

1 H.699

2 Introduced by Representatives Russell of Rutland City, Lewis of Derby,
3 Andrews of Rutland City, Botzow of Pownal, Canfield of Fair
4 Haven, Courcelle of Rutland City, Deen of Westminster, Fagan
5 of Rutland City, French of Shrewsbury, Heath of Westford,
6 Kitzmiller of Montpelier, Kupersmith of South Burlington,
7 Lenes of Shelburne, Marek of Newfane, McNeil of Rutland
8 Town, Munger of South Burlington, Savage of Swanton, Shand
9 of Weathersfield, Sharpe of Bristol, Shaw of Pittsford, Stevens
10 of Shoreham, Townsend of Randolph, Waite-Simpson of Essex,
11 Yantachka of Charlotte and Young of Glover

12 Referred to Committee on

13 Date:

14 Subject: Commerce and trade; scrap metal processors

15 Statement of purpose: This bill proposes to expand the governing
16 requirements for sales of scrap metal to include salvage yards; to require scrap
17 metal processors to file a uniform report with local law enforcement and
18 segregate items purchased from sellers who are not authorized scrap sellers;
19 and to provide a private cause of action for damages for scrap metal thefts that
20 includes the value of the items stolen, in addition to damages to other property
21 and any loss of income.

1 An act relating to scrap metal processors

2 It is hereby enacted by the General Assembly of the State of Vermont:

3 Sec. 1. 9 V.S.A. chapter 82 is amended to read:

4 CHAPTER 82. SCRAP METAL PROCESSORS

5 § 3021. DEFINITIONS

6 As used in this chapter:

7 (1) "Authorized scrap seller" means a licensed plumber, electrician,
8 HVAC contractor, building or construction contractor, demolition contractor,
9 construction and demolition debris contractor, public utility, transportation
10 company, licensed peddler or broker, an industrial and manufacturing
11 company; marine, automobile, or aircraft salvage and wrecking company, or a
12 government entity.

13 (2) "Ferrous scrap" means any scrap metal consisting primarily of iron,
14 steel, or both, including large manufactured articles such as automobile bodies
15 that may contain other substances to be removed and sorted during normal
16 processing operations of scrap metal.

17 (3) "Metal article" means any manufactured item consisting of metal
18 that is usable for its originally intended purpose without processing, repair, or
19 alteration, including railings, copper or aluminum wire, copper pipe and
20 tubing, bronze cemetery plaques, urns, markers, plumbing fixtures, and
21 cast-iron radiators.

1 ~~(4) "Nonferrous scrap" means any scrap metal consisting primarily of~~
2 ~~metal other than iron or steel, and does not include aluminum beverage cans,~~
3 ~~post-consumer household items, items removed during building renovations or~~
4 ~~demolitions, or large manufactured items containing small quantities of~~
5 ~~nonferrous metals such as automobile bodies and appliances.~~

6 (5) "Proprietary article" means any of the following:

7 (A) Any metal article stamped, engraved, stenciled, or marked as
8 being or having been the property of a governmental entity, public utility, or a
9 transportation, shipbuilding, ship repair, mining, or manufacturing company.

10 (B) Any hard-drawn copper electrical conductor, cable, or wire
11 greater than 0.375 inches in diameter, stranded or solid.

12 (C) Any aluminum conductor, cable, or wire greater than 0.75 inches
13 in diameter, stranded or solid.

14 (D) Metal beer kegs.

15 (E) Manhole covers.

16 (F) Catalytic converters.

17 (6) "Scrap metal" means any manufactured item or article that contains
18 metal.

19 (7) "Scrap metal processor" means:

20 (A) a salvage yard, as defined in 24 V.S.A. § 2241(7); or

1 ~~(B) a person authorized to conduct a business that processes and~~
2 manufactures scrap metal into prepared grades for sale as raw material to mills,
3 foundries, and other manufacturing facilities.

4 § 3022. PURCHASE OF NONFERROUS SCRAP, METAL ARTICLES,
5 AND PROPRIETARY ARTICLES

6 (a) A scrap metal processor may purchase nonferrous scrap, metal articles,
7 and proprietary articles directly from an authorized scrap metal seller or the
8 seller's authorized agent or employee.

