S T A T E O F N E W Y O R K

3497

2011-2012 Regular Sessions

I N S E N A T E

February 23, 2011

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to prohibiting the sale or purchase of certain items as scrap

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 69-e of the general business law, as added by chapter 431 of the laws of 1976, is amended to read as follows:

S 69-e. Definitions. 1. "Scrap metal processing facility" shall mean an establishment engaged primarily in the purchase, processing and shipment of ferrous and/or non-ferrous scrap, the end product of which is the production of raw material for remelting purposes for steel mills, [foundaries] FOUNDRIES, smelters, refiners, and similar users.

2. "Scrap processor" shall mean any person, association, partnership or corporation operating and maintaining a "scrap metal processing facility".

3. "GOVERNMENT ISSUED IDENTIFICATION" MEANS ANY CURRENT AND VALID OFFICIAL FORM OF IDENTIFICATION ISSUED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA, A STATE, TERRITORY, PROTECTORATE, OR DEPENDENCY OF THE UNITED STATES OF AMERICA, A COUNTY, MUNICIPALITY OR SUBDIVISION THEREOF, ANY PUBLIC AGENCY OR DEPARTMENT THEREOF, OR ANY PUBLIC EMPLOYER, WHICH REQUIRES AND BEARS THE SIGNATURE AND PHOTOGRAPH OF THE PERSON TO WHOM IT IS ISSUED.

S 2. Subdivision 1 of section 69-g of the general business law, as amended by chapter 302 of the laws of 2007, is amended to read as follows:

1. Such scrap processor shall record [(i) each purchase of any pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates or parts thereof, utility wire or brass car journals, or of metal beer kegs, and (ii)] each purchase of [iron, steel] FERROUS and/or nonferrous scrap [for a price of fifty dollars or more,] and preserve

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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such record for a period of three years; which record shall show the date of purchase, name of seller, [his] THE SELLER'S residence OR BUSINESS address [by street, number, city, village or town, the driver's license number or information from a government issued photographic identification card, if any, of such person, or by such description as will reasonably locate the seller,] AND the type and quantity of such purchase[; and the]. THE scrap processor shall cause such record to be signed by the seller or his agent. It shall be unlawful for any seller to refuse to furnish such information or to furnish incorrect or incomplete information. Such scrap processor shall also make and retain a copy of the government issued photographic identification card used to verify the identity of [the] ANY NATURAL person from whom the scrap metal was purchased and shall retain this copy in a separate book, register or electronic archive for [two] THREE years from the date of purchase.

S 3. Section 69-h of the general business law is renumbered section 69-i and two new sections 69-h and 69-j are added to read as follows:

S 69-H. PROHIBITION ON SALE OF CERTAIN ITEMS. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IT SHALL BE UNLAWFUL TO SELL, OFFER FOR SALE, OR PURCHASE AS SCRAP, ANY OF THE FOLLOWING: STREET SIGNS, PROPANE CONTAINERS FOR FUELING FORKLIFTS, FUNERAL MARKERS, OR ANY METAL ITEMS BEARING MARKINGS OF ANY GOVERNMENTAL ENTITY, UTILITY COMPANY, CEMETERY OR RAILROAD UNLESS SUCH ITEMS ARE OFFERED FOR SALE BY A DULY AUTHORIZED EMPLOYEE OR AGENT OF ANY GOVERNMENTAL ENTITY, UTILITY COMPANY, CEMETERY OR RAILROAD.

S 69-J. PREEMPTION OF LOCAL LAWS. THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO ALL MUNICIPALITIES, INCLUDING CITIES WITH A POPULATION OF ONE MILLION OR MORE, AND SHALL SUPERSEDE ANY LOCAL LAW, RULE, REGULATION, OR ORDINANCE THAT DIRECTLY CONFLICTS WITH THE REGULATION OR LICENSING OF SCRAP PROCESSORS AS SET FORTH IN THIS ARTICLE. NOTHING CONTAINED IN LOCAL LAW NUMBER FIFTY OF THE CITY OF NEW YORK FOR THE YEAR TWO THOUSAND SEVEN SHALL BE DEEMED TO DIRECTLY CONFLICT WITH THE REGULATION OR LICENSING OF SCRAP PROCESSORS AS SET FORTH IN THIS ARTICLE.

S 4. Section 69-i of the general business law, as added by chapter 431 of the laws of 1976 and as renumbered by section three of this act, is amended to read as follows:

S 69-i. Penalty. 1. [Each] A FIRST violation of this article [by a scrap processor] shall be a violation subject to a fine of not more than two [hundred] THOUSAND dollars[, unless such violation shall be wilful, in which event it shall be a misdemeanor except, however, the scrap processor shall not be liable for any violation of this article by a seller, his agent, or a purported seller or agent.] AND/OR IMPRISONMENT FOR A TERM OF NOT MORE THAN FIFTEEN DAYS. A SECOND OR SUBSEQUENT VIOLATION OF THIS ARTICLE SHALL BE A MISDEMEANOR SUBJECT TO A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS AND/OR IMPRISONMENT FOR A TERM OF NOT MORE THAN ONE YEAR.

2. [Each violation of this article by a seller or his agent shall be a misdemeanor.] IN ADDITION TO A TERM OF IMPRISONMENT, WHERE A PERSON HAS GAINED MONEY OR PROPERTY THROUGH A VIOLATION OF THIS ARTICLE THE COURT, UPON CONVICTION THEREOF, IN LIEU OF IMPOSING THE FINE AUTHORIZED FOR THE OFFENSE UNDER SUBDIVISION ONE OF THIS SECTION MAY SENTENCE THE DEFENDANT TO PAY AN AMOUNT, FIXED BY THE COURT, NOT EXCEEDING DOUBLE THE AMOUNT OF THE DEFENDANT'S GAIN FROM THE COMMISSION OF THE OFFENSE.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law.