

Regular Session, 2012

HOUSE BILL NO. 1188 (Substitute for House Bill No. 802 by Representative Anders)

BY REPRESENTATIVES ANDERS, ADAMS, ARMES, BADON, BILLIOT, BROWN,
BURRELL, DIXON, GISCLAIR, HARRIS, HARRISON, HENSGENS, KATRINA
JACKSON, LEOPOLD, JAY MORRIS, PONTI, PYLANT, REYNOLDS,
RICHARDSON, AND ST. GERMAIN

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

1 AN ACT

2 To amend and reenact R.S. 37:1861(B)(introductory paragraph) and 1864.3 and to enact
3 R.S. 37:1861(B)(6) and Chapter 22 of Title 37 of the Louisiana Revised Statutes of
4 1950, to be comprised of R.S. 37:1961 through 1975, relative to used or secondhand
5 property; to provide for an exemption to the secondhand dealer law; to prohibit cash
6 payments for the purchase of copper and other metals; to establish the Louisiana
7 Scrap Metal Recyclers Law; to provide for definitions; to require an occupational
8 license to operate as a scrap metal recycler; to require changes in location to be noted
9 on a license; to provide for hours of operation; to require records of scrap metal
10 purchased; to require the records to be kept for three years; to require the records to
11 be made available for inspection by law enforcement; to require photographic
12 records of scrap metal purchased and of the sellers; to prohibit the purchase of scrap
13 metal not owned by the seller; to prohibit scrap metal purchases from person under
14 the age of eighteen; to require a statement of ownership from the seller; to provide
15 that failure to obtain the statement shall be prima facie evidence of fraud; to provide
16 for exoneration from fraudulent, willful, or criminal knowledge; to require daily
17 reports; to require the use of a national database; to provide for violations; to provide
18 for penalties; to provide for an effective date; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 37:1861(B)(introductory paragraph) and 1864.3 are hereby amended and reenacted and R.S. 37:1861(B)(6) and Chapter 22 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:1961 through 1975, is hereby enacted to read as follows:

§1861. "Secondhand dealer" defined

* * *

B. Except as provided for in ~~R.S. 37:1864.3 and 1869.1~~ R.S. 37:1869.1, the provisions of this Part shall not apply to:

* * *

(6) Purchases of scrap metal by persons operating as a scrap metal recycler under the provisions of R.S. 37:1961 et seq.

* * *

§1864.3. ~~Payment by check or money order for copper or other metals required; check cashing prohibited; penalties~~

A.(1) A secondhand dealer shall not enter into any cash transactions in payment for the purchase of ~~junk or used or secondhand property~~ copper. Payment for copper shall be made in the form of a check, ~~electronic transfers, or money order~~ issued to the seller of the ~~junk or used or secondhand property~~ and made payable to the name and address of the seller made payable to the seller of the metal and mailed to the address recorded on the photo identification of the seller no earlier than five business days after the date of the transaction.

(2) A secondhand dealer shall not enter into any cash transactions in excess of three hundred dollars in payment for the purchase of metal property other than copper. Payments in excess of three hundred dollars for metals other than copper shall be made in the form of a check made payable to the name and address of the seller and may be tendered to the seller at the time of the transaction. The secondhand dealer, at his discretion, may make payment by either cash or other

1 method for transactions of three hundred dollars or less for all metals other than
2 copper.

3 B. All payments made by check, ~~electronic transfers, or money order~~ shall
4 be reported separately in the daily reports required by R.S. 37:1866.

5 C.(1) No secondhand dealer shall allow a seller to engage in multiple small
6 transactions for the purpose of circumventing this Section.

7 (2) No secondhand dealer shall cash, offer to cash, or provide the means for
8 exchanging for cash a check issued to a seller pursuant to this Section on the
9 premises of the secondhand dealer's place of business, including but not limited to
10 the use of an automatic teller machine.

11 D. Violations of this Section shall be subject to the penalties provided for in
12 R.S. 37:1869 and 1870.

13 * * *

14 CHAPTER 22. SCRAP METAL RECYCLERS

15 §1961. Short title

16 This Chapter shall be known and may be cited as the "Louisiana Scrap Metal
17 Recyclers Law".

18 §1962. Definitions

19 As used in this Chapter, the following words shall have the meaning ascribed
20 to them in this Section unless the context clearly indicates otherwise:

21 (1) "Operator" means any person employed in responsible charge of
22 operating all or any portion of a scrap metal recycling facility.

