

1 ENGROSSED HOUSE
2 BILL NO. 3160

By: Wright of the House

3 and

4 Griffin of the Senate

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6
7 An Act relating to professions and occupations;
8 amending Sections 5 and 7, Chapter 230, O.S.L. 2013
9 (59 O.S. Supp. 2013, Sections 1428 and 1430), which
10 relate to the Oklahoma Scrap Metal Dealers Act;
11 clarifying certain prohibited act; providing for the
12 assessment of administrative penalties and temporary
13 or permanent injunctions; authorizing imposition of
14 civil monetary penalties; providing for subsequent
15 assessment of civil or criminal penalties after
16 administrative enforcement proceedings; providing for
17 attorney fees, costs and right to apply for
18 administrative warrants; authorizing the Oklahoma
19 Department of Agriculture, Food, and Forestry to take
20 certain action; providing for recodification; and
21 providing an effective date.

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

23 SECTION 1. AMENDATORY Section 5, Chapter 230, O.S.L.
24 2013 (59 O.S. Supp. 2013, Section 1428), is amended to read as
follows:

Section 1428. ~~Effective November 1, 2013, a~~ A person shall not
advertise, act, offer to act, hold himself or herself out, or engage
in business as a scrap metal dealer in this state without a scrap

1 metal dealer license issued by the Oklahoma Department of
2 Agriculture, Food, and Forestry.

3 SECTION 2. AMENDATORY Section 7, Chapter 230, O.S.L.
4 2013 (59 O.S. Supp. 2013, Section 1430), is amended to read as
5 follows:

6 Section 1430. A. The Oklahoma Department of Agriculture, Food,
7 and Forestry may suspend, cancel, revoke, or refuse reissuance of a
8 scrap metal dealer license after the person has an opportunity for
9 public hearing pursuant to the Administrative Procedures Act for any
10 of the following causes:

11 1. Engages in fraud or deceit in obtaining or renewing a
12 license;

13 2. Acts as a scrap metal dealer in this state without a
14 license;

15 3. Aids or abets another person in acting as a scrap metal
16 dealer without a license; or

17 4. Violates any of the provisions of the Oklahoma Scrap Metal
18 Dealers Act.

19 B. After notice and opportunity for a hearing in accordance
20 with the Administrative Procedures Act, if the Department finds any
21 person in violation of the Oklahoma Scrap Metal Dealers Act or any
22 rule promulgated or order issued pursuant thereto, the Department
23 shall have the authority to assess an administrative penalty of not
24 less than One Hundred Dollars (\$100.00) and not more than Ten

1 Thousand Dollars (\$10,000.00) for each violation. Each action or
2 each day a violation continues may constitute a separate and
3 distinct violation.

4 C. In addition to penalties and fines, the Department shall
5 have authority to apply to district court and obtain a temporary or
6 permanent injunction against anyone who violates the Oklahoma Scrap
7 Metal Dealers Act and shall have authority to obtain or impose civil
8 monetary penalties on anyone who violates the Oklahoma Scrap Metal
9 Dealers Act.

10 D. Nothing in the Oklahoma Scrap Metal Dealers Act shall
11 preclude the Department from seeking penalties in district court in
12 the maximum amount allowed by law. The assessment of penalties in
13 an administrative enforcement proceeding shall not prevent the
14 subsequent assessment by a court of the maximum civil or criminal
15 penalties for violations of the Oklahoma Scrap Metal Dealers Act and
16 rules promulgated pursuant thereto.

17 E. Any person assessed an administrative or civil penalty may
18 be required to pay, in addition to the penalty amount and interest
19 thereon, attorney fees and costs associated with the collection of
20 the penalties.

21 F. If any person refuses, denies or interferes with any right
22 of access, the Department shall have the right to apply to and
23 obtain from a district court an administrative or other warrant as
24 necessary to enforce the right of access and inspection.

1 G. If the Department finds any person operating as a scrap
2 metal dealer without a license, the Department shall have the
3 authority to tag as "Not For Commercial Use" any weight or measure
4 utilized by the scrap metal dealer.

5 SECTION 3. RECODIFICATION 59 O.S. 2011, Section 1421,
6 shall be recodified as Section 11-90 of Title 2 of the Oklahoma
7 Statutes, unless there is created a duplication in numbering.

8 SECTION 4. RECODIFICATION 59 O.S. 2011, Section 1422, as
9 amended by Section 2, Chapter 230, O.S.L. 2013 (59 O.S. Supp. 2013,
10 Section 1422), shall be recodified as Section 11-91 of Title 2 of
11 the Oklahoma Statutes, unless there is created a duplication in
12 numbering.

13 SECTION 5. RECODIFICATION 59 O.S. 2011, Section 1423, as
14 amended by Section 3, Chapter 230, O.S.L. 2013 (59 O.S. Supp. 2013,
15 Section 1423), shall be recodified as Section 11-92 of Title 2 of
16 the Oklahoma Statutes, unless there is created a duplication in
17 numbering.

18 SECTION 6. RECODIFICATION 59 O.S. 2011, Section 1424,
19 shall be recodified as Section 11-93 of Title 2 of the Oklahoma
20 Statutes, unless there is created a duplication in numbering.

21 SECTION 7. RECODIFICATION 59 O.S. 2011, Section 1425, as
22 amended by Section 4, Chapter 230, O.S.L. 2013 (59 O.S. Supp. 2013,
23 Section 1425), shall be recodified as Section 11-94 of Title 2 of
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1 the Oklahoma Statutes, unless there is created a duplication in
2 numbering.

3 SECTION 8. RECODIFICATION 59 O.S. 2011, Section 1426,
4 shall be recodified as Section 11-95 of Title 2 of the Oklahoma
5 Statutes, unless there is created a duplication in numbering.

6 SECTION 9. RECODIFICATION 59 O.S. 2011, Section 1427,
7 shall be recodified as Section 11-96 of Title 2 of the Oklahoma
8 Statutes, unless there is created a duplication in numbering.

9 SECTION 10. RECODIFICATION Section 5, Chapter 230,
10 O.S.L. 2013 (59 O.S. Supp. 2013, Section 1428), as amended by
11 Section 1 of this act, shall be recodified as Section 11-97 of Title
12 2 of the Oklahoma Statutes, unless there is created a duplication in
13 numbering.

14 SECTION 11. RECODIFICATION Section 6, Chapter 230,
15 O.S.L. 2013 (59 O.S. Supp. 2013, Section 1429), shall be recodified
16 as Section 11-98 of Title 2 of the Oklahoma Statutes, unless there
17 is created a duplication in numbering.

18 SECTION 12. RECODIFICATION Section 7, Chapter 230,
19 O.S.L. 2013 (59 O.S. Supp. 2013, Section 1430), as amended by
20 Section 2 of this act, shall be recodified as Section 11-99 of Title
21 2 of the Oklahoma Statutes, unless there is created a duplication in
22 numbering.

23 SECTION 13. This act shall become effective November 1, 2014.
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1 Passed the House of Representatives the 5th day of March, 2014.

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4 Presiding Officer of the House
of Representatives

5 Passed the Senate the ____ day of _____, 2014.

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9 Presiding Officer of the Senate