

SENATE BILL No. 429

By Committee on Assessment and Taxation

2-21

1 AN ACT concerning the regulation of scrap metal; relating to the scrap
2 metal theft reduction act; enforcement; amending K.S.A. 2017 Supp.
3 50-6,109a, 50-6,109c, 50-6,110, 50-6,111, 50-6,112a and 50-6,112b and
4 repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2017 Supp. 50-6,109a is hereby amended to read as
8 follows: 50-6,109a. (a) The attorney general is hereby given jurisdiction
9 and authority over all matters involving the implementation,
10 administration and enforcement of the provisions of the scrap metal theft
11 reduction act including to:

12 (1) Employ or appoint agents as necessary to implement, administer
13 and enforce the act;

14 (2) contract;

15 (3) expend funds;

16 (4) license and discipline;

17 (5) investigate;

18 (6) issue subpoenas;

19 (7) keep statistics; and

20 (8) conduct education and outreach programs to promote compliance
21 with the act.

22 (b) In accordance with the rules and regulations filing act, the
23 attorney general is hereby authorized to adopt rules and regulations
24 necessary to implement the provisions of the scrap metal theft reduction
25 act.

26 (c) There is hereby established in the state treasury the scrap metal
27 theft reduction fee fund to be administered by the attorney general. All
28 moneys received by the attorney general from fees, charges or penalties
29 collected under the provisions of the scrap metal theft reduction act shall
30 be remitted to the state treasurer in accordance with the provisions of
31 K.S.A. 75-4215, and amendments thereto, who shall deposit the entire
32 amount thereof in the state treasury to the credit of the scrap metal theft
33 reduction fee fund. All expenditures from such fund shall be made in
34 accordance with appropriation acts upon warrants of the director of
35 accounts and reports issued pursuant to vouchers approved by the attorney
36 general or the attorney general's designee. All moneys credited to the scrap

1 metal theft reduction fee fund shall be expended for the administration of
2 the duties, functions and operating expenses incurred under the provisions
3 of the scrap metal theft reduction act.

4 (d) ~~{(1)}~~ Before January 1, ~~2019~~ 2020, the attorney general shall
5 establish and maintain a database which shall be a central repository for
6 the information required to be provided under K.S.A. 2017 Supp. 50-
7 6,110, and amendments thereto. The database shall be maintained for the
8 purpose of providing information to law enforcement and for any other
9 purpose deemed necessary by the attorney general to implement and
10 enforce the provisions of the scrap metal theft reduction act.

11 ***{(2) On or before February 1, 2019, the attorney general shall***
12 ***submit a report to the president of the senate, the speaker of the house of***
13 ***representatives and the standing committees on judiciary in the senate***
14 ***and the house of representatives on the progress achieved in establishing***
15 ***the database required by this subsection.***

16 (e) The information required by K.S.A. 2017 Supp. 50-6,110, and
17 amendments thereto, maintained in such database by the attorney general,
18 or by any entity contracting with the attorney general, submitted to,
19 maintained or stored as part of the system shall:

20 (1) Be confidential, shall only be used for investigatory, evidentiary
21 or analysis purposes related to criminal violations of city, state or federal
22 law and shall only be released to law enforcement in response to an
23 official investigation or as permitted in subsection (d); and

24 (2) not be a public record and shall not be subject to the Kansas open
25 records act, K.S.A. 45-215 et seq., and amendments thereto. The
26 provisions of this subsection shall expire on July 1, 2020, unless the
27 legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,
28 and amendments thereto.

29 Sec. 2. K.S.A. 2017 Supp. 50-6,109c is hereby amended to read as
30 follows: 50-6,109c. (a) Any scrap metal dealer who violates any of the
31 provisions of the scrap metal theft reduction act, in addition to any other
32 penalty provided by law, may incur a civil penalty imposed pursuant to
33 subsection (b) in an amount not less than \$100 nor more than \$5,000 for
34 each violation.

35 (b) The attorney general, upon a finding that a scrap metal dealer or
36 any employee or agent thereof or any person or entity required to be
37 registered as a scrap metal dealer has violated any of the provisions of the
38 scrap metal theft reduction act may impose a civil penalty as provided in
39 this subsection upon such scrap metal dealer.