23 (2) "Railroad track materials" means steel in the form of railroad tracks or
24 in the form of rail, switch components, spikes, angle bars, tie plates, or bolts of the
25 type used in constructing railroads, or any combination of such materials.

26 (3) "Scrap metal" means metal materials which are purchased for resale to
27 be recycled, including but not limited to ferrous materials, catalytic converters, auto
28 hulks, copper, copper wire, copper alloy, bronze, zinc, aluminum other than in the
29 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. The term shall not include precious metals, including but not limited to gold, silver, and platinum.

(4) "Scrap metal recycling facility" means any physical entity that has the function of recycling scrap metal.

(5) "Used building component" means any object produced or shaped by human workmanship or tools that is an element of structural, architectural, archaeological, historical, ornamental, cultural, utilitarian, decorative, or sentimental significance or interest, which has been and may be used as an adjunct to or component or ornament of any building or structure, regardless of monetary worth, age, size, shape, or condition, that is immovable property, or fixtures or component parts of immovable property of any nature or kind whatsoever.

(6) "Water utility materials" shall include but not be limited to water meters, valves, pipes, and fittings.

§1963. License required; application; bond

No person shall do business as a scrap metal recycler in this state without having first obtained the occupational license required by law. Any person desiring a license as a scrap metal recycler shall make application in writing, specifying the street number and house number of the building where the business is to be carried on. He shall also submit with his application a bond in favor of the city or parish, as the case may be, where the business is to be established in the sum of two thousand five hundred dollars with security conditioned for the due observance of all provisions of this Chapter.

§1964. Exemptions

The provisions of this Chapter shall not apply to:

(1) Dealers in coins and currency, dealers in antiques, nor to gun and knife shows or other trade and hobby shows.

(2) Persons solely engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of motor vehicles and used parts of motor vehicles,

1 excluding tires and rims, nor wreckers or dismantlers of motor vehicles who are
2 licensed pursuant to the provisions of R.S. 32:783 et seq.

3 (3) Private residential sales commonly known as "garage sales" or "yard
4 sales" as long as such sales take place at a residential address.

5 (4) Any bona fide charity possessing a valid exemption under Section
6 501(c)(3) of the Internal Revenue Code.

7 (5) The operations of a company that has received a permit, registration, or
8 other authorization from the Department of Environmental Quality for the collection,
9 transportation, treatment, storage, processing of materials to be recycled or reused,
10 or disposal of solid waste as defined in R.S. 30:2153.

11 (6) Persons operating as pawnbrokers pursuant to R.S. 37:1785.

12 (7) The purchase of firearms for disposal from a law enforcement agency.

13 (8) The purchase of materials from any manufacturing, industrial, or other
14 commercial vendor that generates the materials as a byproduct or recyclable waste
15 or sells such materials in the ordinary course of its business.

16 §1965. Change in location to be noted on license

17 If after issuance and delivery of a license under the provisions of this Chapter
18 any change is made in the location of the place of business designated therein, the
19 business shall not be conducted at the new location or under such license, until the
20 official issuing the license notes the change on the license, and the superintendent
21 of police of the city or the sheriff of the parish in which the scrap metal recycling
22 facility is doing business is notified in writing of the change.

23 §1966. Hours of business

24 An operator shall not enter into any transactions for the purchase of scrap
25 metal before the hour of 7:00 a.m. nor after the hour of 7:00 p.m. except on
26 Saturdays and during the month of December, during which time the hour of 7:00
27 p.m. shall be extended to 10:00 p.m.

1 §1967. Record of scrap metal purchased required; exceptions; retention period;
2 inspections by law enforcement; violations; penalty

3 A. Every operator shall either keep a register and file reports or
4 electronically maintain data and be capable of readily providing reports, as specified
5 in Subsection B of this Section, in the form prescribed by the Department of Public
6 Safety and Corrections which shall contain the following information:

7 (1) The name and address of the residence or place of business of the person
8 required to either keep the register and file reports or electronically maintain the data
9 and generate the requested reports.

10 (2) The date and place of each such purchase.

11 (3) The name and address of the person or persons from whom the material
12 was purchased, including the distinctive number of each person's Louisiana driver's
13 license, driver's license from another state, passport, military identification, or
14 identification issued by a governmental agency or the United States Postal Service.
15 If the person cannot produce any of the above forms of identification at the time of
16 purchase, the purchaser shall not complete the transaction.

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

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

23 (6) A full description of railroad track materials purchased, including the
24 weight and whether it consists of rail, switch components, spikes, angle bars, tie
25 plates, or bolts of the type used to construct railroads or other appurtenances or some
26 combination thereof.

