

3497--A

Cal. No. 586

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I N S E N A T E

February 23, 2011

Introduced by Sens. GRISANTI, MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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

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

1 Section 1. Section 69-e of the general business law, as added by chap-
2 ter 431 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 2. 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

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

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

16 S 3. Section 69-h of the general business law is renumbered section
17 69-i and two new sections 69-h and 69-j are added to read as follows:

18 S 69-H. PROHIBITION ON PURCHASE OF CERTAIN ITEMS. NOTWITHSTANDING ANY
19 PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IT SHALL BE UNLAW-
20 FUL FOR SCRAP PROCESSING FACILITIES TO PURCHASE STREET SIGNS, FUNERAL
21 MARKERS, OR ANY METAL ITEMS BEARING MARKINGS OF ANY GOVERNMENTAL ENTITY,
22 UTILITY COMPANY, CEMETERY OR RAILROAD UNLESS SUCH ITEMS ARE OFFERED FOR
23 SALE BY A DULY AUTHORIZED EMPLOYEE OR AGENT OF ANY GOVERNMENTAL ENTITY,
24 UTILITY COMPANY, CEMETERY OR RAILROAD.

25 S 69-J. PREEMPTION OF LOCAL LAWS. THE PROVISIONS OF THIS ARTICLE SHALL
26 APPLY TO ALL MUNICIPALITIES, INCLUDING CITIES WITH A POPULATION OF ONE
27 MILLION OR MORE, AND SHALL SUPERSEDE ANY LOCAL LAW, RULE, REGULATION, OR
28 ORDINANCE REGARDING THE LICENSING OR REGULATION OF SCRAP PROCESSORS AND
29 SCRAP METAL PROCESSING FACILITIES; PROVIDED, HOWEVER, THAT LOCAL LAW
30 NUMBER FIFTY OF THE CITY OF NEW YORK FOR THE YEAR TWO THOUSAND SEVEN
31 SHALL NOT BE DEEMED TO BE PREEMPTED BY THE PROVISIONS OF THIS ARTICLE.

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

35 S 69-i. Penalty. 1. [Each] A FIRST violation of this article [by a
36 scrap processor] shall be PUNISHABLE AS a violation subject to a fine of
37 not more than two [hundred] THOUSAND dollars[, unless such violation
38 shall be wilful, in which event it shall be a misdemeanor except, howev-
39 er, the scrap processor shall not be liable for any violation of this
40 article by a seller, his agent, or a purported seller or agent.] AND/OR
41 IMPRISONMENT FOR A TERM OF NOT MORE THAN FIFTEEN DAYS. A SECOND OR
42 SUBSEQUENT VIOLATION OF THIS ARTICLE SHALL BE PUNISHABLE AS A MISDEMEA-
43 NOR SUBJECT TO A FINE OF NOT MORE THAN FIVE THOUSAND DOLLARS AND/OR
44 IMPRISONMENT FOR A TERM OF NOT MORE THAN ONE YEAR. A CONVICTION FOR A
45 THIRD VIOLATION OF THIS ARTICLE COMMITTED WITHIN A TEN YEAR PERIOD SHALL
46 BE PUNISHABLE AS A CLASS E FELONY.

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

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