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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1742 Session of  
2007

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

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SENATOR M. WHITE, ENVIRONMENTAL RESOURCES AND ENERGY, AS  
AMENDED, JUNE 10, 2008

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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~~ THEFTS rise as the ~~theft~~ PRICE of metal property ←  
9 increases.

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

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

17 (4) This act is needed to ensure appropriate

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

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

9 Section 1. Short title.

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

12 Section 2. Definitions.

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

16 "Beer keg." A vessel designed to contain at least 128 fluid  
17 ounces of malt or brewed beverage.

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

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

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

29 "Commercial metal property." Utility access covers, street  
30 light poles and fixtures, road and bridge guardrails, highway or

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

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

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

20 "FERROUS METALS." ITEMS THAT ARE PREDOMINANTLY MADE FROM  
21 IRON OR STEEL THAT HAVE NO FURTHER USE IN THEIR ORIGINAL  
22 MANUFACTURED FORM BUT WHICH CAN BE MELTED FOR THEIR METAL  
23 CONTENT AND UTILIZED IN THE MANUFACTURE OF NEW PRODUCTS.

24 "LAW ENFORCEMENT OFFICER." ANY PENNSYLVANIA STATE POLICE  
25 OFFICER OR A LOCAL LAW ENFORCEMENT OFFICER OF A POLITICAL  
26 SUBDIVISION OF THIS COMMONWEALTH IN WHICH THE SCRAP PROCESSOR IS  
27 LOCATED.

28 "NONFERROUS METALS." ITEMS THAT ARE PREDOMINANTLY MADE FROM  
29 METALS OTHER THAN IRON AND STEEL, SUCH AS COPPER, BRASS,  
30 ALUMINUM, BRONZE, LEAD, ZINC, NICKEL AND ALLOYS THAT HAVE NO

1 FURTHER USE IN THEIR ORIGINAL MANUFACTURED FORM BUT WHICH CAN BE  
2 MELTED FOR THEIR METAL CONTENT AND UTILIZED IN THE MANUFACTURE  
3 OF NEW PRODUCTS.

4 "Processing." Receiving, storing or reselling scrap  
5 materials for payment or other financial consideration.

6 "Recycling facility operator." A person who operates a  
7 facility employing a technology that is a process to separate or  
8 classify municipal waste and who creates or recovers reusable  
9 materials that can be sold to or reused by a manufacturer as a  
10 substitute for or a supplement to virgin raw materials. The term  
11 does not include a person who operates a transfer station or  
12 landfill for solid waste, composting facility or resource  
13 recovery facility.

14 "Scrap processor." A person who, from a fixed location,  
15 utilizes machinery and equipment for processing and  
16 manufacturing ferrous or nonferrous metallic scrap, paper scrap,  
17 plastic scrap, rubber scrap or glass scrap into prepared grades  
18 and whose principal product is sold as a raw material in the  
19 manufacture of new products.

20 "Seller." ~~A person~~ ANY PERSON, OTHER THAN A COMMERCIAL <—  
21 ENTERPRISE, who sells scrap materials to a scrap processor or  
22 recycling facility operator.

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

26 (a) General rule.--A scrap processor and recycling facility  
27 operator shall collect the following information for all  
28 transactions by a seller of restricted material under section 5,  
29 from all other sellers when the purchase of scrap material  
30 exceeds \$100: ~~and for all transactions involving a catalytic~~ <—

1 ~~converter:~~

2 (1) ~~Recording the~~ THE name, telephone number and address <—  
3 of the seller.

4 (2) ~~Recording the~~ THE number of a driver's license or <—  
5 other form of government identification or photocopying or  
6 scanning the license or other identification.

7 (3) ~~Recording the~~ THE make, year, type and license plate <—  
8 number of the motor vehicle the seller operates at the time  
9 of the transaction.

10 ~~(4) Creating and recording a unique identification <—~~  
11 ~~number for the seller and using it for every transaction with~~  
12 ~~that seller which shall be documented on all receipts.~~

13 (4) THE UNIQUE IDENTIFICATION NUMBER OF THE SELLER. The <—  
14 number shall be assigned based on an initial collection of  
15 seller information, USED FOR EVERY TRANSACTION WITH THAT <—  
16 SELLER, AND SHALL BE DOCUMENTED ON ALL RECEIPTS.

17 (5) ~~Obtaining the~~ THE seller's signature for each <—  
18 transaction.

