

Regular Session, 2012

HOUSE BILL NO. 802

BY REPRESENTATIVE ANDERS

FEES/LICENSES/PERMITS: Provides for the Scrap Metal Recycler Registration and Licensing Law

1 AN ACT

2 To enact R.S. 36:409(I), R.S. 37:1861(C), and Chapter 22 of Title 37 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 37:1961 through 1975, relative to
4 used or secondhand property; to exempt scrap metal recyclers from the secondhand
5 dealer law; to establish the Louisiana Scrap Metal Recyclers Registration and
6 Licensing Board within the Department of Public Safety and Corrections; to provide
7 for definitions; to provide for board membership; to provide for meetings of the
8 board; to provide for compensation of the board; to establish a registration and
9 licensing program for scrap metal recyclers; to provide for denial, revocation, and
10 suspension of licenses; to require a license to operate as a scrap metal recycler; to
11 provide for the application for licensure as a scrap metal recycler; to provide for
12 application fees; to provide for expiration and renewals of licenses; to require
13 changes in location to be noted on a license; to require records of scrap metal
14 purchased; to require the records to be kept for three years; to require the records to
15 be made available for inspection by law enforcement; to require photographic
16 records of scrap metal purchased and of the sellers; to prohibit the purchase of scrap
17 metal not owned by the seller; to prohibit scrap metal purchases from person under
18 the age of eighteen; to require a statement of ownership from the seller; to provide
19 that failure to obtain the statement shall be prima facie evidence of fraud; to provide
20 for exoneration from fraudulent, willful, or criminal knowledge; to require daily

1 reports; to provide for violations; to provide for penalties; to provide for an effective
2 date; and to provide for related matters.

3 Be it enacted by the Legislature of Louisiana:

4 Section 1. R.S. 36:409(I) is hereby enacted to read as follows:

5 §409. Transfer of agencies to Department of Public Safety and Corrections

6 * * *

7 I. The Scrap Metal Recyclers Registration and Licensing Board (R.S.
8 37:1961-1975) is placed within the Department of Public Safety and Corrections and
9 shall exercise and perform its powers, duties, functions, and responsibilities in the
10 manner provided for agencies transferred in accordance with R.S. 36:803.

11 * * *

12 Section 2. R.S. 37:1861(C) and Chapter 22 of Title 37 of the Louisiana Revised
13 Statutes of 1950, comprised of R.S. 37:1961 through 1975, are hereby enacted to read as
14 follows:

15 §1861. "Secondhand dealer" defined

16 * * *

17 C. The provisions of this Part shall not apply to persons holding a license as
18 a scrap metal recycler under the provisions of R.S. 37:1961 et seq.

19 * * *

20 CHAPTER 22. SCRAP METAL DEALERS

21 §1961. Short title

22 This Chapter shall be known and may be cited as the "Louisiana Scrap Metal
23 Recyclers Registration and Licensing Law".

24 §1962. Definitions

25 As used in this Chapter, the following words shall the meaning ascribed to
26 them in this Section unless the context clearly indicate otherwise:

27 (1) "Board" means the Scrap Metal Recyclers Registration and Licensing
28 Board.

1 (2) "License" means the document or documents issued by the board which
2 attest to the registration and licensure of the operator.

3 (3) "Licensee" means any scrap metal recycling facility holding a license
4 issued by the board.

5 (4) "Operator" means any person employed in responsible charge of
6 operating all or any portion of a scrap metal recycling facility.

7 (5) "Registration" means the process or act whereby an operator meets the
8 requirements for obtaining a license.

9 (6) "Scrap metal recycling facility" means any physical entity that has the
10 function of recycling scrap metal, including but not limited to precious metals,
11 ferrous materials, catalytic converters, auto hulks, copper, copper wire, copper alloy,
12 bronze, zinc, aluminum other than in the form of cans, stainless steel, nickel alloys,
13 or brass, whether in the form of bars, cable, ingots, rods, tubing, wire, wire scraps,
14 clamps or connectors, railroad track materials, water utility materials, and used
15 building components.

16 (7) "Secretary" means the secretary of the Department of Public Safety and
17 Corrections.

18 §1963. Scrap Metal Recyclers Registration and Licensing Board; membership;
19 meetings; compensation

20 A. The governor shall appoint a Scrap Metal Recyclers Registration and
21 Licensing Board to establish a program of registration and licensing for scrap metal
22 recyclers.

23 B. The board shall consist of the following members, all of whom shall be
24 Louisiana residents, whose terms will commence when appointed by the governor:

25 (1) Three representatives from parish government as nominated by the Police
26 Jury Association of Louisiana.

27 (2) Three representatives from municipal government as nominated by the
28 Louisiana Municipal Association.

