

CS for SB 795

1 THE STATE SENATE
2 Monday, February 26, 2007

3 Committee Substitute for
4 Senate Bill No. 795

5 COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 795 - By: LAMB of the
6 Senate and WINCHESTER and LAMONS of the House.

7 [theft of copper materials - modifying certain penalties
8 for violations - effective date -
9 emergency]

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

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

13 Section 1041. All persons, firms or corporations, who carry on
14 the business of buying brass, copper, iron, rubber and leather
15 belting, plumbing or electric fixtures, burlap or bags of any
16 material, tools, machinery or supplies commonly used in the
17 drilling, completing, operating or repairing of oil or gas wells,
18 commonly known as "junk dealers," shall keep a record in a book for
19 the purpose, to be kept in their places of business and open to the
20 inspection of the public, showing the date of each purchase of such
21 property, the name and address of the seller, the items of property
22 purchased, and the price paid to such seller for each item of
23 property; and all persons, firms and corporations carrying on such
24 business shall keep ~~all~~ such property purchased upon display, and in
25 plain sight, in their places of business, for at least ~~fifteen~~-(15)-

1 thirty (30) days after purchasing such property, and keep such
2 property open to inspection of the public during said time, before
3 disposing of same. Provided, however, ~~this act~~ Sections 1041 and
4 1042 of this title shall not apply to persons, firms or
5 corporations, carrying on a retail or wholesale business of buying
6 new property of the character aforesaid, or to persons buying new
7 property of the kind mentioned at retail or wholesale; provided
8 further, that it shall be unlawful for any junk dealer, as defined
9 in ~~this act~~ Sections 1041 and 1042 of this title, to purchase
10 articles mentioned herein from minors without having first obtained
11 the consent, in writing, of the parents or guardian of such minor.

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

14 Section 1042. A. Any person, firm or corporation failing or
15 refusing to comply with the provisions of ~~this act~~ Sections 1041 and
16 1042 of this title shall be deemed guilty of a misdemeanor and upon
17 conviction shall be subject to a fine of not less than ~~Fifty Dollars~~
18 ~~(\$50.00) nor more than Two Hundred Dollars (\$200.00)~~ Five Thousand
19 Dollars (\$5,000.00), or by imprisonment for a period of not more
20 than ~~thirty (30) days~~ six (6) months, or by both such fine and
21 imprisonment.

22 B. Any person, firm or corporation convicted of a second or
23 subsequent violation of this section shall be deemed guilty of a

1 felony and upon conviction shall be subject to a fine of Ten
2 Thousand Dollars (\$10,000.00), or by imprisonment for a period of
3 not more than two (2) years in the custody of the Department of
4 Corrections or county jail, or by both such fine and imprisonment.

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

7 Section 1044. A. Any person, firm or corporation failing or
8 refusing to comply with the provisions of ~~this act~~ Section 1043 et
9 seq. of this title shall be deemed guilty of a misdemeanor and upon
10 conviction shall be subject to a fine ~~not less than Fifty (\$50.00)~~
11 ~~Dollars nor more than Two Hundred (\$200.00) Dollars~~ of Five Thousand
12 Dollars (\$5,000.00), or by imprisonment in the custody of the
13 Department of Corrections or the county jail for a period of not
14 more than ~~thirty (30) days~~ six (6) months, or by both such fine and
15 imprisonment.

16 B. Any person, firm or corporation convicted of a second or
17 subsequent violation shall be deemed guilty of a felony and upon
18 conviction shall be subject to a fine of Ten Thousand Dollars
19 (\$10,000.00) or by imprisonment in the custody of the Department of
20 Corrections or county jail, or by both such fine and imprisonment.

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

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

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

1 information required to be maintained in the book or register
2 ~~provided for herein~~ as required by law. The provisions of this
3 section shall not apply to the sale or purchase of aluminum beverage
4 cans which are obtained for recycling purposes.

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

7 Section 1046. Failure to maintain the book or register, failing
8 to maintain the copper, copper alloy, aluminum or aluminum alloy
9 separate and in the original form purchased for a period of ~~ten (10)~~
10 thirty (30) days so that such materials can be readily identifiable,
11 or failure to report to the sheriff in the manner and time required
12 in Section 1045 of this title shall be deemed a violation of the
13 provisions of Section 1045 of this title and shall be punishable,
14 upon conviction, by imprisonment in the custody of the Department of
15 Corrections or the county jail for a period of time not exceeding
16 six (6) months, by a fine of not more than ~~Five Hundred Dollars~~
17 ~~(\$500.00)~~ Five Thousand Dollars (\$5,000.00), or both such fine and
18 imprisonment.

