

# HOUSE BILL No. 6017

April 24, 2008, Introduced by Reps. Meisner, Condino and Johnson and referred to the Committee on Commerce.

A bill to amend 1917 PA 350, entitled

"An act to regulate and license second hand dealers and junk dealers; and to prescribe penalties for the violation of the provisions of this act,"

by amending the title and sections 1, 2, 3, 4, 5, 7, and 8 (MCL 445.401, 445.402, 445.403, 445.404, 445.405, 445.407, and 445.408), sections 1, 2, 3, 4, 5, and 8 as amended by 2006 PA 675.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1  
2  
3  
4  
5  
6  
7

TITLE

An act to regulate and license second hand dealers, **SCRAP PROCESSORS**, and junk dealers; **TO PROVIDE FOR CERTAIN REPORTING AND RECORD-KEEPING STANDARDS**; and to prescribe penalties ~~for the violation of the provisions of this act~~ **AND REMEDIES**.

Sec. 1. (1) A person, corporation, copartnership, or firm shall not carry on the business of ~~dealer in~~ **A** second hand goods ~~or~~

1 **DEALER, junk dealer, OR SCRAP PROCESSOR** in any of the counties,  
2 cities, or villages of this state without having first obtained,  
3 from the mayor of the city or the chief executive officer of the  
4 county or village where the business is to be carried on, a license  
5 under this act authorizing that person, corporation, copartnership,  
6 or firm to carry on that business.

7 (2) This ~~subsection~~**SECTION** does not require an internet drop-  
8 off store complying with subsection (3), or a person engaged in the  
9 sale, purchase, consignment, or trade of personal property or other  
10 valuable thing for himself or herself, to obtain a license under  
11 this act.

12 (3) An internet drop-off store in compliance with the  
13 following conditions is exempt from licensure as a second hand  
14 dealer or junk dealer under this act:

15 (a) Has a fixed place of business within this state except  
16 that he or she exclusively transacts all purchases or sales by  
17 means of the internet and the purchases and sales are not  
18 physically transacted on the premises of that fixed place of  
19 business.

20 (b) Has the personal property or other valuable thing  
21 available on a website for viewing by photograph, if available, by  
22 the general public at no charge, which website shall be searchable  
23 by zip code or state, or both. The website viewing shall include,  
24 as applicable, serial number, make, model, and other unique  
25 identifying marks, numbers, names, or letters appearing on the  
26 personal property or other valuable thing.

27 (c) Maintains records of the sale, purchase, consignment, or

1 trade of the personal property or other valuable thing for at least  
2 2 years, which records shall contain a description, including a  
3 photograph, if available, and, if applicable, serial number, make,  
4 model, and other unique identifying marks, numbers, names, or  
5 letters appearing on the personal property or other valuable thing.

6 (d) Provide the local law enforcement agency with any name  
7 under which it conducts business on the website and access to the  
8 business premises at any time during normal business hours for  
9 purposes of inspection.

10 (e) Within 24 hours after a request from a local law  
11 enforcement agency, provide an electronic copy of the seller's or  
12 consignor's name, address, telephone number, driver license number  
13 and issuing state, the buyer's name and address if applicable, and  
14 a description of the personal property or other valuable thing as  
15 described in subdivision (c). The provision of information shall be  
16 in a format acceptable to the local law enforcement agency but  
17 shall at least be in a legible format and in the English language.

18 (f) Provide that payment for the personal property or other  
19 valuable thing is executed by means of check or other electronic  
20 payment system, so long as the payment is not made in cash. No  
21 payment shall be provided to the seller until the item is sold.

22 (g) Immediately remove the personal property or other valuable  
23 thing from the website if the local law enforcement agency  
24 determines that the personal property or other valuable thing is  
25 stolen.

26 Sec. 2. (1) The mayor of a city or chief executive officer of  
27 a county or village may grant to any person, corporation,

1 copartnership, or firm, a license authorizing that person,  
2 corporation, copartnership, or firm to carry on the business of a  
3 second hand dealer, **SCRAP PROCESSOR**, or junk dealer subject to the  
4 provisions of this act.

5 (2) The license shall designate the particular place where  
6 that person, corporation, copartnership, or firm shall carry on  
7 that business. The business shall be conducted only in the place  
8 designated in the license.

9 (3) A license shall not be issued to any person, firm, or  
10 corporation desiring to conduct a junk business **OR SCRAP PROCESSOR**  
11 in any residential community where 65% or more of the property  
12 owners within a radius of 1 city block of the contemplated junk  
13 business **OR SCRAP PROCESSOR** petition the issuing officer not to do  
14 so.