29 (3) Two representatives from the scrap metal recycling industry.

1 (4) One ex officio member designated by the secretary to represent the
2 Department of Public Safety and Corrections.

3 C. The two representatives from the scrap metal recycling industry shall be
4 licensed pursuant to this Chapter.

5 D. Each member of the board, with the exception of the ex officio member
6 from the Department of Public Safety and Corrections, shall be appointed for a three-
7 year term except for the initial appointments which shall be for terms of one, two,
8 or three years so that not more than three appointments shall expire in any one year.

9 E. Whenever a vacancy occurs on the board, either due to the expiration of
10 a term of appointment, resignation, or other reason, the secretary shall appoint a
11 successor of like qualifications. In the case of a vacancy occurring prior to the
12 expiration of a full term appointment, the successor shall be appointed for the
13 remainder of the term only. No members of the board shall be appointed for more
14 than two consecutive terms.

15 F. The board shall select from its membership a chairman and such officers
16 as may be needed to conduct business.

17 G. The board shall meet at least quarterly to conduct its business. Additional
18 meetings may be called by the board to carry out the provisions of this Chapter. Five
19 members shall constitute a quorum.

20 H. The appointed board members shall serve without pay. Actual expenses
21 incidental to meetings, examinations, and other activities essential to carry out the
22 provisions of this Chapter shall be reimbursed to the members.

23 I. The principal domicile of the board shall be that of the Department of
24 Public Safety and Corrections.

25 §1964. Scrap Metal Recyclers Registration and Licensing Board; powers and duties;
26 licenses; revocation and suspension; fees

27 The Scrap Metal Recyclers Registration and Licensing Board shall have the
28 following powers and duties:

1 (1) To establish a registration and licensing program for operators of scrap
2 metal recycling facilities.

3 (2) To develop policies related to registration and licensing requirements.

4 (3) To establish standards and requirements for training operators of scrap
5 metal recycling facilities.

6 (4) To maintain records.

7 (5) To adopt rules of procedure and policies required in performing its
8 obligations, adopted in conformity with the Louisiana Administrative Procedure Act.

9 (6) To license operators based on adopted criteria.

10 (7) To revoke an operator's license, if it determines that the operator has
11 practiced fraud or deception, has been significantly negligent in applying reasonable
12 care, judgment, knowledge, or ability in the performance of his duties, or has become
13 incompetent or unable to perform his duties in a proper manner.

14 (8) To immediately suspend, upon submission of evidence of probable cause
15 sufficient for revocation of a license, an operator's license if such action is deemed
16 necessary to protect the public health or environment. Any operator whose license
17 is so suspended shall be granted a hearing before the board within thirty days of the
18 suspension. Any operator whose license has been revoked by the board may appeal
19 in accordance with the Louisiana Administrative Procedure Act.

20 (9) To establish appropriate fees for registration and licensing to be paid by
21 the applicant.

22 §1965. License required; application; fee; duration

23 A. It shall be unlawful and shall constitute a misdemeanor for any person,
24 firm, association, corporation, or trust to engage in business in whole or in part as,
25 or serve in the capacity of, or act as a scrap metal recycler in this state without first
26 obtaining a license therefor from the board.

27 B. Any person, firm, association, corporation, or trust having more than one
28 place where the business is carried on or conducted shall be required to obtain and
29 hold a current license for each location.

1 C. Every person, firm, or corporation desiring to engage in the business of
2 a scrap metal recycler shall apply in writing, on a form to be prescribed by the board,
3 which form shall contain:

4 (1) The name of the applicant.

5 (2) The street address of applicant's principal place of business.

6 (3) The type of business organization of applicant.

7 (4) The applicant's financial standing.

8 (5) The applicant's business integrity.

9 (6) Whether the applicant has an established place of business and is
10 engaged in the pursuit, avocation, or business for which a license or licenses are
11 applied.

12 (7) Whether the applicant is able to properly conduct the business for which
13 a license or licenses are applied.

14 (8) Such additional information as may be required by the board.

15 D. In addition to the items required to be submitted by applicants for
16 licensure pursuant to this Section, applicants shall also submit such evidence as the
17 board shall prescribe, documenting that either the applicant or his general manager,
18 office manager, title clerk, or other responsible representative of the applicant has
19 attended a four-hour educational seminar or has registered to attend such seminar
20 within sixty days after issuance of the license.

21 E. Every application for license as a scrap metal recycler shall be
22 accompanied by the following fee:

23 (1) A maximum of two hundred dollars for an applicant's established place
24 of business.

25 (2) One hundred dollars for each place of business in addition to the
26 principal place of business.