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

21 Section 1047. A. 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

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

6 B. Any person failing to keep the records required by this act
7 or Section 1401 et seq. of Title 59 of the Oklahoma Statutes shall
8 be guilty of a misdemeanor and shall be imprisoned in the custody of
9 the Department of Corrections or the county jail for a period not to
10 exceed one (1) year or fined not more than Five Thousand Dollars
11 (\$5,000.00) or both such fine and imprisonment.

12 SECTION 7. AMENDATORY 21 O.S. 2001, Section 1727, is
13 amended to read as follows:

14 Section 1727. A. Any person who shall enter upon any
15 premises, easement, or right of way with intent to steal or remove
16 without the consent of the owner, or with intent to aid or assist in
17 stealing or removing any copper wire, copper cable, or copper tubing
18 from and off of any appurtenance on such premises, easement, or
19 right of way shall be guilty of a felony and upon conviction shall
20 be punished by ~~confinement in the State Penitentiary~~ imprisonment in
21 the custody of the Department of Corrections or the county jail for
22 not less than one (1) year nor more than five (5) years, ~~or by~~
23 ~~confinement in the county jail for not less than ninety (90) days~~

1 ~~nor more than two hundred (200) days,~~ or shall be fined ~~not less~~
2 ~~than One Hundred Dollars (\$100.00) nor more than Five Hundred~~
3 Dollars (\$500.00), or by both such fine and imprisonment. In
4 addition to the fine and imprisonment, any person convicted of a
5 violation of this section may be subject to forfeiture of any
6 vehicle used in commission of such crime.

7 B. Any person convicted of a second or subsequent violation of
8 this section shall be guilty of a felony and upon conviction may be
9 punished by the forfeiture of any vehicle used in commission of such
10 crime, imprisonment in the custody of the Department of Corrections
11 for not less than two (2) years nor more than seven (7) years and/or
12 fined not more than Five Thousand Dollars (\$5,000.00).

13 SECTION 8. AMENDATORY 21 O.S. 2001, Section 1728, is
14 amended to read as follows:

15 Section 1728. A. Any person who shall receive, transport, or
16 possess in this state stolen copper wire, copper cable, or copper
17 tubing under such circumstances that ~~he~~ the person knew or should
18 have known that the same was stolen shall upon conviction thereof be
19 guilty of a felony and shall be ~~confined in the State Penitentiary~~
20 imprisoned in the custody of the Department of Corrections for a
21 term of not less than one (1) year nor more than five (5) years, or
22 shall be confined in the county jail for not less than ninety (90)
23 days nor more than two hundred (200) days, or shall be fined not

1 less than One Hundred Dollars (\$100.00) nor more than Five Hundred
2 Dollars (\$500.00), or both such fine and imprisonment. In addition
3 to such fine and imprisonment, any person convicted of a violation
4 of this section may be subject to forfeiture of any vehicle used in
5 commission of such crime.

6 B. Any person convicted of a second or subsequent violation of
7 this section shall be deemed guilty of a felony and upon conviction
8 may be punished by forfeiture of any vehicle used in commission of
9 such crime, imprisonment in the custody of the Department of
10 Corrections for not less than two (2) years nor more than seven (7)
11 years and/or fined not more than Five Thousand Dollars (\$5,000.00).

12 SECTION 9. AMENDATORY 59 O.S. 2001, Section 1402, is
13 amended to read as follows:

14 Section 1402. A. Any junk dealer and any person, firm,
15 corporation or other legal entity desiring to become a junk dealer
16 shall prior to the commencement of business file a verified
17 application and obtain a license to operate as a junk dealer from
18 the Oklahoma Tax Commission. In addition, the junk dealer shall
19 obtain a sales tax permit, as ~~provided~~ required by Section 1364 of
20 Title 68 of the Oklahoma Statutes, from the ~~Oklahoma~~ Tax Commission.
21 Each junk dealer shall maintain at least one yard and, if such junk
22 dealer maintains or desires to maintain more than one yard, the junk
23 dealer shall obtain, in addition to the original ~~sales tax permit~~

1 license, a duplicate ~~sales tax permit~~ license for each additional
2 yard.

3 B. 1. To be eligible for a junk dealer license, an applicant
4 shall have been a resident of this state for at least one year and
5 shall complete an application providing the name of the applicant,
6 the street address of the principal place of business, the
7 applicant's financial statement, the legal description of the place
8 of business, together with written verification from the appropriate
9 local authorities that the place of business meets the licensing and
10 zoning requirements of the municipality or county where located and
11 such additional information as may be required by the Tax
12 Commission.

