

1 STATE OF OKLAHOMA

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

3 SENATE BILL 795

By: Lamb

4
5
6 AS INTRODUCED

7 An Act relating to copper thefts; amending 21 O.S.
8 2001, Section 1041, which relates to records kept by
9 junk dealers; modifying requirements for certain
10 record keeping; modifying certain time period for
11 holding certain materials; amending 21 O.S. 2001,
12 Section 1042, which relates to punishment; modifying
13 certain punishment for violations; amending 21
14 O.S.2001, Section 1045, which relates to records kept
15 by junk dealers; modifying requirements for certain
16 record keeping; modifying certain time period for
17 holding certain materials; amending 21 O.S. 2001,
18 Section 1046, which relates to penalties; modifying
19 certain penalties for violations; amending 21 O.S.
20 2001, Section 1047, which relates to penalties for
21 false information; modifying certain penalties;
22 amending 21 O.S. 2001, Section 1727, which relates to
23 stealing copper; modifying penalties; limiting
24 liability for certain property owners; amending 21
O.S. 2001, Section 1728, which relates to possession
and transportation of certain stolen copper material;
modifying penalties; amending 59 O.S. 2001, Section
1403, which relates to revocation or suspension of
certain permits; prohibiting certain junk dealers
from permit reinstatement; amending 59 O.S. 2001,
Section 1406, which relates to records; modifying
record keeping requirements for junk dealers relating
to purchase of copper materials; requiring certain
information for purchases of copper materials;
amending 59 O.S. 2001, Section 1407, which relates to
holding period for certain materials; modifying
certain time period; amending 59 O.S. 2001, Section
1408, which relates to violations and penalties;
updating statutory references; providing an effective
date; and declaring an emergency.

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

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

4 Section 1041. All persons, firms or corporations, who carry on
5 the business of buying brass, copper, iron, rubber and leather
6 belting, plumbing or electric fixtures, burlap or bags of any
7 material, tools, machinery or supplies commonly used in the
8 drilling, completing, operating or repairing of oil or gas wells,
9 commonly known as "junk dealers," shall keep ~~a record in a book for~~
10 ~~the purpose, to be kept in their places of business and open to the~~
11 ~~inspection of the public, showing the date of each purchase of such~~
12 ~~property, the name and address of the seller, the items of property~~
13 ~~purchased, and the price paid to such seller for each item of~~
14 ~~property, and all~~ records as required by law. All persons, firms
15 and corporations carrying on such business shall keep ~~all~~ such
16 property purchased upon display, and in plain sight, in their places
17 of business, for at least ~~fifteen (15)~~ thirty (30) days after
18 purchasing such property, and keep such property open to inspection
19 of the public during said time, before disposing of same. Provided,
20 however, this act shall not apply to persons, firms or corporations,
21 carrying on a retail or wholesale business of buying new property of
22 the character aforesaid, or to persons buying new property of the
23 kind mentioned at retail or wholesale; provided further, that it
24 shall be unlawful for any junk dealer, as defined in this act, to

1 purchase articles mentioned herein from minors without having first
2 obtained the consent, in writing, of the parents or guardian of such
3 minor.

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

6 Section 1042. Any person, ~~firm or corporation~~ failing or
7 refusing to comply with the provisions of this act shall be deemed
8 guilty of a misdemeanor and upon conviction shall be subject to a
9 fine of not less than ~~Fifty Dollars (\$50.00) nor more than Two~~
10 Hundred Dollars (\$200.00) nor more than One Thousand Dollars
11 (\$1,000.00), or by imprisonment for a period of not more than ~~thirty~~
12 ~~(30) days~~ one (1) year, or by both such fine and imprisonment.

