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SHORT TITLE: Crimes and punishments; exempting aluminum beverage cans from certain reporting requirements and holding period; effective date.

STATE OF OKLAHOMA

2nd Session of the 45th Legislature (1996)

SENATE BILL NO. 1224

By: Price

AS INTRODUCED

An Act relating to crimes and punishments; amending 21 O.S. 1991, Sections 1045 and 1046; which relate to reports of copper purchases and penalties, and 59 O.S. 1991, Sections 1410 and 1411, which relate to junk dealer register; modifying language; modifying statutory reference; requiring certain sales and purchases of aluminum be reported; exempting aluminum beverage cans from certain reporting requirements and holding period; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 21 O.S. 1991, Section 1045, is amended to read as follows:

Section 1045. Every owner, keeper or proprietor of a junk shop, junk store, salvage yard, scrap processor, junk cart or other vehicle or boat, or collector of or dealer in junk, salvage or other secondhand property, shall keep a separate book or register in which he or she shall enter the following information: name, address, age, driver's license number, if driver's license not available similar definite identification, of the person or persons from whom thirty-five (35) pounds or more of copper ~~or~~, copper alloy, aluminum or aluminum alloy utilized by persons, firms, corporations or municipal corporations engaged in the transmission and distribution of electric energy, or engaged in telephone, telegraph or other communications is purchased; license tag number of vehicle or conveyance in which delivered; the date and place of each purchase of such copper ~~or~~, copper alloy, aluminum or aluminum alloy; the description should include the weight of ~~said copper or copper alloy~~

the materials purchased, including whether the same is in wire, cable, bars, rods, or tubing and, if any insulation is thereon, the names and addresses of the persons, groups of persons or corporations from whom seller purchased ~~said copper or copper alloy~~ the materials. Such book or register shall be made available to any law enforcement official or the representatives of persons, firms, corporations or municipal corporations described above for inspection at any time. The purchaser of any such copper ~~or~~, copper alloy, aluminum or aluminum alloy shall hold the ~~said~~ purchases separate and apart so that such ~~copper and copper alloy~~ materials shall be readily identifiable from all other purchases for a period of not less than ten (10) days from the date of purchase of such ~~copper or copper alloy~~ materials during which period the purchaser shall not change the form of ~~said~~ the copper ~~or~~, copper alloy, aluminum or aluminum alloy and shall permit any law enforcement officer or the representatives of persons, firms, corporations or municipal corporations described above to make inspection of such ~~copper or copper alloy~~ materials during the said ten-day holding period; provided, however, that all such purchases made from persons, firms, corporations or municipal corporations who construct, operate, or maintain electric distribution and transmission, communications facilities or produce scrap copper or aluminum in their normal course of business or the sale of copper or aluminum material by one licensed junk dealer to another are not subject to said ten-day holding period; and there shall be required from such persons, firms, corporations or municipal corporations a bill of sale or other written evidence of title of such purchases. The purchaser shall also report in writing all purchases of such copper ~~or~~, copper alloy, aluminum or aluminum alloy to the sheriff of the county in which ~~said~~ the purchases are made, if requested in

writing by ~~said~~ the sheriff, within forty-eight (48) hours after any such purchase is made. The report made to ~~said~~ the sheriffs shall contain all of the information required to be maintained in the book or register provided for herein. The provisions of this section shall not apply to the sale or purchase of aluminum beverage cans which are obtained for recycling purposes.

SECTION 2. AMENDATORY 21 O.S. 1991, Section 1046, is amended to read as follows:

Section 1046. Failure to maintain the book or register, failing to maintain the copper ~~or~~, copper alloy, aluminum or aluminum alloy separate and in the original form purchased for a period of ten (10) days so that such ~~copper or copper alloy~~ materials can be readily identifiable ~~for a period of ten (10) days~~, or failure to report to the sheriff in the manner and time required in Section ~~±~~ 1045 of this title shall be deemed a violation of the provisions of Section 1045 of this act title and shall be punishable, upon conviction, by imprisonment in the county jail for a period of time not exceeding six (6) months ~~and~~, by a fine of not more than Five Hundred Dollars (\$500.00), or both such fine and imprisonment.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 1410, is amended to read as follows:

Section 1410 ~~(a)~~ A. Every junk dealer shall keep a separate book or register in which the dealer shall enter the following information: Name, address, age, driver's license number, or, if driver's license not available, similar definite identification of the person or persons from whom thirty-five (35) pounds or more of aluminum is purchased; license tag number of vehicle or conveyance in which delivered; the date and place of each purchase of such aluminum; a description including the weight of the aluminum purchased, the names and addresses of the persons, groups of persons

or corporations from whom seller purchased said aluminum. The book or register shall be made available to any law enforcement official for inspection at any time.

~~(b)~~ B. A junk dealer who purchases aluminum shall also report, in writing, all purchases of thirty-five (35) pounds or more of aluminum to the sheriff of the county in which the purchases are made, if requested in writing by the sheriff. The report shall be made in writing to the sheriff within forty-eight (48) hours after said request is made and shall contain all of the information required to be maintained in the book or register provided for in this section.

C. The provisions of this section shall not apply to the sale or purchase of aluminum beverage cans which are obtained for recycling purposes.

SECTION 4. AMENDATORY 59 O.S. 1991, Section 1411, is amended to read as follows:

Section 1411. Any license, issued pursuant to Section 1402 of this title to any junk dealer who violates any of the provisions of Section ~~±~~ 1410 of this ~~act~~ title relating to purchases of aluminum material, may be canceled or suspended for a period not to exceed thirty (30) days by the Oklahoma Tax Commission. The Oklahoma Tax Commission may refuse the issuance of or extension or reinstatement of any license where the applicant or licensee has violated any of the provisions of Section ~~±~~ 1410 of this ~~act~~ title or existing laws. Before the Oklahoma Tax Commission may cancel or suspend any license or refuse the issuance, reinstatement or extension of a license, the Oklahoma Tax Commission shall give each licensee or applicant ten (10) days' notice of a hearing before the Oklahoma Tax Commission, granting the person an opportunity to show cause why such action should not be taken. Upon notice given to any junk dealer by the

Oklahoma Tax Commission of its intention to cancel or suspend any license or to refuse the issuance, reinstatement or extension of a license, the Oklahoma Tax Commission may enter its order suspending such license or prohibiting the applicant from doing business without a license pending the final hearing before it as provided for in this section and, after notice of such order of suspension or prohibition from doing business, it shall be unlawful for such junk dealer to further engage in the business of a junk dealer. If any such person shall conduct or at any time continue such unlawful operation, after notice of suspension or prohibition from doing business, the Oklahoma Tax Commission may institute or cause to be brought against such person or persons proceedings for injunction in any court of competent jurisdiction to enjoin and restrain such person or persons from doing business pending the order of the Oklahoma Tax Commission. Upon cancellation of a license by the Oklahoma Tax Commission, no new license shall be issued to such dealer for a period of one (1) year from the date of the cancellation. In all cases where proceedings are brought for injunction pursuant to this section, no bond for injunction shall be required and in all such cases, after notice of suspension has been given, no further notice shall be required before the issuance of a temporary restraining order on any proceeding for injunction. If an appeal is taken from the order of the Oklahoma Tax Commission issued pursuant to this section, the junk dealer, in order to conduct business as a junk dealer pending the outcome of the appeal, shall be required to post a bond in the amount of Five Thousand Dollars (\$5,000.00).

SECTION 5. This act shall become effective November 1, 1996.

