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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 646 Session of  
2019

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INTRODUCED BY MOUL, ZIMMERMAN AND ROTHMAN, MARCH 1, 2019

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REFERRED TO COMMITTEE ON CONSUMER AFFAIRS, MARCH 1, 2019

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AN ACT

1 Amending the act of October 9, 2008 (P.L.1408, No.113), entitled  
2 "An act requiring scrap processors and recycling facility  
3 operators to collect certain information relating to the  
4 purchase of scrap material; requiring commercial accounts;  
5 and restricting scrap processors and recycling facility  
6 operators from purchasing certain materials," further  
7 providing for title of act, for findings, for short title and  
8 for definitions; providing for identification requirements  
9 for sale of second-hand goods to second-hand dealers; and  
10 further providing for law enforcement, for penalties and for  
11 preemption.

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

14 Section 1. The title, findings and section 1 of the act of  
15 October 9, 2008 (P.L.1408, No.113), known as the Scrap Material  
16 Theft Prevention Act, are amended to read:

17 AN ACT

18 Requiring second-hand dealers, scrap processors and recycling  
19 facility operators to collect certain information relating to  
20 the purchase of previously owned, used, rented or leased  
21 tangible personal property and scrap material; requiring  
22 commercial accounts; and restricting scrap processors and  
23 recycling facility operators from purchasing certain

1 materials.

2 The General Assembly finds that:

3 (1) The theft and resale of personal property is  
4 increasingly prevalent in this Commonwealth.

5 [(1)] (2) Copper, aluminum, steel and other metal  
6 commodity thefts rise as the price of metal property  
7 increases.

8 [(2) Scrap] (3) Second-hand dealers, scrap processors  
9 and recycling facility operators may serve as unknowing  
10 conduits for the disposition of stolen [metal] property and  
11 may also be victims of theft.

12 [(3)] (4) Individuals have found it to be more  
13 financially advantageous to sell used beer kegs to a scrap  
14 processor or recycling facility operator as opposed to  
15 returning the kegs to the distributor where they were rented.

16 [(4)] (5) This act is needed to ensure appropriate  
17 documentation of transactions to assist law enforcement  
18 agencies to identify, recover and return stolen property to  
19 its owner and to ensure, as reasonably as possible, that  
20 second-hand dealers, scrap processors and recycling facility  
21 operators are less likely to be used as conduits for the  
22 liquidation and disposal of stolen metal or personal  
23 property.

24 Section 1. Short title.

25 This act shall be known and may be cited as the Second-Hand  
26 Goods and Scrap Material Theft Prevention Act.

27 Section 2. The definitions of "buyer" and "seller" in  
28 section 2 of the act are amended and the section is amended by  
29 adding definitions to read:

30 Section 2. Definitions.

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

4 "Antiques dealer." A person, company, corporation or member  
5 or members of a partnership or firm who sell exclusively goods  
6 that are at least 50 years old.

7 \* \* \*

8 "Buyer." The owner, operator or employee of a second-hand  
9 dealer, scrap processor or recycling facility.

10 \* \* \*

11 "Exempted Internet sales." Offers for sale of items of  
12 second-hand personal property available on a publicly accessible  
13 Internet website where the items listed for sale:

14 (1) May be viewed by any member of the general public at  
15 no charge.

16 (2) May be searched by any member of the general public  
17 at no charge by zip code or state in which the second-hand  
18 personal property offered for sale is located.

19 (3) Are assigned a unique item listing number by the  
20 website.

21 (4) Are provided, in a timely manner, at no additional  
22 charge to the second-hand dealer, to a unified, nationally  
23 available database that is searchable by item description and  
24 by seller, that may be accessed by a law enforcement agency  
25 with adequate security features and privacy protections, upon  
26 confirmation that such access is reasonably necessary for an  
27 ongoing investigation of a crime.

28 \* \* \*

29 "Second-hand dealer." Any person, company, corporation or  
30 member or members of a partnership or firm whose storefront

1 business includes any volume of selling or receiving previously  
2 owned, used, rented or leased tangible personal property. The  
3 term shall not include the following:

4 (1) Auction houses.

5 (2) Flea markets.

6 (3) Dealers in precious metals.

7 (4) Antiques dealers.

8 (5) Pawn brokers.

9 (6) Motor vehicle dealers.