19 (6) ~~Obtaining written~~ WRITTEN permission of the seller's <—  
20 parent or legal guardian, if the seller is under 18 years of  
21 age.

22 ~~(b) Supplemental information. In addition to the <—~~  
23 ~~information required under subsection (a), a scrap processor and~~  
24 ~~recycling facility operator shall also collect the following~~  
25 ~~information from a seller:~~

26 ~~(1)~~ (7) The date and time of the transaction. <—

27 ~~(2)~~ (8) A description of the scrap material included in <—  
28 the transaction, INCLUDING THE WEIGHT OF THE SCRAP MATERIAL <—  
29 AND THE AMOUNT PAID TO THE SELLER.

30 ~~(e)~~ (B) Tracking the transaction.--A scrap processor and <—

1 recycling facility operator shall, when payment is made in cash,  
2 develop methods of tracking a transaction that obtains the  
3 seller's signature on a receipt for the transaction. The receipt  
4 shall include a certification that the seller is the owner or  
5 authorized seller of the scrap material.

6 ~~(d)~~ (C) Holding period.-- <—

7 (1) Following notification, either verbally or in  
8 writing, from a law enforcement officer ~~of this Commonwealth~~ <—  
9 ~~or any of its political subdivisions~~ that certain scrap  
10 materials have been reported as stolen, a scrap processor or  
11 recycling facility operator that is in possession of the  
12 scrap material in question shall hold that scrap material  
13 intact and safe from alteration, damage or commingling, and  
14 shall place an identifying tag or other suitable  
15 identification upon the scrap material. The scrap operator or  
16 recycling facility shall hold the scrap material for a period  
17 of time as directed by the applicable law enforcement agency,  
18 up to a maximum of ~~three business days~~ 36 HOURS FOLLOWING <—  
19 NOTIFICATION, unless extended pursuant to paragraph (3).

20 (2) A law enforcement ~~official~~ OFFICER of this <—  
21 Commonwealth or any of its political subdivisions shall not  
22 place a hold on any scrap material unless that law  
23 enforcement ~~official~~ OFFICER reasonably suspects that the <—  
24 scrap material is lost or stolen. Any hold that is placed on  
25 scrap material shall not exceed ~~three business days~~ 36 HOURS <—  
26 and the scrap material must be returned to the owner or  
27 released when the hold has been released or has expired.

28 (3) A holding period may be extended beyond ~~three days~~ <—  
29 36 HOURS only upon the order of a magisterial district judge <—  
30 after the magisterial district judge has determined that

1 probable cause exists that the scrap material is lost or  
2 stolen.

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

7 Section 4. Commercial accounts.

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

13 (1) The full name of the commercial enterprise or  
14 commercial account.

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

17 (3) The full name of the person employed by the  
18 commercial enterprise or commercial account who is authorized  
19 to deliver the ferrous or nonferrous metal or commercial  
20 metal property to the scrap processor or recycling facility.

21 (4) A letter from the commercial enterprise designating  
22 the seller as representative of that enterprise who is  
23 authorized to sell the ferrous or nonferrous metal or  
24 commercial metal property on behalf of the commercial  
25 enterprise.

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

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

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

5 Section 5. Restricted materials.

6 A scrap processor and recycling facility operator may  
7 purchase the following scrap material only if the purchase  
8 occurs with a commercial enterprise in conjunction with a  
9 contract or letter of authorization from the commercial  
10 enterprise:

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

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

16 (3) Commercial metal property.

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

19 (5) Beer kegs.

20 (6) CATALYTIC CONVERTERS. ←

21 Section 6. Law enforcement.

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

28 Section 7. Penalties.

29 A scrap processor and recycling facility operator who  
30 violates this act commits a summary offense and shall, upon

1 conviction, be sentenced to pay a fine of up to \$2,500. A second  
2 or subsequent violation COMMITTED WITHIN 180 DAYS shall be ←  
3 classified as a misdemeanor of the third degree.

4 SECTION 8. PREEMPTION. ←

5 THIS ACT SHALL PREEMPT AND SUPERSEDE ANY LOCAL ORDINANCE OR  
6 RULE ADOPTED AFTER THE EFFECTIVE DATE OF THIS ACT WHICH SEEKS TO  
7 REGULATE THE PROCESSING OF SCRAP MATERIALS.

8 Section & 9. Effective date. ←

9 This act shall take effect in 60 days.