

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 54th Legislature (2013)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1740

By: Wright and Armes of the
House

and

Griffin of the Senate

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10 COMMITTEE SUBSTITUTE

11 An Act relating to scrap metal dealers; amending 59
12 O.S. 2011, Sections 1422, 1423 and 1425, which relate
13 to the Oklahoma Scrap Metal Dealers Act; adding
14 definitions; prohibiting cash transactions in excess
15 of certain amount; providing an exception; requiring
16 certain payment method; modifying certain penalty
17 provision; requiring all scrap metal dealers to be
18 licensed by the Oklahoma Department of Agriculture,
19 Food, and Forestry; providing application guidelines
20 and requirements for scrap metal dealer license;
21 authorizing background investigations; setting fees
22 for original and renewal license; stating term of
23 license; prohibiting the transfer of licenses;
24 establishing license renewal procedures; directing
the Oklahoma Department of Agriculture, Food, and
Forestry to promulgate certain rules and procedures;
providing for the suspension, cancelation or
revocation of a scrap metal dealer license under
certain circumstances; providing for codification;
and providing an effective date.

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

2 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1422, is
3 amended to read as follows:

4 Section 1422. As used in the Oklahoma Scrap Metal Dealers Act:

5 1. "Aluminum material" means the metal aluminum or aluminum
6 alloy or anything made of either aluminum or aluminum alloy, except
7 aluminum beverage cans;

8 2. "Copper material" means the metal copper or copper alloy or
9 anything made of either copper or copper alloy;

10 3. "Department" means the Oklahoma Department of Agriculture,
11 Food, and Forestry and its employees, officers and divisions;

12 4. "Exempted seller" means any person, firm, corporation or
13 municipal corporation which constructs, operates or maintains
14 electric distribution and transmission or communications facilities;
15 or any person, firm or corporation that produces or otherwise
16 acquires any scrap metal regulated by the provisions of ~~this act~~ the
17 Oklahoma Scrap Metal Dealers Act in the normal course of business
18 as:

19 a. mechanical, electrical or plumbing contractor licensed
20 to do business in this state,

21 b. scrap metal dealer (Standard Industrial Classification
22 Codes 5051 or 5093), licensed pursuant to the
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1 provisions of ~~this act~~ the Oklahoma Scrap Metal
2 Dealers Act,

- 3 c. holder of a farm-use tax permit,
- 4 d. manufacturer,
- 5 e. distributor, or
- 6 f. retailer;

7 ~~4.~~ 5. "License" means a scrap metal dealer license;

8 6. "Scrap metal" means any copper material or aluminum material
9 or any item listed in Section 4 1424 of this ~~act~~ title, offered for
10 sale or resale or purchased by any person, firm or corporation;

11 ~~5.~~ 7. "Scrap metal dealer" means any person, firm or
12 corporation being an owner, keeper or proprietor of a retail or
13 wholesale business which buys, sells, salvages, processes or
14 otherwise handles scrap metal materials regulated by the provisions
15 of ~~this act~~ the Oklahoma Scrap Metal Dealers Act; and

16 ~~6.~~ 8. "Yard" means the place where any scrap metal dealer
17 stores scrap metal materials or keeps such materials for purpose of
18 sale.

19 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1423, is
20 amended to read as follows:

21 Section 1423. A. Every scrap metal dealer shall keep a
22 separate book, record or other electronic system as authorized by
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1 this act, to record and maintain the following data from any seller
2 of any amount of scrap metal as defined by this act:

3 1. A legible photocopy of the seller's driver license or other
4 form of government issued photo identification that contains his or
5 her name, address, date of birth, weight and height;

6 2. Vehicle description and license tag number of the seller if
7 the vehicle was used to transport the material being sold;

8 3. Date and place of the transaction and the transaction number
9 as provided by the scrap metal dealer;

10 4. Description of the items sold and weight of the items as
11 required by the provisions of this act;

12 5. Whether the scrap metal is in wire, cable, bar, rod, sheet
13 or tube form;

14 6. If any insulation is on the scrap metal, the names and
15 addresses of the persons, groups or corporations from whom seller
16 purchased or obtained the materials; and

17 7. If apparent on the scrap metal, the name of the manufacturer
18 and serial number of each item of scrap metal.

19 B. Municipalities or other political subdivisions may adopt,
20 and scrap metal dealers shall abide by, local ordinances regarding
21 the format of the information required by subsection A of this
22 section, either written or electronic.

