

STATE OF KANSAS

SENATE CHAMBER

MADAM PRESIDENT:

I move to amend **HB 2153**, as amended by Senate Committee, on page 1, following line 5, by inserting:

"Section 1. K.S.A. 2016 Supp. 50-6,109a is hereby amended to read as follows: 50-6,109a. (a) The attorney general is hereby given jurisdiction and authority over all matters involving the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act including to:

- (1) Employ or appoint agents as necessary to implement, administer and enforce the act;
- (2) contract;
- (3) expend funds;
- (4) license and discipline;
- (5) investigate;
- (6) issue subpoenas;
- (7) keep statistics; and
- (8) conduct education and outreach programs to promote compliance with the act.

(b) In accordance with the rules and regulations filing act, the attorney general is hereby authorized to adopt rules and regulations necessary to implement the provisions of the scrap metal theft reduction act.

(c) There is hereby established in the state treasury the scrap metal theft reduction fee fund to be administered by the attorney general. All moneys received by the attorney general from fees, charges or penalties collected under the provisions of the scrap metal theft reduction act shall be remitted to the

state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount thereof in the state treasury to the credit of the scrap metal theft reduction fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the attorney general or the attorney general's designee. All moneys credited to the scrap metal theft reduction fee fund shall be expended for the administration of the duties, functions and operating expenses incurred under the provisions of the scrap metal theft reduction act.

(d) Before ~~July~~ January 1, 2016 ~~2019~~, the attorney general shall establish and maintain a database which shall be a central repository for the information required to be provided under K.S.A. 2016 Supp. 50-6,110, and amendments thereto. The database shall be maintained for the purpose of providing information to law enforcement and for any other purpose deemed necessary by the attorney general to implement and enforce the provisions of the scrap metal theft reduction act.

(e) The information required by K.S.A. 2016 Supp. 50-6,110, and amendments thereto, maintained in such database by the attorney general, or by any entity contracting with the attorney general, submitted to, maintained or stored as part of the system shall:

(1) Be confidential, shall only be used for investigatory, evidentiary or analysis purposes related to criminal violations of city, state or federal law and shall only be released to law enforcement in response to an official investigation or as permitted in subsection (d); and

(2) not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto. The provisions of this subsection shall expire on July 1, 2020, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.

Sec. 2. K.S.A. 2016 Supp. 50-6,109c is hereby amended to read as follows: 50-6,109c. (a)

Any scrap metal dealer who violates any of the provisions of the scrap metal theft reduction act, in addition to any other penalty provided by law, may incur a civil penalty imposed pursuant to subsection (b) in an amount not less than \$100 nor more than \$5,000 for each violation.

(b) The attorney general, upon a finding that a scrap metal dealer or any employee or agent thereof or any person or entity required to be registered as a scrap metal dealer has violated any of the provisions of the scrap metal theft reduction act may impose a civil penalty as provided in this subsection upon such scrap metal dealer.

(c) A civil penalty shall not be imposed pursuant to this section except upon the written order of the attorney general to the scrap metal dealer who is responsible for the violation. Such order is a final order for purposes of judicial review and shall state the violation, the penalty to be imposed and the right of such dealer to appeal as provided in the Kansas judicial review act.

(d) ~~This section shall take effect on and after January 1, 2016.~~ This section shall be unenforceable and shall not apply from the effective date of this act to January 1, 2019.

Sec. 3. K.S.A. 2016 Supp. 50-6,110 is hereby amended to read as follows: 50-6,110. (a) 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 meets the requirements of this subsection.

(1) Such person shall present to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following: The seller's name, address, sex, date of birth and the seller's driver's license, military identification card, passport or personal identification license. 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.

(2) Such person shall complete and sign the statement provided for in subsection (b)(10).

(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 price paid for, traded for or dealt for in a transaction for the junk vehicle or other regulated scrap metal property;
- (9) the full name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase; and

(10) a signed statement from the seller indicating from where the property was obtained and that: (A) Each item is the seller's own personal property, is free of encumbrances and is not stolen; or (B) the seller is acting for the owner and has permission to sell each item. If the seller is not the owner, such statement shall include the name and address of the owner of the property.

(c) Every scrap metal dealer shall photograph ~~both the seller and~~ the item or lot of items being sold at the time of purchase or receipt of any item for which such information is required to be presented. Such photographs shall be kept with the record of the transaction and the scrap metal dealer's register of information required by subsection (b). Failure to comply with the provisions of this subsection between the effective date of this act and January 1, 2019, may result in an assessment of a civil penalty by the attorney general of not less than \$100 nor more than \$5,000 for each violation.

(d) The scrap metal dealer's register of information required by subsection (b), including copies of identification cards and signed statements by sellers, and photographs required by subsection (c) may be kept in electronic format. Failure to comply with the provisions of this subsection between the effective date of this act and January 1, 2019, may result in an assessment of a civil penalty by the attorney general of not less than \$100 nor more than \$5,000 for each violation.

(e) Every scrap metal dealer shall forward the information required by this section to the database described in K.S.A. 2016 Supp. 50-6,109a, and amendments thereto.