27 B. Each operator shall keep either one copy of such completed form in a
28 separate register or book or maintain the information in electronic format as provided
29 in Subsection A of this Section which shall be kept for a period of three years at his

1 place of business and shall be made available for inspection by any peace officer or
2 law enforcement official at any time during the three-year period.

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

8 §1968. Photographic and other records; exceptions

9 A. In addition to the information required in R.S. 37:1967, every operator
10 shall be required to obtain a photograph of a person selling or delivering scrap metal
11 to the facility. The quality of such photograph shall be sufficient to readily identify
12 the person depicted. In lieu of the photograph of the person selling or delivering the
13 scrap metal, the operator may obtain either a thumbprint of such person, the quality
14 of which thumbprint shall be sufficient to identify the person, or a photocopy of the
15 person's Louisiana driver's license, driver's license from another state, passport,
16 military identification, or identification issued by a governmental agency or the
17 United States Postal Service. Each photograph, thumbprint, or photocopy, as the
18 case may be, shall be cross-referenced with the ledger entry required by R.S.
19 37:1967. The photograph, thumbprint, or photocopy shall be preserved for a period
20 of at least a year. Photographs shall be made available to the law enforcement
21 agency within twenty-four hours after the request.

22 B. In addition to the information required in R.S. 37:1967, every operator
23 shall be required to obtain a photograph of all scrap metal purchased. The quality
24 of the photograph shall be sufficient to readily identify each type of scrap metal
25 depicted. The operator shall obtain multiple photographs if necessary to properly
26 record the scrap metal purchased. Each photograph shall be cross-referenced with
27 the ledger entry required by R.S. 37:1967 and shall be preserved for a period of at
28 least one year. Photographs shall be made available to law enforcement within
29 twenty-four hours after a request.

1 §1969. Scrap metal; purchase when forbidden

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

4 B. No operator shall purchase scrap metal, other than aluminum in the form
5 of cans, from a person under the age of eighteen. Lack of knowledge of age shall not
6 be a defense to a violation of this Subsection.

7 C. No operator shall purchase precious metals.

8 §1970. Statement by seller required; failure to exact statement evidence of
9 fraudulent intent; exoneration from criminal knowledge

10 A. Every operator shall obtain a signed statement from the seller that the
11 scrap metal has been paid for or is owned by the seller, and a failure of the operator
12 to exact a statement from the seller shall be prima facie evidence of the fraudulent
13 intent and guilty knowledge on the part of the operator within the meaning of this
14 Chapter, sufficient to warrant a conviction.

15 B. In transactions involving railroad track materials, an operator shall require
16 the party seeking to sell or dispose of the materials to furnish a signed statement
17 from the appropriate railroad company consenting to the sale of the railroad track
18 materials identified in the statement, which shall be retained by the operator. The
19 statement shall include the name of the railroad company consenting to the sale and
20 the name, employee number, and phone number of the person signing the statement
21 authorizing the sale. The operator shall attempt to verify the authenticity of the
22 statement authorizing the sale of the railroad track materials.

23 C.(1) An operator shall not purchase any of the following materials without
24 first receiving a signed statement from the appropriate company or governmental
25 entity consenting to the sale of the materials identified in the statement:

26 (a) Infrastructure grade regulated material that has been burned to remove
27 insulation, unless the seller can produce written proof that the regulated material was
28 lawfully burned.

29 (b) Burnt wire.

1 (c) Regulated material where the manufacturer's make, model, serial or
2 personal identification number, or other identifying marks engraved or etched upon
3 the material have been conspicuously removed or altered.

4 (d) Regulated material marked with the name, initials, or otherwise identified
5 as the property of an electrical company, a telephone company, a cable company, a
6 water company or other utility company, or a governmental entity.

7 (e) A utility access cover.

8 (f) A water meter cover.

9 (g) A road or bridge guard rail.

10 (h) A highway or street sign.

11 (i) A traffic directional or control sign or signal.

12 (j) A metal beer keg that is clearly marked as being the property of the beer
13 manufacturer.

14 (k) A catalytic converter that is not part of an entire motor vehicle.

15 (2) The statement shall include the name of the company or governmental
16 entity consenting to the sale and the name, employee number, and phone number of
17 the person signing the statement authorizing the sale. The operator shall attempt to
18 verify the authenticity of the statement authorizing the sale of the materials. The
19 statement shall be retained by the operator.