13 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1045, is
14 amended to read as follows:

15 Section 1045. Every owner, keeper or proprietor of a junk shop,
16 junk store, salvage yard, scrap processor, junk cart or other
17 vehicle or boat, or collector of or dealer in junk, salvage or other
18 secondhand property, shall keep a separate book or register in which
19 he or she shall ~~enter the following information: name, address,~~
20 ~~age, driver's license number, if driver's license not available~~
21 ~~similar definite identification,~~ record the information required by
22 Section 1406 of Title 59 of the Oklahoma Statutes of the person or
23 persons from whom ~~thirty-five (35) pounds or more of copper, copper~~
24

1 alloy, aluminum or aluminum alloy utilized by persons, firms,
2 corporations or municipal corporations engaged in the transmission
3 and distribution of electric energy, or engaged in telephone,
4 telegraph or other communications is purchased; ~~license tag number~~
5 ~~of vehicle or conveyance in which delivered; the date and place of~~
6 ~~each purchase of such copper, copper alloy, aluminum or aluminum~~
7 ~~alloy; the description should include the weight of the materials~~
8 ~~purchased, including whether the same is in wire, cable, bars, rods,~~
9 ~~sheeting or tubing and, if any insulation is thereon, the names and~~
10 ~~addresses of the persons, groups of persons or corporations from~~
11 ~~whom seller purchased the materials.~~ Such book or register shall be
12 made available to any law enforcement official or the
13 representatives of persons, firms, corporations or municipal
14 corporations described above for inspection at any time. The
15 purchaser of any such copper, copper alloy, aluminum or aluminum
16 alloy shall hold the purchases separate and apart so that such
17 materials shall be readily identifiable from all other purchases for
18 a period of not less than ~~ten (10)~~ thirty (30) days from the date of
19 purchase of such materials during which period the purchaser shall
20 not change the form of the copper, copper alloy, aluminum or
21 aluminum alloy and shall permit any law enforcement officer or the
22 representatives of persons, firms, corporations or municipal
23 corporations described above to make inspection of such materials
24 during the ~~said ten day~~ holding period; provided, however, that all

1 such purchases made from persons, firms, corporations or municipal
2 corporations who construct, operate, or maintain electric
3 distribution and transmission, communications facilities or produce
4 scrap copper or aluminum in their normal course of business or the
5 sale of copper or aluminum material by one licensed junk dealer to
6 another are not subject to ~~said ten day~~ the holding period; and
7 there shall be required from such persons, firms, corporations or
8 municipal corporations a bill of sale or other written evidence of
9 title of such purchases. The purchaser shall also report in writing
10 all purchases of such copper, copper alloy, aluminum or aluminum
11 alloy to the sheriff of the county in which the purchases are made,
12 if requested in writing by the sheriff, within forty-eight (48)
13 hours after any such purchase is made. The report made to the
14 sheriffs shall contain all of the information required to be
15 maintained in the book or register ~~provided for herein~~ as required
16 by law. The provisions of this section shall not apply to the sale
17 or purchase of aluminum beverage cans which are obtained for
18 recycling purposes.

19 SECTION 4. AMENDATORY 21 O.S. 2001, Section 1046, is
20 amended to read as follows:

21 Section 1046. Failure to maintain the book or register, failing
22 to maintain the copper, copper alloy, aluminum or aluminum alloy
23 separate and in the original form purchased for a period of ~~ten (10)~~
24 thirty (30) days so that such materials can be readily identifiable,

1 or failure to report to the sheriff in the manner and time required
2 in Section 1045 of this title shall be deemed a violation of the
3 provisions of Section 1045 of this title and shall be punishable,
4 upon conviction, by imprisonment ~~in the county jail~~ for a period of
5 time not exceeding six (6) months, by a fine of not more than ~~Five~~
6 ~~Hundred Dollars (\$500.00)~~ Two Thousand Five Hundred Dollars
7 (\$2,500.00), or both such fine and imprisonment.

8 SECTION 5. AMENDATORY 21 O.S. 2001, Section 1047, is
9 amended to read as follows:

10 Section 1047. Any person who shall knowingly give false
11 information with respect to information required to be maintained in
12 the book or register provided for in Section ~~±~~ 1405 of this title
13 shall be guilty of a misdemeanor and shall be imprisoned for not
14 more than six (6) months or fined not more than ~~Five Hundred Dollars~~
15 ~~(\$500.00)~~ Two Thousand Five Hundred Dollars (\$2,500.00), or both
16 such fine and imprisonment.