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1 C. Records required by this section shall be made available at
2 any time to any person authorized by law for such inspection.

3 D. Purchases of thirty-five (35) pounds or more of scrap metal
4 containing a manufacturer's serial number or other unique label or
5 mark shall be held separate and apart so that the purchased scrap
6 metal may be readily identifiable from all other purchases for a
7 period of not less than ten (10) days from the date of purchase.
8 During the holding period the scrap metal dealer may not change the
9 form of the purchased scrap metal and shall permit any person
10 authorized by law to make inspection of such materials.

11 E. Purchases of thirty-five (35) pounds or more of scrap metal
12 which does not contain a manufacturer's serial number or other
13 unique label or mark shall either be held for the same time and in
14 the same manner as required by subsection D of this section; or in
15 the alternative, the scrap metal dealer shall be required to obtain
16 a digital image of the items purchased, the seller of the items, a
17 copy of the bill of sale and a copy of the seller's photo
18 identification. The digital image shall contain a depiction that
19 can reasonably be utilized for identification of the seller and the
20 items sold and captured in the common JPEG format with a minimum
21 resolution of 640 pixels by 480 pixels. The digital image shall be
22 retained by the purchaser for a minimum of ninety (90) days from the
23 date of purchase. For the purpose of this section a "digital image"

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1 means a raster-based two-dimensional, rectangular array of static
2 data elements called pixels, intended for display on a computer
3 monitor or for transformation into another format, such as a printed
4 page.

5 F. No purchase of any amount of scrap metal from an exempted
6 seller, as defined by Section ~~2~~ 1422 of this ~~act~~ title, shall be
7 subject to any holding period or digital imaging identification
8 required by ~~subsections~~ subsection D or E of this section.

9 G. It shall be unlawful for any person to sell or purchase
10 copper material or copper wire from which the actual or apparent
11 insulation or other coating has been burned, melted or exposed to
12 heat or fire resulting in melting some or all of the insulation or
13 coating. This provision shall not apply to sales by or purchases
14 from an exempted seller.

15 H. It shall be unlawful for any scrap metal dealer to purchase
16 any item from a minor without having first obtained the consent, in
17 writing, of a parent or guardian of such minor. Such written
18 consent shall be kept with the book, record or other electronic
19 recording system required by subsection A of this section and, if
20 requested by a law enforcement agency where the purchase was made,
21 shall be transmitted to the law enforcement agency and may be kept
22 as a permanent record and made available for public inspection.

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1 I. A scrap metal dealer shall obtain from each seller of a
2 scrap metal item regulated by this act, or a parent or guardian on
3 behalf of a minor, a written declaration of ownership containing a
4 legible signature of the seller. The declaration of ownership shall
5 be in the following form and shall appear on the bill of sale or
6 transaction ticket to be completed by the seller in the presence of
7 the purchaser at the time of the transaction:

8 "I hereby affirm under penalty of prosecution that I am the
9 rightful owner of the hereon described merchandise; or I am an
10 authorized representative of the rightful owner and affirm that I
11 have been given authority by the rightful owner to sell the hereon
12 described merchandise.

13 _____
14 Signature"

15 J. If requested by a law enforcement agency, a scrap metal
16 dealer shall report in writing all purchases of scrap metal as
17 defined by this act within forty-eight (48) hours following such
18 purchase. The report shall contain all the information required by
19 this section.

20 K. A scrap metal dealer purchasing a vehicle from any person
21 shall be required to record the information required in subsection A
22 of this section and the make, model, license tag number and vehicle
23 identification number of the purchased vehicle. A person selling a
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UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 vehicle to a scrap metal dealer shall be required to present to the
2 dealer the title of the vehicle or a verified bill of sale from the
3 owner of the vehicle or other proof of ownership in addition to
4 signing a declaration of ownership as required by subsection I of
5 this section. The provisions of this subsection shall not apply to
6 sales, purchases or other transfer of vehicles between scrap metal
7 dealers and licensed automotive dismantlers and parts recyclers.

8 L. The provisions of this act shall not apply to the sale or
9 purchase of aluminum beverage cans for recycling purposes.