20 D. An operator who obtains the required statement from the seller shall be
21 exonerated from any fraudulent, willful, or criminal knowledge within the meaning
22 of this Chapter.

23 §1971. Book to be open for inspection

24 The book containing the record of purchase as provided for in R.S. 37:1967
25 and the various articles purchased and referred to therein shall at all times be open
26 to the inspection of law enforcement officers of the office of state police, or the
27 superintendent of police or sheriff of the parish or anyone designated by them of the
28 city, town, or parish in which the operator does business.

1 §1972. Daily report of entries

2 A.(1) Every operator licensed pursuant to this Chapter shall produce and
3 deliver to the chief of police of the city or town or to the sheriff of the parish in
4 which he is doing business, every day before the hour of twelve noon, a legible and
5 correct copy of the entries in the book mentioned in R.S. 37:1967 during the previous
6 day. The means for providing the transactional information required under this
7 Section shall be by electronic transmission.

8 (2) The appropriate law enforcement official may, for purposes of an
9 investigation of a crime relating to a particular scrap metal transaction, request the
10 operator to mail or fax the official the personally identifiable information relating to
11 the transaction under investigation. The operator shall deliver the personally
12 identifiable information relating to the identified transaction to the appropriate law
13 enforcement official within twenty-four hours of the request.

14 B. In addition to the daily report required in Subsection A of this Section,
15 every operator licensed pursuant to this Chapter shall, every day before the hour of
16 twelve noon, transmit the information contained in the entries in the book required
17 by R.S. 37:1967(B) during the previous day to an electronic database accessible by
18 law enforcement.

19 C. The operator shall have the responsibility of tendering the information
20 provided for in Subsections A and B of this Section regardless of its use or nonuse
21 by the chief of police in the city or town in which he is doing business or,
22 alternatively, to the sheriff of the parish in which he is doing business. The tender
23 of this information is a courtesy mandated by state law and which provides a benefit
24 to the general public. The chief of police or sheriff shall not be mandated to take any
25 particular action concerning the information tendered.

26 §1973. Payment by check for copper or other metals required; check cashing
27 prohibited

28 A.(1) An operator shall not enter into any cash transactions in payment for
29 the purchase of copper. Payment for copper shall be made in the form of a check

1 made payable to the seller of the metal and mailed to the address recorded on the
2 photo identification of the seller no earlier than five business days after the date of
3 the transaction.

4 (2) An operator shall not enter into any cash transactions in excess of three
5 hundred dollars in payment for the purchase of metal property other than copper.
6 Payments in excess of three hundred dollars for metals other than copper shall be
7 made in the form of a check made payable to the name and address of the seller and
8 may be tendered to the seller at the time of the transaction. The operator, at his
9 discretion, may make payment by either cash or other method for transactions of
10 three hundred dollars or less for all metals other than copper.

11 B. All payments made by check shall be reported separately in the daily
12 reports required by R.S. 37:1967.

13 C.(1) No operator shall allow a seller to engage in multiple small
14 transactions for the purpose of circumventing this Section.

15 (2) No operator shall cash, offer to cash, or provide the means for
16 exchanging for cash a check issued to a seller pursuant to this Section on the
17 premises of the operator's place of business, including but not limited to the use of
18 an automatic teller machine.

19 D. Violations of this Section shall be subject to the penalties provided for in
20 R.S. 37:1974 and 1975.

21 §1974. Violations; penalty

22 A. Any licensed operator who violates, neglects, or refuses to comply with
23 any provision of this Chapter, shall be fined not less than one thousand dollars, nor
24 more than ten thousand dollars or be imprisoned for not less than thirty days nor
25 more than sixty days, or both.

26 B. For the second offense, his occupational license shall be suspended for
27 a thirty-day period. For a third offense, his occupational license shall be revoked and
28 he shall not thereafter be permitted to engage in the business of scrap metal recycling
29 in the state of Louisiana.

1 C. Any operator convicted of selling stolen goods shall have his occupational
2 license revoked.

3 D. The occupational license tax collector is hereby vested with the authority,
4 upon motion in a court of competent jurisdiction, to rule the noncomplying operator
5 to show cause in not less than two nor more than ten days, exclusive of holidays, as
6 to why the noncomplying operator's retail occupational license should not be
7 suspended or revoked as prescribed under this Chapter. This rule may be tried out
8 of term and in chambers and shall be tried with preference and priority. If the rule
9 is made absolute, the order rendered therein shall be considered a judgment in favor
10 of the municipality or parish.

