

1779--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business 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. IT SHALL BE UNLAWFUL TO
29 SELL OR OFFER FOR SALE TO A JUNK DEALER OR FOR A JUNK DEALER TO PURCHASE
30 ANY OF THE FOLLOWING: STREET SIGNS, FUNERAL MARKERS, OR ANY OTHER JUNK
31 METAL ITEMS BEARING MARKINGS OF ANY GOVERNMENTAL ENTITY, UTILITY COMPA-
32 NY, CEMETERY OR RAILROAD. THIS SECTION SHALL NOT APPLY TO THE SALE,
33 OFFER FOR SALE OR PURCHASE AS JUNK, OF ITEMS BY A DULY AUTHORIZED
34 EMPLOYEE OR REPRESENTATIVE OF ANY GOVERNMENTAL ENTITY, UTILITY COMPANY,
35 CEMETERY OR RAILROAD ACTING IN THEIR OFFICIAL CAPACITY. THIS SECTION
36 SHALL NOT APPLY TO THE SALE, OFFER FOR SALE TO A JUNK DEALER OR FOR A
37 JUNK DEALER TO PURCHASE FUNERAL MARKERS BY OR FROM A DULY AUTHORIZED
38 EMPLOYEE OR REPRESENTATIVE OF A MANUFACTURER OF FUNERAL MARKERS.

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

41 S 64. Penalty. 1. Each violation of this article, either by the junk
42 dealer, the agent or servant thereof, and each false statement made in
43 or on any statement or tag above mentioned shall be a misdemeanor and
44 the person convicted shall[, in] BE SUBJECT TO A TERM OF IMPRISONMENT
45 NOT TO EXCEED ONE YEAR OR BE ORDERED TO PAY A FINE NOT EXCEEDING ONE
46 THOUSAND DOLLARS OR BOTH SUCH FINE AND IMPRISONMENT. IN addition to
47 other penalties imposed, SUCH JUNK DEALER, AGENT OR SERVANT THEREOF
48 SHALL forfeit his OR HER license to do business. But nothing herein
49 contained shall apply to cities of the first class.

50 2. IN ADDITION TO A PENALTY IMPOSED PURSUANT TO SUBDIVISION ONE OF
51 THIS SECTION, IN THE EVENT THAT A JUNK DEALER, AGENT OR SERVANT THEREOF
52 HAS GAINED MONEY OR PROPERTY AS A RESULT OF A VIOLATION OF THIS ARTICLE,
53 THE COURT UPON CONVICTION MAY SENTENCE THE DEFENDANT TO PAY AN AMOUNT,
54 TO BE FIXED BY THE COURT, NOT EXCEEDING DOUBLE THE AMOUNT OF THE DEFEND-
55 ANT'S GAIN FROM THE COMMISSION OF THE OFFENSE.

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

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

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

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

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

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

41 S 7. Section 69-h of the general business law is renumbered section
42 69-i and a new section 69-h is added to read as follows:

43 S 69-H. PROHIBITION ON SALE OF CERTAIN ITEMS. NOTWITHSTANDING ANY
44 PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IT SHALL BE UNLAW-
45 FUL TO SELL, OFFER FOR SALE, OR PURCHASE AS SCRAP, ANY OF THE FOLLOWING:
46 STREET SIGNS, FUNERAL MARKERS, OR ANY OTHER JUNK METAL ITEMS BEARING
47 MARKINGS OF ANY GOVERNMENTAL ENTITY, UTILITY COMPANY, CEMETERY OR RAIL-
48 ROAD UNLESS SUCH ITEMS ARE OFFERED FOR SALE BY A DULY AUTHORIZED EMPLOY-
49 EE OR AGENT OF ANY GOVERNMENTAL ENTITY, UTILITY COMPANY, CEMETERY OR
50 RAILROAD. THIS SECTION SHALL NOT APPLY TO THE SALE, OFFER FOR SALE TO
51 SCRAP PROCESSOR OR FOR A SCRAP PROCESSOR TO PURCHASE FUNERAL MARKERS BY
52 OR FROM A DULY AUTHORIZED EMPLOYEE OR REPRESENTATIVE OF A MANUFACTURER
53 OF FUNERAL MARKERS.

54 S 8. This act shall take effect on the ninetieth day after it shall
55 have become a law.