

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1086 Session of 2013

INTRODUCED BY DAVIS, K. BOYLE, ROZZI, HAGGERTY, V. BROWN, MAHONEY, GAINNEY, MURT, TOEPEL, GALLOWAY, B. BOYLE, NEUMAN, FABRIZIO, CALTAGIRONE, HEFFLEY, COHEN, THOMAS, D. COSTA, PASHINSKI, DeLUCA, QUINN, WATSON, MUNDY, MOUL, FARRY AND SCHLOSSBERG, APRIL 2, 2013

AS REPORTED FROM COMMITTEE ON CONSUMER AFFAIRS, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 18, 2014

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 identification requirements for sale of scrap <--
8 materials to scrap processors and recycling facility-
9 operators, for law enforcement and DEFINITIONS, FOR <--
10 COMMERCIAL ACCOUNTS AND FOR RESTRICTED MATERIALS; PROVIDING
11 FOR STATEWIDE REGISTRY OF SCRAP PROCESSORS AND RECYCLING
12 FACILITIES AND FOR DUTY TO REGISTER AND FOR CRIMINAL
13 REGISTRY; AND FURTHER PROVIDING for penalties.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Sections 3, 6 and 7 of the act of October 9, 2008 <--
17 (P.L.1408, No.113), known as the Scrap Material Theft Prevention-
18 Act, are amended to read:

19 Section 3. Identification requirements for sale of scrap-
20 materials to scrap processors and recycling facility-
21 operators.

1       ~~(a) General rule. A scrap processor and recycling facility~~  
2 ~~operator shall collect the following information for all~~  
3 ~~transactions by a seller [of restricted material under section 5~~  
4 ~~and from any other seller when the purchase of scrap material~~  
5 ~~from the seller exceeds \$100]:~~

6           ~~(1) A photocopy of the driver's license of the seller.~~

7           ~~(2) The seller's and buyer's signature for each~~  
8 ~~transaction.~~

9           ~~(3) The license plate number of the motor vehicle the~~  
10 ~~seller operates at the time of the transaction.~~

11           ~~(4) Written permission of the seller's parent or legal~~  
12 ~~guardian, if the seller is under 18 years of age.~~

13           ~~(5) The date and time of the transaction.~~

14           ~~(6) A description of the scrap material included in the~~  
15 ~~transaction, including the weight of the scrap material and~~  
16 ~~the amount paid to the seller.~~

17           ~~(7) A photograph of the scrap material included in the~~  
18 ~~transaction.~~

19       ~~(b) Tracking the transaction. A scrap processor and~~  
20 ~~recycling facility operator shall, when payment is made in cash,~~  
21 ~~develop methods of tracking a transaction that obtains the~~  
22 ~~seller's signature on a receipt for the transaction. The receipt~~  
23 ~~shall include a certification that the seller is the owner or~~  
24 ~~authorized seller of the scrap material.~~

25       ~~(b.1) Certain transactions prohibited. No scrap processor~~  
26 ~~or recycling facility operator may entertain a transaction from~~  
27 ~~a person on the banned sellers list as provided by law~~  
28 ~~enforcement officials pursuant to section 6(e).~~

29       ~~(b.2) Cash transactions prohibited. A scrap processor or~~  
30 ~~recycling facility operator may not make payment in cash for the~~

1 ~~purchase of scrap material from a seller. Credit card, debit~~  
2 ~~card and electronic funds transfer transactions shall not be~~  
3 ~~considered cash transactions under this subsection.~~

4 ~~(b.3) Payment withholding period. A scrap processor or~~  
5 ~~recycling facility operator shall provide a receipt to the~~  
6 ~~seller at the time of the initial transaction for the value of~~  
7 ~~the scrap material being sold. A scrap processor or recycling~~  
8 ~~facility operator shall not relinquish payment to a seller of~~  
9 ~~scrap material for at least 48 hours, but not more than 72~~  
10 ~~hours, from the time of the initial transaction.~~