27 F. All licenses issued pursuant to this Chapter shall expire on the date
28 indicated on the license and shall be nontransferable.

1 G. All applications for the renewal of licenses shall be submitted on or
2 before sixty days prior to the expiration date indicated on the license. If application
3 has not been made for the renewal of licenses, the licenses shall expire on the
4 expiration date indicated on the license, and it shall be a violation of this Chapter for
5 any person to represent himself and act thereafter in the capacity and business for
6 which he was formerly licensed.

7 H. Any licensee who submits a renewal application after the expiration date
8 of an existing license shall be subject to a late penalty of one hundred dollars and
9 shall be presumed to be a renewal applicant.

10 I. Any licensee changing the name of the business, the business address, the
11 ownership of the business, or opening any additional place of business shall notify
12 the board within ten days of such change or be in violation of this Chapter.

13 J. Any licensee ceasing to maintain its business shall surrender the license
14 to the board within ten days and any failure to do so shall constitute a misdemeanor
15 criminal violation and also subject the licensee to civil penalties as defined in this
16 Chapter.

17 §1966. Denial, revocation, or suspension of license; grounds; violations

18 A. Except as otherwise provided in this Section, the board may deny an
19 application for a license or revoke, suspend, or cancel a license after it has been
20 granted for any of the following reasons:

21 (1) On satisfactory proof of unfitness of the applicant or the licensee, as the
22 case may be, under the standards established by this Chapter.

23 (2) For fraudulent practices or any material misstatement made by an
24 applicant in any application for license pursuant to this Chapter.

25 (3) For any willful failure to comply with any provisions of this Chapter, any
26 provision relating to the proper record keeping and reporting, or with any rule or
27 regulation adopted and promulgated by the board under authority vested in it by this
28 Chapter.

1 (4) Change of condition after license is granted resulting in failure to
2 maintain the qualifications for licensure.

3 (5) Continued or flagrant violation of any of the rules or regulations of the
4 board.

5 (6) Being an operator who:

6 (a) Resorts to or uses any false or misleading advertising in connection with
7 his business.

8 (b) Has committed any unlawful act which resulted in the revocation of any
9 similar license in another state.

10 (c) Has been convicted of a crime involving moral turpitude.

11 (d) Has committed a fraudulent act in selling, purchasing, or otherwise
12 dealing in scrap metals, or has misrepresented the terms and conditions of a sale,
13 purchase, or contract for sale or purchase of scrap metals.

14 (e) Has engaged in business under a past or present license issued pursuant
15 to this Chapter or in any other course of conduct in such a manner as to cause injury
16 to the public or to those with whom he is dealing.

17 (f) Has failed to meet or maintain the conditions and requirements necessary
18 to qualify for the issuance of a license.

19 (g) Does not have an established place of business.

20 (h) Is not operating from the address shown on his license if this change has
21 not been reported to the board.

22 B. The board shall not deny an application for a license or revoke or suspend
23 a license based upon consideration of an existing or anticipated economic or
24 competitive effect on other licensees in the surrounding community or territory.

25 C. Each of the aforementioned grounds for suspension, revocation,
26 cancellation, or denial of issuance or renewal of license shall also constitute a
27 violation of this Chapter, unless the person involved has been tried and acquitted of
28 the offense constituting such grounds.

1 D. The suspension, revocation, cancellation, or refusal to issue or renew a
2 license or the imposition of any other penalty by the board shall be in addition to any
3 penalty which might be imposed upon any licensee upon a conviction at law for any
4 violation of this Chapter.

5 E. In the performance of its duties under this Section the board shall have the
6 authority to obtain from the Department of Public Safety and Corrections and other
7 governmental agencies information relating to the criminal records of applicants for
8 licensure pursuant to this Chapter.

9 §1967. Change in location to be noted on license

10 If after issuance and delivery of a license pursuant to this Chapter any change
11 is made in the location of the place of business designated therein, the business shall
12 not be conducted at the new location or under such license, until the board notes the
13 change on the license, and the superintendent of police of the city or the sheriff of
14 the parish in which the licensee is doing business is notified in writing of the change.

15 §1968. Record of scrap metal purchased required; exceptions; retention period;
16 inspections by law enforcement; violations; penalty

17 A.(1) Every operator shall either keep a register and file reports or
18 electronically maintain data and be capable of readily providing reports, as specified
19 in Subsection B of this Section, in the form prescribed by the Department of Public
20 Safety and Corrections which shall contain the following information:

21 (a) The name and address of the residence or place of business of the person
22 required to either keep the register and file reports or electronically maintain the data
23 and generate the requested reports.

24 (b) The date and place of each such purchase.