9 (b) A scrap metal processor may purchase nonferrous scrap, metal articles,
10 and proprietary articles from a person who is not an authorized scrap metal
11 seller or the seller's authorized agent or employee, ~~provided~~ only if the scrap
12 processor complies with all the following procedures at the time of sale:

13 (1) ~~At the time of sale, requires~~ Requires the seller to provide a current
14 government-issued photographic identification that indicates the seller's full
15 name, current address, and date of birth, and records in a permanent ledger the
16 identification information of the seller, the time and date of the transaction, the
17 license number of the seller's vehicle, and a description of the items received
18 from the seller. ~~This information shall be retained for at least five years at the~~
19 ~~processor's normal place of business or other readily accessible and secure~~
20 ~~location. On request, this information shall be made available to any law~~
21 ~~enforcement official or authorized security agent of a governmental entity who~~

1 ~~provides official credentials at the scrap metal processor's business location~~
2 ~~during regular business hours.~~

3 (2) Requests documentation from the seller of the items offered for sale,
4 such as a bill of sale, receipt, letter of authorization, or similar evidence that
5 establishes that the seller lawfully owns the items to be sold.

6 (3) ~~After purchasing an item from a person who fails to provide~~
7 ~~documentation pursuant to subdivision (2) of this subsection (b) of this section,~~

8 (A) Segregates each purchase into a separate and distinct pile,
9 bundle, or package with a tag bearing the name and residence of the seller, the
10 date and place of purchase, and the weight thereof; and

11 (B) submits ~~Submits~~ to the local law enforcement agency no later
12 than the close of the following business day a report, on a form prepared by the
13 agency of natural resources, in collaboration with the department of public
14 safety, for that purpose, that describes the item and the seller's identifying
15 information required in subdivision (1) of this subsection, ~~and holds the~~
16 ~~proprietary article for at least 15 days following purchase.~~

17 (4) Retains the items purchased without removing, melting, cutting, or
18 destroying any item for a period of 15 days.

19 (c) The information collected by a scrap metal processor pursuant to this
20 section shall be retained for at least five years at the processor's normal place
21 of business or other readily accessible and secure location. On request, this

1 ~~information shall be made available to any law enforcement official or~~
2 ~~authorized security agent of a governmental entity who provides official~~
3 ~~credentials at the scrap metal processor's business location during regular~~
4 ~~business hours.~~

5 ~~(d) It shall be unlawful for any seller to refuse to furnish the information~~
6 ~~required by this section, or to furnish incorrect or incomplete information.~~

7 § 3023. PENALTIES

8 (a) A scrap metal processor who violates any provision of this chapter for
9 the first time may be assessed a civil penalty not to exceed \$1,000.00 for each
10 transaction.

11 (b) A scrap metal processor who violates any provision of this chapter for a
12 second or subsequent time shall be fined not more than \$25,000.00 for each
13 transaction.

14 § 3024. DAMAGES; VALUATION OF THEFT

15 In a cause of action brought by a person who suffers damages from the theft
16 of a metal article, nonferrous scrap, or proprietary article, the valuation of
17 damages from the theft shall include the value of the property taken, the value
18 of any damage caused to other property during the theft, and the value of any
19 loss of income arising from the theft.

20 Sec. 2. EFFECTIVE DATE

21 This act shall take effect on July 1, 2012.

Sec. 1. 9 V.S.A. chapter 82 is amended to read:

CHAPTER 82. SCRAP METAL PROCESSORS

§ 3021. DEFINITIONS

As used in this chapter:

** * **

(7) "Scrap metal processor" means:

(A) a salvage yard, as defined in 24 V.S.A. § 2241(7), but not including a salvage yard described in 24 V.S.A. § 2248(e); or

(B) a person authorized to conduct a business that processes and manufactures scrap metal into prepared grades for sale as raw material to mills, foundries, and other manufacturing facilities.

