

**SCRAP MATERIAL THEFT PREVENTION ACT - ENACTMENT**

**Act of Oct. 9, 2008, P.L. 1408, No. 113**

**Cl. 27**

**AN ACT**

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.

"Railroad material." Railroad power and signal equipment, road or rail crossing signals, railroad track, railroad switch components, railroad spike, angle/joint bar as used in the jointing of railroad track, railroad anchors, railroad tie plate or bolt used in constructing a railroad. (Def. added June 26, 2014, P.L.799, No.79)

"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. The confirmation shall consist of written, signed authorization from the owner or officer of the commercial enterprise stating that the person delivering the scrap material is designated to receive payment for the scrap material.

(5) An acknowledgment of receipt of cash payment, signed by the person delivering the scrap material and receiving the cash payment.

((d) amended June 26, 2014, P.L.799, No.79)

#### 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.

(7) Railroad materials.

(5 amended June 26, 2014, P.L.799, No.79)

#### 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 6.1. Statewide registry of scrap processors and recycling facilities.

The Pennsylvania State Police shall establish and maintain a Statewide registry of scrap processors and recycling facilities under section 6.2. The registry information shall be posted on the publicly accessible Internet website of the Pennsylvania State Police.

(6.1 added June 26, 2014, P.L.799, No.79)

Section 6.2. Duty to register.

(a) General rule.--A scrap processor and recycling facility shall register with the Pennsylvania State Police as provided in this section.

(b) Registration.--A person shall register with the Pennsylvania State Police under subsection (e). The registrant must provide the following information:

(1) For an individual applicant, all of the following:

(i) Name.

(ii) Driver's license number or a copy of an identification card issued by the state in which the individual resides.

(iii) Business name, address and telephone number.

(iv) Federal employer identification number, if applicable.

(2) For a general partnership applicant, all of the following:

(i) Name of each partner.

(ii) Driver's license number or a copy of an identification card issued by the state in which each partner resides, of each partner.

(iii) Partnership name, address and telephone number.

(iv) Federal employer identification number, if applicable.

(3) For a corporation, limited liability company or limited partnership, all of the following:

(i) Name of the registering officer, manager and general partner.

(ii) Business name, address and telephone number.

(iii) Name of each director or each individual holding greater than a 5% equity interest in the entity.

(4) For an out-of-State corporation, limited liability company or limited partnership, the name and address of the entity's resident agent or registered office provider within this Commonwealth and any registration number or license number issued to the entity by its home state or political subdivision of the other state, if applicable.

(5) For a joint venture, the name, address and telephone number of the joint venture, as well as the name, address and telephone number of each party to the joint venture.

(c) Reporting of multiple registrations.--An entity owning multiple scrap processing and recycling facilities must register individually for each physical address of a scrap processing and recycling facility.

(d) Registration fees.--

(1) Each completed registration form for a scrap recycler or renewal of registration shall be accompanied by

a fee of \$100. After completion of the registration and payment of the fee, the Pennsylvania State Police shall issue, within 14 business days, the scrap processing and recycling facility a written notice of registration identifying the name of the applicant, scrap processing and recycling facility name and address and a registration number. The notice shall be valid for a period of two years. Renewals shall be on a biennial basis.

(2) The registration fee shall be used to establish and maintain a database under this act. Before July 1, 2016, money collected under paragraph (1) shall augment the money appropriated to the Pennsylvania State Police to be used to create an electronic database of registrations. The Pennsylvania State Police shall transmit a notice when the electronic database is operational to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin. After June 30, 2016, money collected under paragraph (1) shall be deposited in the General Fund.

(e) Method of registration.--

(1) Except as set forth in paragraph (2), registration must be in writing on a form prescribed by the Pennsylvania State Police.

(2) After publication of the notice under subsection

(d)(2), the Pennsylvania State Police may require registration:

(i) in writing on a form prescribed by the Pennsylvania State Police; or

(ii) electronically.

(f) Proof of registration.--A scrap processor and recycling facility shall include its registration number in all advertisements distributed within this Commonwealth and shall have the notice of registration clearly visible at its place of business.

(g) Failure to register.--A scrap processor or recycling facility that fails to register commits a summary offense and shall, upon conviction, be sentenced to pay a fine of \$1,000.

(6.2 added June 26, 2014, P.L.799, No.79)

Section 7. Penalties.

(a) Scrap processor and recycling facility operator penalties.--Except as provided under section 6.2(g), 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.

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

(7 amended June 26, 2014, P.L.799, No.79)

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.