

FIRST REGULAR SESSION

# HOUSE BILL NO. 582

## 97TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES ROORDA (Sponsor) AND KRATKY (Co-sponsor).

1625L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To repeal sections 407.300 and 407.302, RSMo, and to enact in lieu thereof six new sections relating to the resale of scrap metals, with penalty provisions.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 407.300 and 407.302, RSMo, are repealed and six new sections enacted in lieu thereof, to be known as sections 407.296, 407.297, 407.298, 407.299, 407.300, and 407.302, to read as follows:

**407.296. As used in sections 407.296 to 407.303, the following terms mean:**

(1) "Catalytic converter", a device designed for use in a vehicle for purposes of chemically converting harmful exhaust gases, produced by the internal combustion engine, into harmless carbon dioxide and water vapor;

(2) "Copper property", any insulated copper wire, copper tubing, copper guttering and downspouts, or any item composed completely of copper;

(3) "Copper property peddler", any person who sells or attempts to sell copper property and who is not either licensed or certified tradesperson or does not hold a business license issued by a city, municipality, or county;

(4) "Ferrous metals", metals which contain iron and are magnetic;

(5) "HVAC component", any air conditioner evaporator coil or condenser used in connection with a residential, commercial, or industrial building;

(6) "Nonferrous metals", metals which do not contain significant amounts of iron and are not magnetic, such as aluminum, brass, lead, zinc, and copper;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

15           (7) "Scrap metal dealer", any entity, including any person, firm, company,  
16 partnership, association, or corporation, located in this state who purchases products  
17 containing ferrous or nonferrous metals for recycling;

18           (8) "Vehicle repair shop", any commercial facility engaged in the repair or  
19 replacement of car, truck and van, motorcycle or other motorized mechanical and exhaust  
20 components, whether as a primary or ancillary activity.

**407.297. 1. No person shall engage in the business of a copper property peddler  
2 without first obtaining a license from the municipality or county and complying with the  
3 provisions of this section.**

4           **2. Every copper property peddler shall pay a license fee of forty-five dollars per  
5 year. The license shall expire June thirtieth of each year. Each license shall bear a  
6 separate number, the name and address of the licensee and telephone number of the  
7 licensee. The license shall be available only to the person in whose name it is issued and  
8 shall not be used by any person other than the original licensee. Any licensee who shall  
9 permit his or her license to be used by any other person, and any other person who shall  
10 use a license granted to another person, shall each be deemed guilty of a violation of this  
11 section.**

12           **3. Application for a license under this section shall be made in writing to the  
13 municipality or county and shall state the name, age, description, and address of the  
14 applicant. The application shall include a sworn statement setting forth each and every  
15 conviction of the applicant for violations of federal, state, or city laws, statutes, or  
16 ordinances. In addition, the applicant shall, at his or her expense, obtain a complete copy  
17 of the person's police record as indicated by the records of the city police department and  
18 submit such record as part of the application. No license shall be granted to any person  
19 who has been convicted of burglary, robbery, stealing, theft, or possession or receiving  
20 stolen goods in the last twenty-four months prior to the date of the application.**

21           **4. The municipality or county shall have the power and authority to revoke any  
22 license under this section for any willful violation by a copper property peddler provided  
23 the licensee has been notified in writing at his or her place of business of the violations  
24 complained of and shall have been afforded a reasonable opportunity to having a hearing.**

**407.298. 1. A scrap metal dealer shall pay for any copper property or HVAC  
2 component as follows:**

3           **(1) A scrap metal dealer shall not pay cash for copper property or HVAC  
4 component unless the seller presents or the scrap metal dealer has on file a valid business  
5 license, valid trade license, or trade certificate;**

6           **(2) Payment to any seller of copper property or HVAC component who presents**  
7 **valid copper property peddler's license shall be by check. Checks shall be written to the**  
8 **licensee or certified tradesperson and may be delivered to the seller at the time of the sale;**

9           **(3) Payment to any seller of copper property or HVAC component who does not**  
10 **present or have on file a valid business license, valid trade license, or certificate or valid**  
11 **copper peddler's license shall be by check. Checks shall be payable only to the person**  
12 **whose name was recorded as delivering the copper property or HVAC component to the**  
13 **scrap metal dealer; provided, however, that if such person is delivering the copper**  
14 **property or HVAC component on behalf of a governmental entity or a nonprofit or for**  
15 **profit business entity, the check may be payable to such entity. All checks issued to a seller**  
16 **of copper property or HVAC component who does not present or have on file a valid**  
17 **business license, valid trade license, or valid copper peddler's license shall be mailed via**  
18 **the United States mail to the address provided on the driver's license or picture**  
19 **identification provided by the seller;**