11 ~~(c) Holding period.—~~

12 ~~(1) (i) Following notification, either verbally or in~~  
13 ~~writing, from a law enforcement officer that certain~~  
14 ~~scrap materials have been reported as stolen, a scrap~~  
15 ~~processor or recycling facility operator that is in~~  
16 ~~possession of the scrap material in question shall hold~~  
17 ~~that scrap material intact and safe from alteration,~~  
18 ~~damage or commingling and shall place an identifying tag~~  
19 ~~or other suitable identification upon the scrap material.~~

20 ~~(ii) A law enforcement officer making a verbal~~  
21 ~~request shall provide the scrap processor or recycling~~  
22 ~~facility operator, upon request, with the officer's name,~~  
23 ~~badge number and department contact telephone number so~~  
24 ~~that the scrap processor or recycling facility operator~~  
25 ~~may call back to confirm the identity of the law~~  
26 ~~enforcement officer.~~

27 ~~(2) Within 24 hours of notification by the law~~  
28 ~~enforcement officer or 24 hours of the receipt of the~~  
29 ~~material, whichever is later, the scrap processor or~~  
30 ~~recycling facility operator shall notify the law enforcement~~

1 ~~officer that scrap material matching the law enforcement~~  
2 ~~officer's description is on the premises.~~

3 ~~(3) The scrap processor or recycling facility shall hold~~  
4 ~~the scrap material for a period of time as directed by the~~  
5 ~~applicable law enforcement agency, up to a maximum of 48~~  
6 ~~hours following notification, unless extended pursuant to~~  
7 ~~paragraph (5).~~

8 ~~(4) A law enforcement officer shall not place a hold on~~  
9 ~~any scrap material unless that law enforcement officer~~  
10 ~~reasonably suspects that the scrap material is lost or~~  
11 ~~stolen. The request to hold scrap material shall be as~~  
12 ~~specific as possible by using descriptive language,~~  
13 ~~including, but not limited to, the type and the style of the~~  
14 ~~material, length or weight or any other such description to~~  
15 ~~identify the material to be held. Any hold that is placed on~~  
16 ~~scrap material shall not exceed 48 hours, and the scrap~~  
17 ~~material must be returned to the owner or released when the~~  
18 ~~hold has been released or has expired.~~

19 ~~(5) A holding period may be extended beyond 48 hours~~  
20 ~~only upon the order of a magisterial district judge after the~~  
21 ~~magisterial district judge has determined that probable cause~~  
22 ~~exists that the scrap material is lost or stolen.~~

23 ~~(6) A scrap processor or recycling facility operator~~  
24 ~~that receives material that does not meet the description of~~  
25 ~~materials being sought by a law enforcement officer may~~  
26 ~~dispose of that material at its discretion.~~

27 ~~(d) Maintenance of records. The information required by~~  
28 ~~this section shall be maintained by the scrap processor or~~  
29 ~~recycling facility operator for a minimum of two years from the~~  
30 ~~date of the transaction.~~

1 ~~Section 6. Law enforcement.~~

2 ~~(a) Record requests. A scrap processor and recycling~~  
3 ~~facility operator shall disclose seller registration information~~  
4 ~~required by this act during normal business hours to any~~  
5 ~~investigative or law enforcement officer or any person acting at~~  
6 ~~the direction or request of an investigative or law enforcement~~  
7 ~~officer to investigate suspected criminal activities.~~

8 ~~(b) Victim requests. A person who claims to own scrap~~  
9 ~~material that was stolen may request from law enforcement a copy~~  
10 ~~of a scrap processor's or recycling facility operator's~~  
11 ~~transaction records for the purpose of searching for the missing~~  
12 ~~property if the person has a copy of a filed police report for~~  
13 ~~the stolen scrap material.~~

14 ~~(c) Authority to develop procedures for requests. Law~~  
15 ~~enforcement may develop procedures to provide a person who~~  
16 ~~requests transaction records pursuant to subsection (b) with the~~  
17 ~~records. Law enforcement shall provide the requester the records~~  
18 ~~within seven business days. Prior to delivering the records to~~  
19 ~~the requester, law enforcement officials shall:~~