25 (c) The name and address of the person or persons from whom the material
26 was purchased, including the distinctive number of the person's or persons' Louisiana
27 driver's license, driver's license from another state, passport, military identification,
28 or identification issued by a governmental agency or the United States Postal

1 Service. If the person cannot produce any of the above forms of identification at the
2 time of purchase, the purchaser shall not complete the transaction.

3 (d) The motor vehicle license number of the vehicle or conveyance on which
4 such material was delivered.

5 (e) A full description of all such material purchased, including the weight of
6 the material and whether it consists of bars, kegs, cable, ingots, rods, tubing wire,
7 wire scraps, clamps, connectors, or other appurtenances or some combination
8 thereof.

9 (f) A full description of railroad track materials purchased, including the
10 weight and whether it consists of rail, switch components, spikes, angle bars, tie
11 plates, or bolts of the type used to construct railroads or other appurtenances or some
12 combination thereof.

13 (2) This Section shall not apply to purchases of materials from any
14 manufacturing, industrial, or other commercial vendor that generates, as a byproduct
15 or recyclable waste, or sells such materials in the ordinary course of its business.

16 B. Each operator shall keep either one copy of such completed form in a
17 separate register or book or maintain the information in electronic format as provided
18 in Subsection A of this Section which shall be kept for a period of three years at his
19 place of business and shall be made available for inspection by any peace officer or
20 law enforcement official at any time during the three-year period.

21 C. Failure to maintain the information or the register or to produce a report
22 requested by any peace officer or law enforcement official as required by this
23 Section shall be prima facie evidence that the person receiving such material
24 described in this Section and not registered or reported, received it knowing it to be
25 stolen, in violation of R.S. 14:69.

26 D. Whoever violates this Section shall be fined not less than one thousand
27 dollars or imprisoned for not less than thirty days nor more than six months, or both.

1 §1969. Photographic and other records; exceptions

2 In addition to the information required in R.S. 37:1968, every operator shall
3 be required to obtain a photograph of a person selling or delivering scrap metal to the
4 facility. The quality of such photograph shall be sufficient to readily identify the
5 person depicted. In lieu of the photograph of the person selling or delivering the
6 scrap metal, the operator may obtain either a thumbprint of such person, the quality
7 of which thumbprint shall be sufficient to identify the person, or a photocopy of the
8 person's Louisiana driver's license, driver's license from another state, passport,
9 military identification, or identification issued by a governmental agency or the
10 United States Postal Service. Each photograph, thumbprint, or photocopy, as the
11 case may be, shall be cross-referenced with the ledger entry required by R.S.
12 37:1968. The photograph, thumbprint, or photocopy shall be preserved for a period
13 of at least a year. Photographs shall be made available to the law enforcement
14 agency within twenty-four hours after the request.

15 §1970. Scrap metal; purchase when forbidden

16 A. No operator shall willfully or knowingly purchase scrap metal unpaid for
17 by the seller or not owned by the seller.

18 B. No operator shall purchase scrap metal, other than aluminum in the form
19 of cans, from a person under the age of eighteen. Lack of knowledge of age shall not
20 be a defense to a violation of this Section.

21 C. Whoever violates this Section shall be fined not less than twenty-five
22 dollars nor more than one hundred dollars, or imprisoned for not less than fifteen
23 days nor more than three months, or both.

24 §1971. Statement by seller required; failure to exact statement evidence of
25 fraudulent intent; exoneration from criminal knowledge

26 A.(1) Every operator shall obtain a signed statement from the seller that the
27 scrap metal has been paid for or is owned by the seller, and a failure of the operator
28 to exact a statement from the seller shall be prima facie evidence of the fraudulent

1 intent and guilty knowledge on the part of the dealer within the meaning of this
2 Chapter, sufficient to warrant a conviction.

3 (2) In transactions involving railroad track materials, an operator shall
4 require the party seeking to sell or dispose of the materials to furnish a signed
5 statement from the appropriate railroad company consenting to the sale of the
6 railroad track materials identified in the statement, which shall be retained by the
7 operator. The statement shall include the name of the railroad company consenting
8 to the sale and the name, employee number, and phone number of the person signing
9 the statement authorizing the sale. The operator shall attempt to verify the
10 authenticity of the statement authorizing the sale of the railroad track materials.

11 B. An operator who obtains the required statement from the seller shall be
12 exonerated from any fraudulent, willful, or criminal knowledge within the meaning
13 of this Chapter.

14 §1972. Book to be open for inspection

15 The book containing the record of purchase as provided for in R.S. 37:1968
16 and the various articles purchased and referred to therein shall at all times be open
17 to the inspection of law enforcement officers of the office of state police, or the
18 superintendent of police or sheriff of the parish or anyone designated by them of the
19 city, town, or parish in which the operator does business.

