

1667

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. GRISANTI, MAZIARZ -- 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
purchase of certain items as scrap

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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
26 such record for a period of three years; which record shall show the

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

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

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

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

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

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

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

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

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