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## SENATE BILL NO. 1140

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 59.1-123, 59.1-129, and 59.1-130 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 9 of Title 59.1 an article numbered 4, consisting of sections numbered 59.1-136.1 through 59.1-136.4, relating to scrap metal processors; penalty.

Patron—Wagner

Referred to Committee on Commerce and Labor

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 59.1-123, 59.1-129, and 59.1-130 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 9 of Title 59.1 an article numbered 4, consisting of sections numbered 59.1-136.1 through 59.1-136.4 as follows:**

§ 59.1-123. Exemptions from article.

The provisions of this article shall not apply to the:

1. The sale of secondhand materials mentioned in § 59.1-117 taken from premises occupied by the owner, when sold by such owner on the premises; nor shall the provisions of this article apply to the sale of such articles when purchased from a public utilities corporation at its place of business or a governmental agency; or

2. Scrap metal processors as provided in Article 4 (§ 59.1-136.1 et seq.).

§ 59.1-129. Requirements when articles mentioned in § 59.1-128 are bought, exchanged, etc.

A. Any person, firm or corporation which shall barter, purchase, exchange, buy or accept any of the articles mentioned in § 59.1-128, shall comply with the provisions of § 59.1-126 and shall, in addition, tag each lot of said articles with the name of the seller and the date of receipt and shall retain each such lot in his possession so tagged for thirty days in such manner that its separate identity shall be preserved; provided that the requirements of this section for tagging said articles and retaining them in possession shall not be applicable if the receipt or bill of sale required by § 59.1-126 shall contain an authorization naming the agent who delivers the articles and signed by an officer, or by the proprietor, of the manufacturer, or coal mining, industrial, manufacturing, public utility company, governmental agency, licensed junk dealer, licensed scrap metal dealer, licensed electrical contractor or licensed merchant, giving such authorization.

B. Notwithstanding anything in subsection A to the contrary, the provisions of this article, except as specifically provided in § 59.1-130, shall not apply to scrap metal processors as provided in Article 4 (§ 59.1-136.1 et seq.).

§ 59.1-130. Punishment for violation of § 59.1-128, § 59.1-129, or Article 4.

Any person violating any of the provisions of § 59.1-128 or, § 59.1-129, or Article 4 (§ 59.1-136.1 et seq.) shall be confined in the penitentiary not less than one year nor more than two years, or in the discretion of the court or the jury trying the case, shall be fined not less than \$100 nor more than \$1,000, or confined in jail for any term not exceeding twelve months, or both. Possession of secondhand articles in violation of the provisions of the above sections shall be prima facie evidence of guilt.

**Article 4.****Scrap Metal Processors.**

§ 59.1-136.1. Definitions.

For the purpose of this article:

"Authorized scrap seller" means licensed plumbers, electricians, HVAC contractors, building and construction contractors, public utilities, transportation companies, licensed peddlers and brokers, industrial and manufacturing companies, demolition contractors, marine, automobile and aircraft salvage and wrecking companies, and government entities.

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

"Metal article" means any manufactured item, consisting of metal, that is usable for its originally intended purpose without processing, repairs or alteration and that is not otherwise excluded by the definitions in this section. Examples include, without limitation, manhole covers, railings, copper or aluminum wire, copper pipe and tubing, bronze cemetery plaques, urns and markers, plumbing fixtures and cast-iron radiators.

"Nonferrous scrap" means any scrap metal consisting primarily of metal other than iron or steel, but

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59 does not include aluminum beverage cans; postconsumer household items such as pots, pans, barbecue  
60 grills and lawn chairs; used items such as wire flashing, gutters and downspouts removed during  
61 building renovation or demolition; or small quantities of nonferrous metals contained in large  
62 manufactured articles, such as automobile bodies and appliances.

63 "Proprietary article" means any metal article stamped, engraved, stenciled or otherwise marked so  
64 as to identify it as being or having been the property of a governmental entity, public utility,  
65 transportation, mining or manufacturing company.

66 "Scrap metal" means any manufactured item or article consisting of or containing metal; any metal  
67 removed from or obtained by cutting, demolishing or disassembling any building, structure,  
68 manufactured item or article; and any other metal that is no longer used for its original purpose and  
69 that can be processed for reuse in mills, foundries and other manufacturing facilities.

70 "Scrap metal processor" means a business entity in good standing authorized to conduct business in  
71 the Commonwealth, that regularly utilizes machinery and equipment at one or more established  
72 locations in the normal course of business for processing and manufacturing scrap metal into prepared  
73 grades for sale as raw material to mills, foundries and other manufacturing facilities.

74 § 59.1-136.2. Purchases of ferrous scrap.

75 Scrap metal processors may purchase ferrous scrap directly from any person.

76 § 59.1-136.3. Purchases of nonferrous scrap, metal articles, and proprietary articles.

77 A. Scrap metal processors may purchase nonferrous scrap, metal articles, and proprietary articles  
78 from any person who is not an authorized scrap seller or the authorized agent and employee of an  
79 authorized scrap seller only in accordance with the following requirements and procedures:

80 1. At the time of sale, the seller of any nonferrous scrap, metal article or proprietary article shall  
81 provide a driver's license or other current photographic identification including the seller's full name,  
82 current address, date of birth and social security or other recognized identification number; and

83 2. The scrap metal processor shall record the seller's identification information, as well as the time  
84 and date of the transaction, the license number of the seller's vehicle, and a description of the items  
85 received from the seller, in a permanent ledger maintained at the scrap metal processor's place of  
86 business. The ledger shall be made available upon request to any law-enforcement official providing his  
87 credentials at the scrap metal processor's normal business location during regular business hours.  
88 Records required by this subdivision shall be maintained by the scrap metal dealer at its normal place  
89 of business or at another readily accessible and secure location for at least five years.

90 B. Upon compliance with the other requirements of this section, scrap metal processors may  
91 purchase proprietary articles from a person who is not an authorized scrap seller or the authorized  
92 agent and employee of an authorized scrap seller if the scrap dealer complies with one of the following:

93 1. The scrap dealer receives from the person seeking to sell the proprietary articles documentation,  
94 such as a bill of sale, receipt, letter of authorization or similar evidence, establishing that the person  
95 lawfully possesses the proprietary articles to be sold; or

96 2. The scrap dealer, after purchasing a proprietary article from a person without obtaining the  
97 documentation described in subdivision 1, submits a report to the local police or sheriff's department, by  
98 the close of the following business day, describing the proprietary article and including a copy of the  
99 seller's identifying information, and holds the proprietary article for not less than 15 days following  
100 purchase.

101 C. Scrap metal processors may purchase nonferrous scrap, metal articles and proprietary articles  
102 directly from an authorized scrap seller and from the authorized agent or employee of an authorized  
103 scrap seller without complying with the requirements of subsections A or B.

104 § 59.1-136.4. Local ordinances.

105 Local ordinances pertaining to scrap metal processors shall conform to the requirements of this  
106 article.

107 2. That the provisions of this act may result in a net increase in periods of imprisonment or  
108 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot  
109 be determined for periods of imprisonment in state adult correctional facilities and is \$0 for  
110 periods of commitment to the custody of the Department of Juvenile Justice.