20 ~~(1) Redact any personal information of a seller,~~  
21 ~~collected at the time of the transaction, pursuant to section~~  
22 ~~3(a)(1), (2), (3) or (4).~~

23 ~~(2) Redact the address and telephone number of the~~  
24 ~~seller.~~

25 ~~(3) Redact any financial account information a seller~~  
26 ~~may have established with a scrap processor or recycling~~  
27 ~~facility operator.~~

28 ~~(4) Redact the price paid to the seller for the scrap~~  
29 ~~material or any estimated value of the scrap material~~  
30 ~~received by a scrap processor or recycling facility operator.~~

~~(5) Determine the appropriate records to provide to the requester, based upon the time period that the alleged theft is reported to have taken place.~~

~~(d) Fees for requests. A law enforcement agency may charge or collect a reasonable administration fee for providing records as requested by this section.~~

~~(e) Banned sellers list. A law enforcement agency that serves a jurisdiction in which scrap processors or recycling facilities are located shall provide to the scrap processors or recycling facility operators a list, in either written or electronic form, of the names and descriptions of persons convicted 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. Law enforcement shall provide updated copies of this list at least once every 30 days. The law enforcement agency may request the appropriate clerk of courts to provide the list.~~

SECTION 1. SECTION 2 OF THE ACT OF OCTOBER 9, 2008 (P.L.1408, NO.113), KNOWN AS THE SCRAP MATERIAL THEFT PREVENTION ACT, IS AMENDED BY ADDING A DEFINITION TO READ:

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:

\* \* \*

"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

1 OR BOLT USED IN CONSTRUCTING A RAILROAD.

2 \* \* \*

3 SECTION 2. SECTIONS 4(D) AND 5 OF THE ACT ARE AMENDED TO  
4 READ:

5 SECTION 4. COMMERCIAL ACCOUNTS.

6 \* \* \*

7 (D) FINANCIAL TRANSACTIONS.--ONCE A COMMERCIAL ACCOUNT HAS  
8 BEEN ESTABLISHED, IF A FINANCIAL TRANSACTION OCCURS BETWEEN A  
9 SCRAP PROCESSOR OR RECYCLING FACILITY OPERATOR AND A PERSON  
10 DELIVERING THE SCRAP MATERIAL, THE SCRAP PROCESSOR OR RECYCLING  
11 FACILITY OPERATOR SHALL OBTAIN THE FOLLOWING BEFORE COMPLETING  
12 EACH TRANSACTION:

13 (1) A PHOTOCOPY OF THE DRIVER'S LICENSE OF THE PERSON  
14 DELIVERING THE SCRAP MATERIALS.

15 (2) THE LICENSE PLATE NUMBER OF THE VEHICLE TRANSPORTING  
16 SCRAP MATERIAL.

17 (3) THE TELEPHONE NUMBER OF THE COMMERCIAL ACCOUNT.

18 (4) CONFIRMATION THAT THE PERSON DELIVERING THE SCRAP  
19 MATERIAL IS AUTHORIZED TO RECEIVE A CHECK OR CASH ON BEHALF  
20 OF THE PERSON OR ENTITY PROVIDING THE SCRAP MATERIAL. THE  
21 CONFIRMATION SHALL CONSIST OF WRITTEN, SIGNED AUTHORIZATION  
22 FROM THE OWNER OR OFFICER OF THE COMMERCIAL ENTERPRISE  
23 STATING THAT THE PERSON DELIVERING THE SCRAP MATERIAL IS  
24 DESIGNATED TO RECEIVE PAYMENT FOR THE SCRAP MATERIAL.

25 (5) AN ACKNOWLEDGMENT OF RECEIPT OF CASH PAYMENT, SIGNED  
26 BY THE PERSON DELIVERING THE SCRAP MATERIAL AND RECEIVING THE  
27 CASH PAYMENT.

28 SECTION 5. RESTRICTED MATERIALS.

29 A SCRAP PROCESSOR AND RECYCLING FACILITY OPERATOR MAY  
30 PURCHASE THE FOLLOWING SCRAP MATERIAL ONLY IF THE PURCHASE

1 OCCURS WITH A COMMERCIAL ENTERPRISE:

2 (1) NEW PRODUCTION SCRAP OR NEW MATERIALS THAT ARE A  
3 PART OF A MANUFACTURING PROCESS THAT ARE BEING SOLD BY AN  
4 INDIVIDUAL, NOT A COMPANY.

