

VIRGINIA ACTS OF ASSEMBLY -- 2013 SESSION

CHAPTER 414

An Act to amend and reenact §§ 59.1-116.1, 59.1-117, 59.1-121, 59.1-123, 59.1-136.1, 59.1-136.3, 59.1-136.5, and 59.1-136.6 of the Code of Virginia, relating to secondhand articles; scrap metal purchasers; penalty.

[H 1481]

Approved March 16, 2013

Be it enacted by the General Assembly of Virginia:

1. That §§ 59.1-116.1, 59.1-117, 59.1-121, 59.1-123, 59.1-136.1, 59.1-136.3, 59.1-136.5, and 59.1-136.6 of the Code of Virginia are amended and reenacted as follows:

§ 59.1-116.1. Definitions.

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

"Authorized scrap metal ~~processor~~ purchaser" has the same meaning as provided for the term "scrap metal ~~processor~~ 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 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 or enters into more than 26 combined transactions annually. "Junk dealer" does not include a "scrap metal ~~processor~~ purchaser" 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 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 shall 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 the chief of police of the city or town or the sheriff of the county in which such property is offered for sale *or acquisition*.

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

Every junk dealer 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 ~~processor~~ purchaser, shall deliver:

1. If the purchase, acquisition, or receipt of the secondhand building fixture occurred in a city or town, to the chief of police 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 of such city or town:

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

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

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

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

e. If available, the name and date of birth of the person 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; or

2. If the purchase, acquisition, or receipt of the secondhand building fixture 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 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 subdivision 1.

§ 59.1-123. Exemptions from article.

The provisions of this article shall not apply to:

1. The sale of secondhand 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 utility corporation at its place of business or a governmental agency;
2. Scrap metal ~~processors~~ *purchasers* 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~~ *Peddlers permitted under § 59.1-118;*
7. Industrial and manufacturing companies;
8. Marine, automobile, and aircraft salvage and wrecking companies; or
9. Governmental entities.

Article 4.

Scrap Metal ~~Processors~~ *Purchasers*.

§ 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.

"Broker" means any person or his authorized agent who negotiates, purchases, sells, or offers for sale any scrap metal either directly or through an authorized agent without obtaining title to or ownership of the scrap metal.

"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, copper and aluminum gutters, copper and aluminum downspouts, 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 flashing 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; *or* 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; (iv) stainless steel beer kegs; (v) any catalytic converter from a motor vehicle exhaust system that has been detached from a motor vehicle; ~~or~~ (vi) any telecommunications cable that is one-half of one inch or greater in diameter and that contains 50 or more individual strands of solid, insulated, color-coded copper wire, including such telecommunication cable that has been unsheathed or burned; (vii) *any manhole cover;* (viii) *any bronze or copper cemetery plaque, urn, or marker;* (ix) *aluminum bleacher seats or guardrails;* or (x) *any mining cable that is one-half inch or greater in diameter and is composed of one or more stranded copper conductors and stamped, engraved, stenciled, or otherwise marked with "Mine Safety and Health Administration" or "MSHA."*

"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.

"Scrap metal purchaser" means any person or business, other than an authorized scrap seller or a broker buying or selling processed scrap metal, who purchases scrap metal either directly or through an authorized agent in excess of \$20,000 during any 12-month period.

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

A. Except as provided in § 59.1-136.4, scrap metal ~~processors~~ *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 provide 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 or other recognized identification number; and

2. The scrap metal ~~processor~~ *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, in a permanent ledger maintained at the scrap metal ~~processor's~~ *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 ~~processor's~~ *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.

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

1. The scrap metal ~~processor~~ *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 ~~processor~~ *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 ~~police or 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.*

~~C. Scrap~~ D. The scrap metal ~~processors~~ *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 of ~~police or other~~ law-enforcement officer of the locality in which the scrap metal ~~processor~~ *purchaser* conducts business, every scrap metal ~~processor~~ *purchaser* conducting business in the locality shall furnish to the chief of ~~police or other~~ law-enforcement officer *of the locality in which the scrap metal purchaser conducts business* a report of all of the scrap metal ~~processor's~~ *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 locality in which the scrap metal ~~processor~~ *purchaser* conducts business; ~~provided that if the locality requires that reports be submitted in electronic format, scrap metal processors shall be given a period of not more than one year following the locality's adoption of such a requirement to implement the requirement. The form of the report shall be prescribed by the Virginia State Police.~~

§ 59.1-136.6. Penalties.

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

B. Any scrap metal ~~processor~~ *purchaser* who knowingly violates any provisions of this article ~~shall be~~ *is* guilty of a Class 1 misdemeanor.