17 SECTION 6. AMENDATORY 21 O.S. 2001, Section 1727, is
18 amended to read as follows:

19 Section 1727. A. Any person who shall enter upon any premises,
20 easement, or right of way with intent to steal or remove without the
21 consent of the owner, or with intent to aid or assist in stealing or
22 removing any copper wire, copper cable, or copper tubing from and
23 off of any appurtenance on such premises, easement, or right of way
24 shall be guilty of a felony and upon conviction shall be punished by

1 ~~confinement in the State Penitentiary imprisonment~~ for not less than
2 one (1) year nor more than five (5) years, ~~or by confinement in the~~
3 ~~county jail for not less than ninety (90) days nor more than two~~
4 ~~hundred (200) days,~~ or shall be fined not less than ~~One Hundred~~
5 ~~Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) Two~~
6 Thousand Five Hundred Dollars (\$2,500.00), or by both such fine and
7 imprisonment.

8 B. A property owner shall not be held liable for any damages,
9 injury or death resulting from a person attempting to steal or
10 remove without the consent of the owner or aiding or assisting in
11 stealing or removing without consent any copper wire, copper cable,
12 or copper tubing from and off of any appurtenance on such property.

13 SECTION 7. AMENDATORY 21 O.S. 2001, Section 1728, is
14 amended to read as follows:

15 Section 1728. 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 for a term of not less than one (1) year nor more than
21 five (5) years, ~~or shall be confined in the county jail for not less~~
22 ~~than ninety (90) days nor more than two hundred (200) days,~~ or shall
23 be fined not less than ~~One Hundred Dollars (\$100.00) nor more than~~

24

1 Five Hundred Dollars (\$500.00) nor more than Five Thousand Dollars
2 (\$5,000.00), or both such fine and imprisonment.

3 SECTION 8. AMENDATORY 59 O.S. 2001, Section 1403, is
4 amended to read as follows:

5 Section 1403. A. Any sales tax permit, issued pursuant to
6 Section 1364 of Title 68 of the Oklahoma Statutes, to any junk
7 dealer who violates any of the provisions of Sections 1401 through
8 this section and Sections 1405 through 1408 of this title relating
9 to the purchase of copper materials, may be canceled or suspended
10 for a period not to exceed thirty (30) days by the Oklahoma Tax
11 Commission. The Oklahoma Tax Commission may refuse the issuance of
12 or extension or reinstatement of any permit where the applicant or
13 holder of the permit shall have violated any provisions of this act
14 or existing laws. Such cancellation or refusal shall be mandatory
15 as to any junk dealer having been convicted of three separate
16 violations of this act and such junk dealer shall be permanently
17 ineligible for permit reinstatement. However, before the Oklahoma
18 Tax Commission may cancel or suspend any permit or refuse the
19 issuance, reinstatement or extension thereof, the Oklahoma Tax
20 Commission shall give each holder of a permit or applicant ten (10)
21 days' notice of a hearing before the Oklahoma Tax Commission,
22 granting such person an opportunity to show cause why such action
23 should not be taken. Upon notice given to any junk dealer by the
24 Oklahoma Tax Commission of its intention to cancel or suspend any

1 permit or to refuse the issuance, reinstatement or extension
2 thereof, the Oklahoma Tax Commission shall have the authority to
3 enter its order suspending such permit or prohibiting the applicant
4 from doing business without a permit pending the final hearing
5 before it as provided for in this section.

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

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

19 3. In all cases where proceedings are brought for injunction
20 under this act, no bond for injunction shall be required and in all
21 such cases, after notice of suspension has been given, no further
22 notice shall be required before the issuance of a temporary
23 restraining order on any proceeding for injunction.

