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HOUSE BILL NO. 2143

Offered January 14, 2015

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A BILL to amend and reenact §§ 59.1-116.1, 59.1-117, 59.1-118, 59.1-119.1 through 59.1-123, 59.1-126, 59.1-128, 59.1-129, 59.1-136.3, and 59.1-136.5 of the Code of Virginia and to repeal § 59.1-119 of the Code of Virginia, relating to transactions involving building material; licensing and other requirements on collectors and purchasers of secondhand or scrap materials, equipment, or fixtures.

Patron—Yancey

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-116.1, 59.1-117, 59.1-118, 59.1-119.1 through 59.1-123, 59.1-126, 59.1-128, 59.1-129, 59.1-136.3, and 59.1-136.5 of the Code of Virginia are amended and reenacted as follows:

Article 1.

Building Fixtures Material.**§ 59.1-116.1. Definitions.**

As used in this article, unless the context requires a different meaning:

"Authorized scrap metal purchaser" has the same meaning as provided for the term "scrap metal purchaser" in § 59.1-136.1.

"Authorized scrap seller" means any licensed plumber, electrical contractor, HVAC contractor, or building and construction contractor.

"Building material" means any secondhand (i) heating or plumbing fixture or supplies, (ii) electric fixtures, or any wiring, (iii) gas fixtures or appliances, (iv) water faucets, (v) pipes, (vi) locks, or any (vii) bathtubs, (viii) gutters or downspouts, or (ix) other secondhand fixtures of any kind or description used in the construction of, attached to, or otherwise appurtenant to a building or structure. "Building material" includes any nonferrous scrap or proprietary article, whether or not used in the construction of, attached to, or otherwise appurtenant to a building or structure.

"Junk dealer" "Building material collector" means a person who regularly engages in the business of purchasing, acquiring, or canvassing secondhand that collects, salvages, or otherwise acquires building material, including all nonferrous scrap metal, proprietary articles, or both, for the purpose of resale and has conducted transactions involving, or has offered for sale, more than 600 pounds combined weight of secondhand building material or enters into more than 26 combined transactions annually. "Junk dealer" does not include a "scrap metal purchaser" as defined in § 59.1-136.1.

"Building material purchaser" means a person engaged in business operations in the course of which it regularly acquires, receives, or purchases building material for the purpose of resale to a scrap metal purchaser.

"Nonferrous scrap" has the same meaning ascribed to the term in § 59.1-136.1.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, or other private commercial entity.

"Regularly engaged" with respect to purchasing or acquiring secondhand building material means having conducted transactions involving, or having offered for sale, more than 600 pounds combined weight of secondhand building material or enters into more than 26 combined transactions annually.

"Proprietary article" has the same meaning ascribed to the term in § 59.1-136.1.

"Scrap metal purchaser" has the same meaning ascribed to the term in § 59.1-136.1.

§ 59.1-117. Salvage license required for trading in building material.

Except as otherwise provided in this chapter, no person building material collector or building material purchaser shall sell or offer for sale or acquire any secondhand heating or plumbing fixtures or supplies, electric fixtures or any wiring, gas fixtures or appliances, water faucets, pipes, locks, bathtubs, gutters, downspouts, or other secondhand fixtures of whatever kind or description pertaining to a building or structure, without first obtaining a permit for the sale or acquisition of the same from building material unless such person holds a valid salvage license issued pursuant to § 59.1-118 by the chief of police of the city or town or the sheriff of the county in which such property the building material is sold or offered for sale or acquisition acquired.

§ 59.1-118. Salvage license issued by chief of police or sheriff; revocation.

A. The chief of police of a city or the sheriff of a county may issue, to persons regularly engaged in the business of collecting secondhand building materials for resale, any building material collector or building material purchaser a semiannual or annual permit covering all sales and acquisitions made by

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59 ~~such persons salvage license authorizing the licensee to sell or offer for sale or acquire building~~
60 ~~material within such locality.~~

61 B. The chief of police or sheriff may refuse to issue a ~~permit salvage license~~, and may revoke any
62 ~~permit salvage license~~ issued, to any person convicted of a felony or crime of moral turpitude within the
63 three years prior to the request for ~~issuance or renewal of the permit salvage license~~.

