

1779

2011-2012 Regular Sessions

I N S E N A T E

January 12, 2011

Introduced by Sen. PERKINS -- 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 and the penal law, in relation to the lawful sale of scrap copper and other metals by junk dealers

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

1 Section 1. Section 62 of the general business law, as amended by chap-
2 ter 302 of the laws of 2007, is amended to read as follows:
3 S 62. Statement required from persons selling certain property. 1. On
4 purchasing any pig or pigs of metal, bronze or brass castings or parts
5 thereof, sprues or gates or parts thereof, copper TUBING OR wire or
6 brass car journals, or metal beer kegs, such junk dealer shall: (A)
7 TAKE A COPY OF THE SELLER'S GOVERNMENT ISSUED IDENTIFICATION; AND (B)
8 cause to be subscribed by the person from whom purchased a statement as
9 to: (I) when, where and from whom he or she obtained such property[,
10 also his or her identity as verified by a government issued identifica-
11 tion card,] OR OTHER PROOF OF AUTHORIZATION TO SELL SUCH ITEMS; (II) THE
12 PERSON'S age, residence by city, village or town, and the street and
13 number thereof, if any, the driver's license number or information from
14 a government issued identification card, if any, of such person, and
15 otherwise such description as will reasonably locate the same[, his or
16 her]; (III) THE PERSON'S occupation and name of his or her employer and
17 place of employment or business, which statement the junk dealer shall
18 forthwith file in the office of the chief of police of the city or
19 village in which the purchase was made, if made in a city or incorpo-
20 rated village, and otherwise in the office of the sheriff of the county
21 in which made. THE JUNK DEALER SHALL CAUSE SUCH STATEMENT TO BE SIGNED
22 BY THE SELLER. The junk metal dealer shall also make and retain a copy
23 of the government issued photographic identification card used to verify
24 the identity of the person from whom the junk metal was purchased and
25 shall retain this copy AND THE SIGNED STATEMENT in a separate book or

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

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1 register for two years from the date of purchase of the junk metal and
2 include an additional copy of this identification with the information
3 required to be transmitted to the chief of police or sheriff pursuant to
4 this section. IT SHALL BE UNLAWFUL FOR ANY SELLER TO REFUSE TO FURNISH
5 SUCH INFORMATION OR TO FURNISH INCORRECT OR INCOMPLETE INFORMATION.

6 2. FOR THE PURPOSES OF THIS SECTION, "GOVERNMENT ISSUED IDENTIFICA-
7 TION" MEANS ANY CURRENT AND VALID OFFICIAL FORM OF IDENTIFICATION ISSUED
8 BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA, A STATE, TERRITORY,
9 PROTECTORATE, OR DEPENDENCY OF THE UNITED STATES OF AMERICA, A COUNTY,
10 MUNICIPALITY OR SUBDIVISION THEREOF, ANY PUBLIC AGENCY OR DEPARTMENT
11 THEREOF, OR ANY PUBLIC EMPLOYER, WHICH REQUIRES AND BEARS THE SIGNATURE
12 OF THE PERSON TO WHOM IT IS ISSUED, NOT INCLUDING A SOCIAL SECURITY
13 ACCOUNT NUMBER CARD.

14 S 2. Section 63 of the general business law is amended to read as
15 follows:

16 S 63. Certain property to be kept in separate piles. Every junk dealer
17 shall on purchasing any of the property described in [the last] section
18 SIXTY-TWO OF THIS ARTICLE, place and keep each separate purchase in a
19 separate and distinct pile, bundle or package, in the usual place of
20 business of such junk dealer, without removing, melting, cutting or
21 destroying any article thereof, for a period of five days immediately
22 succeeding such purchase, on which package, bundle or pile shall be
23 placed and kept by such dealer a tag bearing the name and residence of
24 the seller, with the date, hour and place of purchase, and the weight
25 thereof.

26 S 3. The general business law is amended by adding a new section 63-b
27 to read as follows:

28 S 63-B. PROHIBITION ON SALE OF CERTAIN ITEMS. NOTWITHSTANDING ANY
29 PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IT SHALL BE UNLAW-
30 FUL TO SELL, OFFER FOR SALE, OR PURCHASE AS JUNK, ANY OF THE FOLLOWING:
31 STREET SIGNS, PROPANE CONTAINERS FOR FUELING FORKLIFTS, FUNERAL MARKERS,
32 OR ANY METAL ITEMS BEARING MARKINGS OF ANY GOVERNMENTAL ENTITY, UTILITY
33 COMPANY, CEMETERY OR RAILROAD. THIS SECTION SHALL NOT APPLY TO THE
34 SALE, OFFER FOR SALE, OR PURCHASE AS JUNK, OF SUCH ITEMS BY A DULY
35 AUTHORIZED EMPLOYEE OR REPRESENTATIVE OF ANY GOVERNMENTAL ENTITY, UTILI-
36 TY COMPANY, CEMETERY OR RAILROAD ACTING IN THEIR OFFICIAL CAPACITY.