20 §1973. Daily report of entries

21 A.(1) Every operator licensed pursuant to this Chapter shall make out and
22 deliver to the chief of police of the city or town or to the sheriff of the parish in
23 which he is doing business, every day before the hour of twelve noon, a legible and
24 correct copy of the entries in the book mentioned in R.S. 37:1968 during the previous
25 day. The means for providing the transactional information required under this
26 Section shall be by electronic transmission.

27 (2) The appropriate law enforcement official may, for purposes of an
28 investigation of a crime relating to a particular scrap metal transaction, request the
29 operator to mail or fax such official the personally identifiable information relating

1 to such transaction under investigation. The operator shall deliver the personally
2 identifiable information relating to the identified transaction to the appropriate law
3 enforcement official within twenty-four hours of the request.

4 B. The operator shall have the responsibility of tendering the information
5 provided for in Subsection A of this Section regardless of its use or nonuse by the
6 chief of police in the city or town in which he is doing business or, alternatively, to
7 the sheriff of the parish in which he is doing business. The tender of this information
8 is a courtesy mandated by state law and which provides a benefit to the general
9 public. The chief of police or sheriff shall not be mandated to take any particular
10 action concerning the information tendered.

11 §1974. Violations; penalty

12 A. Any licensed operator who violates, neglects, or refuses to comply with
13 any provision of this Chapter, shall be fined not less than two hundred fifty dollars,
14 nor more than five hundred dollars or be imprisoned for not less than thirty days nor
15 more than sixty days, or both.

16 B. For the second offense, his license shall be suspended for a thirty-day
17 period. For a third offense, his license shall be revoked and he shall not thereafter
18 be permitted to engage in the business of scrap metal recycling in the state of
19 Louisiana.

20 C. Any operator convicted of selling stolen goods shall have his license
21 revoked.

22 §1975. Failure to comply; penalty

23 A. Anyone acting as an unlicensed operator without complying with the
24 provisions of this Chapter shall be fined not less than two hundred fifty dollars or be
25 imprisoned not less than thirty days nor more than sixty days, or both.

26 B. For a second offense, the offender shall be fined not more than two
27 thousand dollars or be imprisoned with or without hard labor for not more than two
28 years, or both.

1 C. For a third or subsequent offense, the offender shall be fined not more
2 than ten thousand dollars or be imprisoned with or without hard labor for not more
3 than five years, or both.

4 Section 3. This Act shall become effective upon signature by the governor or, if not
5 signed by the governor, upon expiration of the time for bills to become law without signature
6 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
7 vetoed by the governor and subsequently approved by the legislature, this Act shall become
8 effective on the day following such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Anders

HB No. 802

Abstract: Establishes the "Louisiana Scrap Metal Recyclers Registration and Licensing Law".

Proposed law establishes the Scrap Metal Recyclers Registration and Licensing Board within the Department of Public Safety and Corrections.

Present law provides for the regulation of secondhand dealers.

Proposed law retains present law but adds an exemption for scrap metal recyclers licensed under proposed law.

Proposed law may be cited as the "Louisiana Scrap Metal Recyclers Registration and Licensing Law".

Proposed law defines "board" as the Scrap Metal Recyclers Registration and Licensing Board.

Proposed law defines "license" as the document or documents issued by the board which attest to the registration and licensure of the operator.

Proposed law defines "licensee" as any scrap metal recycling facility holding a license issued by the board.

Proposed law defines "operator" as any person employed in responsible charge of operating all or any portion of a scrap metal recycling facility.

Proposed law defines "registration" means the process or act whereby an operator meets the requirements for obtaining a license.

Proposed law defines "scrap metal recycling facility" as any physical entity that has the function of recycling scrap metal, including but not limited to precious metals, ferrous materials, catalytic converters, auto hulks, copper, copper wire, copper alloy, bronze, zinc, aluminum other than in the form of cans, stainless steel, nickel alloys, or brass, whether in

the form of bars, cable, ingots, rods, tubing, wire, wire scraps, clamps or connectors, railroad track materials, water utility materials, and used building components.

Proposed law defines "secretary" as the secretary of the Dept. of Public Safety and Corrections (DPS&C).

Proposed law requires the governor to appoint a Scrap Metal Recyclers Registration and Licensing Board to establish a program of registration and licensing for scrap metal recyclers.

Proposed law provides that the board shall consist of the following members, all of whom shall be La. residents, whose terms will commence when appointed by the secretary:

- (1) Three representatives from parish government as nominated by the Police Jury Association of La.
- (2) Three representatives from municipal government as nominated by the La. Municipal Association.
- (3) Two representatives from the scrap metal recycling industry.
- (4) One ex officio member designated by the secretary to represent DPS&C.