13 2. Applications for a junk dealer license shall be signed under
14 oath and shall state the full name and place of residence of the
15 applicant. If the applicant is a partnership, the full name and
16 place of residence of each member thereof shall be required. If the
17 applicant is a corporation, the full name and place of residence of
18 each officer or major stockholder thereof shall be required. The
19 application shall give the location from which the business is to be
20 conducted, and shall contain such relevant information as the Tax
21 Commission shall require.

22 3. No person shall be granted a license to engage in the
23 business as a junk dealer if such person has been convicted or

1 entered a plea of guilty or nolo contendere, in any municipal court
2 or any court of any state, for knowingly receiving, accepting,
3 handling or selling, or otherwise disposing of any property or junk
4 which has been stolen, or has violated any laws, rules or
5 regulations of the United States or the laws or ordinances of any
6 municipality.

7 C. 1. The fee for the application for a junk dealer license
8 shall be Three Hundred Dollars (\$300.00) for an initial license for
9 the applicant's established principal place of business. The
10 renewal fee for an applicant's established place of business shall
11 be One Hundred Fifty Dollars (\$150.00) annually. The fee for each
12 additional place of business shall be One Hundred Dollars (\$100.00),
13 and the renewal fee for such additional license shall be Fifty
14 Dollars (\$50.00) annually.

15 2. Any change of information required to be contained in the
16 application for a license filed with the Tax Commission shall be
17 amended within thirty (30) days after the occurrence of the change
18 on a form prescribed by the Tax Commission, accompanied by a fee of
19 One Hundred Dollars (\$100.00); provided, the fee for change of name
20 shall be Fifty Dollars (\$50.00).

21 3. Every license issued to a junk dealer shall expire on
22 December 31 of each year and shall be renewed on or before January 1
23 of the following year. The Tax Commission may prorate the

1 application fees for licenses issued for less than a full year at
2 their discretion.

3 D. The ~~Oklahoma~~ Tax Commission shall maintain a list of junk
4 dealers to whom ~~sales tax permits~~ licenses have been issued. The
5 list shall be made available to the public upon request.

6 SECTION 10. AMENDATORY 59 O.S. 2001, Section 1403, is
7 amended to read as follows:

8 Section 1403. A. Any license issued pursuant to Section 1402
9 of this title or sales tax permit, issued pursuant to Section 1364
10 of Title 68 of the Oklahoma Statutes, to any junk dealer who
11 violates any of the provisions of Sections 1401 ~~through this section~~
12 ~~and Sections 1405 through 1408 et seq.~~ of this title relating to the
13 purchase of copper materials, may be canceled or suspended for a
14 period not to exceed thirty (30) days by the Oklahoma Tax
15 Commission. The ~~Oklahoma~~ Tax Commission may refuse the issuance of
16 or extension or reinstatement of any license or permit where the
17 applicant or holder of the license or permit shall have violated any
18 provisions of ~~this act~~ Section 1401 et seq. of this title or
19 existing laws. Such cancellation or refusal shall be mandatory as
20 to any junk dealer having been convicted of three separate
21 violations of ~~this act~~ Section 1401 et seq. of this title. However,
22 before the ~~Oklahoma~~ Tax Commission may cancel or suspend any license
23 or permit or refuse the issuance, reinstatement or extension

1 thereof, the ~~Oklahoma~~ Tax Commission shall give each holder of a
2 license or permit or applicant ten (10) days' notice of a hearing
3 before the ~~Oklahoma~~ Tax Commission, granting such person an
4 opportunity to show cause why such action should not be taken. Upon
5 notice given to any junk dealer by the ~~Oklahoma~~ Tax Commission of
6 its intention to cancel or suspend any license or permit or to
7 refuse the issuance, reinstatement or extension thereof, the
8 ~~Oklahoma~~ Tax Commission shall have the authority to enter its order
9 suspending such license or permit or prohibiting the applicant from
10 doing business without a license or permit pending the final hearing
11 before it as provided for in this section.

12 B. 1. After notice of the order of suspension or prohibition
13 from doing business, it shall be unlawful for the junk dealer to
14 further engage in the business of a junk dealer, as defined herein.
15 In the event any such person shall conduct or at any time continue
16 such unlawful operation, after notice of suspension or prohibition
17 from doing business, the ~~Oklahoma~~ Tax Commission may institute or
18 cause to be brought against such person or persons proceedings for
19 injunction in any court of competent jurisdiction to enjoin and
20 restrain such person or persons from doing business pending the
21 order of the ~~Oklahoma~~ Tax Commission.