15 (4) The license shall be for the period of 1 year from date of  
16 issuance unless sooner revoked for cause and is not transferable.  
17 The legislative body of any city, or the trustees and chief  
18 executive officer of any county or village, shall establish the fee  
19 for the processing and issuance of the license in accordance with  
20 its charter or local ordinance, based upon the cost of issuance and  
21 administration of that license.

22 (5) The city, village, or county may inspect the premises of a  
23 licensed second hand **DEALER, SCRAP PROCESSOR**, or junk dealer during  
24 normal business hours.

25 Sec. 3. As used in this act:

26 (a) "Automotive recycler" means a person who engages in  
27 business primarily for the purpose of selling retail salvage

1 vehicle parts and secondarily for the purpose of selling retail  
2 salvage motor vehicles or manufacturing or selling a product of  
3 gradable scrap metal or a person employed as a salvage vehicle  
4 agent as that term is defined in section 56c of the Michigan  
5 vehicle code, 1949 PA 300, MCL 257.56c.

6 (b) "Industrial scrap" means materials that are a direct  
7 product or by-product of any form of manufacturing, shaping, or  
8 cutting process from a person, company, corporation, copartnership,  
9 or firm whose principal business is the manufacturing, shaping, or  
10 cutting of materials at a fixed place of business.

11 (c) "Internet drop-off store" means a person, corporation, or  
12 firm that contracts with other persons, corporations, or firms to  
13 offer its personal property or other valuable thing for sale,  
14 purchase, consignment, or trade through means of an internet  
15 website and meets the conditions described in section 1(3).

16 (d) "Local law enforcement agency" means the police agency of  
17 the city, village, or township, or if none, the county sheriff of  
18 the county in which the internet drop-off store conducts business.

19 (e) "Scrap processor" means a person, utilizing machinery and  
20 equipment and operating from a fixed location, whose principal  
21 business is the processing and manufacturing of iron, steel,  
22 nonferrous metals, paper, plastic, or glass, into prepared grades  
23 of products suitable for consumption by recycling mills, foundries,  
24 and other scrap processors.

25 (f) "Second hand dealer" or "junk dealer" means any person,  
26 corporation, or member or members of a copartnership or firm whose  
27 principal business is that of purchasing, selling, exchanging,

1 storing, or receiving second hand articles of any kind, scrap  
 2 metals, cast iron, old iron, old steel, tool steel, aluminum,  
 3 copper, brass, lead pipe or tools, or lighting and plumbing  
 4 fixtures. Second hand dealer or junk dealer does not include a  
 5 scrap processor ~~, OR~~ an automotive recycler. ~~, SECOND HAND DEALER~~  
 6 or **JUNK DEALER INCLUDES** a junkyard that deals principally in  
 7 industrial scrap and is **NOT** licensed by a city, village, or county.

8       Sec. 4. (1) A second hand dealer, **SCRAP PROCESSOR**, or junk  
 9 dealer shall post in a conspicuous place in or upon its place of  
 10 business a sign having its name and occupation.

11       (2) A second hand **DEALER, SCRAP PROCESSOR**, or junk dealer  
 12 shall ~~keep~~ **MAKE AND MAINTAIN** a separate book or other **WRITTEN OR**  
 13 **ELECTRONIC** record, **NUMBERED CONSECUTIVELY, THAT IS** open to  
 14 inspection by a member of a local law enforcement agency, in which  
 15 shall be written or entered in the English language at the time of  
 16 the purchase or exchange of any article a description of the  
 17 article ~~, the~~ **AND ALL OF THE FOLLOWING:**

18       **(A) THE** name, description, fingerprint, operator's or  
 19 chauffeur's license or state identification number, registration  
 20 plate number, and address of the person from whom the article was  
 21 purchased and received. ~~, and the~~ **THE LICENSEE SHALL MAKE A COPY OF**  
 22 **THE OPERATOR'S LICENSE, CHAUFFEUR'S LICENSE, OR STATE**  
 23 **IDENTIFICATION CARD AS PART OF THE BOOK OR RECORD.**

24       **(B) THE** day and hour when the purchase or exchange was made.  
 25 ~~as well as the~~

26       **(C) THE** location from which the item was obtained. ~~, if~~  
 27 ~~applicable. Each entry shall be numbered consecutively.~~

1           (3) THE DESCRIPTION OF THE ARTICLE SHALL INCLUDE THE TYPE OF  
2 METAL OR MATERIAL, THE WEIGHT, THE AMOUNT, AND THE NUMBER OF  
3 ARTICLES IN THE TRANSACTION.

4           (4) PAYMENT OF AN ITEM SHALL BE MADE ONLY BY CHECK OF AN  
5 ELECTRONIC PAYMENT SYSTEM. THE RECORD SHALL INDICATE THE METHOD OF  
6 PAYMENT.