Proposed law requires the two representatives from the scrap metal recycling industry to be scrap metal recyclers licensed under proposed law.

Proposed law requires that each member of the board, with the exception of the ex officio member from DPS&C, to be appointed for a three-year term except for the initial appointments which shall be for terms of one, two, or three years so that not more than three appointments shall expire in any one year.

Proposed law requires the secretary, whenever a vacancy occurs on the board, either due to the expiration of a term of appointment, resignation, or other reason, to appoint a successor of like qualifications. Proposed law further provides that, in the case of a vacancy occurring prior to the expiration of a full term appointment, the successor shall be appointed for the remainder of the term only.

Proposed law prohibits a members of the board from being appointed for more than two consecutive terms.

Proposed law requires the board to select from its membership a chairman and such officers as may be needed to conduct business.

Proposed law provides that five members shall constitute a quorum.

Proposed law requires the board to meet at least quarterly to conduct its business. Proposed law further authorizes additional meetings to be called by the board to carry out the provisions of proposed law.

Proposed law provides that the appointed board members shall serve without pay, however actual expenses incidental to meetings, examinations, and other activities essential to carry out the provisions of proposed law shall be reimbursed to the members.

Proposed law provides that the principal domicile of the board shall be that of the Dept. of Public Safety and Corrections.

Proposed law provides that the Scrap Metal Recyclers Registration and Licensing Board shall have the following powers and duties:

- (1) To establish a registration and licensing program for operators of scrap metal recycling facilities.
- (2) To develop policies related to registration and licensing requirements.
- (3) To establish standards and requirements for training operators of scrap metal recycling facilities.
- (4) To maintain records.
- (5) To adopt rules of procedure and policies required in performing its obligations, adopted in conformity with the La. Administrative Procedure Act.
- (6) To license operators based on adopted criteria.
- (7) To revoke an operator's license, if it determines that the operator has practiced fraud or deception, has been significantly negligent in applying reasonable care, judgment, knowledge, or ability in the performance of his duties, or has become incompetent or unable to perform his duties in a proper manner.
- (8) To immediately suspend, upon submission of evidence of probable cause sufficient for revocation of a license, an operator's license if such action is deemed necessary to protect the public health or environment. Any operator whose license is so suspended shall be granted a hearing before the board within thirty days of the suspension. Any operator whose license has been revoked by the board may appeal in accordance with the La. Administrative Procedure Act.
- (9) To establish appropriate fees for registration and licensing to be paid by the applicant.

Proposed law provides that it shall be unlawful and shall constitute a misdemeanor for any person, firm, association, corporation, or trust to engage in business in whole or in part as, or serve in the capacity of, or act as a scrap metal recycler in this state without first obtaining a license from the board.

Proposed law requires any person, firm, association, corporation, or trust having more than one place where the business is carried on or conducted to obtain and hold a current license for each location.

Proposed law requires every person, firm, or corporation desiring to engage in the business of a scrap metal recycler to apply in writing, on a form to be prescribed by the board, which form shall contain:

- (1) The name of the applicant.
- (2) The street address of applicant's principal place of business.
- (3) The type of business organization of applicant.
- (4) The applicant's financial standing.
- (5) The applicant's business integrity.
- (6) Whether the applicant has an established place of business and is engaged in the pursuit, avocation, or business for which a license or licenses are applied.
- (7) Whether the applicant is able to properly conduct the business for which a license or licenses are applied.

(8) Such additional information as may be required by the board.

Proposed law further requires applicants to also submit such evidence as the board shall prescribe, documenting that either the applicant or his general manager, office manager, title clerk, or other responsible representative of the applicant has attended a four-hour educational seminar or has registered to attend such seminar within sixty days after issuance of the license.

Proposed law requires every application for license as a scrap metal recycler to be accompanied by a maximum fee of \$200 for an applicant's established place of business and \$100 for each place of business in addition to the principal place of business.

Proposed law provides that all licenses issued under the provisions of proposed law expire on the date indicated on the license and are nontransferable.

Proposed law requires all applications for the renewal of licenses to be submitted on or before 60 days prior to the expiration date indicated on the license.

Proposed law provides that, if application has not been made for the renewal of licenses, the licenses shall expire on the expiration date indicated on the license, and it shall be a violation of proposed law for any person to represent himself and act thereafter in the capacity and business for which he was formerly licensed.

Proposed law requires any licensee who submits a renewal application after the expiration date of an existing license to be subject to a late penalty of \$100 and to be presumed to be a renewal applicant.

Proposed law requires any licensee changing the name of the business, the business address, the ownership of the business, or opening any additional place of business to notify the board within ten days of such change or be in violation of proposed law.