40 (c) A civil penalty shall not be imposed pursuant to this section
41 except upon the written order of the attorney general to the scrap metal
42 dealer who is responsible for the violation. Such order is a final order for
43 purposes of judicial review and shall state the violation, the penalty to be

1 imposed and the right of such dealer to appeal as provided in the Kansas
2 judicial review act.

3 (d) This section shall be unenforceable and shall not apply from ~~the~~
4 ~~effective date of this act~~ *June 1, 2017*, to January 1, ~~2019~~ *2020*.

5 Sec. 3. K.S.A. 2017 Supp. 50-6,110 is hereby amended to read as
6 follows: 50-6,110. (a) It shall be unlawful for any person to sell any item
7 or items of regulated scrap metal to a scrap metal dealer, or employee or
8 agent of a dealer, in this state unless such person meets the requirements of
9 this subsection.

10 (1) Such person shall present to such scrap metal dealer, or employee
11 or agent of such dealer, at or before the time of sale, the following: The
12 seller's name, address, sex, date of birth and the seller's driver's license,
13 military identification card, passport or personal identification license. An
14 official governmental document for a country other than the United States
15 may be used to meet this requirement provided that a legible fingerprint is
16 also obtained from the seller.

17 (2) Such person shall complete and sign the statement provided for in
18 subsection (b)(10).

19 (b) Every scrap metal dealer shall keep a register in which the dealer,
20 or employee or agent of the dealer, shall at the time of purchase or receipt
21 of any item for which such information is required to be presented, cross-
22 reference to previously received information, or accurately and legibly
23 record at the time of sale the following information:

24 (1) The time, date and place of transaction;

25 (2) the seller's name, address, sex, date of birth and the identifying
26 number from the seller's driver's license, military identification card,
27 passport or personal identification license; the identifying number from an
28 official governmental document for a country other than the United States
29 may be used to meet this requirement provided that a legible fingerprint is
30 also obtained from the seller;

31 (3) a copy of the identification card or document containing such
32 identifying number. Failure to comply with the provisions of this
33 paragraph ~~between the effective date of this act~~ *June 1 2017*, and January
34 ~~1, 2019~~ *2020*, may result in an assessment of a civil penalty by the
35 attorney general of not less than \$100 nor more than \$5,000 for each
36 violation;

37 (4) the license number, color and style or make of any motor vehicle
38 in which the junk vehicle or other regulated scrap metal property is
39 delivered in a purchase transaction;

40 (5) a general description, made in accordance with the custom of the
41 trade, of the predominant types of junk vehicle or other regulated scrap
42 metal property purchased in the transaction;

43 (6) the weight, quantity or volume, made in accordance with the

1 custom of the trade, of the regulated scrap metal property purchased;

2 (7) if a junk vehicle or vehicle part is being bought or sold, a
3 description of the junk vehicle or vehicle part, including the make, model,
4 color, vehicle identification number and serial number if applicable;

5 (8) the price paid for, traded for or dealt for in a transaction for the
6 junk vehicle or other regulated scrap metal property;

7 (9) the full name of the individual acting on behalf of the regulated
8 scrap metal dealer in making the purchase; and

9 (10) a signed statement from the seller indicating from where the
10 property was obtained and that: (A) Each item is the seller's own personal
11 property, is free of encumbrances and is not stolen; or (B) the seller is
12 acting for the owner and has permission to sell each item. If the seller is
13 not the owner, such statement shall include the name and address of the
14 owner of the property.

15 (c) Every scrap metal dealer shall photograph the item or lot of items
16 being sold at the time of purchase or receipt of any item for which such
17 information is required to be presented. Such photographs shall be kept
18 with the record of the transaction and the scrap metal dealer's register of
19 information required by subsection (b). Failure to comply with the
20 provisions of this subsection ~~between the effective date of this act June 1,~~
21 ~~2017, and January 1, 2019~~ 2020, may result in an assessment of a civil
22 penalty by the attorney general of not less than \$100 nor more than \$5,000
23 for each violation.

24 (d) The scrap metal dealer's register of information required by
25 subsection (b), including copies of identification cards and signed
26 statements by sellers, and photographs required by subsection (c) may be
27 kept in electronic format.

28 (e) Every scrap metal dealer shall forward the information required
29 by this section to the database described in K.S.A. 2017 Supp. 50-6,109a,
30 and amendments thereto.

31 (f) Notwithstanding any other provision to the contrary, this section
32 shall not apply to transactions in which the seller is a:

33 (1) Registered scrap metal dealer;

34 (2) vehicle dealer licensed under chapter 8 of the Kansas Statutes
35 Annotated, and amendments thereto; or

36 (3) scrap metal dealer or vehicle dealer registered or licensed in
37 another state.