7           Sec. 5. (1) The articles purchased or exchanged **BY A SECOND**  
8 **HAND DEALER OR A JUNK DEALER** shall be retained by the ~~purchaser~~  
9 **SECOND HAND DEALER OR JUNK DEALER** for at least 15 days before  
10 **PROCESSING OR** disposing of them, in an accessible place in the  
11 building where the articles are **EXCHANGED**, purchased, and received.  
12 **THE ARTICLES PURCHASED OR EXCHANGED BY A SCRAP PROCESSOR SHALL BE**  
13 **RETAINED BY THE SCRAP PROCESSOR FOR AT LEAST 7 DAYS BEFORE**  
14 **PROCESSING OR DISPOSING OF THEM, IN AN ACCESSIBLE PLACE IN THE**  
15 **BUILDING OR GROUNDS WHERE THE ARTICLES ARE EXCHANGED, PURCHASED,**  
16 **AND RECEIVED.** A tag shall be attached to the articles in some  
17 visible and convenient place, with the number written thereupon, to  
18 correspond with the entry number in the book or other record.

19           (2) The purchaser shall prepare and deliver on Monday of each  
20 week to the chief of police or chief law enforcement officer of the  
21 local unit of government in which ~~such~~**THAT** business is carried on,  
22 before 12 ~~o'clock~~ noon, a legible and correct **PAPER OR ELECTRONIC**  
23 copy written in the English language from the book or other **WRITTEN**  
24 **OR ELECTRONIC** record, containing a description of each article  
25 purchased or received, **INCLUDING THE TYPE OF METAL OR MATERIAL, THE**  
26 **WEIGHT, AMOUNT, AND NUMBER OF THE ARTICLES IN THE TRANSACTION,**  
27 during the preceding week, the hour and day when the purchase was

1 made, ~~and~~ the description of the person from whom it was purchased,  
2 **AND A COPY OF THE DOCUMENTATION REQUIRED UNDER SECTION 4(2)**  
3 **REGARDING THE PERSON FROM WHOM IT WAS PURCHASED.** The statement  
4 shall be verified by ~~the person subscribing his or her name thereto~~  
5 **IN A MANNER ACCEPTABLE TO THE CHIEF OF POLICE OR CHIEF LAW**  
6 **ENFORCEMENT OFFICER.**

7 (3) This section does not apply to old rags, waste paper, and  
8 household goods except radios, televisions, record players, and  
9 electrical appliances and does not require the purchaser to retain  
10 articles purchased from individuals, firms, or corporations having  
11 a fixed place of business after those articles shall have been  
12 reported.

13 Sec. 7. ~~No~~ **A** person shall **NOT** purchase or receive by sale,  
14 barter or exchange or otherwise, any article ~~mentioned in~~  
15 **CUSTOMARILY RECEIVED BY A PERSON LICENSED UNDER** this act from any  
16 person between the hours of 9 p.m. and 7 a.m., ~~nor~~ **INCLUDING** from  
17 any person who is, at the time, intoxicated, ~~or~~ from an habitual  
18 drunkard, or from any person known by ~~said~~ **THE** second hand dealer,  
19 **SCRAP PROCESSOR**, or junk dealer to be a thief, ~~or~~ any associate of  
20 thieves, ~~or~~ receiver of stolen property, or from any person he **OR**  
21 **SHE** has reason to suspect of being such.

22 Sec. 8. (1) Except as otherwise provided for in this section,  
23 a person who violates this act is guilty of a misdemeanor and shall  
24 be imprisoned for not more than 6 months and shall be fined not  
25 less than \$500.00 or more than \$1,000.00.

26 (2) A second hand **DEALER, SCRAP PROCESSOR**, or junk dealer who  
27 buys or sells scrap metal, knowing that it is stolen, is guilty of



1 a felony punishable by imprisonment for not more than 3 years or a  
2 fine of not more than \$2,000.00, or both.

3 (3) A second hand **DEALER, SCRAP PROCESSOR**, or junk dealer who  
4 buys or sells stolen scrap metal that he or she has reason to  
5 believe was unlawfully removed from a utility pole,  
6 telecommunication company property, government property, or utility  
7 property or jobsite is guilty of a felony punishable by  
8 imprisonment for not more than 5 years or a fine of not more than  
9 \$10,000.00, or both.

10 (4) The license of a person, corporation, copartnership, or  
11 firm that is found guilty of violating any of the provisions of  
12 this act shall be considered to be revoked upon entry of a  
13 conviction and such person, corporation, copartnership, or firm  
14 shall not be permitted to carry on the business of being a second  
15 hand **DEALER, SCRAP PROCESSOR**, or junk dealer within this state for  
16 a period of 1 year after that conviction.

17 (5) The remedies under this act are independent and  
18 cumulative. The use of 1 remedy by a person does not bar the use of  
19 other lawful remedies by that person or the use of a lawful remedy  
20 by another person.