20           **(4) Checks shall not be converted to cash by a scrap metal dealer or by any related**  
21 **entity.**

22           **2. This section shall not apply to any transaction for which the seller has an existing**  
23 **business relationship with the scrap metal dealer and is known to the scrap metal dealer**  
24 **making the purchase to be an established business or political subdivision that operates a**  
25 **business with a fixed location that can be reasonably expected to generate regulated scrap**  
26 **metal and can be reasonably identified as such a business.**

**407.299. 1. If a scrap metal dealer has actual knowledge that copper or HVAC**  
2 **component in its possession has been stolen, the dealer shall notify the local police**  
3 **department via 911 and provide any information in its possession relative to the seller or**  
4 **the sale transaction.**

5           **2. Following notice from the scrap metal dealer or if the police department has**  
6 **reasonable suspicion that the scrap metal dealer is in possession of stolen property, the**  
7 **police department may issue to the scrap metal dealer a written notice placing a ten day**  
8 **hold order on the property.**

9           **3. (1) It is unlawful for any person to knowingly present for sale to a scrap metal**  
10 **dealer stolen ferrous or nonferrous metal, including but not limited to, copper property or**  
11 **HVAC components. Any person who knowingly presents for sale stolen ferrous or**  
12 **nonferrous metal shall be guilty of an offense for each item of scrap metal and shall upon**  
13 **conviction be subject to a fine of not less than five hundred dollars or by imprisonment for**  
14 **a period not to exceed ninety days or both fine and imprisonment.**

15           **(2) It is unlawful for a person to willfully and maliciously cut, mutilate, deface, or**  
16 **otherwise injure any personal or real property owned by a third party, including any**  
17 **fixtures or improvements, for the purpose of obtaining ferrous or nonferrous metals in any**  
18 **amount. Any person who willfully and maliciously cuts, mutilates, defaces, or otherwise**  
19 **injures any personal or real property owned by a third party for the purpose of obtaining**  
20 **ferrous or nonferrous metal shall be guilty of an offense for each item of scrap metal**  
21 **derived from such actions and shall upon conviction be subject to a fine of not less than five**  
22 **hundred dollars or by imprisonment for a period not to exceed ninety days or both fine and**  
23 **imprisonment.**

24           **(3) In addition to the penalties described in this subsection, a copper property**  
25 **peddler's license shall be revoked if he or she knowingly violates sections 407.296 to**  
26 **407.300.**

          407.300. 1. Every purchaser or collector of, or dealer in, junk, scrap metal, or any  
2 secondhand property shall [keep a register containing a written or electronic record] **install and**  
3 **maintain a daily record in a real-time electronic internet data base, in a form and method**  
4 **approved by the chief of police of the municipality or the sheriff of the county, for each**  
5 purchase or trade in which each type of metal, **which includes ferrous and nonferrous metals,**  
6 subject to the provisions of this section is obtained for value. There shall be a separate record  
7 for each transaction involving any:

8           (1) Copper, brass, or bronze;

9           (2) Aluminum wire, cable, pipe, tubing, bar, ingot, rod, fitting, or fastener; or

10           (3) Material containing copper or aluminum that is knowingly used for farming purposes  
11 as farming is defined in section 350.010; whatever may be the condition or length of such metal.  
12 The record shall contain the following data: a copy of the driver's license or photo identification  
13 issued by the state or by the United States government or agency thereof to the person from  
14 whom the material is obtained, which shall contain a **name, date of birth, race, sex, a current**  
15 **address of the person from whom the material is obtained, [and] the date, time, and place of and**  
16 **a full description of each such purchase or trade including the quantity by weight thereof, any**  
17 **business license number or the copper property peddler's license (including the name of**  
18 **the issuing municipality), amount paid, and license plate number of the vehicle delivering**  
19 **the material. The information shall be completed in full without any missing data or**  
20 **information described in this subsection.**

21           2. The records required under this section shall be maintained for a [minimum of  
22 twenty-four months] **period of three years** from when such material is obtained and shall be  
23 available for inspection by any law enforcement officer. **All records required under this**

24 section shall be photocopied and maintained from three years from the date of the  
25 transaction.