64 C. The applicant shall file with the chief of police or sheriff, or his designee, an application form
65 that shall include the applicant's full name, address, age, sex, and fingerprints; the name, address, and
66 telephone number of the applicant's employer, if any; and the location of the applicant's place of
67 business.

68 D. A ~~permit salvage license~~ shall be valid for one year from the date of issuance and may be
69 renewed in the same manner as ~~such permit the salvage license~~ was initially obtained.

70 E. A fee of not more than \$50 may be charged annually for the issuance of the ~~permit salvage~~
71 ~~license, including any renewal thereof~~.

72 **§ 59.1-119.1. Building material collector required to display salvage license and obtain receipt**
73 **or bill of sale.**

74 Every dealer making a sale or purchase of a secondhand fixture pursuant to the provisions of this
75 article At the time of purchasing, collecting, receiving, or otherwise acquiring building material, each
76 building material collector shall first display to each person from whom the building material is
77 acquired the ~~permit salvage license~~ required to be obtained by the building material collector pursuant
78 to § 59.1-117 and also display positive photo identification to the purchaser or seller of such fixture.

79 B. Every building material collector purchasing, collecting, receiving, or otherwise acquiring
80 building material shall provide to the person from whom the building material is acquired a properly
81 dated written receipt or bill of sale signed by such person. The receipt or bill of sale shall state
82 specifically the name, date of birth, residence address, place of employment, driver's license number,
83 and business and home telephone numbers, if any, of the person from whom the building material is
84 acquired. If the person from whom the building material is acquired is not personally known to the
85 building material collector or is unable to write his name, such person shall produce an adult witness
86 personally known to the building material collector to identify the person and sign the receipt or bill of
87 sale as witness. The building material collector shall retain a copy of the receipt or bill of sale and
88 provide a copy thereof to a building material purchaser when required pursuant to § 59.1-120.

89 **§ 59.1-120. Sales to building material purchaser; purchasing building material from unlicensed**
90 **collector prohibited; recordkeeping requirements.**

91 A. At the time of purchasing, collecting, receiving, or acquiring a secondhand selling building fixture
92 material to a building material purchaser, the dealer building material collector shall be required to (i)
93 first display to the building material purchaser a salvage license issued to the building material
94 collector pursuant to § 59.1-118 and (ii) provide to the building material purchaser:

- 95 1. The date and time of the secondhand building fixture's building material's acquisition; and
- 96 2. The address from which the property building material was acquired and, if available, a;
- 97 3. The name, date of birth, residence address, place of employment, driver's license or other form of
98 government identification to include the name and date of birth number, and business and home
99 telephone numbers, if any, of the person from whom the building material was collected; and

100 4. A copy of the receipt or bill of sale acquired when the building material collector acquired the
101 building material as required by subsection B of § 59.1-119.1.

102 B. Every dealer building material purchaser shall keep at his place of business a permanently bound
103 book or ledger in which shall be legibly written with ink in English at the time of each transaction in
104 the course of the dealer's transaction involving a secondhand building fixture material that is collected,
105 received, acquired, or purchased by the dealer building material purchaser. Such account shall set forth:

- 106 1. A complete and accurate description of the secondhand building fixture material that is the subject
107 of the transaction;
- 108 2. All information prescribed in subsection A regarding location and, if available, the name and date
109 of birth of the person with whom the dealer conducts the transaction;
- 110 3. The license number of the automobile or other vehicle in which the secondhand building fixture
111 was delivered or received; and

112 4. The number of the ~~permit salvage license~~ issued pursuant to § 59.1-118 by the chief of police of
113 the city or town, or the sheriff of the county, in which the transaction involving a secondhand building
114 fixture occurred material was (i) reportedly acquired by the building material collector and (ii) sold to
115 the building material purchaser.

