

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1742 Session of 2007

INTRODUCED BY PASHINSKI, BOYD, BRENNAN, CURRY, DENLINGER, GOODMAN, HENNESSEY, HERSHEY, JAMES, KORTZ, KULA, MARSHALL, McCALL, MURT, PALLONE, PETRONE, READSHAW, SHIMKUS, K. SMITH, THOMAS, HARHAI, FRANKEL, MCGEEHAN, GINGRICH AND WAGNER, JULY 13, 2007

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 15, 2008

AN ACT

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

6 The General Assembly finds that:

7 (1) Copper, aluminum, steel and other metal commodity
8 prices rise as the theft of metal property increases.

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

12 (3) INDIVIDUALS HAVE FOUND IT TO BE MORE FINANCIALLY <—
13 ADVANTAGEOUS TO SELL USED BEER KEGS TO A SCRAP PROCESSOR OR
14 RECYCLING FACILITY OPERATOR AS OPPOSED TO RETURNING THE KEGS
15 TO THE DISTRIBUTOR FROM WHERE THEY WERE RENTED.

16 ~~(3)~~ (4) This act is needed to ensure appropriate <—
17 documentation of transactions to assist law enforcement

1 agencies to identify, recover and return stolen property to
2 its owner and to ensure, as reasonably as possible, that
3 scrap processors and recycling facility operators are less
4 likely to be used as unknowing conduits for the liquidation
5 and disposal of stolen metal property.

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

8 Section 1. Short title.

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

11 Section 2. Definitions.

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

15 "BEER KEG." A VESSEL DESIGNED TO CONTAIN AT LEAST 128 FLUID ←
16 OUNCES OF MALT OR BREWED BEVERAGE.

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

21 "Commercial account." A relationship between a scrap metal
22 business and a commercial enterprise that is ongoing and
23 properly documented.

24 "Commercial enterprise." A corporation, partnership, limited
25 liability company, association, State agency, political
26 subdivision of the Commonwealth, public corporation or any other
27 legal or commercial entity.

28 "Commercial metal property." Utility access covers, street
29 light poles and fixtures, road and bridge guardrails, highway or
30 street signs, water meter covers, traffic directional and

1 control signs, traffic light signals, any metal property marked
2 with the name of the commercial enterprise, including, but not
3 limited to, a telephone, cable, electric, water, natural gas or
4 other utility or railroad, unused or undamaged building
5 construction materials consisting of copper pipe, tubing or
6 wiring, aluminum wire, siding, downspouts or gutters, aluminum
7 or stainless steel fence panels, aluminum decking, bleachers or
8 risers, historical markers, statue plaques, grave markers,
9 funeral vases, ~~beer kegs~~, agricultural irrigation wheels, ←
10 sprinkler heads, pipes and other materials that might not be new
11 but are clearly suspect.

12 "Ferrous metals." Any metals containing significant
13 quantities of iron or steel.

14 "Nonferrous metals." Metals not containing significant
15 quantities of iron or steel, including, but not limited to,
16 copper, brass, aluminum, bronze, lead, zinc and nickel and
17 alloys thereof. The term does not include precious metals.

18 "Processing." Receiving, storing or reselling scrap
19 materials for payment or other financial consideration.

20 "Recycling facility operator." A person who operates a
21 facility employing a technology that is a process to separate or
22 classify municipal waste and who creates or recovers reusable
23 materials that can be sold to or reused by a manufacturer as a
24 substitute for or a supplement to virgin raw materials. The term
25 does not include a person who operates a transfer station or
26 landfill for solid waste, composting facility or resource
27 recovery facility.

28 "Scrap processor." A person who, from a fixed location,
29 utilizes machinery and equipment for processing and
30 manufacturing ferrous or nonferrous metallic scrap, paper scrap,

1 plastic scrap, rubber scrap or glass scrap into prepared grades
2 and whose principal product is sold as a raw material in the
3 manufacture of new products.

4 "Seller." A person who sells scrap materials to a scrap
5 processor or recycling facility operator.

