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HOUSE BILL NO. 1698

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 4, 2009)

(Patron Prior to Substitute— Delegate Lohr)

A BILL to amend and reenact § 59.1-136.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-136.3:1, relating to scrap metal processors.

Be it enacted by the General Assembly of Virginia:

1. That § 59.1-136.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 59.1-136.3:1 as follows:

§ 59.1-136.1. Definitions.

For the purpose of this article:

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

"Ferrous scrap" means any scrap metal consisting primarily of iron, steel, or both, but excluding any scrap metal consisting primarily of stainless steel. Ferrous scrap includes 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 (i) stainless steel or (ii) any metal other than iron or steel. Nonferrous scrap does not include aluminum beverage cans; postconsumer household items such as pots, pans, barbecue grills, and lawn chairs; used items such as wire flashing, gutters, and downspouts removed during building renovation or demolition; or small quantities of nonferrous metals contained in large manufactured articles, such as automobile bodies and appliances.

"Proprietary article" means (i) any metal article stamped, engraved, stenciled, or otherwise marked so as to identify it as being or having been the property of a governmental entity or public utility, transportation, shipbuilding, ship repair, mining or manufacturing company; (ii) any hard drawn copper electrical conductor, cable, or wire that is three-eighths of one inch or greater in diameter, stranded or solid; (iii) any aluminum conductor, cable, or wire three quarters of one inch or greater in diameter, stranded or solid; ~~or~~ (iv) stainless steel beer kegs; or (v) any catalytic converter from an motor vehicle exhaust system that has been detached from a motor vehicle.

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

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

§ 59.1-136.3:1. *Right of law-enforcement officers to inspect scrap metal and records; notice prior to inspection; compliance with workplace safety requirements.*

During the regular business hours of a scrap metal processor, a law-enforcement officer, as defined in § 65.2-102, shall have the right to inspect, without a warrant or subpoena, (i) any scrap metal in the possession of a scrap metal processor, (ii) any records required to be maintained by a scrap metal processor pursuant to this chapter, or (iii) both (i) and (ii). Prior to conducting such an inspection, the law-enforcement officer shall first notify the employee of the scrap metal processor who has managerial responsibility for the facility at the time of the inspection. In conducting such an inspection, the law enforcement officer shall comply with all applicable federal and state workplace safety laws and regulations.