a second
21 violation of the Sergeant Craig Johnson Oklahoma Scrap Metal Dealers
22 Act shall be guilty of a misdemeanor and punished by a fine of not
23 more than Five Thousand Dollars (\$5,000.00) per offense or by
24 imprisonment in the county jail for a period of not more than six

1 (6) months. Any person convicted of a third or subsequent violation
2 of the Sergeant Craig Johnson Oklahoma Scrap Metal Dealers Act shall
3 be guilty of a felony punishable by a fine of not more than Ten
4 Thousand Dollars (\$10,000.00) per offense or by imprisonment in the
5 custody of the Department of Corrections for a period of not more
6 than two (2) years, or by both such fine and imprisonment.

7 B. Any person acting as a scrap metal dealer without a scrap
8 metal dealer license or a sales tax permit as required by the
9 Sergeant Craig Johnson Oklahoma Scrap Metal Dealers Act shall, upon
10 conviction, be guilty of a misdemeanor and punished by a fine of not
11 more than Five Hundred Dollars (\$500.00); provided, that each day of
12 operation in violation of the Sergeant Craig Johnson Oklahoma Scrap
13 Metal Dealers Act shall constitute a separate offense.

14 C. Any person who knowingly provides false information with
15 respect to the provisions of subsection I of Section ~~1423~~ 11-92 of
16 this title shall, upon conviction, be guilty of a felony and
17 punished by a fine of Five Thousand Dollars (\$5,000.00), or by
18 imprisonment in the custody of the Department of Corrections for a
19 period of not more than two (2) years, or by both such fine and
20 imprisonment.

21 D. Any person convicted of purchasing or selling burnt copper
22 material or copper wire as prohibited by ~~subsection C of~~ Section
23 ~~1423~~ 11-93 of this title shall, upon first conviction, be guilty of
24 a misdemeanor and punished by a fine of Two Thousand Five Hundred

1 Dollars (\$2,500.00). Any person convicted of a second or subsequent
2 violation shall be guilty of a felony punishable by a fine of Five
3 Thousand Dollars (\$5,000.00), or by imprisonment in the custody of
4 the Department of Corrections for a period of not more than two (2)
5 years, or by both such fine and imprisonment.

6 E. Each scrap metal dealer convicted of a violation of the
7 Sergeant Craig Johnson Oklahoma Scrap Metal Dealers Act shall be
8 reported to the Oklahoma Tax Commission by the clerk of the court
9 rendering such verdict.

10 F. The Tax Commission shall revoke the sales tax permit of any
11 person convicted of three separate violations of the Sergeant Craig
12 Johnson Oklahoma Scrap Metal Dealers Act. The person shall not be
13 eligible to receive a sales tax permit for such purpose for a period
14 of one (1) year following the revocation. The revocation procedure
15 shall be subject to notice and hearing as required by Section ~~1426~~
16 11-95 of this title.

17 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1426, as
18 renumbered by Section 8, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2020,
19 Section 11-95), is amended to read as follows:

20 Section 11-95. A. Any sales tax permit, issued pursuant to
21 Section 1364 of Title 68 of the Oklahoma Statutes, to any scrap
22 metal dealer who violates any of the provisions of ~~this act~~ the
23 Sergeant Craig Johnson Oklahoma Scrap Metal Dealers Act relating to
24 the purchase of copper or aluminum materials or any scrap metal

1 regulated by ~~this act~~ Section 11-90 et seq. of this title, may be
2 canceled or suspended for a period not to exceed thirty (30) days by
3 the Oklahoma Tax Commission. The Tax Commission may refuse the
4 issuance of or extension or reinstatement of any permit where the
5 applicant or holder of the permit shall have violated any provisions
6 of ~~this act~~ the Sergeant Craig Johnson Oklahoma Scrap Metal Dealers
7 Act or existing laws. Such cancellation or refusal shall be
8 mandatory as to any scrap metal dealer having been convicted of
9 three separate violations of ~~this act~~ the Sergeant Craig Johnson
10 Oklahoma Scrap Metal Dealers Act. However, before the Tax
11 Commission may cancel or suspend any permit or refuse the issuance,
12 reinstatement or extension thereof, the Tax Commission shall give
13 each holder of a permit or applicant ten (10) days' notice of a
14 hearing before the Tax Commission, granting such person an
15 opportunity to show cause why such action should not be taken. Upon
16 notice given to any scrap metal dealer by the Tax Commission of its
17 intention to cancel or suspend any permit or to refuse the issuance,
18 reinstatement or extension thereof, the Tax Commission shall have
19 the authority to enter its order suspending such permit or
20 prohibiting the applicant from doing business without a permit
21 pending the final hearing before it as provided for in this section.