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

9 (a) General rule.--A scrap processor and recycling facility
10 operator shall collect the following information for all
11 transactions by a seller of restricted material under section 5,
12 from all other sellers when the purchase of scrap material
13 exceeds \$100 and for all transactions involving a catalytic
14 converter:

15 (1) Recording the name, telephone number and address of
16 the seller.

17 (2) Recording the number of a driver's license or other
18 form of government identification or photocopying or scanning
19 the license or other identification.

20 (3) Recording the make, year, type and license plate
21 number of the motor vehicle the seller operates at the time
22 of the transaction.

23 (4) Creating and recording a unique identification
24 number for the seller and using it for every transaction with
25 that seller which shall be documented on all receipts. The
26 number shall be assigned based on an initial collection of
27 seller information.

28 (5) Obtaining the seller's signature for each
29 transaction.

30 (6) Obtaining written permission of the seller's parent

1 or legal guardian, if the seller is under 18 years of age.

2 (b) Supplemental information.--In addition to the
3 information required under subsection (a), a scrap processor and
4 recycling facility operator shall also collect the following
5 information from a seller:

6 (1) The date and time of the transaction.

7 (2) A description of the scrap material included in the
8 transaction.

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

15 (d) Holding period.--

16 (1) Following notification, either verbally or in
17 writing, from a law enforcement officer of this Commonwealth
18 or any of its political subdivisions that certain scrap
19 materials have been reported as stolen, a scrap processor or
20 recycling facility operator that is in possession of the
21 scrap material in question shall hold that scrap material
22 intact and safe from alteration, damage or commingling, and
23 shall place an identifying tag or other suitable
24 identification upon the scrap material. The scrap operator or
25 recycling facility shall hold the scrap material for a period
26 of time as directed by the applicable law enforcement agency,
27 up to a maximum of three business days, unless extended
28 pursuant to paragraph (3).

29 (2) A law enforcement official of this Commonwealth or
30 any of its political subdivisions shall not place a hold on

1 any scrap material unless that law enforcement official
2 reasonably suspects that the scrap material is lost or
3 stolen. Any hold that is placed on scrap material shall not
4 exceed three business days and the scrap material must be
5 returned to the owner or released when the hold has been
6 released or has expired.

7 (3) A holding period may be extended beyond three days
8 only upon the order of a magisterial district judge after the
9 magisterial district judge has determined that probable cause
10 exists that the scrap material is lost or stolen.

11 (e) Maintenance of records.--The information required by
12 this section shall be maintained by the scrap processor or
13 recycling facility operator for a minimum of two years from the
14 date of the transaction.

15 Section 4. Commercial accounts.

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

21 (1) The full name of the commercial enterprise or
22 commercial account.

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

25 (3) The full name of the person employed by the
26 commercial enterprise or commercial account who is authorized
27 to deliver the ferrous or nonferrous metal or commercial
28 metal property to the scrap processor or recycling facility.

29 (4) A letter from the commercial enterprise designating
30 the seller as representative of that enterprise who is

1 authorized to sell the ferrous or nonferrous metal or
2 commercial metal property on behalf of the commercial
3 enterprise.

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

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

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

13 Section 5. Restricted materials.

14 A scrap processor and recycling facility operator may
15 purchase the following scrap material only if the purchase
16 occurs with a commercial enterprise in conjunction with a
17 contract or letter of authorization from the commercial
18 enterprise:

19 (1) New production scrap or new materials that are a
20 part of a manufacturing process that are being sold by an
21 individual, not a company.

22 (2) Full sized, new materials, such as those used in
23 construction, or equipment and tools used by contractors.

24 (3) Commercial metal property.

25 (4) Metallic wire that has been burned in whole or in
26 part to remove insulation.

27 (5) BEER KEGS. ←

28 Section 6. Law enforcement.

29 A scrap processor and recycling facility operator shall
30 disclose seller registration information required by this act

1 during normal business hours to any investigative or law
2 enforcement officer or any person acting at the direction or
3 request of an investigative or law enforcement officer to
4 investigate suspected criminal activities.

5 Section 7. Penalties.

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

11 Section 8. Effective date.

12 This act shall take effect in 60 days.