26 3. Any person selling copper property who holds a valid business license or copper  
27 property peddler's license shall present a copy of such license to the scrap metal dealer.

28 4. A transaction receipt shall be issued and consist of the same information  
29 required under subsection 1 of this section and shall include the following statement: "By  
30 accepting payment from (insert name of scrap metal dealer), seller represents and warrants  
31 that the material documented by this receipt is owned by or was lawfully obtained, and the  
32 seller has the legal right to sell the material to (insert name of scrap metal dealer)". If the  
33 seller provides any documentation indicating that the person is in lawful possession of the  
34 scrap metal, or was otherwise lawfully acquired, including without limitation a bill of sale  
35 or receipt, the scrap metal dealer shall photocopy such documentation and maintain it with  
36 the transaction information otherwise required by this section.

37 5. A scrap metal dealer or the agent employee, or representative of a scrap metal  
38 dealer shall not disclose personal information concerning a customer under this section  
39 without the consent of the customer unless the disclosure is made in response to a request  
40 from a law enforcement agency. A scrap metal dealer shall implement reasonable  
41 safeguards:

42 (1) To protect the security of the personal information required under subsection  
43 1 of this section; and

44 (2) To prevent unauthorized access to or disclose of that information.

45 6. A scrap metal dealer shall not be liable to any customer for a disclosure of  
46 personal information if the scrap metal dealer has met the requirements set forth in  
47 subsection 5 of this section.

48 7. Anyone convicted of violating this section shall be guilty of a class A misdemeanor.

49 [4.] 8. This section shall not apply to any of the following transactions:

50 (1) Any transaction for which the total amount paid for all regulated scrap metal  
51 purchased or sold does not exceed fifty dollars;

52 (2) Any transaction for which the seller, including a farm or farmer, has an existing  
53 business relationship with the scrap metal dealer and is known to the scrap metal dealer making  
54 the purchase to be an established business or political subdivision that operates a business with  
55 a fixed location that can be reasonably expected to generate regulated scrap metal and can be  
56 reasonably identified as such a business; or

57 (3) Any transaction for which the type of metal subject to subsection 1 of this section is  
58 a minor part of a larger item, except for equipment used in the generation and transmission of  
59 electrical power or telecommunications.

60 **9. Hours of retail operation for scrap metal dealers shall be no earlier than 6:00**  
61 **a.m. and no later than 7:00 p.m.**

62 **10. No scrap metal dealer shall purchase or otherwise receive from a person under**  
63 **the age of eighteen any ferrous or nonferrous metal other than aluminum cans.**

64 **11. A scrap metal dealer shall register with or subscribe to the alert system**  
65 **established by the Institute of Scrap Recycling Industries, Inc., referred to as the ISRI**  
66 **Scrap Theft Alert system and maintain that registration or subscription.**

407.302. 1. No scrap yard shall purchase any metal that can be identified as belonging  
2 to a public or private cemetery or to a political subdivision or electrical cooperative, municipal  
3 utility, or a utility regulated under chapter 386 or 393, including bleachers, guardrails, signs,  
4 street and traffic lights or signals, **certain cables used in high voltage transmission lines,**  
5 **historical markers,** and manhole cover or covers, whether broken or unbroken, from anyone  
6 other than the cemetery or monument owner, political subdivision, electrical cooperative or  
7 utility, or manufacturer of the metal or item described in this section unless such person is  
8 authorized in writing by the cemetery or monument owner, political subdivision, electrical  
9 cooperative or utility, or manufacturer to sell the metal.

10 **2. No person shall knowingly sell or attempt to sell to a scrap metal dealer and no**  
11 **scrap metal dealer shall knowingly and willfully purchase the following:**

12 **(1) New materials, such as those used in construction, or equipment or tools used**  
13 **by contractors unless accompanied by proof of ownership or authorization to sell the**  
14 **materials on behalf of the owner;**

15 **(2) HVAC components unless accompanied by written authorization from the**  
16 **business or property owner evidencing the seller has the legal right to sell the material;**

17 **(3) Catalytic converters unless purchased from a vehicle repair business.**

18 **3. Anyone convicted of violating this section shall be guilty of a class B misdemeanor.**

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