38 (g) (1) Except as provided in subsection (g)(2), this section shall not
39 apply to transactions in which the seller is known to the purchasing scrap
40 metal dealer to be a licensed business that operates out of a fixed business
41 location and that can reasonably be expected to generate regulated scrap
42 metal.

43 (2) The attorney general may determine, by rules and regulations,

1 which of the requirements of this section shall apply to transactions
2 described in subsection (g)(1).

3 (h) The amendments made to subsection (e) by section 13 of chapter
4 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall
5 not apply from ~~the effective date of this act June 1, 2017,~~ to January 1,
6 ~~2019~~ 2020.

7 Sec. 4. K.S.A. 2017 Supp. 50-6,111 is hereby amended to read as
8 follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer,
9 or employee or agent of the dealer, to purchase any item or items of
10 regulated scrap metal in a transaction for which K.S.A. 2017 Supp. 50-
11 6,110, and amendments thereto, requires information to be presented by
12 the seller, without demanding and receiving from the seller that
13 information. Every scrap metal dealer shall file and maintain a record of
14 information obtained in compliance with the requirements in K.S.A. 2017
15 Supp. 50-6,110, and amendments thereto. All records kept in accordance
16 with the provisions of the scrap metal theft reduction act shall be open at
17 all times to law enforcement officers and shall be kept for two years. If the
18 required information is maintained in electronic format, the scrap metal
19 dealer shall provide a printout of the information to law enforcement
20 officers upon request.

21 (b) It shall be unlawful for any scrap metal dealer, or employee or
22 agent of the dealer, to purchase any junk vehicle in a transaction for which
23 K.S.A. 2017 Supp. 50-6,110, and amendments thereto, requires
24 information to be presented by the seller, without:

25 (1) Inspecting the vehicle offered for sale and recording the vehicle
26 identification number; and

27 (2) obtaining an appropriate bill of sale issued by a governmentally
28 operated vehicle impound facility if the vehicle purchased has been
29 impounded by such facility or agency.

30 (c) It shall be unlawful for any scrap metal dealer, or employee or
31 agent of the dealer, to purchase or receive any regulated scrap metal from a
32 minor unless such minor is accompanied by a parent or guardian or such
33 minor is a licensed scrap metal dealer.

34 (d) It shall be unlawful for any scrap metal dealer, or employee or
35 agent of the dealer, to purchase any of the following items without
36 obtaining proof that the seller is an employee, agent or person who is
37 authorized to sell the item on behalf of the governmental entity; utility
38 provider; railroad; cemetery; civic organization; manufacturing, industrial
39 or other commercial vendor that generates or sells such items in the
40 regular course of business; or scrap metal dealer:

41 (1) Utility access cover;

42 (2) street light poles or fixtures;

43 (3) road or bridge guard rails;

- 1 (4) highway or street sign;
- 2 (5) water meter cover;
- 3 (6) traffic directional or traffic control signs;
- 4 (7) traffic light signals;
- 5 (8) any metal marked with any form of the name or initials of a
- 6 governmental entity;
- 7 (9) property owned and marked by a telephone, cable, electric, water
- 8 or other utility provider;
- 9 (10) property owned and marked by a railroad;
- 10 (11) funeral markers or vases;
- 11 (12) historical markers;
- 12 (13) bales of regulated metal;
- 13 (14) beer kegs;
- 14 (15) manhole covers;
- 15 (16) fire hydrants or fire hydrant caps;
- 16 (17) junk vehicles with missing or altered vehicle identification
- 17 numbers;
- 18 (18) real estate signs;
- 19 (19) bleachers or risers, in whole or in part;
- 20 (20) twisted pair copper telecommunications wiring of 25 pair or
- 21 greater existing in 19, 22, 24 or 26 gauge; and
- 22 (21) burnt wire.

23 (e) It shall be unlawful for any scrap metal dealer, or employee or

24 agent of the dealer, to sell, trade, melt or crush, or in any way dispose of,

25 alter or destroy any regulated scrap metal, junk vehicle or vehicle part

26 upon notice from any law enforcement agency, or any of their agents or

27 employees, that they have cause to believe an item has been stolen. A scrap

28 metal dealer shall hold any of the items that are designated by or on behalf

29 of the law enforcement agency for 30 days, exclusive of weekends and

30 holidays.