116 C. Records required by subsection B shall be maintained by the dealer building material purchaser at
117 its normal place of business or at another readily accessible and secure location for a period of 24
118 months.

119 D. It shall be unlawful for any building material purchaser to purchase or otherwise acquire
120 building material from any person unless the person displays to the building material purchaser the

salvage license required to be obtained by the building material collector pursuant to § 59.1-117.

E. Any building material purchaser shall make any payment for its purchases of building material in the form of a check issued in the name of the building material collector as stated on its salvage license.

§ 59.1-121. Reports to be made to chief of police or sheriff.

Every ~~junk dealer~~ building material collector and building material purchaser selling or acquiring secondhand building materials of the kind mentioned in ~~§ 59.1-117~~, including persons regularly engaged in the business of collecting or acquiring secondhand building materials for the purpose of resale to a scrap metal purchaser, material shall deliver:

1. If the purchase, acquisition, or receipt of the secondhand building fixture material occurred in a city or town, to the chief of police of the city or town in which such goods were where the building material was bought, collected, or received, every day except Sunday before noon, on blank forms to be prescribed and furnished by the chief of police of such city or town:

a. A legible and accurate description of every secondhand building fixture material purchased, acquired, or received by him during the next preceding business day;

b. The date and time of the secondhand building fixture's material's acquisition;

c. If the person is a dealer, the The number of his permit the person's salvage license issued pursuant to § 59.1-118;

d. The license number of any automobile or other vehicle in which the secondhand building fixture material was collected or received;

e. If available, the name and date of birth of the person with whom the dealer building material collector or building material purchaser conducted the transaction; and

f. If the person is a dealer building material purchaser, a reference to the volume and number of the page where the original entry required by subsection B of § 59.1-120 is made; or

2. If the purchase, acquisition, or receipt of the secondhand building fixture material occurred in a county, the same information required by subdivision 1 shall be furnished to the sheriff of the county in which such goods were the building material was bought, collected, or received not later than midday of the Saturday following the purchase or receipt of such goods the building material, but the sheriff shall not be required to prepare or furnish blank forms for such reports for use in the county, and the dealer building material collector or building material purchaser may submit any report which that fairly conforms to the requirements of subdivision 1.

§ 59.1-122. Books and places of business open to inspection.

The books required by this article to be kept, and the places of business of all persons engaged in the acquiring, selling, receiving, or purchasing of the articles mentioned in ~~§ 59.1-117~~ building material, shall at all reasonable times be open to the inspection of any police officer, sheriff, or deputy of the county, city, or town in which such place of business is located.

§ 59.1-123. Exemptions from article.

The provisions of this article shall not apply to:

1. The sale of secondhand building material mentioned in ~~§ 59.1-117~~ taken from premises occupied by the owner, when sold by such owner on the premises, or the sale of such articles building material when purchased from a public utility corporation at its place of business or a governmental agency;

2. ~~Scrap~~ Any scrap metal purchasers processor as provided such term is defined in Article 4 (§ 59.1-136.1 et seq.);

3. ~~Authorized~~ Any authorized scrap sellers seller as such term is defined in § 59.1-136.1;

4. Public utilities;

5. Public transportation companies;

6. Peddlers permitted under ~~§ 59.1-118~~;

7. Industrial and manufacturing companies;

8. 7. Marine, automobile, and aircraft salvage and wrecking companies; or

9. 8. Governmental entities.

§ 59.1-126. Receipt or bill of sale to be taken by buyer; sales procedures.

A. As used in this section:

"Covered article" means any secondhand steel, copper, copper wire, aluminum, aluminum wire, brass, brass bearings or fittings, electric light or gas fixtures, locks or other builders hardware, plumbing fixtures, bell or bell fixtures, lead or brass water pipes or any part of such fixtures or pipes, or any wire, cable, lead, solder, copper, iron, or brass used by or belonging to a railroad, telephone, telegraph, coal mining, industrial, manufacturing, or public utility company.

"Law-enforcement officer" has the same meaning ascribed to the term in § 9.1-101.