1 2. Upon cancellation of a license or permit by the ~~Oklahoma~~-Tax
2 Commission, no new license or permit shall be issued to such dealer
3 for a period of one (1) year from the date of cancellation.

4 3. In all cases where proceedings are brought for injunction
5 under ~~this act~~ Section 1401 et seq. or this title, no bond for
6 injunction shall be required and in all such cases, after notice of
7 suspension has been given, no further notice shall be required
8 before the issuance of a temporary restraining order on any
9 proceeding for injunction.

10 C. If an appeal is taken from the order of the ~~Oklahoma~~ Tax
11 Commission issued pursuant to this section, the junk dealer, in
12 order to conduct business as a junk dealer pending outcome of the
13 appeal, shall be required to post a bond in the amount of Five
14 Thousand Dollars (\$5,000.00).

15 SECTION 11. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 1404A of Title 59, unless there
17 is created a duplication in numbering, reads as follows:

18 All monies collected pursuant to the provisions of Section 1402
19 of Title 59 of the Oklahoma Statutes shall be deposited in the
20 Oklahoma Tax Commission Fund, created pursuant to Section 221 of
21 Title 62 of the Oklahoma Statutes, and used for the purpose of
22 implementing the provisions of this act. The Oklahoma Tax
23 Commission is authorized to promulgate rules, employ personnel and

1 otherwise expend funds as necessary to implement the provisions of
2 this act.

3 SECTION 12. AMENDATORY 59 O.S. 2001, Section 1406, is
4 amended to read as follows:

5 Section 1406. ~~(a)~~ A. Every junk dealer shall keep a separate
6 book or register in which ~~he~~ such junk dealer shall enter the
7 following information: Name of seller, address, ~~age~~, photocopy of
8 seller's driver license ~~number~~, or, if ~~driver's~~ driver license not
9 available, similar definite identification of the person or persons
10 from whom ~~thirty five (35)~~ ten (10) pounds or more of copper or
11 copper alloy utilized by persons, firms, corporations or municipal
12 corporations engaged in the transmission and distribution of
13 electric energy, or engaged in telephone, telegraph or other
14 communications is purchased; license tag number of vehicle or
15 conveyance in which such material is delivered; the date and place
16 of each purchase of such copper or copper alloy; the description
17 ~~should~~ shall include the weight of said copper or copper alloy
18 purchased, including whether the same is in wire, cable, bars, rods,
19 or tubing and, if any installation is thereon, the names and
20 addresses of the persons, groups of persons or corporations from
21 whom seller purchased said copper or copper alloy. Such book or
22 register shall be made available to any law enforcement official or

1 the representatives of persons, firms, corporations or municipal
2 corporations described above for inspection at any time.

3 ~~(b)~~ B. A junk dealer who purchases copper material shall also
4 report, in writing, all purchases of ~~thirty five (35)~~ ten (10)
5 pounds or more of copper material not exempt from the ~~ten-day~~
6 required holding period to the sheriff of the county in which ~~said~~
7 such purchases are made, if requested in writing by ~~said~~ the
8 sheriff. The report shall be made in writing to said sheriff within
9 forty-eight (48) hours after any such purchase is made and shall
10 contain all of the information required to be maintained in the book
11 or register provided for herein.

12 SECTION 13. AMENDATORY 59 O.S. 2001, Section 1406A, is
13 amended to read as follows:

14 Section 1406A. A. Every junk dealer shall keep a separate book
15 or register in which the junk dealer shall enter the following
16 information: name, address, ~~age,~~ photocopy of driver license
17 ~~number,~~ or, if driver license is not available, similar definite
18 identification, as approved by rule of the Oklahoma Tax Commission,
19 of the person or persons from whom a vehicle is purchased; license
20 tag number of vehicle or conveyance in which delivered; the date and
21 place of each purchase of a vehicle; and a description of the
22 vehicle purchased including make, model, vehicle identification
23 number and license tag number. The person selling the vehicle shall

1 be required to present to the junk dealer the title of the vehicle
2 verifying ownership of the vehicle or a verified bill of sale from
3 the owner of the vehicle or other proof of ownership. Such book or
4 register shall be made available to any law enforcement official for
5 inspection at any time.

