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SENATE BILL NO. 854

Senate Amendments in [] — February 8, 2011

A BILL to amend and reenact §§ 59.1-117, 59.1-118, 59.1-119, 59.1-120 through 59.1-123, and 59.1-125 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 9 of Title 59.1 a section numbered 59.1-116.1, relating to the regulation of transactions involving certain secondhand articles.

Patron Prior to Engrossment—Senator Wagner

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-117, 59.1-118, 59.1-119, 59.1-120 through 59.1-123, and 59.1-125 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 9 of Title 59.1 a section numbered 59.1-116.1 as follows:

§ 59.1-116.1. Definitions.

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

"Authorized scrap metal processor" has the same meaning as provided for the term "scrap metal processor" 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 heating or plumbing fixture or supplies, electric fixtures, or any wiring, gas fixtures or appliances, water faucets, pipes, locks, or any other secondhand fixtures of any kind or description used in the construction of a building.

"Junk dealer" means a person who regularly engages in the business of purchasing, acquiring, or canvassing secondhand 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 [~~more than 26 times annually~~ or enters into more than 26 combined transactions annually] . "Junk dealer" does not include a "scrap metal processor" as defined 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 [~~more than 26 times annually~~ or enters into more than 26 combined transactions annually] .

§ 59.1-117. Permit required for trading in secondhand building fixtures.

Except as otherwise provided in this chapter, no person, ~~firm or corporation~~ shall offer for sale or ~~sell~~ 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 the chief of police of the city or town or the sheriff of the county in which such property is offered for sale.

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

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, a semiannual or annual permit covering all sales and acquisitions made by such persons. The chief of police or sheriff may refuse to issue a permit, and may revoke any permit issued, to any person convicted of ~~stealing or receiving stolen goods~~ a felony or crime of moral turpitude within the three years prior to the request for the permit. The applicant shall file with the chief of police or sheriff, or his designee, an application form that shall include the applicant's full name, address, age, sex, and fingerprints; the name, address, and telephone number of the applicant's employer, if any; and the location of the applicant's place of business. A permit shall be valid for one year from the date of issuance and may be renewed in the same manner as such permit was initially obtained. ~~No charge shall~~ A fee of not more than \$50 may be ~~made~~ charged annually for ~~any such~~ the issuance of the permit.

§ 59.1-119. Who deemed a dealer.

Every person who ~~purchases~~ is regularly engaged in the purchasing or acquiring of secondhand ~~property~~ building material of the kind mentioned in § 59.1-117 for the purpose of resale or installation on the property of another shall be deemed a dealer within the meaning of the provisions of this article.

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§ 59.1-120. Recordkeeping requirements.

A. At the time of purchasing an article mentioned in § 59.1-117, *collecting, receiving, or acquiring a secondhand building fixture*, the dealer shall require the seller of the article *be required* to provide:

1. A driver's license or other government-issued current photographic identification including his full name, current address, and date of birth *The date and time of the secondhand building fixture's acquisition; and*

2. Documentation, such as a bill of sale, receipt, letter of authorization, affidavit of ownership, or similar evidence, establishing that the seller lawfully possesses any article being sold *The address from which the property was acquired and, if available, a driver's license or other form of government identification to include the name and date of birth of the person from whom the material was collected.*

B. Every dealer shall keep at his place of business a permanently bound book or ledger in which shall be legibly written with ink in English at the time of each transaction in the course of his business an accurate account of each purchase and sale of every article mentioned in § 59.1-117 *sold the dealer's transaction involving a secondhand building fixture that is collected, received, acquired, or purchased by him the dealer.* Such account shall set forth an:

1. A complete and accurate description of the goods, articles or things purchased or sold and the secondhand building fixture that is the subject of the transaction;

2. All information prescribed in subsection A regarding location and, if available, the name and other information prescribed in subdivision A 1 regarding date of birth of the person selling, delivering, or purchasing with whom the same, the time and date of the transaction, the dealer conducts the transaction;

3. The license number of the automobile or other vehicle in which the goods, article or things were secondhand building fixture was delivered or received; and the

4. The number of the permit number, if the goods offered can only be sold under a permit 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 goods were sold *the transaction involving a secondhand building fixture occurred.* The description of the person required by this section shall consist of the color, sex, approximate height, and age, any distinguishing feature of such person, and the thumb prints of both hands of such person on the same page on which the entry is made.

C. Records required by this subsection B shall be maintained by the dealer at its normal place of business or at another readily accessible and secure location for at least five years *a period of 24 months.*

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

A. Every junk dealer and dealers selling or acquiring secondhand building materials of the kind mentioned in secondhand personal property § 59.1-117, including persons regularly engaged in the business of collecting or acquiring of secondhand building materials for the purpose of resale to junk dealers, and a scrap metal processor, shall every day except Sunday before the hour of noon deliver:

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

a. A legible and accurate description of every article or thing of the kind mentioned in § 59.1-117 secondhand building fixture purchased, acquired, or received by him during the next preceding business day next preceding, the;

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

c. If the person is a dealer, the number of his permit number under which the goods were received by the dealer, the issued pursuant to § 59.1-118;

d. The license number of any automobile or other vehicle in which the goods or things were secondhand building fixture was delivered, together with a description collected or received;

e. If available, the name and date of birth of the person selling or delivering the same, including the color, sex, approximate height and age and any distinguishing features of such person, or a photograph of such person, together with a with whom the dealer conducted the transaction; and

f. If the person is a dealer, a reference to the volume and number of the page where the original entry required by subsection B of § 59.1-120 is made. *Where goods of the kind mentioned in § 59.1-117 are purchased or received; or*

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

B. Notwithstanding any provision of this chapter to the contrary, a dealer who purchases copper

gutters, downspouts, or similar copper materials shall hold the article for not less than 15 days following the date the notice required pursuant to subsection A is given to the chief of police or sheriff.

§ 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 sale *acquiring, selling*, receiving, or purchasing of the articles mentioned in § 59.1-117, 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 ~~materials~~ *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 when purchased from a public ~~utilities~~ *utility* 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.);

3. *Authorized scrap sellers;*

4. *Public utilities;*

5. *Public transportation companies;*

6. *Licensed peddlers and brokers;*

7. *Industrial and manufacturing companies;*

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

9. *Governmental entities.*

§ 59.1-125. When unlawful to buy or accept.

It shall be unlawful for any person, firm or corporation to barter, purchase, exchange, *or* buy or ~~accept~~ from any person whomsoever, except plumbers, the owner of buildings from which the material is taken, railroad, coal mining, industrial, manufacturing and public utility companies, or the authorized agents of such companies, lawful owners and junk dealers, licensed in this Commonwealth, 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; provided that this section shall not apply to any person, firm or corporation which shall barter, purchase, exchange, buy or accept any secondhand grooved or figure-eight copper trolley wire, bare or insulated heavy stranded copper or aluminum feeder wire, high voltage copper or aluminum transmission wire, or bare or insulated mining machine copper cables, but § 59.1-128 shall be applicable thereto.

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