10 M. A scrap metal dealer shall not enter into any cash
11 transactions in excess of One Thousand Dollars (\$1,000.00) in
12 payment for the purchase of scrap metal that is listed in subsection
13 B of Section 1424 of this title unless the transaction is made with
14 an exempted seller. Payment by check shall be issued and made
15 payable only to the seller of the scrap metal whose identification
16 information has been obtained pursuant to the provisions of this
17 section.

18 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1425, is
19 amended to read as follows:

20 Section 1425. A. Any person found in violation of any
21 provision of ~~this act~~ the Oklahoma Scrap Metal Dealers Act, with the
22 exceptions as provided by subsections B, C and D of this section,
23 shall, upon conviction, be ~~deemed~~ guilty of a misdemeanor and
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1 punished by a fine of not more than Two Thousand Five Hundred
2 Dollars (\$2,500.00) per offense. ~~A~~ Any person convicted of a second
3 ~~violation of this act~~ the Oklahoma Scrap Metal Dealers Act shall,
4 ~~upon conviction,~~ be deemed guilty of a misdemeanor and punished by a
5 fine of not more than Five Thousand Dollars (\$5,000.00) per offense
6 or by imprisonment in the county jail for a period of not more than
7 six (6) months. ~~A~~ Any person convicted of a third or subsequent
8 ~~violation of this act~~ the Oklahoma Scrap Metal Dealers Act shall,
9 ~~upon conviction,~~ be guilty of a felony punishable by a fine of not
10 more than Ten Thousand Dollars (\$10,000.00) per offense or by
11 imprisonment in the custody of the Department of Corrections for a
12 period of not more than two (2) years, or by both such fine and
13 imprisonment.

14 B. Any person acting as a scrap metal dealer without a scrap
15 metal dealer license or a sales tax permit as required by ~~this act~~
16 the Oklahoma Scrap Metal Dealers Act shall, upon conviction, be
17 guilty of a misdemeanor and punished by a fine of not more than Five
18 Hundred Dollars (\$500.00) ~~;~~ provided, that each day of operation in
19 violation of this act shall constitute a separate offense.

20 C. Any person who knowingly provides false information with
21 respect to the ~~information required by~~ provisions of subsection I of
22 Section 3 1423 of this ~~act~~ title shall, upon conviction, be guilty
23 of a ~~misdemeanor~~ felony and punished by a fine of ~~not more than Five~~
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1 ~~Hundred Dollars (\$500.00)~~ Five Thousand Dollars (\$5,000.00), or by
2 imprisonment in the custody of the Department of Corrections for a
3 period of not more than two (2) years, or by both such fine and
4 imprisonment.

5 D. Any person convicted of purchasing or selling burnt copper
6 material or copper wire as prohibited by subsection G of Section ~~3~~
7 1423 of this ~~act~~ title shall, upon first conviction, be ~~deemed~~
8 guilty of a misdemeanor and punished by a fine of Two Thousand Five
9 Hundred Dollars (\$2,500.00). ~~A~~ Any person convicted of a second or
10 subsequent conviction violation shall be ~~deemed~~ guilty of a felony
11 ~~offense~~ punishable by a fine of Five Thousand Dollars (\$5,000.00),
12 or by imprisonment in the custody of the Department of Corrections
13 for a period of not more than two (2) years, or by both such fine
14 and imprisonment.

15 E. Each scrap metal dealer convicted of a violation of ~~this act~~
16 the Oklahoma Scrap Metal Dealers Act shall be reported to the
17 Oklahoma Tax Commission by the clerk of the court rendering such
18 verdict.

19 F. The Tax Commission shall revoke the sales tax permit of any
20 person convicted of three separate violations of ~~this act, and he or~~
21 ~~she~~ the Oklahoma Scrap Metal Dealers Act. The person shall not be
22 eligible to receive a sales tax permit for such purpose for a period
23 of one (1) year following the revocation. ~~Such~~ The revocation

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1 procedure shall be subject to notice and hearing as required by
2 Section ~~6~~ 1426 of this ~~act~~ title.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1428 of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 Effective November 1, 2013, a person shall not engage in
7 business as a scrap metal dealer in this state without a scrap metal
8 dealer license issued by the Oklahoma Department of Agriculture,
9 Food, and Forestry.

