

No. 2008-113

## AN ACT

HB 1742

Requiring scrap processors and recycling facility operators to collect certain information relating to the purchase of scrap material; requiring commercial accounts; and restricting scrap processors and recycling facility operators from purchasing certain materials.

The General Assembly finds that:

(1) Copper, aluminum, steel and other metal commodity thefts rise as the price of metal property increases.

(2) Scrap processors and recycling facility operators may serve as unknowing conduits for the disposition of stolen metal property and may also be victims of theft.

(3) Individuals have found it to be more financially advantageous to sell used beer kegs to a scrap processor or recycling facility operator as opposed to returning the kegs to the distributor where they were rented.

(4) This act is needed to ensure appropriate documentation of transactions to assist law enforcement agencies to identify, recover and return stolen property to its owner and to ensure, as reasonably as possible, that scrap processors and recycling facility operators are less likely to be used as conduits for the liquidation and disposal of stolen metal property.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Short title.

This act shall be known and may be cited as the Scrap Material Theft Prevention Act.

Section 2. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

“Beer keg.” A vessel designed to contain at least 128 fluid ounces of malt or brewed beverage.

“Buyer.” The owner, operator or employee of a scrap processor or recycling facility.

“Catalytic converter.” An air pollution abatement device that removes pollutants from motor vehicle exhaust, either by oxidizing them into carbon dioxide and water or reducing them to nitrogen.

“Commercial account.” A relationship between a scrap processor and a commercial enterprise that is ongoing and properly documented.

“Commercial enterprise.” A corporation, partnership, limited liability company, single proprietorship, association, State agency, political subdivision of the Commonwealth, public corporation or any other legal or commercial entity.

“Commercial metal property.” Utility access covers, street light poles and fixtures, road and bridge guardrails, highway or street signs, water meter covers, traffic directional and control signs, traffic light signals, any metal property clearly marked with the name of the commercial enterprise, including, but not limited to, a telephone, cable, electric, water, natural gas or other utility or railroad, unused or undamaged building construction materials consisting of copper pipe, tubing or wiring, aluminum wire, siding, downspouts or gutters, aluminum or stainless steel fence panels, aluminum decking, bleachers or risers, historical markers, statue plaques, grave markers, funeral vases, agricultural irrigation wheels, sprinkler heads and pipes.

“Ferrous metals.” Items that are predominantly made from iron or steel that have no further use in their original manufactured form but which can be melted for their metal content and utilized in the manufacture of new products.

“Law enforcement officer.” A member of the Pennsylvania State Police or an individual employed as a police officer who holds a current certificate under 53 Pa.C.S. Ch. 21, Subch. D (relating to municipal police education and training).

“Nonferrous metals.” Items that are predominantly made from metals other than iron and steel, such as copper, brass, aluminum, bronze, lead, zinc, nickel and alloys that have no further use in their original manufactured form but which can be melted for their metal content and utilized in the manufacture of new products.

“Processing.” Receiving, storing or reselling scrap materials for payment or other financial consideration.

“Recycling facility operator.” An owner, operator or employee who operates a facility employing a technology that is a process to separate or classify municipal waste and who creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term does not include a person who operates a transfer station or landfill for solid waste, composting facility or resource recovery facility.

“Scrap processor.” An owner, operator or employee who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous or nonferrous metallic scrap, paper scrap, plastic scrap, rubber scrap or glass scrap into prepared grades and whose principal product is sold as a raw material in the manufacture of new products.

“Seller.” Any person, other than a commercial enterprise, who sells scrap materials to a scrap processor or recycling facility operator.

Section 3. Identification requirements for sale of scrap materials to scrap processors and recycling facility operators.

(a) General rule.—A scrap processor and recycling facility operator shall collect the following information for all transactions by a seller of restricted material under section 5 and from any other seller when the purchase of scrap material from the seller exceeds \$100:

- (1) A photocopy of the driver's license of the seller.
- (2) The seller's and buyer's signature for each transaction.
- (3) The license plate number of the motor vehicle the seller operates at the time of the transaction.
- (4) Written permission of the seller's parent or legal guardian, if the seller is under 18 years of age.
- (5) The date and time of the transaction.
- (6) A description of the scrap material included in the transaction, including the weight of the scrap material and the amount paid to the seller.

(b) Tracking the transaction.—A scrap processor and recycling facility operator shall, when payment is made in cash, develop methods of tracking a transaction that obtains the seller's signature on a receipt for the transaction. The receipt shall include a certification that the seller is the owner or authorized seller of the scrap material.