Proposed law requires any licensee ceasing to maintain its business to surrender the license to the board within ten days and any failure to do so shall constitute a misdemeanor criminal violation and also subject the licensee to civil penalties.

Proposed law authorizes the board to deny an application for a license or revoke, suspend, or cancel a license after it has been granted for any of the following reasons:

- (1) On satisfactory proof of unfitness of the applicant or the licensee, as the case may be, under the standards established by proposed law.
- (2) For fraudulent practices or any material misstatement made by an applicant in any application for license under the provisions of proposed law.
- (3) For any willful failure to comply with any provisions of proposed law, any provision relating to the proper record keeping and reporting, or with any rule or regulation adopted and promulgated by the board under authority vested in it by proposed law.
- (4) Change of condition after license is granted resulting in failure to maintain the qualifications for licensure.
- (5) Continued or flagrant violation of any of the rules or regulations of the board.
- (6) Being an operator who:
 - (a) Resorts to or uses any false or misleading advertising in connection with his business.

- (b) Has committed any unlawful act which resulted in the revocation of any similar license in another state.
- (c) Has been convicted of a crime involving moral turpitude.
- (d) Has committed a fraudulent act in selling, purchasing, or otherwise dealing in scrap metals, or has misrepresented the terms and conditions of a sale, purchase, or contract for sale or purchase of scrap metals.
- (e) Has engaged in business under a past or present license issued pursuant to this Chapter or in any other course of conduct in such a manner as to cause injury to the public or to those with whom he is dealing.
- (f) Has failed to meet or maintain the conditions and requirements necessary to qualify for the issuance of a license.
- (g) Does not have an established place of business.
- (h) Is not operating from the address shown on his license if this change has not been reported to the board.

Proposed law prohibits the board from denying an application for a license or revoking or suspending a license based upon consideration of an existing or anticipated economic or competitive effect on other licensees in the surrounding community or territory.

Proposed law provides that each of the authorized grounds for suspension, revocation, cancellation, or denial of issuance or renewal of license shall also constitute a violation of proposed law, unless the person involved has been tried and acquitted of the offense constituting such grounds.

Proposed law provides that the suspension, revocation, cancellation, or refusal to issue or renew a license or the imposition of any other penalty by the board shall be in addition to any penalty which might be imposed upon any licensee upon a conviction at law for any violation of proposed law.

Proposed law authorizes the board to obtain from the Dept. of Public Safety and Corrections and other governmental agencies information relating to the criminal records of applicants for licensure under proposed law.

Proposed law provides that if any change is made in the location of the place of business designated on a license, the business shall not be conducted at the new location or under such license, until the board notes the change on the license, and the superintendent of police of the city or the sheriff of the parish in which the operator is doing business is notified in writing of the change.

Proposed law requires every operator to either keep a register and file reports or electronically maintain data and be capable of readily providing reports, in the form prescribed by the Dept. of Public Safety and Corrections, which shall contain the following information:

- (1) The name and address of the residence or place of business of the person required to either keep the register and file reports or electronically maintain the data and generate the requested reports.
- (2) The date and place of each such purchase.
- (3) The name and address of the person or persons from whom the material was purchased, including the distinctive number of the person's or persons' La. driver's

- license, driver's license from another state, passport, military identification, or identification issued by a governmental agency or the U. S. Postal Service. If the person cannot produce any of the above forms of identification at the time of purchase, the purchaser shall not complete the transaction.
- (4) The motor vehicle license number of the vehicle or conveyance on which such material was delivered.
 - (5) A full description of all such material purchased, including the weight of the material and whether it consists of bars, kegs, cable, ingots, rods, tubing wire, wire scraps, clamps, connectors, or other appurtenances or some combination thereof.
 - (6) A full description of railroad track materials purchased, including the weight and whether it consists of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used to construct railroads or other appurtenances or some combination thereof.

Proposed law provides that proposed law shall not apply to purchases of materials from any manufacturing, industrial, or other commercial vendor that generates, as a byproduct or recyclable waste, or sells such materials in the ordinary course of its business.

Proposed law requires each operator to keep either one copy of such completed form in a separate register or book or maintain the information in electronic format, which shall be kept for a period of three years at his place of business and shall be made available for inspection by any peace officer or law enforcement official at any time during the three-year period.

Proposed law provides that failure to maintain the information or the register or to produce a report requested by any peace officer or law enforcement official shall be prima facie evidence that the person receiving the scrap metal not registered or reported, received it knowing it to be stolen, in violation of R.S. 14:69.

Proposed law provides that whoever violates proposed law shall be fined not less than \$1,000 or imprisoned for not less than thirty days nor more than six months, or both.

