

3497

2011-2012 Regular Sessions

I N S E N A T E

February 23, 2011

Introduced by Sen. GRISANTI -- 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 sale or 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 chapter 431 of the laws of 1976, is amended to read as follows:
- 2 S 69-e. Definitions. 1. "Scrap metal processing facility" shall mean an establishment engaged primarily in the purchase, processing and shipment of ferrous and/or non-ferrous scrap, the end product of which is the production of raw material for remelting purposes for steel mills, [foundaries] FOUNDRIES, smelters, refiners, and similar users.
- 3 2. "Scrap processor" shall mean any person, association, partnership or corporation operating and maintaining a "scrap metal processing facility".
- 4 3. "GOVERNMENT ISSUED IDENTIFICATION" MEANS ANY CURRENT AND VALID OFFICIAL FORM OF IDENTIFICATION ISSUED BY THE GOVERNMENT OF THE UNITED STATES OF AMERICA, A STATE, TERRITORY, PROTECTORATE, OR DEPENDENCY OF THE UNITED STATES OF AMERICA, A COUNTY, MUNICIPALITY OR SUBDIVISION THEREOF, ANY PUBLIC AGENCY OR DEPARTMENT THEREOF, OR ANY PUBLIC EMPLOYER, WHICH REQUIRES AND BEARS THE SIGNATURE AND PHOTOGRAPH OF THE PERSON TO WHOM IT IS ISSUED.
- 5 S 2. Subdivision 1 of section 69-g of the general business law, as amended by chapter 302 of the laws of 2007, is amended to read as follows:
- 6 1. Such scrap processor shall record [(i) each purchase of any pig or pigs of metal, bronze or brass castings or parts thereof, sprues or gates or parts thereof, utility wire or brass car journals, or of metal beer kegs, and (ii)] each purchase of [iron, steel] FERROUS and/or 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 SALE OF CERTAIN ITEMS. NOTWITHSTANDING ANY
19 PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, IT SHALL BE UNLAW-
20 FUL TO SELL, OFFER FOR SALE, OR PURCHASE AS SCRAP, ANY OF THE FOLLOWING:
21 STREET SIGNS, PROPANE CONTAINERS FOR FUELING FORKLIFTS, FUNERAL MARKERS,
22 OR ANY METAL ITEMS BEARING MARKINGS OF ANY GOVERNMENTAL ENTITY, UTILITY
23 COMPANY, CEMETERY OR RAILROAD UNLESS SUCH ITEMS ARE OFFERED FOR SALE BY
24 A DULY AUTHORIZED EMPLOYEE OR AGENT OF ANY GOVERNMENTAL ENTITY, UTILITY
25 COMPANY, CEMETERY OR RAILROAD.

26 S 69-J. PREEMPTION OF LOCAL LAWS. THE PROVISIONS OF THIS ARTICLE SHALL
27 APPLY TO ALL MUNICIPALITIES, INCLUDING CITIES WITH A POPULATION OF ONE
28 MILLION OR MORE, AND SHALL SUPERSEDE ANY LOCAL LAW, RULE, REGULATION, OR
29 ORDINANCE THAT DIRECTLY CONFLICTS WITH THE REGULATION OR LICENSING OF
30 SCRAP PROCESSORS AS SET FORTH IN THIS ARTICLE. NOTHING CONTAINED IN
31 LOCAL LAW NUMBER FIFTY OF THE CITY OF NEW YORK FOR THE YEAR TWO THOUSAND
32 SEVEN SHALL BE DEEMED TO DIRECTLY CONFLICT WITH THE REGULATION OR
33 LICENSING OF SCRAP PROCESSORS AS SET FORTH IN THIS ARTICLE.

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

37 S 69-i. Penalty. 1. [Each] A FIRST violation of this article [by a
38 scrap processor] shall be a violation subject to a fine of not more than
39 two [hundred] THOUSAND dollars[, unless such violation shall be wilful,
40 in which event it shall be a misdemeanor except, however, the scrap
41 processor shall not be liable for any violation of this article by a
42 seller, his agent, or a purported seller or agent.] AND/OR IMPRISONMENT
43 FOR A TERM OF NOT MORE THAN FIFTEEN DAYS. A SECOND OR SUBSEQUENT
44 VIOLATION OF THIS ARTICLE SHALL BE A MISDEMEANOR SUBJECT TO A FINE OF
45 NOT MORE THAN FIVE THOUSAND DOLLARS AND/OR IMPRISONMENT FOR A TERM OF
46 NOT MORE THAN ONE YEAR.

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.