5 (2) FULL SIZED, NEW MATERIALS, SUCH AS THOSE USED IN  
6 CONSTRUCTION, OR EQUIPMENT AND TOOLS USED BY CONTRACTORS.

7 (3) COMMERCIAL METAL PROPERTY.

8 (4) METALLIC WIRE THAT HAS BEEN BURNED IN WHOLE OR IN  
9 PART TO REMOVE INSULATION, UNLESS THE AGGREGATE VALUE IS LESS  
10 THAN \$100.

11 (5) BEER KEGS.

12 (6) DETACHED CATALYTIC CONVERTERS.

13 (7) RAILROAD MATERIALS.

14 SECTION 3. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

15 SECTION 6.1. STATEWIDE REGISTRY OF SCRAP PROCESSORS AND  
16 RECYCLING FACILITIES.

17 THE PENNSYLVANIA STATE POLICE SHALL ESTABLISH AND MAINTAIN A  
18 STATEWIDE REGISTRY OF SCRAP PROCESSORS AND RECYCLING FACILITIES  
19 THAT REGISTER WITH THE PENNSYLVANIA STATE POLICE UNDER SECTION  
20 6.2. THE REGISTRY SHALL BE POSTED ON THE INTERNET WEBSITE OF THE  
21 PENNSYLVANIA STATE POLICE AND SHALL BE ACCESSIBLE TO LAW  
22 ENFORCEMENT PERSONNEL.

23 SECTION 6.2. DUTY TO REGISTER.

24 (A) GENERAL RULE.--A SCRAP PROCESSOR AND RECYCLING FACILITY  
25 SHALL REGISTER WITH THE PENNSYLVANIA STATE POLICE AS PROVIDED IN  
26 THIS SECTION.

27 (B) METHOD OF REGISTRATION.--A PERSON SHALL REGISTER WITH  
28 THE PENNSYLVANIA STATE POLICE IN WRITING OR ELECTRONICALLY VIA A  
29 SECURE INTERNET CONNECTION ON A FORM PROVIDED BY THE  
30 PENNSYLVANIA STATE POLICE. THE APPLICATION SHALL INCLUDE THE



1 FOLLOWING INFORMATION:

2 (1) FOR AN INDIVIDUAL APPLICANT, ALL OF THE FOLLOWING:

3 (I) NAME.

4 (II) DRIVER'S LICENSE NUMBER, A COPY OF AN  
5 IDENTIFICATION CARD ISSUED BY THE STATE IN WHICH THE  
6 INDIVIDUAL RESIDES OR OTHER FORM OF IDENTIFICATION AS  
7 PERMITTED BY THE COMMONWEALTH.

8 (III) BUSINESS NAME, ADDRESS AND TELEPHONE NUMBER.

9 (IV) FEDERAL EMPLOYER IDENTIFICATION NUMBER, IF  
10 APPLICABLE.

11 (2) FOR A GENERAL PARTNERSHIP APPLICANT, ALL OF THE  
12 FOLLOWING:

13 (I) NAME OF EACH PARTNER.

14 (II) DRIVER'S LICENSE NUMBER OR A COPY OF AN  
15 IDENTIFICATION CARD ISSUED BY THE STATE IN WHICH EACH  
16 PARTNER RESIDES, OF EACH PARTNER.

17 (III) PARTNERSHIP NAME, ADDRESS AND TELEPHONE  
18 NUMBER.

19 (IV) FEDERAL EMPLOYER IDENTIFICATION NUMBER, IF  
20 APPLICABLE.

21 (3) FOR A CORPORATION, LIMITED LIABILITY COMPANY OR  
22 LIMITED PARTNERSHIP, ALL OF THE FOLLOWING:

23 (I) NAME OF THE REGISTERING OFFICER, MANAGER AND  
24 GENERAL PARTNER.