(f) Notwithstanding any other provision to the contrary, this section shall not apply to transactions in which the seller is a:

- (1) Registered scrap metal dealer;
- (2) vehicle dealer licensed under chapter 8 of the Kansas Statutes Annotated, and amendments thereto; or
- (3) scrap metal dealer or vehicle dealer registered or licensed in another state.

(g) (1) Except as provided in subsection (g)(2), this section shall not apply to transactions in which the seller is known to the purchasing scrap metal dealer to be a licensed business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(2) The attorney general may determine, by rules and regulations, which of the requirements of this section shall apply to transactions described in subsection (g)(1).

(h) The amendments made to subsection (e) by section 13 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from the effective date of this act to January 1, 2019.

Sec. 4. K.S.A. 2016 Supp. 50-6,112a is hereby amended to read as follows: 50-6,112a. (a) A scrap metal dealer shall not purchase any regulated scrap metal without having first registered each place of business with the attorney general as herein provided.

(b) The attorney general shall establish a system for the public to confirm scrap metal dealer registration certificates. Such system shall include a listing of valid registration certificates and such other information collected pursuant to the scrap metal theft reduction act, as the attorney general may determine is appropriate. Disclosure of any information through use of the system established by the attorney general shall not be deemed to be an endorsement of any scrap metal dealer or determination of any facts, qualifications, information or reputation of any scrap metal dealer by the attorney general, the state, or any of their respective agents, officers, employees or assigns.

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

(1) (A) The name and residence of the applicant, including all previous names and aliases; or

(B) if the applicant is a: Corporation, the name and address of each manager, officer or director thereof, and each stockholder owning in the aggregate more than 25% of the stock of such

corporation; or partnership or limited liability company, the name and address of each partner or member;

(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, the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business;

(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: A violation of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2016 Supp. 21-5801 through 21-5839 or K.S.A. 2016 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2016 Supp. 21-5903, and amendments thereto; 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, K.S.A. 2016 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2016 Supp. 21-5905, and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

(d) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of not less than \$500 nor more than \$1,500, as prescribed by the attorney general for each particular place of business for which a registration is desired.

(e) The attorney general shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer qualified to file such registration, to purchase

regulated scrap metals. Such registration shall be issued for a period of one year.

(f) If an original registration is accepted, the attorney general 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 renewal fee shall be not more than \$1,500, as prescribed by the attorney general.

(g) Any registration issued under the scrap metal theft reduction act shall not be transferable.

(h) 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.

(i) The amendments made to subsections (d) and (f) by section 15 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from the effective date of this act to January 1, 2019.

Sec. 5. K.S.A. 2016 Supp. 50-6,112b is hereby amended to read as follows: 50-6,112b. (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 attorney general 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 not a citizen or legal permanent resident of the United States.

(2) A person who is under 18 years of age and whose parents or legal guardians have 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 such parents or legal guardians held a registration under the scrap metal theft reduction act.

(3) A person who, within 10 years immediately preceding the date of filing, has pled guilty to,

entered into a diversion agreement for, 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 K.S.A. 2016 Supp. 21-5801 through 21-5839 or K.S.A. 2016 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2016 Supp. 21-5903 and amendments thereto; 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, K.S.A. 2016 Supp. 21-5904 and amendments thereto; interference with judicial process, K.S.A. 2016 Supp. 21-5905 and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

(4) A person who within the 10 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 10 years.

(6) A partnership or limited liability company, unless all partners or 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 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 the scrap metal theft reduction act.

(10) A person who does not own the premises upon which the place of business is located for which a license is sought, unless the person has a written lease for at least $\frac{3}{4}$ of the period for which the license is to be issued.

(c) Any person filing a scrap metal dealer registration may be subject to a criminal history records check and may be given a written notice that a criminal history records check is required. The attorney general may require such applicant to be fingerprinted and submit to a state and national criminal history record check. If required, such fingerprints shall be used to identify the applicant and to determine whether the applicant has a record of criminal history in this state or another jurisdiction. The attorney general shall submit any fingerprints provided to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. Local and state law enforcement officers and agencies shall assist the attorney general in the taking and processing of fingerprints of applicants. The attorney general may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the applicant and in the official determination of whether the scrap metal dealer registration shall be accepted. If the criminal history record information is used to disqualify an applicant, the applicant shall be informed in writing of that decision.

(d) The amendments made to subsections (b)(10) and (c) by section 16 of chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and shall not apply from the effective date of this act to January 1, 2019.";

On page 4, in line 16, by striking "is" and inserting "and K.S.A. 2016 Supp. 50-6,109a, 50-6,109c, 50-6,110, 50-6,112a and 50-6,112b are"; in line 18, by striking "statute book" and inserting "Kansas register";

And by renumbering sections accordingly;

On page 1, in the title, in line 1, after "the" by inserting "attorney general's enforcement of the scrap metal theft reduction act;"; in line 2, after "and" by inserting "K.S.A. 2016 Supp. 50-6,109a, 50-6,109c, 50-6,110, 50-6,112a and 50-6,112b and"; in line 3, by striking "section" and inserting "sections"

Senator _____