6 B. Any purchases, transfers or handling between junk dealers
7 with permits and/or licensed automotive dismantlers and parts
8 recyclers shall be exempt from the provisions of this section.

9 SECTION 14. AMENDATORY 59 O.S. 2001, Section 1407, is
10 amended to read as follows:

11 Section 1407. Each purchase of ~~thirty-five (35)~~ ten (10) pounds
12 or more of copper or copper alloy utilized by persons, firms,
13 corporations or municipal corporations engaged in the transmission
14 and distribution of electric energy, or engaged in telephone,
15 telegraph or other communications shall be held separate and apart
16 so that such copper and copper alloy shall be readily identifiable
17 from all other purchases for a period of not less than ~~ten (10)~~
18 thirty (30) days from the date of purchase of such copper or copper
19 alloy, during which period the purchaser shall not change the form
20 of said copper or copper alloy and shall permit any law enforcement
21 officer or the representatives of persons, firms, corporations or
22 municipal corporations to make inspection of such copper material
23 during ~~said ten-day~~ the holding period; provided, however, that all

1 such purchases made from persons, firms, corporations or municipal
2 corporations who construct, operate, maintain or sell electric
3 distribution and transmission communications facilities, or produce
4 scrap copper material in the normal course of business ~~or the sale~~
5 ~~of copper material by one licensed junk dealer to another~~ are not
6 subject to ~~said ten day~~ the holding period; but there shall be
7 required from such persons, firms, corporations or municipal
8 corporations a bill of sale or other written evidence of title of
9 such purchases.

10 SECTION 15. AMENDATORY 59 O.S. 2001, Section 1408, is
11 amended to read as follows:

12 Section 1408. A. Anyone acting as a junk dealer without a
13 license or permit, as required by Section 1402 of this title, is
14 guilty of a misdemeanor and, upon conviction thereof, is subject to
15 a fine of ~~Fifty Dollars (\$50.00)~~ Five Thousand Dollars (\$5,000.00)
16 or by imprisonment in the custody of the Department of Corrections
17 or the county jail for a period of not more than six (6) months, or
18 by both such fine and imprisonment; provided that each day's
19 operation without a license constitutes a separate offense. Any
20 person convicted of a second or subsequent violation of this
21 subsection shall be deemed guilty of a felony and upon conviction
22 shall be subject to a fine of Ten Thousand Dollars (\$10,000.00) or
23 by imprisonment in the custody of the Department of Corrections or

1 the county jail for a period of not more than two (2) years, or by
2 both such fine and imprisonment.

3 B. Any junk dealer failing to maintain records, as required by
4 Section 1406 and 1406A of this title ~~and Section 6 of this act~~, and
5 any junk dealer failing to hold copper material, as required by
6 Section 1407 of this title, is guilty of a misdemeanor and, upon
7 conviction thereof, is subject to a fine of Five Hundred Dollars
8 (\$500.00). Each separate purchase or transfer of a vehicle in
9 violation of Section ~~6~~ 1406A of ~~this act~~ this title shall be
10 considered a separate violation of this section.

11 C. Any person who knowingly gives false information with
12 respect to the information required in Section 1406 and 1406A of
13 this title ~~and in Section 6 of this act~~ is guilty of a misdemeanor
14 and, upon conviction thereof, is subject to a fine ~~not to exceed~~
15 ~~Five Hundred Dollars (\$500.00)~~ of Five Thousand Dollars (\$5,000.00)
16 or by imprisonment in the custody of the Department of Corrections
17 or the county jail for a period not to exceed six (6) months or by
18 both such fine and imprisonment. Any person convicted of a second
19 or subsequent violation of this section shall be deemed guilty of a
20 felony and upon conviction shall be subject to a fine of Ten
21 Thousand Dollars (\$10,000.00), or by imprisonment in the custody of
22 the Department of Corrections or county jail for a period not to
23 exceed two (2) years, or by both such fine and imprisonment.

1 D. Each conviction of a junk dealer for violation of any
2 provision of ~~this act~~ Section 1401 et seq. of this title shall be
3 reported to the Oklahoma Tax Commission by the clerk of the court
4 rendering such verdict.