24

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

6 SECTION 9. AMENDATORY 59 O.S. 2001, Section 1406, is
7 amended to read as follows:

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

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

3 ~~(b)~~ B. A In addition to requirements of Subsection A of this
4 section and the provisions of this act, Section 1401 et. seq. of
5 this title, a junk dealer who purchases copper material shall be
6 required to maintain a current register with sequentially numbered
7 pages or tickets in which shall be entered in legible printing all
8 the following information:

9 1. The date of purchase;

10 2. The name and address of the person from whom the property
11 was purchased or otherwise obtained;

12 3. The seller's driver's license number and state
13 identification number, if applicable, date of birth and sex;

14 4. A photocopy of the seller's driver's license or other form
15 of government-issued photo identification, with the photocopy to be
16 kept as part of the registry;

17 5. A detailed description of the material or property including
18 the make, model number, serial number, any other applicable
19 identifying information;

20 6. A statement from the seller of what the property is and how
21 the property was originally used;

22 7. The weight of the materials purchased;

23 8. A description of the material, such as wire, cable, bar,
24 coil, rod, sheet or tube and whether the material is insulated;

1 9. The name and address of any person, group or other entity
2 from which the seller purchased the material now being sold to the
3 junk dealer; and

4 10. Any other information requested by the Tax Commission or
5 any state law enforcement agency.

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

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

16 Section 1407. Each purchase of ~~thirty five (35) pounds or more~~
17 of copper or copper alloy utilized by persons, firms, corporations
18 or municipal corporations engaged in the transmission and
19 distribution of electric energy, or engaged in telephone, telegraph
20 or other communications shall be held separate and apart so that
21 such copper and copper alloy shall be readily identifiable from all
22 other purchases for a period of not less than ~~ten (10)~~ thirty (30)
23 days from the date of purchase of such copper or copper alloy,
24 during which period the purchaser shall not change the form of said

1 copper or copper alloy and shall permit any law enforcement officer
2 or the representatives of persons, firms, corporations or municipal
3 corporations to make inspection of such copper material during ~~said~~
4 ~~ten day~~ the holding period; provided, however, that all such
5 purchases made from persons, firms, corporations or municipal
6 corporations who construct, operate, maintain or sell electric
7 distribution and transmission communications facilities, or produce
8 scrap copper material in the normal course of business or the sale
9 of copper material by one licensed junk dealer to another are not
10 subject to ~~said ten day~~ the holding period; but there shall be
11 required from such persons, firms, corporations or municipal
12 corporations a bill of sale or other written evidence of title of
13 such purchases.

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

16 Section 1408. A. Anyone acting as a junk dealer without a
17 permit, as required by Section 1402 of this title, is guilty of a
18 misdemeanor and, upon conviction thereof, is subject to a fine of
19 ~~Fifty Dollars (\$50.00)~~ Five Hundred Dollars (\$500.00); provided that
20 each day's operation without a license constitutes a separate
21 offense.

22 B. Any junk dealer failing to maintain records, as required by
23 ~~Section~~ Sections 1406 and 1406A of this title ~~and Section 6 of this~~
24 ~~act~~, and any junk dealer failing to hold copper material, as

1 required by Section 1407 of this title, is guilty of a misdemeanor
2 and, upon conviction thereof, is subject to a fine of Five Hundred
3 Dollars (\$500.00). Each separate purchase or transfer of a vehicle
4 in violation of Section ~~6~~ 1406A of this ~~act~~ title shall be
5 considered a separate violation of this section.

6 C. Upon conviction of a second violation of this section, a
7 junk dealer, or any person acting as a junk dealer without a permit,
8 shall be subject to a fine of Two Thousand Five Hundred Dollars
9 (\$2,500.00).

10 D. Upon conviction of a third violation of this section, a junk
11 dealer shall forfeit his or her license and shall be ineligible for
12 another.

13 E. Any person who knowingly gives false information, with
14 respect to the information required in ~~Section~~ Sections 1406 and
15 1406A of this title, ~~and in Section 6 of this act~~ is guilty of a
16 misdemeanor and, upon conviction thereof, is subject to a fine not
17 to exceed ~~Five Hundred Dollars (\$500.00)~~ One Thousand Dollars
18 (\$1,000.00).

19 ~~D.~~ F. Each conviction of a junk dealer for violation of any
20 provision of this act shall be reported to the Oklahoma Tax
21 Commission by the clerk of the court rendering such verdict.

22 SECTION 12. This act shall become effective July 1, 2007.

23 SECTION 13. It being immediately necessary for the preservation
24 of the public peace, health and safety, an emergency is hereby

1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

3

4 51-1-858 MJM 11/3/2007 4:03:47 AM

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24