31 (f) Failure to comply with the provisions of this section between ~~the~~

32 ~~effective date of this act June 1, 2017,~~ and January 1, ~~2019~~ 2020, may

33 result in an assessment of a civil penalty by the attorney general of not less

34 than \$100 nor more than \$5,000 for each violation.

35 Sec. 5. K.S.A. 2017 Supp. 50-6,112a is hereby amended to read as

36 follows: 50-6,112a. (a) A scrap metal dealer shall not purchase any

37 regulated scrap metal without having first registered each place of business

38 with the attorney general as herein provided.

39 (b) The attorney general shall establish a system for the public to

40 confirm scrap metal dealer registration certificates. Such system shall

41 include a listing of valid registration certificates and such other

42 information collected pursuant to the scrap metal theft reduction act, as the

43 attorney general may determine is appropriate. Disclosure of any

1 information through use of the system established by the attorney general
2 shall not be deemed to be an endorsement of any scrap metal dealer or
3 determination of any facts, qualifications, information or reputation of any
4 scrap metal dealer by the attorney general, the state, or any of their
5 respective agents, officers, employees or assigns.

6 (c) A registration for a scrap metal dealer shall be verified and upon a
7 form approved by the attorney general and contain:

8 (1) (A) The name and residence of the applicant, including all
9 previous names and aliases; or

10 (B) if the applicant is a: Corporation, the name and address of each
11 manager, officer or director thereof, and each stockholder owning in the
12 aggregate more than 25% of the stock of such corporation; or partnership
13 or limited liability company, the name and address of each partner or
14 member;

15 (2) the length of time that the applicant has resided within the state of
16 Kansas and a list of all residences outside the state of Kansas during the
17 previous 10 years;

18 (3) the particular place of business for which a registration is desired,
19 the name of the business, the address where the business is to be
20 conducted, the hours of operation and the days of the week during which
21 the applicant proposes to engage in business;

22 (4) the name of the owner of the premises upon which the place of
23 business is located; and

24 (5) the applicant shall disclose any prior convictions within 10 years
25 immediately preceding the date of making the registration for: A violation
26 of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their
27 repeal, or K.S.A. 2017 Supp. 21-5801 through 21-5839 or K.S.A. 2017
28 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805,
29 prior to its repeal, or K.S.A. 2017 Supp. 21-5903, and amendments
30 thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal;
31 obstructing legal process or official duty, K.S.A. 21-3808, prior to its
32 repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal;
33 interference with law enforcement, K.S.A. 2017 Supp. 21-5904, and
34 amendments thereto; interference with judicial process, K.S.A. 2017 Supp.
35 21-5905, and amendments thereto; or any crime involving dishonesty or
36 false statement or any substantially similar offense pursuant to the laws of
37 any city, state or of the United States.

38 (d) Each registration for a scrap metal dealer to purchase regulated
39 scrap metal shall be accompanied by a fee of not less than \$500 nor more
40 than \$1,500, as prescribed by the attorney general for each particular place
41 of business for which a registration is desired.

42 (e) The attorney general shall accept a registration for a scrap metal
43 dealer as otherwise provided for herein, from any scrap metal dealer

1 qualified to file such registration, to purchase regulated scrap metals. Such
2 registration shall be issued for a period of one year.

3 (f) If an original registration is accepted, the attorney general shall
4 grant and issue renewals thereof upon application of the registration
5 holder, if the registration holder is qualified to receive the same and the
6 registration has not been revoked as provided by law. The renewal fee
7 shall be not more than \$1,500, as prescribed by the attorney general.

8 (g) Any registration issued under the scrap metal theft reduction act
9 shall not be transferable.

10 (h) This section shall not apply to a business licensed under the
11 provisions of K.S.A. 8-2404, and amendments thereto, unless such
12 business buys or recycles regulated scrap metal that are not motor vehicle
13 components.

14 (i) The amendments made to subsections (d) and (f) by section 15 of
15 chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and
16 shall not apply from ~~the effective date of this act June 1, 2017~~, to January
17 1, ~~2019~~ 2020.

18 Sec. 6. K.S.A. 2017 Supp. 50-6,112b is hereby amended to read as
19 follows: 50-6,112b. (a) After examining the information contained in a
20 filing for a scrap metal dealer registration and determining the registration
21 meets the statutory requirements for such registration, the attorney general
22 shall accept such filing and the scrap metal dealer shall be deemed to be
23 properly registered.