5 SECTION 16. AMENDATORY 59 O.S. 2001, Section 1410, is
6 amended to read as follows:

7 Section 1410. A. Every junk dealer shall keep a separate book
8 or register in which the dealer shall enter the ~~following~~
9 information: ~~Name, address, age, driver's license number, or, if~~
10 ~~driver's license not available, similar definite identification of~~
11 ~~the person or persons~~ as required by Section 1406 of this title from
12 whom ~~thirty five (35)~~ ten (10) pounds or more of aluminum is
13 purchased; ~~license tag number of vehicle or conveyance in which~~
14 ~~delivered;~~ the date and place of each purchase of such aluminum; a
15 description including the weight of the aluminum purchased, the
16 names and addresses of the persons, groups of persons or
17 corporations from whom seller purchased said aluminum. The book or
18 register shall be made available to any law enforcement official for
19 inspection at any time.

20 B. A junk dealer who purchases aluminum shall also report, in
21 writing, all purchases of ~~thirty five (35)~~ ten (10) pounds or more
22 of aluminum to the sheriff of the county in which the purchases are
23 made, if requested in writing by the sheriff. The report shall be

1 made in writing to the sheriff within forty-eight (48) hours after
2 said request is made and shall contain all of the information
3 required to be maintained in the book or register provided for in
4 this section.

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

8 SECTION 17. AMENDATORY 59 O.S. 2001, Section 1411, is
9 amended to read as follows:

10 Section 1411. A. Any license issued pursuant to Section 1402
11 of this title or permit, issued pursuant to Section 1364 of Title 68
12 of the Oklahoma Statutes, to any junk dealer who violates any of the
13 provisions of Section 1410 of this title relating to purchases of
14 aluminum material, or of Section ~~6 of this act~~ 1406A of this title
15 relating to maintenance of records of purchased vehicles and
16 procedures related thereto, may be canceled or suspended for a
17 period not to exceed thirty (30) days by the Oklahoma Tax
18 Commission. The ~~Oklahoma~~ Tax Commission may refuse the issuance of
19 or extension or reinstatement of any license or permit where the
20 applicant or holder of the license or permit has violated any of the
21 provisions of Section 1410 of this title or existing laws. Before
22 the ~~Oklahoma~~ Tax Commission may cancel or suspend any license or
23 permit or refuse the issuance, reinstatement or extension of a

1 license or permit, the ~~Oklahoma~~ Tax Commission shall give each
2 holder of a license or permit or applicant ten (10) days' notice of
3 a hearing before the ~~Oklahoma~~ Tax Commission, granting the person an
4 opportunity to show cause why such action should not be taken. Upon
5 notice given to any junk dealer by the ~~Oklahoma~~ Tax Commission of
6 its intention to cancel or suspend any permit or to refuse the
7 issuance, reinstatement or extension of a license or permit, the
8 ~~Oklahoma~~ Tax Commission may enter its order suspending such license
9 or permit or prohibiting the applicant from doing business without a
10 license or permit pending the final hearing before it as provided
11 for in this section.

12 B. 1. After notice of the order of suspension or prohibition
13 from doing business, it shall be unlawful for the junk dealer to
14 further engage in the business of a junk dealer. If any such person
15 shall conduct or at any time continue such unlawful operation, after
16 notice of suspension or prohibition from doing business, the
17 ~~Oklahoma~~ Tax Commission may institute or cause to be brought against
18 such person or persons proceedings for injunction in any court of
19 competent jurisdiction to enjoin and restrain such person or persons
20 from doing business pending the order of the ~~Oklahoma~~ Tax
21 Commission.

1 2. Upon cancellation of a license or permit by the ~~Oklahoma~~ Tax
2 Commission, no new license or permit shall be issued to such dealer
3 for a period of one (1) year from the date of the cancellation.

4 3. In all cases where proceedings are brought for injunction
5 pursuant to this section, no bond for injunction shall be required
6 and in all such cases, after notice of suspension has been given, no
7 further notice shall be required before the issuance of a temporary
8 restraining order on any proceeding for injunction.

9 C. If an appeal is taken from the order of the ~~Oklahoma~~ Tax
10 Commission issued pursuant to this section, the junk dealer, in
11 order to conduct business as a junk dealer pending the outcome of
12 the appeal, shall be required to post a bond in the amount of Five
13 Thousand Dollars (\$5,000.00).

14 SECTION 18. REPEALER 21 O.S. 2001, Section 1043, is
15 hereby repealed.

16 SECTION 19. This act shall become effective July 1, 2007.

17 SECTION 20. It being immediately necessary for the preservation
18 of the public peace, health and safety, an emergency is hereby
19 declared to exist, by reason whereof this act shall take effect and
20 be in full force from and after its passage and approval.

21 COMMITTEE REPORT BY: COMMITTEE ON ENERGY & ENVIRONMENT, dated
22 2-22-07 - DO PASS, As Amended and Coauthored.