10 (7) The sale of second-hand goods at events commonly  
11 known as "garage sales," "yard sales" or "estate sales."

12 (8) The sale or receipt of second-hand books, magazines,  
13 postcards or postage stamps.

14 (9) The sale or receipt of used merchandise donated to  
15 recognized nonprofit, religious or charitable organizations  
16 or any school-sponsored association for which no compensation  
17 is paid.

18 (10) The sale or receipt of second-hand furniture,  
19 clothing or shoes.

20 (11) The sale of goods exclusively via the Internet that  
21 meets the definition of "exempted Internet sales."

22 (12) Federally licensed firearm dealers.

23 (13) The retail sale or purchase of goods, produce or  
24 other food products to a consumer by a person, company,  
25 corporation, member or members of a partnership or firm from  
26 a local location that the person, company, corporation,  
27 member or members of a partnership or firm own or lease.

28 "Second-hand good." Any previously owned, used, rented or  
29 leased tangible personal property excluding exempt dealers or  
30 goods enumerated within this section.

1 "Seller." Any person, other than a commercial enterprise,  
2 who sells previously owned, used, rented or leased tangible  
3 property or scrap materials to a second-hand dealer, scrap  
4 processor or recycling facility operator.

5 Section 3. The act is amended by adding a section to read:

6 Section 3.1. Identification requirements for sale of second-  
7 hand goods to second-hand dealers.

8 (a) General rule.--A second-hand dealer shall collect the  
9 following information for all transactions by a seller of  
10 second-hand goods when the purchase of second-hand goods from  
11 the seller exceeds \$20:

12 (1) A photocopy of the driver's license or government-  
13 issued ID of the seller if the seller is over 18 years of  
14 age.

15 (2) The signature and photocopy of the driver's license  
16 or government-issued ID of the parent or legal guardian of  
17 any seller under 18 years of age.

18 (3) The seller's and buyer's signature for each  
19 transaction.

20 (4) The date and time of the transaction.

21 (5) A description of the second-hand good included in  
22 the transaction and the amount paid to the seller.

23 (b) Tracking the transaction.--A second-hand dealer shall,  
24 when payment is made in cash, develop methods of tracking a  
25 transaction that obtains the seller's signature on a receipt for  
26 the transaction. The receipt shall include a certification that  
27 the seller is the owner or authorized seller of the second-hand  
28 good.

29 (c) Maintenance of records.--The information required by  
30 this section shall be maintained by the second-hand dealer for a

1 minimum of one year from the date of the transaction.

2 Section 4. Sections 6, 7 and 8 of the act are amended to  
3 read:

4 Section 6. Law enforcement.

5 A second-hand dealer, scrap processor and recycling facility  
6 operator shall disclose seller registration information required  
7 by this act during normal business hours to any investigative or  
8 law enforcement officer or any person acting at the direction or  
9 request of an investigative or law enforcement officer to  
10 investigate suspected criminal activities.

11 Section 7. Penalties.

12 (a) Scrap processor and recycling facility operator  
13 penalties.--Except as provided under section 6.2(g), a second-  
14 hand dealer, scrap processor and recycling facility operator who  
15 violates this act commits a summary offense and shall, upon  
16 conviction, be sentenced to pay a fine of up to \$2,500. A second  
17 or subsequent violation shall be classified as a misdemeanor of  
18 the third degree.

19 (b) Motor vehicle penalties.--Upon a conviction of an  
20 offense under 18 Pa.C.S. § 3921 (relating to theft by unlawful  
21 taking or disposition) or 3925 (relating to receiving stolen  
22 property) that relates to the theft of scrap material or the  
23 transportation of stolen scrap material, the court may order the  
24 impoundment of any vehicle used in the act of theft of scrap  
25 material or the transportation of stolen scrap material. For the  
26 first offense, a vehicle may be impounded for at least 30 days,  
27 but not more than 60 days. For a second or subsequent offense  
28 involving the same motor vehicle, the vehicle may be impounded  
29 for at least 60 days, but not more than 180 days. The person  
30 convicted shall be responsible for any fees associated with or

1 related to the impoundment of the vehicle.

2 Section 8. Preemption.

3 This act shall preempt and supersede any local ordinance or  
4 rule adopted after the effective date of this act which seeks to  
5 regulate the processing of second-hand goods or scrap materials.

6 Section 5. This act shall take effect in 60 days.