Proposed law requires every operator to obtain a photograph of a person selling or delivering scrap metal to the facility. Proposed law further requires the quality of the photograph to be sufficient to readily identify the person depicted.

Proposed law provides that, in lieu of the photograph of the person selling or delivering the scrap metal, the operator may obtain either a thumbprint of such person, the quality of which thumbprint shall be sufficient to identify the person, or a photocopy of the person's La. driver's license, driver's license from another state, passport, military identification, or identification issued by a governmental agency or the U. S. Postal Service.

Proposed law requires each photograph, thumbprint, or photocopy to be cross-referenced with the ledger entry required by proposed law. Proposed law further requires the photograph, thumbprint, or photocopy to be preserved for a period of at least a year.

Proposed law requires photographs to be made available to a law enforcement agency within 24 hours after the request.

Proposed law prohibits an operator from willfully or knowingly purchasing scrap metal unpaid for by the seller or not owned by the seller.

Proposed law prohibits an operator from purchasing scrap metal, other than aluminum in the form of cans, from a person under the age of eighteen.

Proposed law provides that a lack of knowledge of age shall not be a defense to a violation of proposed law.

Proposed law provides that whoever violates proposed law shall be fined not less than \$25 nor more than \$100, or imprisoned for not less than fifteen days nor more than three months, or both.

Proposed law requires every operator to obtain a signed statement from the seller that the scrap metal has been paid for or is owned by the seller, and a failure of the dealer to exact a statement from the seller shall be prima facie evidence of the fraudulent intent and guilty knowledge on the part of the dealer, sufficient to warrant a conviction.

Proposed law requires, in transactions involving railroad track materials, an operator to require the party seeking to sell or dispose of the materials to furnish a signed statement from the appropriate railroad company consenting to the sale of the railroad track materials identified in the statement, which shall be retained by the operator.

Proposed law requires the statement to include the name of the railroad company consenting to the sale and the name, employee number, and phone number of the person signing the statement authorizing the sale.

Proposed law requires the operator to attempt to verify the authenticity of the statement authorizing the sale of the railroad track materials.

Proposed law provides that an operator who obtains the required statement from the seller shall be exonerated from any fraudulent, willful, or criminal knowledge.

Proposed law requires the book containing the record of purchase and the various articles purchased and referred to therein to be open at all times to the inspection of law enforcement officers of the office of state police, or the superintendent of police or sheriff of the parish or anyone designated by them of the city, town, or parish in which the operator does business.

Proposed law requires every operator to make out and deliver by electronic transmission to the chief of police of the city or town or to the sheriff of the parish in which he is doing business, every day before the hour of twelve noon, a legible and correct copy of the entries in the book during the previous day.

Proposed law authorizes the appropriate law enforcement official, for purposes of an investigation of a crime relating to a particular scrap metal transaction, to request the operator to mail or fax such official the personally identifiable information relating to such transaction under investigation. Proposed law further requires the operator to deliver the personally identifiable information relating to the identified transaction to the appropriate law enforcement official within 24 hours of the request.

Proposed law provides that the operator shall have the responsibility of tendering the information regardless of its use or nonuse by the chief of police in the city or town in which he is doing business or, alternatively, to the sheriff of the parish in which he is doing business. Proposed law further provides that the tender of this information is a courtesy mandated by state law and which provides a benefit to the general public and the chief of police or sheriff shall not be mandated to take any particular action concerning the information tendered.

Proposed law provides that any licensed operator who violates, neglects, or refuses to comply with any provision of proposed law, shall be fined not less than \$250, nor more than \$500 or be imprisoned for not less than 30 days nor more than 60 days, or both.

Proposed law provides that, for the second offense, the operator's license shall be suspended for a 30-day period.

Proposed law provides that, for a third offense, the operator's license shall be revoked and he shall not thereafter be permitted to engage in the business of scrap metal recycling in the state of Louisiana.

Proposed law provides that any operator convicted of selling stolen goods shall have his license revoked.

Proposed law provides that anyone acting as an unlicensed operator without complying with the provisions of proposed law shall be fined not less than \$250 or be imprisoned not less than 30 days nor more than 60 days, or both.

Proposed law provides that, for a second offense, the unlicensed operator shall be fined not more than \$2,000 or be imprisoned with or without hard labor for not more than two years, or both.

Proposed law provides that, for a third or subsequent offense, the unlicensed operator shall be fined not more than \$10,000 or be imprisoned with or without hard labor for not more than five years, or both.

Effective upon signature of the governor or upon lapse of time for gubernatorial action.

(Adds R.S. 36:409(I), R.S. 37:1861(C), and 1961-1975)