~~*§ 3022. PURCHASE OF NONFERROUS SCRAP, METAL ARTICLES,
AND PROPRIETARY ARTICLES*~~

~~*(a) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles directly from an authorized scrap metal seller or the seller's authorized agent or employee.*~~

~~*(b) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles from a person who is not an authorized scrap metal seller or the seller's authorized agent or employee, provided only if the scrap processor complies with all the following procedures at the time of purchase.*~~

~~(1) At the time of sale, requires Requires the seller to provide a current government-issued photographic identification that indicates the seller's full name, current address, and date of birth, and records in a permanent ledger the identification information of the seller, the time and date of the transaction, the license number of the seller's vehicle, and a description of the items received from the seller. ~~This information shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.~~~~

(2) Requests documentation from the seller of the items offered for sale, such as a bill of sale, receipt, letter of authorization, or similar evidence that establishes that the seller lawfully owns the items to be sold.

(3) After purchasing an item from a person who fails to provide documentation pursuant to subdivision (2) of this subsection ~~(b) of this section,~~ submits to the ~~local law enforcement agency~~ department of public safety no later than the close of the following business day a report that describes the item and the seller's identifying information required in subdivision (1) of this subsection, ~~and,~~

~~(4) ~~holds~~ Holds the proprietary article for at least 15 days following purchase.~~

~~(c) The information collected by a scrap metal processor pursuant to this section shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.~~

~~(d) It shall be unlawful for any seller to refuse to furnish the information required by this section or to furnish incorrect or incomplete information.~~

§ 3022. PURCHASE OF NONFERROUS SCRAP, METAL ARTICLES,
AND PROPRIETARY ARTICLES

(a) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles directly from an authorized scrap metal seller or the seller's authorized agent or employee.

(b) A scrap metal processor may purchase nonferrous scrap, metal articles, and proprietary articles from a person who is not an authorized scrap metal seller or the seller's authorized agent or employee, ~~provided~~ only if the scrap processor complies with all the following procedures:

(1) At the time of sale;

~~(A) requires~~ Requires the seller to provide a current government-issued photographic identification that indicates the seller's full name, current address, and date of birth, and records in a permanent ledger the identification information of the seller, the time and date of the transaction, the license number of the seller's vehicle, and a description of the items received from the seller. ~~This information shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.~~

~~(2)(B)~~ Requests and, if available, collects documentation from the seller of the items offered for sale, such as a bill of sale, receipt, letter of authorization, or similar evidence that establishes that the seller lawfully owns the items to be sold.

~~(3)(2)~~ After purchasing an item from a person who fails to provide documentation pursuant to subdivision (2)(1)(B) of this subsection (b) of this section,;

(A) submits Submits to the local law enforcement agency department of public safety no later than the close of the following business day a report

that describes the item and the seller's identifying information required in subdivision (1)(A) of this subsection, ~~and~~.

(B) holds Holds the proprietary article for at least 15 days following purchase.

(c) The information collected by a scrap metal processor pursuant to this section shall be retained for at least five years at the processor's normal place of business or other readily accessible and secure location. On request, this information shall be made available to any law enforcement official or authorized security agent of a governmental entity who provides official credentials at the scrap metal processor's business location during regular business hours.

§ 3023. PENALTIES

(a) A scrap metal processor who violates any provision of this chapter for the first time may be assessed a civil penalty not to exceed \$1,000.00 for each transaction.

(b) A scrap metal processor who violates any provision of this chapter for a second or subsequent time shall be fined not more than \$25,000.00 for each transaction.

Sec. 2. REPORTING SCRAP METAL SALES

The department of public safety, in collaboration with the department of environmental conservation, shall develop:

(1) a uniform, electronic form and reporting system through which scrap metal processors may submit to the department of public safety the report required for purchases pursuant to 9 V.S.A. § 3022~~(b)(3)~~(b)(2)(A); and

(2) an implementation and public outreach process to inform scrap metal processors that the electronic form and reporting system are available for use.

Sec. 3. EFFECTIVE DATE

This act shall take effect on July 1, 2012.