25 (II) BUSINESS NAME, ADDRESS AND TELEPHONE NUMBER.

26 (III) NAME OF EACH DIRECTOR OR EACH INDIVIDUAL  
27 HOLDING GREATER THAN A 5% EQUITY INTEREST IN THE ENTITY.

28 (4) FOR AN OUT-OF-STATE CORPORATION, LIMITED LIABILITY  
29 COMPANY OR LIMITED PARTNERSHIP, THE NAME AND ADDRESS OF THE  
30 ENTITY'S RESIDENT AGENT OR REGISTERED OFFICE PROVIDER WITHIN

1 THIS COMMONWEALTH AND ANY REGISTRATION NUMBER OR LICENSE  
2 NUMBER ISSUED TO THE ENTITY BY ITS HOME STATE OR POLITICAL  
3 SUBDIVISION OF THE OTHER STATE, IF APPLICABLE.

4 (5) FOR A JOINT VENTURE APPLICANT, THE NAME, ADDRESS AND  
5 TELEPHONE NUMBER OF THE JOINT VENTURE, AS WELL AS THE NAME,  
6 ADDRESS AND TELEPHONE NUMBER OF EACH PARTY TO THE JOINT  
7 VENTURE.

8 (C) REPORTING OF MULTIPLE REGISTRATIONS.--AN ENTITY OWNING  
9 MULTIPLE SCRAP PROCESSING AND RECYCLING FACILITIES MUST REGISTER  
10 INDIVIDUALLY FOR EACH PHYSICAL ADDRESS OF A SCRAP PROCESSING AND  
11 RECYCLING FACILITY.

12 (D) APPLICATION FEES.--

13 (1) EACH COMPLETED REGISTRATION FORM FOR A SCRAP  
14 RECYCLER OR RENEWAL OF REGISTRATION SHALL BE ACCOMPANIED BY A  
15 FEE OF \$100. AFTER COMPLETION OF THE REGISTRATION AND PAYMENT  
16 OF THE FEE, THE PENNSYLVANIA STATE POLICE SHALL ISSUE, WITHIN  
17 SEVEN BUSINESS DAYS, THE SCRAP PROCESSING AND RECYCLING  
18 FACILITY A REGISTRATION CERTIFICATE IDENTIFYING THE NAME OF  
19 THE APPLICANT, SCRAP PROCESSING AND RECYCLING FACILITY NAME  
20 AND ADDRESS AND A REGISTRATION NUMBER. THE CERTIFICATE SHALL  
21 BE VALID FOR A PERIOD OF TWO YEARS. RENEWALS SHALL BE ON A  
22 BIENNIAL BASIS.

23 (2) THE REGISTRATION FEE SHALL BE USED TO ESTABLISH AND  
24 MAINTAIN THE DATABASE UNDER SECTION 6.1.

25 (E) PROOF OF REGISTRATION.--A SCRAP PROCESSOR AND RECYCLING  
26 FACILITY SHALL INCLUDE ITS REGISTRATION NUMBER IN ALL  
27 ADVERTISEMENTS DISTRIBUTED WITHIN THIS COMMONWEALTH, AND SHALL  
28 HAVE THE REGISTRATION CERTIFICATE CLEARLY VISIBLE AT ITS PLACE  
29 OF BUSINESS.

30 (F) FAILURE TO REGISTER.--A SCRAP PROCESSOR OR RECYCLING

1 FACILITY THAT FAILS TO REGISTER COMMITS A SUMMARY OFFENSE AND  
2 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF \$1,000.

3 SECTION 4. SECTION 7 OF THE ACT IS AMENDED TO READ:

4 Section 7. Penalties.

5 (a) Scrap processor and recycling facility operator

6 penalties.--[A] EXCEPT AS PROVIDED UNDER SECTION 6.2(F), A scrap <--  
7 processor and recycling facility operator who violates this act  
8 commits a summary offense and shall, upon conviction, be  
9 sentenced to pay a fine of up to \$2,500. A second or subsequent  
10 violation shall be classified as a misdemeanor of the third  
11 degree.

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

26 Section 2 5. This act shall take effect in 60 days. <--