37 S 4. Section 64 of the general business law is amended to read as
38 follows:

39 S 64. [Penalty] PENALTIES. 1. Each violation of this article, either
40 by the junk dealer, the agent or servant thereof, and each false state-
41 ment made in or on any statement or tag above mentioned shall be a
42 misdemeanor and the person convicted shall, in addition to other penal-
43 ties imposed, forfeit his OR HER license to do business.

44 2. IF A JUNK DEALER, THE AGENT OR SERVANT THEREOF, HAS THREE OR MORE
45 PREVIOUS CONVICTIONS IN A TEN-YEAR PERIOD FOR VIOLATIONS OF SECTION
46 SIXTY-TWO, SIXTY-THREE OR SIXTY-THREE-B OF THIS ARTICLE, SUCH CURRENT
47 VIOLATION SHALL BE PUNISHABLE AS A CLASS E FELONY.

48 3. EACH VIOLATION OF THIS ARTICLE BY A SELLER SHALL BE A VIOLATION
49 SUBJECT TO A FINE OF NOT MORE THAN ONE HUNDRED DOLLARS, UNLESS SUCH
50 VIOLATION SHALL BE INTENTIONAL, IN WHICH EVENT IT SHALL BE A MISDEMEA-
51 NOR.

52 4. But nothing [herein contained] IN THIS SECTION shall apply to
53 cities of the first class.

54 S 5. Section 69-e of the general business law, as added by chapter 431
55 of the laws of 1976, is amended to read as follows:

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

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

9 3. "GOVERNMENT ISSUED IDENTIFICATION" MEANS ANY CURRENT AND VALID
10 OFFICIAL FORM OF IDENTIFICATION ISSUED BY THE GOVERNMENT OF THE UNITED
11 STATES OF AMERICA, A STATE, TERRITORY, PROTECTORATE, OR DEPENDENCY OF
12 THE UNITED STATES OF AMERICA, A COUNTY, MUNICIPALITY OR SUBDIVISION
13 THEREOF, ANY PUBLIC AGENCY OR DEPARTMENT THEREOF, OR ANY PUBLIC EMPLOY-
14 ER, WHICH REQUIRES AND BEARS THE SIGNATURE AND PHOTOGRAPH OF THE PERSON
15 TO WHOM IT IS ISSUED.

16 S 6. Subdivision 1 of section 69-g of the general business law, as
17 amended by chapter 302 of the laws of 2007, is amended to read as
18 follows:

19 1. Such scrap processor shall record [(i) each purchase of any pig or
20 pigs of metal, bronze or brass castings or parts thereof, sprues or
21 gates or parts thereof, utility wire or brass car journals, or of metal
22 beer kegs, and (ii)] each purchase of [iron, steel] FERROUS and/or
23 nonferrous scrap [for a price of fifty dollars or more,] and preserve
24 such record for a period of three years; which record shall show the
25 date of purchase, name of seller, [his] THE SELLER'S residence OR BUSI-
26 NESS address [by street, number, city, village or town, the driver's
27 license number or information from a government issued photographic
28 identification card, if any, of such person, or by such description as
29 will reasonably locate the seller,] AND the type and quantity of such
30 purchase[; and the]. THE scrap processor shall cause such record to be
31 signed by the seller or his agent. It shall be unlawful for any seller
32 to refuse to furnish such information or to furnish incorrect or incom-
33 plete information. Such scrap processor shall also make and retain a
34 copy of the government issued photographic identification card used to
35 verify the identity of [the] ANY NATURAL person from whom the scrap
36 metal was purchased and shall retain this copy in a separate book,
37 register or electronic archive for [two] THREE years from the date of
38 purchase.

39 S 7. Section 69-h of the general business law is renumbered section
40 69-i and two new sections 69-h and 69-j are added to read as follows:

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

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

1 S 8. Section 155.00 of the penal law is amended by adding a new subdi-
2 vision 10 to read as follows:
3 10. "INCIDENTAL DAMAGE" MEANS PROPERTY DAMAGE, LOSS OF INCOME OR LOSS
4 OF PROFIT.
5 S 9. Section 155.20 of the penal law is amended by adding a new subdi-
6 vision 5 to read as follows:
7 5. WHEN, AS A RESULT OF THE THEFT OF PROPERTY, INCIDENTAL DAMAGE IS
8 CAUSED TO OTHER PROPERTY OF AN OWNER, VALUE SHALL BE THE AGGREGATE OF
9 THE VALUE OF PROPERTY TAKEN AS SET FORTH IN SUBDIVISION ONE OF THIS
10 SECTION AND ANY INCIDENTAL DAMAGE CAUSED TO SUCH OTHER PROPERTY.
11 S 10. This act shall take effect on the ninetieth day after it shall
12 have become a law.