

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE
4 FOR ENGROSSED
5 HOUSE BILL 1399

By: Liebmann, Smithson,
Shelton, Wesselhoft and
(Denney) of the House

6 and

7 Branam of the Senate

8
9 COMMITTEE SUBSTITUTE

10 [crimes and punishments - penalties for junk dealers
11 - effective date]

12
13 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

14 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1041, is
15 amended to read as follows:

16 Section 1041. All persons, firms or corporations, who carry on
17 the business of buying brass, copper, iron, rubber and leather
18 belting, plumbing or electric fixtures, burlap or bags of any
19 material, tools, machinery or supplies commonly used in the
20 drilling, completing, operating or repairing of oil or gas wells,
21 commonly known as "junk dealers", shall keep a record in a book for
22 the purpose, to be kept in their places of business and open to the
23 inspection of the public, showing the date of each purchase of such
24 property, the name and address of the seller, a photocopy of the

1 driver license or other form of government-issued photo
2 identification of the seller, the vehicle description and vehicle
3 license tag number of the seller, the items of property purchased,
4 and the price paid to ~~such~~ the seller for each item of property, ~~and~~
5 ~~all.~~ All persons, firms and corporations carrying on such business
6 shall keep all such property purchased upon display, and in plain
7 sight, in their places of business, for at least ~~fifteen (15)~~ ten
8 (10) days after purchasing ~~such~~ the property, and keep ~~such~~ the
9 property open to inspection of the public during said time, before
10 disposing of same. Provided, however, this act shall not apply to
11 persons, firms or corporations, carrying on a retail or wholesale
12 business of buying new property of the character aforesaid, or to
13 persons buying new property of the kind mentioned at retail or
14 wholesale; provided further, that it shall be unlawful for any junk
15 dealer, as defined in this act, to purchase articles mentioned
16 herein from minors without having first obtained the consent, in
17 writing, of the parents or guardian of such minor.

18 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1042, is
19 amended to read as follows:

20 Section 1042. Any person, firm or corporation failing or
21 refusing to comply with the provisions of Section 1041 of this act
22 title shall, upon conviction, be ~~deemed~~ guilty of a misdemeanor ~~and~~
23 ~~upon conviction shall be subject to~~ punishable by a fine of not less
24 ~~than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars~~

1 ~~(\$200.00)~~ Five Thousand Dollars (\$5,000.00), or by imprisonment in
2 the county jail for a period of not more than ~~thirty (30) days~~ six
3 (6) months, or by both such fine and imprisonment. A second or
4 subsequent violation of the provisions of Section 1041 of this title
5 shall, upon conviction, be a felony punishable by a fine of not more
6 than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the
7 custody of the Department of Corrections for a period of not more
8 than two (2) years, or by both such fine and imprisonment.

9 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1044, is
10 amended to read as follows:

11 Section 1044. Any person, firm or corporation failing or
12 refusing to comply with the provisions of Section 1043 of this act
13 title shall, upon conviction, be deemed guilty of a misdemeanor and
14 upon conviction shall be subject to punishable by a fine of not less
15 more than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00)
16 Dollars Five Thousand Dollars (\$5,000.00), or by imprisonment in the
17 county jail for a period of not more than ~~thirty (30) days~~ six (6)
18 months, or by both such fine and imprisonment. A second or
19 subsequent violation of the provisions of Section 1043 of this title
20 shall, upon conviction, be a felony punishable by a fine of not more
21 than Ten Thousand Dollars (\$10,000.00), or by imprisonment in the
22 custody of the Department of Corrections for a period of not more
23 than two (2) years, or by both such fine and imprisonment.

