

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on **Federal and State Affairs** recommends **HB 2312**, as amended by House Committee of the Whole, be amended on page 1, by striking all in lines 6 through 34;

By striking all on pages 2 through 4;

On page 5, by striking all in lines 1 through 5 and inserting:

"New Section 1. (a) On or after January 1, 2012, no business shall purchase any regulated scrap metal without having first registered each place of business as herein provided. In case such place of business is located within the corporate limits of a city, the registration shall be made to the governing body of such city. In all other cases, the registration shall be made to the board of county commissioners in the county in which such place of business is to be located.

(b) A board of county commissioners shall provide the clerk of the township with written notice of the filing of a registration by a scrap metal dealer within 10 days of registration or renewal.

(c) The governing body of any city and the board of county commissioners shall provide the sheriff, chief of police or director of all law enforcement agencies in the county written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.

(d) A registration for a scrap metal dealer shall be verified and upon a form prepared by the attorney general and contain:

- (1) The name and residence of the applicant;
- (2) the length of time that the applicant has resided within the state of Kansas and a list of all residences outside the state of Kansas during the previous 10 years;
- (3) the particular place of business for which a registration is desired;

(4) the name of the owner of the premises upon which the place of business is located; and

(5) the applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for theft, as defined in K.S.A. 21-3701, prior to its repeal, or section 87 of chapter 136 of the 2010 Session Laws of Kansas, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or section 88 of chapter 136 of the 2010 Session Laws of Kansas, theft of services, as defined in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or section 89 of chapter 136 of the 2010 Session Laws of Kansas, or any other crime involving possession of stolen property.

(e) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of not less than \$100 nor more than \$400, as prescribed by the board of county commissioners or the governing body of the city, as the case may be.

(f) The board of county commissioners or the governing body of a city shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer engaged in business in such county or city and qualified to file such registration, to purchase regulated scrap metals. Such registration shall be issued for a period of 10 years.

(g) If an original registration is accepted, the governing body of the city or the board of county commissioners shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The registration fee for such renewal, which shall be in addition to the fee provided by subsection (e), shall be not less than \$25 nor more than \$50.

(h) No registration issued under this act shall be transferrable.

(i) Violation of subsection (a) is a class A nonperson misdemeanor.

(j) This section shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor

vehicle components.

New Sec. 2. (a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the governing body of the city or the board of county commissioners shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) A person who is under 18 years of age and whose parents or legal guardians would be ineligible for registration for any reason.

(2) A person who, within five years immediately preceding the date of filing, has pled guilty to, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or sections 87 through 125 and subsection (a)(6) of section 223 of chapter 136 of the 2010 Session Laws of Kansas, perjury, K.S.A. 21-3805, prior to its repeal, or section 128 of chapter 136 of the 2010 Session Laws of Kansas, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, section 129 of chapter 136 of the 2010 Session Laws of Kansas, interference with judicial process, section 130 of chapter 136 of the 2010 Session Laws of Kansas, or any crime involving moral turpitude.

(3) A person who, within the five years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of section 1, and amendments thereto, K.S.A. 50-6,109 et. seq., and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal three or more times.

(4) A person who within the three years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three years.

(6) A partnership or limited liability company, unless all members of the partnership or limited liability company are otherwise qualified to file a registration.

(7) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) A person whose spouse would be ineligible to register for any reason, except this provision shall not apply to the spouse or a manager, officer or director of a publicly-traded company or its subsidiaries.

(10) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under this act.

New Sec. 3. (a) The board of county commissioners or the governing body of any city, upon five days notice to the persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days for any one of the following reasons:

(1) The registrant has been convicted of violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or any similar ordinance, resolution or rules or regulations made by the

board or the city, as the case may be;

(2) the employment or continuation in employment of a person if the registered scrap metal dealer knows such person has, within the 18 months prior to the notice of suspension or revocation action, been convicted of violating any of the provisions of K.S.A. 50-6,109 et. seq., and amendments thereto, or the laws of another state comparable to such provisions, or any city or county ordinance or resolution, or regulation controlling scrap metal sale or purchase in Kansas or any other state; or

(3) permitting any criminal activity under the Kansas criminal code, or similar ordinance, resolution or rules or regulations made by the board or city, as the case may be, in or upon the registrant's place of business.

(b) The board of county commissioners or the governing body of any city may revoke the registration of a scrap metal dealer who has had its registration suspended three or more times within a 24-month period.

(c) The board of county commissioners or the governing body of any city, upon five days' notice to the person holding the registration, shall revoke or suspend the registration for any one of the following reasons:

(1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;

(2) the registrant has become ineligible to obtain a registration under this act;

(3) the nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due;

(4) the employment or continued employment of a person in connection with the receiving or purchasing of regulated scrap metal if the registrant knows such person has, within the preceding five years, pled guilty to, been convicted of, released from incarceration for or released from probation or parole for committing, attempting to commit, or conspiring to commit a violation of section 1, and

amendments thereto, article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or sections 87 through 125 and subsection (a)(6) of section 223 of chapter 136 of the 2010 Session Laws of Kansas, perjury, K.S.A. 21-3805, prior to its repeal, or section 128 of chapter 136 of the 2010 Session Laws of Kansas, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, section 129 of chapter 136 of the 2010 Session Laws of Kansas, interference with judicial process, section 130 of chapter 136 of the 2010 Session Laws of Kansas, a violation of K.S.A. 2010 Supp. 21-36a03, 21-36a05, and amendments thereto, or any crime involving moral turpitude; or

(5) within 20 days after the order of the board denying, revoking or suspending any registration, the registrant may appeal to the district court and the district court shall proceed to hear such appeal as though the court had original jurisdiction of the matter. Upon request by the registrant, the district court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this act.

(d) Any action brought under subsections (a), (b) or (c) shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same individual, company or business entity."

On page 7, following line 19, by inserting:

"Sec. 6. K.S.A. 2010 Supp. 50-6,110 is hereby amended to read as follows: 50-6,110. (a) Except as provided in subsection (d), it shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person presents to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following information: The seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license.

The identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:

(1) The time, date and place of transaction;

(2) the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;

(3) a copy of the identification card or document containing such identifying number;

(4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;

(5) a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;

(6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;

(7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;

(8) the amount of consideration given in a purchase transaction for the junk vehicle or other regulated scrap metal property; and

(9) the name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase.

(c) The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format.

(d) Notwithstanding the foregoing, this section shall not apply to:

(1) Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is \$50.00 or less;

(2) transactions involving only catalytic converters for which the total sale price is \$30.00 or less;

(3) transactions in which the seller is also a scrap metal dealer; or

(4) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(e) The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:

(1) Catalytic converters purchased separate from a vehicle;

(2) coated or insulated wire or stripped wire or burnt wire;

(3) refrigeration condensing units or air conditioning coils of any type; or

(4) copper tubing, bars, plate, buss bar and sheet copper.

(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (e)(1) through (4) by any means other than:

(1) A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b); or

(2) a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b).";

And by renumbering the remaining sections accordingly;

On page 8, in line 35, by striking "and"; in line 36, after "part" by inserting "; and

(20) twisted pair copper telecommunications wiring existing in 19, 22, 24 or 26 gauge";

On page 9, by striking all in lines 1 through 15; in line 16, after "50-6,109," by inserting "50-6,110,";

On page 1, in the title, in line 3, by striking "and" where it appears the first time and inserting ", 50-6,110,"; also in line 3, after "and" where it appears the second time, by inserting "section 87 of chapter 136 of the 2010 Session Laws of Kansas and"; and the bill be passed as amended.

Chairperson