(c) Holding period.—

- (1) (i) Following notification, either verbally or in writing, from a law enforcement officer that certain scrap materials have been reported as stolen, a scrap processor or recycling facility operator that is in possession of the scrap material in question shall hold that scrap material intact and safe from alteration, damage or commingling and shall place an identifying tag or other suitable identification upon the scrap material.
- (ii) A law enforcement officer making a verbal request shall provide the scrap processor or recycling facility operator, upon request, with the officer's name, badge number and department contact telephone number so that the scrap processor or recycling facility operator may call back to confirm the identity of the law enforcement officer.
- (2) Within 24 hours of notification by the law enforcement officer or 24 hours of the receipt of the material, whichever is later, the scrap processor or recycling facility operator shall notify the law enforcement officer that scrap material matching the law enforcement officer's description is on the premises.
- (3) The scrap processor or recycling facility shall hold the scrap material for a period of time as directed by the applicable law enforcement agency, up to a maximum of 48 hours following notification, unless extended pursuant to paragraph (5).

(4) A law enforcement officer shall not place a hold on any scrap material unless that law enforcement officer reasonably suspects that the scrap material is lost or stolen. The request to hold scrap material shall be as specific as possible by using descriptive language, including, but not limited to, the type and the style of the material, length or weight or any other such description to identify the material to be held. Any hold that is placed on scrap material shall not exceed 48 hours, and the scrap material must be returned to the owner or released when the hold has been released or has expired.

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

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

(d) Maintenance of records.—The information required by this section shall be maintained by the scrap processor or recycling facility operator for a minimum of two years from the date of the transaction.

#### Section 4. Commercial accounts.

(a) Duty to create and maintain.—Every scrap processor and recycling facility operator must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. The record shall, at a minimum, include the following information:

(1) The full name and Federal or State tax identification number of the commercial enterprise or commercial account.

(2) The business address and telephone number of the commercial enterprise or commercial account.

(b) Additional information.—The record for each commercial enterprise maintained by the scrap processor or recycling facility operator shall document every purchase and receipt of ferrous or nonferrous metal and commercial metal property. That documentation shall include, at a minimum:

(1) The date, time and value of the property being purchased or received.

(2) A description of the predominant types of property being purchased or received.

(c) Effect of establishing commercial account.—Once a commercial account is established, if no financial transaction occurs between the scrap processor or recycling facility operator and the person delivering scrap material, then the scrap processor or recycling facility operator need only maintain a photocopy of the driver's license of the person delivering the scrap material to comply with this subsection.

(d) Financial transactions.—Once a commercial account has been established, if a financial transaction occurs between a scrap processor or

recycling facility operator and a person delivering the scrap material, the scrap processor or recycling facility operator shall obtain the following before completing each transaction:

- (1) A photocopy of the driver's license of the person delivering the scrap materials.
- (2) The license plate number of the vehicle transporting scrap material.
- (3) The telephone number of the commercial account.
- (4) Confirmation that the person delivering the scrap material is authorized to receive a check or cash on behalf of the person or entity providing the scrap material.

#### Section 5. Restricted materials.

A scrap processor and recycling facility operator may purchase the following scrap material only if the purchase occurs with a commercial enterprise:

- (1) New production scrap or new materials that are a part of a manufacturing process that are being sold by an individual, not a company.
- (2) Full sized, new materials, such as those used in construction, or equipment and tools used by contractors.
- (3) Commercial metal property.
- (4) Metallic wire that has been burned in whole or in part to remove insulation, unless the aggregate value is less than \$100.
- (5) Beer kegs.
- (6) Detached catalytic converters.

#### Section 6. Law enforcement.

A scrap processor and recycling facility operator shall disclose seller registration information required by this act during normal business hours to any investigative or law enforcement officer or any person acting at the direction or request of an investigative or law enforcement officer to investigate suspected criminal activities.

#### Section 7. Penalties.

A scrap processor and recycling facility operator who violates this act commits a summary offense and shall, upon conviction, be sentenced to pay a fine of up to \$2,500. A second or subsequent violation shall be classified as a misdemeanor of the third degree.

#### Section 8. Preemption.

This act shall preempt and supersede any local ordinance or rule adopted after the effective date of this act which seeks to regulate the processing of scrap materials.

#### Section 9. Effective date.

This act shall take effect in 60 days.

APPROVED—The 9th day of October, A.D. 2008.

EDWARD G. RENDELL