1 SECTION 4. AMENDATORY 21 O.S. 2001, Section 1045, is
2 amended to read as follows:

3 Section 1045. Every owner, keeper or proprietor of a junk shop,
4 junk store, salvage yard, scrap processor, junk cart or other
5 vehicle or boat, or collector of or dealer in junk, salvage or other
6 secondhand property, shall keep a separate book or register in which
7 he or she shall enter the following information: name, address,
8 age, ~~driver's~~ a photocopy of the driver license number, if driver's
9 ~~license not available similar definite~~ or other form of government-
10 issued photo identification, the vehicle description and vehicle
11 license tag number of the person or persons from whom ~~thirty-five~~
12 ~~(35)~~ ten (10) pounds or more of copper, copper alloy, aluminum or
13 aluminum alloy utilized by persons, firms, corporations or municipal
14 corporations engaged in the transmission and distribution of
15 electric energy, or engaged in telephone, telegraph or other
16 communications is purchased; vehicle license tag number and
17 description of vehicle or conveyance in which delivered; the date
18 and place of each purchase of such copper, copper alloy, aluminum or
19 aluminum alloy; the description should include the weight of the
20 materials purchased, including whether the same is in wire, cable,
21 bars, rods, sheeting or tubing and, if any insulation is thereon,
22 the names and addresses of the persons, groups of persons or
23 corporations from whom seller purchased the materials. Such book or
24 register shall be made available to any person, law enforcement

1 official or the representatives of persons, firms, corporations or
2 municipal corporations described above for inspection at any time.
3 The purchaser of any such copper, copper alloy, aluminum or aluminum
4 alloy shall hold the purchases separate and apart so that such
5 materials shall be readily identifiable from all other purchases for
6 a period of not less than ten (10) days from the date of purchase of
7 such materials during which period the purchaser shall not change
8 the form of the copper, copper alloy, aluminum or aluminum alloy and
9 shall permit any person, law enforcement officer or the
10 representatives of persons, firms, corporations or municipal
11 corporations described above to make inspection of such materials
12 during the said ten-day holding period; provided, however, that all
13 such purchases made from persons, firms, corporations or municipal
14 corporations who construct, operate, or maintain electric
15 distribution and transmission, communications facilities or produce
16 scrap copper or aluminum in their normal course of business or the
17 sale of copper or aluminum material by one licensed junk dealer to
18 another are not subject to said ten-day holding period; and there
19 shall be required from such persons, firms, corporations or
20 municipal corporations a bill of sale or other written evidence of
21 title of such purchases. The purchaser shall also report in writing
22 all purchases of such copper, copper alloy, aluminum or aluminum
23 alloy to the sheriff of the county in which the purchases are made,
24 if requested in writing by the sheriff, within forty-eight (48)

1 hours after any such purchase is made. The report made to the
2 sheriffs shall contain all of the information required to be
3 maintained in the book or register provided for herein. The
4 provisions of this section shall not apply to the sale or purchase
5 of aluminum beverage cans which are obtained for recycling purposes.

6 SECTION 5. AMENDATORY 21 O.S. 2001, Section 1046, is
7 amended to read as follows:

8 Section 1046. Failure to maintain the book or register, failing
9 to maintain the copper, copper alloy, aluminum or aluminum alloy
10 separate and in the original form purchased for a period of ten (10)
11 days so that such materials can be readily identifiable, or failure
12 to report to the sheriff in the manner and time required in Section
13 1045 of this title shall be deemed a violation of the provisions of
14 Section 1045 of this title and shall be punishable, upon conviction,
15 by imprisonment in the county jail for a period of time not
16 exceeding six (6) months, or by a fine of not more than ~~Five Hundred~~
17 ~~Dollars (\$500.00)~~ Five Thousand Dollars (\$5,000.00), or by both such
18 fine and imprisonment.

19 SECTION 6. AMENDATORY 21 O.S. 2001, Section 1047, is
20 amended to read as follows:

21 Section 1047. Any person who shall knowingly give false
22 information with respect to information required to be maintained in
23 the book or register provided for in Section ~~±~~ 1045 of this title
24 shall, upon conviction, be guilty of a ~~misdemeanor and shall be~~

1 ~~imprisoned~~ felony punishable by imprisonment in the custody of the
2 Department of Corrections for not more than ~~six (6) months~~ two (2)
3 years, or ~~fined~~ by a fine of not more than ~~Five Hundred Dollars~~
4 ~~(\$500.00)~~ Five Thousand Dollars (\$5,000.00), or by both such fine
5 and imprisonment.

6 SECTION 7. AMENDATORY 59 O.S. 2001, Section 1408, is
7 amended to read as follows:

8 Section 1408. A. Anyone acting as a junk dealer without a
9 permit, as required by Section 1402 of this title, ~~is~~ shall, upon
10 conviction, be guilty of a misdemeanor and, ~~upon conviction thereof,~~
11 ~~is subject to~~ punishable by a fine of not more than Fifty Dollars
12 (\$50.00); provided that each ~~day's~~ day of operation without a
13 license constitutes a separate offense.