11 §1975. Failure to comply; penalty

12 A. Anyone acting as an unlicensed operator without complying with the
13 provisions of this Chapter shall be fined not less than one thousand dollars or be
14 imprisoned not less than thirty days nor more than sixty days, or both.

15 B. For a second offense, the offender shall be fined not less than five
16 thousand dollars or be imprisoned with or without hard labor for not more than two
17 years, or both.

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

21 Section 2. This Act shall become effective upon signature by the governor or, if not
22 signed by the governor, upon expiration of the time for bills to become law without signature
23 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
24 vetoed by the governor and subsequently approved by the legislature, this Act shall become
25 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. 1188

Abstract: Establishes the "Louisiana Scrap Metal Recyclers Law".

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.

Present law prohibits a secondhand dealer from entering into any cash transactions in payment for the purchase of junk or used or secondhand property. Payment shall be made in the form of check, electronic transfers, or money order issued to the seller of the junk or used or secondhand property and made payable to the name and address of the seller. All payments made by check, electronic transfers, or money order shall be reported separately in the daily reports required by present law.

Proposed law prohibits a secondhand dealer from entering into any cash transactions in payment for the purchase of copper. Proposed law requires payment for copper to be made in the form of a check issued to the seller of the metal and mailed to the address recorded on the photo identification of the seller no earlier than five business days after the date of the transaction.

Proposed law prohibits a secondhand dealer from entering into any cash transactions in excess of \$300 for the purchase of metal property other than copper. Payments in excess of \$300 for metals other than copper are to be made in the form of a check issued to the seller of the metal and may be tendered to the seller at the time of the transaction. The secondhand dealer, at his discretion, may make payment by either cash or other method for transactions of \$300 or less for all metals other than copper.

Proposed law requires all payments made by check to be reported separately in the daily reports required by proposed law.

Proposed law prohibits a secondhand dealer from allowing a seller to engage in multiple small transactions for the purpose of circumventing proposed law.

Proposed law prohibits a secondhand dealer from cashing, offering to cash, or providing the means for exchanging for cash a check issued to a seller on the premises of the secondhand dealer's place of business, including but not limited to the use of an automatic teller machine.

Proposed law provides that violations shall be subject to the penalties provided for in proposed law.

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

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 "railroad track materials" as steel in the form of railroad tracks or in the form of rail, switch components, spikes, angle bars, tie plates, or bolts of the type used in constructing railroads, or any combination of such materials.

Proposed law defines "scrap metal" as metal materials which are purchased for resale to be recycled, including but not limited to 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. The term shall not include precious metals, including but not limited to gold, silver, and platinum.

Proposed law defines "scrap metal recycling facility" as any physical entity that has the function of recycling scrap metal.

Proposed law defines "used building component" as any object produced or shaped by human workmanship or tools that is an element of structural, architectural, archaeological, historical, ornamental, cultural, utilitarian, decorative, or sentimental significance or interest, which has been and may be used as an adjunct to or component or ornament of any building or structure, regardless of monetary worth, age, size, shape, or condition, that is immovable property, or fixture or component parts of immovable property of any nature or kind whatsoever.

Proposed law defines "water utility materials" to include but not be limited to water meters, valves, pipes, and fittings.

Proposed law provides that no person shall do business as a scrap metal recycler in this state without having first obtained the occupational license required by law. Proposed law further provides that any person desiring a license as a scrap metal recycler shall make application in writing, specifying the street number and house number of the building where the business is to be carried on.

Proposed law requires an applicant to also submit with his application a bond in favor of the city or parish, as the case may be, where the business is to be established in the sum of \$2,500 with security conditioned for the due observance of all provisions of proposed law.

Proposed law provides that the provisions of proposed law shall not apply to:

- (1) Dealers in coins and currency, dealers in antiques, nor to gun and knife shows or other trade and hobby shows.
- (2) Persons solely engaged in the business of buying, selling, trading in, or otherwise acquiring or disposing of motor vehicles and used parts of motor vehicles, excluding tires and rims, nor to wreckers or dismantlers of motor vehicles who are licensed pursuant to present law.
- (3) Private residential sales commonly known as "garage sales" or "yard sales" as long as such sales take place at a residential address.
- (4) Any bona fide charity possessing a valid exemption under Section 501(c)(3) of the Internal Revenue Code.
- (5) The operations of a company that has received a permit, registration, or other authorization from the Dept. of Environmental Quality for the collection, transportation, treatment, storage, processing, or disposal of solid waste as defined in R.S. 30:2153.
- (6) Persons operating as licensed pawnbrokers.
- (7) The purchase of firearms for disposal from a law enforcement agency.