B. Any person buying a covered article from any person other than (i) a plumber, (ii) the owner of buildings from which the covered article is taken, (iii) a railroad, coal mining, industrial, manufacturing, or public utility company, (iv) a building material seller holding a salvage license issued

182 pursuant to § 59.1-117, or (v) the authorized agent of a person identified in clause (i), (ii), or (iii), at
 183 public or private sale, any such secondhand articles as are mentioned in § 59.1-125, except those
 184 excepted in said section, shall:

185 1. Take from the seller a properly dated written receipt or bill of sale signed by such seller, which
 186 receipt shall therein state specifically the seller's name, residence address, business place of employment,
 187 social security number, vehicle license number, and place of residence business and home telephone
 188 numbers, if any. If a the seller of such articles be is not personally known to the buyer or if the seller
 189 be is unable to write his name, such seller shall produce an adult witness personally known to the buyer
 190 to identify the seller and also to sign such the receipt or bill of sale as witness, the latter also stating
 191 therein. In such event, the witness shall provide his full name, occupation, and place of residence, which
 192 information shall be included on the receipt or bill of sale. Such receipt or bill of sale shall (i)
 193 specifically set forth, by include an accurate description giving of each covered article purchased, which
 194 description shall include the character, kind, quality, weight, length or size, and other detailed
 195 description details sufficient to accurately identify the same, each of such articles covered article so
 196 purchased and shall be retained by the buyer at his place of business for a period of six months after
 197 such purchase; and

198 2. Make any payment for such articles purchased of \$1,000 or more in the form of a check issued in
 199 the name of the building material collector as stated on its salvage license;

200 3. Collect from the seller the thumbprints of both hands;

201 4. Make a copy of the seller's driver's license or other form of government identification that
 202 includes the seller's name, residence address, and date of birth;

203 5. Make a copy of the vehicle registration card of any motor vehicle in which the covered article
 204 was delivered, if any;

205 6. Attach the materials required pursuant to subdivisions 2, 3, and 4 to the receipt or bill of sale
 206 required pursuant to subdivision 1;

207 7. Take a photograph of any covered article purchased;

208 8. Retain at his place of business, for a period of six months after such purchase, the receipt or bill
 209 of sale, the thumbprints required pursuant to subdivision 3, the copy of the driver's license or other
 210 form of identification required pursuant to subdivision 4, the copy of the motor vehicle registration card
 211 required pursuant to subdivision 5, and photographs of the covered articles required pursuant to
 212 subdivision 7;

213 9. Make the receipt or bill of sale, with the materials required pursuant to subdivisions 3, 4, and 5
 214 to be attached thereto, and photographs of the covered articles required pursuant to subdivision 7,
 215 available to any law-enforcement officer who is engaged in the investigation of the theft of any
 216 secondhand articles;

217 10. Withhold payment for any covered article until the third business day following delivery of the
 218 covered article; and

219 11. Hold covered articles for seven days following their purchase.

220 **§ 59.1-128. When unlawful to buy, exchange, etc., secondhand copper or aluminum wire.**

221 It shall be unlawful for any person, firm or corporation to barter, purchase, exchange, buy or accept
 222 from any person whomsoever, except the manufacturer thereof or his authorized agent, railroad, coal
 223 mining, industrial, manufacturing and public utility companies, or the authorized agents of such
 224 companies, governmental agencies, and licensed junk dealers building material purchasers licensed
 225 pursuant to § 59.1-118, licensed scrap metal dealers building material collectors licensed pursuant to
 226 § 59.1-118, licensed electrical contractors and licensed merchants, any secondhand grooved or
 227 figure-eight copper trolley wire, bare or insulated heavy stranded copper or aluminum feeder wire, high
 228 voltage copper or aluminum transmission wire, or bare or insulated mining machine copper cables.