24 (b) No scrap metal registration shall be accepted for:

25 (1) A person who is not a citizen or legal permanent resident of the
26 United States.

27 (2) A person who is under 18 years of age and whose parents or legal
28 guardians have been convicted of a felony or other crime which would
29 disqualify a person from registration under this section and such crime was
30 committed during the time that such parents or legal guardians held a
31 registration under the scrap metal theft reduction act.

32 (3) A person who, within 10 years immediately preceding the date of
33 filing, has pled guilty to, entered into a diversion agreement for, been
34 convicted of, released from incarceration for or released from probation or
35 parole for committing, attempting to commit, or conspiring to commit a
36 violation of: Article 37 of chapter 21 of the Kansas Statutes Annotated,
37 prior to their repeal, or K.S.A. 2017 Supp. 21-5801 through 21-5839 or
38 K.S.A. 2017 Supp. 21-6412(a)(6), and amendments thereto; perjury,
39 K.S.A. 21-3805, prior to its repeal, or K.S.A. 2017 Supp. 21-5903, and
40 amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its
41 repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to
42 its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal;
43 interference with law enforcement, K.S.A. 2017 Supp. 21-5904, and

1 amendments thereto; interference with judicial process, K.S.A. 2017 Supp.
2 21-5905, and amendments thereto; or any crime involving dishonesty or
3 false statement or any substantially similar offense pursuant to the laws of
4 any city, state or of the United States.

5 (4) A person who within the 10 years immediately preceding the date
6 of registration held a scrap metal dealer registration which was revoked, or
7 managed a facility for a scrap metal dealer whose registration was
8 revoked, or was an employee whose conduct led to or contributed to the
9 revocation of such registration.

10 (5) A person who makes a materially false statement on the
11 registration application or has made a materially false statement on a
12 registration or similar filing within the last 10 years.

13 (6) A partnership or limited liability company, unless all partners or
14 members of the partnership or limited liability company are otherwise
15 qualified to file a registration.

16 (7) A corporation, if any manager, officer or director thereof, or any
17 stockholder owning in the aggregate more than 25% of the stock of such
18 corporation, would be ineligible to receive a license hereunder for any
19 reason.

20 (8) A person whose place of business is conducted by a manager or
21 agent unless the manager or agent possesses all of the qualifications for
22 registration.

23 (9) A person whose spouse has been convicted of a felony or other
24 crime which would disqualify a person from registration under this section
25 and such crime was committed during the time that the spouse held a
26 registration under the scrap metal theft reduction act.

27 (10) A person who does not own the premises upon which the place
28 of business is located for which a license is sought, unless the person has a
29 written lease for at least $\frac{3}{4}$ of the period for which the license is to be
30 issued.

31 (c) Any person filing a scrap metal dealer registration may be subject
32 to a criminal history records check and may be given a written notice that
33 a criminal history records check is required. The attorney general may
34 require such applicant to be fingerprinted and submit to a state and
35 national criminal history record check. If required, such fingerprints shall
36 be used to identify the applicant and to determine whether the applicant
37 has a record of criminal history in this state or another jurisdiction. The
38 attorney general shall submit any fingerprints provided to the Kansas
39 bureau of investigation and the federal bureau of investigation for a state
40 and national criminal history record check. Local and state law
41 enforcement officers and agencies shall assist the attorney general in the
42 taking and processing of fingerprints of applicants. The attorney general
43 may use the information obtained from fingerprinting and the criminal

1 history for purposes of verifying the identification of the applicant and in
2 the official determination of whether the scrap metal dealer registration
3 shall be accepted. If the criminal history record information is used to
4 disqualify an applicant, the applicant shall be informed in writing of that
5 decision.

6 (d) The amendments made to subsections (b)(10) and (c) by section
7 16 of chapter 96 of the 2015 Session Laws of Kansas shall be
8 unenforceable and shall not apply from ~~the effective date of this act June~~
9 ~~1, 2017~~ to January 1, ~~2019~~ 2020.

10 Sec. 7. K.S.A. 2017 Supp. 50-6,109a, 50-6,109c, 50-6,110, 50-6,111,
11 50-6,112a and 50-6,112b are hereby repealed.

12 Sec. 8. This act shall take effect and be in force from and after its
13 publication in the statute book.