14 B. Any junk dealer failing to maintain records, as required by
15 ~~Section~~ Sections 1406 of this title and ~~Section 6~~ 1406A of this act,
16 and any junk dealer failing to hold copper material, as required by
17 ~~Section 1407 of this title,~~ title shall, upon conviction, be
18 guilty of a misdemeanor and, ~~upon conviction thereof, is subject to~~
19 punishable by imprisonment in the county jail for not more than one
20 (1) year, or by a fine of ~~Five Hundred Dollars (\$500.00)~~ not more
21 than Five Thousand Dollars (\$5,000.00), or by both such fine and
22 imprisonment. Each separate purchase or transfer of a vehicle in
23 violation of Section ~~6~~ 1406A of this act title shall be considered a
24 separate violation of this section.

1 C. Any junk dealer failing to hold copper material as required
2 by Section 1407 of this title shall, upon conviction, be guilty of a
3 misdemeanor punishable by a fine of not more than Five Hundred
4 Dollars (\$500.00).

5 D. Any person who knowingly gives false information with
6 respect to the information required in ~~Section~~ Sections 1406 ~~of this~~
7 ~~title and in Section 6~~ 1406A of this ~~act is~~ title shall, upon
8 conviction, be guilty of a misdemeanor and, upon conviction thereof,
9 ~~is subject to~~ punishable by a fine of not to exceed more than Five
10 Hundred Dollars (\$500.00).

11 ~~D.~~ E. Each conviction of a junk dealer for violation of any
12 provision of this act shall be reported to the Oklahoma Tax
13 Commission by the clerk of the court rendering such verdict.

14 SECTION 8. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 1412 of Title 59, unless there
16 is created a duplication in numbering, reads as follows:

17 A junk dealer shall not purchase any of the following items of
18 regulated metal property without obtaining proof that the seller
19 owns the property, either by receipt, bill of sale or other proof of
20 ownership, or proof that the seller is an employee, agent, or
21 contractor of a governmental entity, utility company, cemetery,
22 railroad, manufacturer, or other person, business or entity owning
23 the property and the seller is authorized to sell the item of
24

1 regulated metal property on behalf of the person, business or entity
2 owning the property:

3 1. A manhole cover;

4 2. An electric light pole and its fixtures and hardware or any
5 other hardware associated with the electric utility system;

6 3. A guard rail;

7 4. A street sign, traffic sign or traffic signal and its
8 fixtures or hardware;

9 5. Communications, transmission and service wire;

10 6. A funeral marker or funeral vase;

11 7. A historical marker;

12 8. Railroad equipment, including but not limited to, a tie
13 plate, switch plate, E clip or rail tie junction;

14 9. Any metal item that is marked with any form of the name,
15 initials or logo of a governmental entity, utility company, cemetery
16 or railroad;

17 10. A copper or aluminum condensing or evaporating coil from a
18 heating or air conditioning unit;

19 11. An aluminum or stainless steel container or bottle designed
20 to hold propane for fueling fork lifts; and

21 12. Metal bleachers or other seating facilities used in
22 recreational areas or sporting arenas.

23 Violations of this section shall be punishable by a fine of not
24 more than Five Thousand Dollars (\$5,000.00). A second or subsequent

1 violation of this section shall be punishable by a fine of not more
2 than Ten Thousand Dollars (\$10,000.00). A third violation of this
3 section shall be punishable by a fine of Ten Thousand Dollar
4 (\$10,000.00) and forfeiture of the junk dealers license or permit.

5 SECTION 9. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 1413 of Title 59, unless there
7 is created a duplication in numbering, reads as follows:

8 Any junk dealer licensed or permitted to do business in this
9 state shall be required to pay any seller of any metal product,
10 regulated by the provisions of Sections 1401 et seq. of Title 59 of
11 the Oklahoma Statutes or Sections 1041 of Title 21 of the Oklahoma
12 Statutes, by check for any amount in excess of Twenty-Five Dollars
13 (\$25.00). Such payment may be provided at the time of purchase or
14 by mail, as determined by the junk dealer. If payment is to be made
15 by mail, the junk dealer shall provide the seller with a sales
16 receipt at the time such items are accepted.

17 SECTION 10. This act shall become effective November 1, 2007.

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