229 **§ 59.1-129. Requirements when articles mentioned in § 59.1-128 are bought, exchanged, etc.**

230 A. Any person, firm or corporation which who shall barter, purchase, exchange, buy or accept any of
 231 the articles mentioned in § 59.1-128, shall comply with the provisions of § 59.1-126 and shall, in
 232 addition, tag each lot of said articles with the name of the seller and the date of receipt and. The person
 233 shall retain each such lot in his possession so tagged for 30 days in such manner that its separate
 234 identity shall be preserved; provided that the. The requirements of this section for tagging said articles
 235 and retaining them in possession shall not be applicable if the receipt or bill of sale required by
 236 § 59.1-126 shall contain an authorization naming the agent who delivers the articles and signed by an
 237 officer, or by the proprietor, of the manufacturer, or coal mining, industrial, manufacturing, or public
 238 utility company, governmental agency, licensed junk dealer building material purchaser licensed
 239 pursuant to § 59.1-118, licensed scrap metal dealer building material collector licensed pursuant to §
 240 59.1-118, licensed electrical contractor or licensed merchant, giving such authorization.

241 B. The person purchasing any of the articles mentioned in § 59.1-128 shall make any payment for its
 242 purchases thereof in the form of a check issued in the name of the building material collector as stated
 243 on its salvage license.

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

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

A. Except as provided in § 59.1-136.4, scrap metal purchasers 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 display to the scrap metal purchaser a salvage license issued to the building material collector pursuant to § 59.1-118 and provide to the scrap metal purchaser a driver's license or other government-issued current photographic identification including the seller's full name, current address, date of birth, and social security driver's license or other recognized identification number; and

2. The scrap metal purchaser shall record the seller's identification information, as well as 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, and make and retain a photograph of the items received from the seller, in a permanent ledger maintained at the scrap metal purchaser'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 purchaser's normal business location during regular business hours. Records required by this subdivision shall be maintained by the scrap metal dealer at its normal place of business or at another readily accessible and secure location for at least five years;

3. The scrap metal purchaser shall withhold payment for any sale of nonferrous scrap, metal article, or proprietary articles by a person, other than an authorized scrap metal seller or the authorized agent or employee of an authorized scrap metal seller, for five business days following the date of delivery thereof by such person to the scrap metal purchaser; and

4. The scrap metal purchaser shall make any payment for its purchases of nonferrous scrap, metal articles, and proprietary articles in the form of a check issued in the name of the building material collector as stated on its salvage license, and shall not pay cash to the seller of nonferrous scrap, metal article, or proprietary articles, unless the seller is an authorized scrap metal seller or the authorized agent or employee of an authorized scrap metal seller.

B. Upon compliance with the other requirements of this section and § 59.1-136.4, a scrap metal purchaser 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 purchaser complies with one of the following:

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

2. The scrap metal purchaser 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 1, shall submit a report to the local sheriff's department or the chief of police of the locality, 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. The scrap metal purchaser shall take a photographic or video image of all proprietary articles purchased from anyone other than an authorized scrap seller. Such image shall be of sufficient quality so as to reasonably identify the subject of the image and shall be maintained by the scrap metal purchaser no less than 30 days from the date the image is taken. Any image taken and maintained in accordance with this subdivision shall be made available upon the request of any law-enforcement officer conducting official law-enforcement business.

D. The scrap metal purchaser 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.

§ 59.1-136.5. Reports of purchases by scrap metal purchasers.

If requested by the chief law-enforcement officer of the locality in which the scrap metal purchaser conducts business, every scrap metal purchaser conducting business in the locality shall furnish to the chief law-enforcement officer of the locality in which the scrap metal purchaser conducts business a report of all of the scrap metal purchaser's purchases of nonferrous scrap, metal articles, and proprietary articles, excluding aluminum cans and interior household items. Each report shall (i) be submitted on the next business day following the date of a purchase; (ii) include the seller's name, date of birth, identification number, address, height, and weight and the license number of any motor vehicle in which the goods or things were delivered; and (iii) be submitted in an electronic format if required by the

305 locality in which the scrap metal purchaser conducts business. The form of the report shall be prescribed
306 by the Virginia State Police.
307 **2. That § 59.1-119 of the Code of Virginia is repealed.**