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I N   A S S E M B L Y

May 4, 2010

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Introduced by M. of A. PEOPLES-STOKES -- (at request of the Governor) --  
read once and referred to the Committee on Economic Development, Job  
Creation, Commerce and Industry

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 ASSEM-  
BLY, 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  
26    register for two years from the date of purchase of the junk metal and  
27    include an additional copy of this identification with the information

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

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1 required to be transmitted to the chief of police or sheriff pursuant to  
2 this section. IT SHALL BE UNLAWFUL FOR ANY SELLER TO REFUSE TO FURNISH  
3 SUCH INFORMATION OR TO FURNISH INCORRECT OR INCOMPLETE INFORMATION.

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

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

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

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

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

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

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

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

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

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

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

54 S 69-e. Definitions. 1. "Scrap metal processing facility" shall mean  
55 an establishment engaged primarily in the purchase, processing and ship-  
56 ment of ferrous and/or non-ferrous scrap, the end product of which is

1 the production of raw material for remelting purposes for steel mills,  
2 [foundaries] FOUNDRIES, smelters, refiners, and similar users.

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

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

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

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

36 S 7. Section 69-h of the general business law is renumbered section  
37 69-i and two new sections 69-h and 69-j are added to read as follows:

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

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

54 S 8. Section 155.00 of the penal law is amended by adding a new subdi-  
55 vision 10 to read as follows:

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