10 SECTION 5. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 1429 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

13 A. An applicant for a license to engage in business as a scrap
14 metal dealer shall provide all of the following information on the
15 license application:

16 1. If the applicant is an individual, the full name and place
17 of residence of the applicant;

18 2. If the applicant is a firm, corporation or other legal
19 entity, the full name, place of residence, and the position of the
20 individual filing the application on behalf of the entity;

21 3. The business address of the location where the scrap metal
22 dealer conducts business or will conduct business as a scrap metal
23 dealer;

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1 4. Legal proof of ownership, lease agreement or contract for
2 the business location;

3 5. Proof of a dedicated telephone line for the business
4 location;

5 6. Proof of a general liability insurance policy for the
6 business location;

7 7. Proof of a current discharge permit issued pursuant to the
8 provisions of the Oklahoma Pollutant Discharge Elimination System
9 Act;

10 8. Whether the person has been previously convicted of, or pled
11 guilty or nolo contendere to any felony or to a misdemeanor
12 involving moral turpitude or dishonesty; and

13 9. Any other additional information that will sufficiently
14 enable the Oklahoma Department of Agriculture, Food, and Forestry to
15 determine if the scrap metal dealer is prohibited from being issued
16 a license.

17 B. The Department may conduct any reasonable inquiry or
18 investigation relative to the determination of the fitness of the
19 applicant to be licensed or continue to be licensed including, but
20 not limited to, requiring a national criminal history record check
21 as provided in Section 150.9 of Title 74 of the Oklahoma Statutes.

22 C. The Department shall charge an application fee in the amount
23 of One Hundred Dollars (\$100.00) for processing an initial
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1 application for a scrap metal dealer license. The Department shall
2 also charge an investigative fee of One Hundred Dollars (\$100.00) to
3 be used for the purpose of conducting an investigation of the
4 applicant. All fees shall be nonrefundable.

5 D. In addition to the application, each applicant shall submit
6 a full set of fingerprints and a photograph with each application
7 for an original license. The fingerprints shall be used for a
8 national criminal history record check as provided for in subsection
9 B of this section.

10 E. If the results of the investigation of the applicant show no
11 prohibition to granting a license, the Department shall issue the
12 scrap metal dealer license. The scrap metal dealer license shall be
13 valid for a period of one (1) year unless otherwise voluntarily
14 surrendered, suspended or revoked by the Department.

15 F. A scrap metal dealer license issued pursuant to the
16 provisions of this act is valid for the conduct of business as a
17 scrap metal dealer only at the location specified in the
18 application. A separate scrap metal dealer license shall be
19 required for each location specified in the application form and
20 each license shall designate the location to which it applies. The
21 business of the scrap metal dealer shall not be conducted in any
22 place other than that designated by the license. The scrap metal
23 dealer license shall not be transferable.

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1 G. The Department shall deny the license when the applicant
2 fails to properly complete the application form or if it is
3 determined that the applicant is not eligible to receive a scrap
4 metal dealer license.

5 H. A scrap metal dealer license may be renewed any time within
6 sixty (60) days prior to the expiration date of the license. To
7 renew a scrap metal dealer license, the licensee must first obtain a
8 renewal form from the Department. The licensee must complete the
9 renewal form and submit a renewal fee in the amount of One Hundred
10 Dollars (\$100.00) to the Department. Upon receipt of the renewal
11 application and fee, the Department shall conduct a national
12 criminal history record check and investigate any other records or
13 information deemed by the Department to be relevant to the renewal
14 of the scrap metal dealer license. If the licensee appears not to
15 have any prohibition to renewing the scrap metal dealer license, the
16 Department shall issue the renewed license for a period of one (1)
17 year.

18 I. The Oklahoma Department of Agriculture, Food, and Forestry
19 shall promulgate rules and procedures governing the application
20 procedures for scrap metal dealer licenses.

21 SECTION 6. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 1430 of Title 59, unless there
23 is created a duplication in numbering, reads as follows:

1 The Oklahoma Department of Agriculture, Food, and Forestry may
2 suspend, cancel, revoke, or refuse reissuance of a scrap metal
3 dealer license after the person has an opportunity for public
4 hearing pursuant to the Administrative Procedures Act for any of the
5 following causes:

6 1. Engages in fraud or deceit in obtaining or renewing a
7 license;

8 2. Acts as a scrap metal dealer in this state without a
9 license;

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

12 4. Violates any of the provisions of the Oklahoma Scrap Metal
13 Dealers Act.

14 SECTION 7. This act shall become effective November 1, 2013.

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16 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL
17 SERVICES, dated 02/14/2013 - DO PASS, As Amended and Coauthored.

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