22 B. 1. After notice of the order of suspension or prohibition
23 from doing business, it shall be unlawful for the scrap metal dealer
24 to further engage in the business of a scrap metal dealer, as

1 defined herein. In the event any such person shall conduct or at
2 any time continue such unlawful operation, after notice of
3 suspension or prohibition from doing business, the Tax Commission
4 may institute or cause to be brought against such person or persons
5 proceedings for injunction in any court of competent jurisdiction to
6 enjoin and restrain such person or persons from doing business
7 pending the order of the Tax Commission.

8 2. Upon cancellation of a permit by the Tax Commission, no new
9 permit shall be issued to such dealer or any firm, corporation or
10 other legal entity under his or her direct or indirect control or
11 association, for a period of one (1) year from the date of
12 cancellation.

13 3. In all cases where proceedings are brought for injunction
14 under ~~this act~~ the Sergeant Craig Johnson Oklahoma Scrap Metal
15 Dealers Act, no bond for injunction shall be required and in all
16 such cases, after notice of suspension has been given, no further
17 notice shall be required before the issuance of a temporary
18 restraining order on any proceeding for injunction.

19 C. If an appeal is taken from the order of the Tax Commission
20 issued pursuant to this section, the scrap metal dealer, in order to
21 conduct business as a scrap metal dealer pending outcome of the
22 appeal, shall be required to post a bond in the amount of Five
23 Thousand Dollars (\$5,000.00).

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1 SECTION 7. AMENDATORY Section 7, Chapter 230, O.S.L.
2 2013, as amended by Section 2, Chapter 18, O.S.L. 2014, and as
3 renumbered by Section 12, Chapter 18, O.S.L. 2014 (2 O.S. Supp.
4 2020, Section 11-99), is amended to read as follows:

5 Section 11-99. A. The Oklahoma Department of Agriculture,
6 Food, and Forestry may suspend, cancel, revoke, or refuse reissuance
7 of a scrap metal dealer license after the person has an opportunity
8 for public hearing pursuant to the Administrative Procedures Act for
9 any of the following causes:

10 1. Engages in fraud or deceit in obtaining or renewing a
11 license;

12 2. Acts as a scrap metal dealer in this state without a
13 license;

14 3. Aids or abets another person in acting as a scrap metal
15 dealer without a license; or

16 4. Violates any of the provisions of the Sergeant Craig Johnson
17 Oklahoma Scrap Metal Dealers Act.

18 B. After notice and opportunity for a hearing in accordance
19 with the Administrative Procedures Act, if the Department finds any
20 person in violation of the Sergeant Craig Johnson Oklahoma Scrap
21 Metal Dealers Act or any rule promulgated or order issued pursuant
22 thereto, the Department shall have the authority to assess an
23 administrative penalty of not less than One Hundred Dollars
24 (\$100.00) and not more than Ten Thousand Dollars (\$10,000.00) for

1 each violation. Each action or each day a violation continues may
2 constitute a separate and distinct violation.

3 C. In addition to penalties and fines, the Department shall
4 have authority to apply to district court and obtain a temporary or
5 permanent injunction against anyone who violates the Sergeant Craig
6 Johnson Oklahoma Scrap Metal Dealers Act and shall have authority to
7 obtain or impose civil monetary penalties on anyone who violates the
8 Sergeant Craig Johnson Oklahoma Scrap Metal Dealers Act.

9 D. Nothing in the Sergeant Craig Johnson Oklahoma Scrap Metal
10 Dealers Act shall preclude the Department from seeking penalties in
11 district court in the maximum amount allowed by law. The assessment
12 of penalties in an administrative enforcement proceeding shall not
13 prevent the subsequent assessment by a court of the maximum civil or
14 criminal penalties for violations of the Sergeant Craig Johnson
15 Oklahoma Scrap Metal Dealers Act and rules promulgated pursuant
16 thereto.

17 E. Any person assessed an administrative or civil penalty may
18 be required to pay, in addition to the penalty amount and interest
19 thereon, attorney fees and costs associated with the collection of
20 the penalties.

21 F. If any person refuses, denies or interferes with any right
22 of access, the Department shall have the right to apply to and
23 obtain from a district court an administrative or other warrant as
24 necessary to enforce the right of access and inspection.

1 G. If the Department finds any person operating as a scrap
2 metal dealer without a license, the Department shall have the
3 authority to tag as "Not For Commercial Use" any weight or measure
4 utilized by the scrap metal dealer.

5 SECTION 8. This act shall become effective November 1, 2021.

6
7 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE, dated
8 04/07/2021 - DO PASS.

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