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HOUSE BILL NO. 1698

Offered January 14, 2009

Prefiled January 5, 2009

A *BILL to amend and reenact §§ 59.1-136.2, 59.1-136.3, and 59.1-136.6 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 59.1-136.3:1 and 59.1-136.3:2, relating to scrap metal processors; penalty.*

 Patron—Lohr

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-136.2, 59.1-136.3, and 59.1-136.6 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 59.1-136.3:1 and 59.1-136.3:2 as follows:

§ 59.1-136.2. Purchases of ferrous scrap.

Except as provided in §§ 59.1-136.3:2 and 59.1-136.4, scrap metal processors may purchase ferrous scrap directly from any person.

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

A. Except as provided in §§ 59.1-136.3:2 and 59.1-136.4, scrap metal processors may purchase nonferrous scrap, metal articles, and proprietary articles from any person who is not an authorized scrap seller or the authorized agent and employee of an authorized scrap seller only in accordance with the following requirements and procedures:

1. At the time of sale, the seller of any nonferrous scrap, metal article, or proprietary article shall provide a driver's license or other government-issued current photographic identification *indicating that the individual is not less than 18 years of age*, including the seller's full name, current address, date of birth, and ~~social security or other recognized identification~~ driver's license number. A scrap metal processor shall not purchase nonferrous scrap, metal articles, or proprietary articles from any individual who is not an authorized scrap seller or the authorized agent and employee of an authorized scrap seller if the individual is unable or refuses to provide the identification and information required by this subdivision; and

2. The scrap metal processor shall record the seller's ~~identification information~~ full name, current address, date of birth, and driver's license number, as well as (i) the time and date of the transaction, (ii) the license number of the seller's vehicle, and (iii) a description of the items received from the seller, (iv) *the total price paid for the items received from the seller*, and (v) *the price paid per unit of measurement, such as per ounce or pound, for the items received from the seller*, in a permanent ledger maintained at the scrap metal processor's place of business. The ledger shall be made available upon request to any law-enforcement official, conservator of the peace, or special conservator of the peace appointed pursuant to § 19.2-13, in the performance of his duties who presents his credentials at the scrap metal processor's normal business location during regular business hours. Records required by this subdivision shall be maintained by the scrap metal ~~dealer~~ processor at its normal place of business or at another readily accessible and secure location for at least ~~five~~ two years.

B. Upon compliance with the other requirements of this section, § 59.1-136.3:2, and § 59.1-136.4, a scrap metal processor may purchase proprietary articles from a person who is not an authorized scrap seller or the authorized agent and employee of an authorized scrap seller if the scrap metal processor complies with one of the following:

1. The scrap metal processor receives from the person seeking to sell the proprietary articles documentation, such as a bill of sale, receipt, letter of authorization, *certificate of ownership*, or similar evidence; ~~establishing~~ *establishing or acknowledging* that the person lawfully possesses the proprietary articles to be sold; or

2. The scrap metal processor shall document a diligent inquiry into whether the person selling or delivering the same has a legal right to do so, and, after purchasing a proprietary article from a person without obtaining the documentation described in subdivision B 1, shall submit a report to the local police or sheriff's department, by the close of the following business day, describing the proprietary article and including a copy of the seller's identifying information, and hold the proprietary article for not less than 15 days following purchase.

C. ~~Scrap~~ Except as provided in § 59.1-136.3:2, scrap metal processors may purchase nonferrous scrap, metal articles, and proprietary articles directly from an authorized scrap seller and from the authorized agent or employee of an authorized scrap seller.

INTRODUCED

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59 § 59.1-136.3:1. *Right of law-enforcement officers to inspect scrap metal and records.*

60 *During the regular business hours of a scrap metal processor, a law-enforcement officer, as defined*
61 *in § 65.2-102, shall have the right to inspect, without a warrant or subpoena, (i) any scrap metal in the*
62 *possession of a scrap metal processor, (ii) any records required to be maintained by a scrap metal*
63 *processor pursuant to this chapter, or (iii) both (i) and (ii).*

64 § 59.1-136.3:2. *Sales of certain scrap metal items prohibited; exemption.*

65 *A. Notwithstanding any provision of this chapter to the contrary, it shall be unlawful for any person*
66 *to sell or attempt to sell to a scrap metal processor, and it shall be unlawful for a scrap metal*
67 *processor to purchase or attempt to purchase, any scrap metal that the person or scrap metal processor*
68 *knows is:*

69 *1. Any form of copper, aluminum, brass, lead, or other nonferrous metal of any kind, specifically*
70 *including, but not limited to: (i) catalytic converters or any materials derived from a catalytic converter,*
71 *(ii) steel railroad track and track material, and (iii) metal beverage containers with a capacity of more*
72 *than two liters that are marketed as returnable;*

73 *2. Scrap metal marked with the initials of an electric, telephone, cable, or other public utility;*

74 *3. Utility access covers;*

75 *4. Street light poles and fixtures;*

76 *5. Road and bridge guard rails;*

77 *6. Highway or street signs;*

78 *7. Water meter covers;*

79 *8. Traffic directional and control signs;*

80 *9. Traffic light signals;*

81 *10. Scrap metal visibly marked with the name of a government entity, business entity, or the owner*
82 *of the metal;*

83 *11. Property owned by a telephone, cable, electric, water, or other utility or a railroad, and marked*
84 *or otherwise identified as such;*

85 *12. Unused and undamaged historical markers, grave markers, or vases; and*

86 *13. Mining cable still in insulation or covering.*

87 *B. Subsection A shall not prohibit the sale or attempted sale, or purchase or attempted purchase, of*
88 *any scrap metal if the person attempting to sell the scrap metal provides documentation, such as a bill*
89 *of sale, receipt, letter of authorization, certificate of ownership, or similar evidence, establishing or*
90 *acknowledging that the seller is the owner of the scrap metal or is an employee, agent, or other person*
91 *authorized to sell the scrap metal on behalf of the owner. The scrap metal processor shall make a*
92 *photocopy of any documentation provided pursuant to this subsection and retain the copy as part of the*
93 *transaction record.*

94 § 59.1-136.6. *Penalties.*

95 *A. Any scrap metal processor who negligently violates any provisions of this article may be assessed*
96 *a civil penalty not to exceed \$7,500 for each violation. Any attorney for the county, city, or town in*
97 *which an alleged violation of this article occurred may bring a civil action to recover such a civil*
98 *penalty. The civil penalty shall be paid into the local treasury.*

99 *B. Any scrap metal processor person who knowingly violates any provisions of this article shall be*
100 *guilty of a Class 1 misdemeanor.*