- (8) The purchase of materials from any manufacturing, industrial, or other commercial vendor that generates the materials as a byproduct or recyclable waste or sells such materials in the ordinary course of its business.

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 official issuing the license 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 prohibits an operator from entering into any transactions for the purchase of scrap metal before the hour of 7:00 a.m. nor after the hour of 7:00 p.m. except on Saturdays and during the month of Dec., during which time the hour of 7:00 p.m. shall be extended to 10:00 p.m.

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 each 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. 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 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 that is not registered or reported, received it knowing it to be stolen.

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 requires every operator to obtain a photograph of all scrap metal purchased.

Proposed law requires the quality of the photograph to be sufficient to readily identify each type of scrap metal depicted. Proposed law further requires the operator to obtain multiple photographs if necessary to properly record the scrap metal purchased.

Proposed law requires each photograph to be cross-referenced with the ledger entry required by proposed law.

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 18.

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

Proposed law prohibits an operator from purchasing precious metals.

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 operator to exact a statement from the seller shall be prima facie evidence of the fraudulent intent and guilty knowledge on the part of the operator, 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 prohibits an operator from purchasing any of the following materials without a signed statement from the appropriate company or governmental entity consenting to the sale of the materials identified in the statement:

- (1) Infrastructure grade regulated material that has been burned to remove insulation, unless the seller can produce written proof that the regulated material was lawfully burned.
- (2) Burnt wire.
- (3) Regulated material where the manufacturer's make, model, serial or personal identification number, or other identifying marks engraved or etched upon the material have been conspicuously removed or altered.
- (4) Regulated material marked with the name, initials, or otherwise identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company, or a governmental entity.
- (5) A utility access cover.
- (6) A water meter cover.
- (7) A road or bridge guard rail.
- (8) A highway or street sign.
- (9) A traffic directional or control sign or signal.
- (10) A metal beer keg that is clearly marked as being the property of the beer manufacturer.
- (11) A catalytic converter that is not part of an entire motor vehicle.

Proposed law requires the statement to include the name of the company or governmental entity 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 materials. Proposed law further requires the operator to retain the statement.

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 produce 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 12:00 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 the official the personally identifiable information relating to the

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 requires every operator, in addition to the daily report required by proposed law, to transmit, every day before the hour of 12:00 noon, the information contained in the entries in the book required in proposed law during the previous day to an electronic database accessible by law enforcement.

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 prohibits a scrap metal recycler from entering into any cash transactions for copper. Proposed law requires payment for copper to be made in the form of a check issued to the seller of the metal and mailed to the address recorded on the photo identification of the seller no earlier than five business days after the date of the transaction.

Proposed law prohibits a scrap metal recycler from entering into any cash transactions in excess of \$300 for the purchase of metal property other than copper. Payments in excess of \$300 for metals other than copper are to be made in the form of a check issued to the seller of the metal and may be tendered to the seller at the time of the transaction. The scrap metal recycler, at his discretion, may make payment by either cash or other method for transactions of \$300 or less for all metals other than copper.

Proposed law requires all payments made by check to be reported separately in the daily reports required by proposed law.

Proposed law prohibits a scrap metal recycler from allowing a seller to engage in multiple small transactions for the purpose of circumventing proposed law.

Proposed law prohibits a scrap metal recycler from cashing, offering to cash, or providing the means for exchanging for cash a check issued to a seller on the premises of the scrap metal recycler's place of business, including but not limited to the use of an automatic teller machine.

Proposed law provides that violations shall be subject to the penalties provided for in proposed law.

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 \$1,000, nor more than \$10,000 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 La.

Proposed law authorizes the occupational license tax collector to rule, upon motion in a court of competent jurisdiction, the noncomplying operator to show cause in not less than two nor more than 10 days, exclusive of holidays, as to why the noncomplying operator's retail occupational license should not be suspended or revoked.

Proposed law provides that this rule may be tried out of term and in chambers and shall be tried with preference and priority. If the rule is made absolute, the order rendered therein shall be considered a judgment in favor of the municipality or parish.

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 \$1,000 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 less than \$5,000 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 less than \$10,000 or be imprisoned with or without hard labor for not more than five years, or both.

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

(Amends R.S. 37:1861(B)(intro. para.) and 1864.3; Adds R.S. 37:1861(B)(6) and 1961-1975)

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. Requires operators to obtain a photograph of scrap metal purchased.
2. Makes technical changes.