

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

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

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

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

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

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

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

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

24 c. holder of a farm-use tax permit,

- d. manufacturer,
- e. distributor, or
- f. retailer;

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

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

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

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

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

Section 1423. A. Every scrap metal dealer shall keep a separate book, record or other electronic system as authorized by ~~this act~~ the Oklahoma Scrap Metal Dealers Act, to record and maintain the following data from any seller of any amount of scrap metal as defined by ~~this act~~ the Oklahoma Scrap Metal Dealers Act:

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

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

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

8 4. Description of the items sold and weight of the items as
9 required by the provisions of ~~this act~~ the Oklahoma Scrap Metal
10 Dealers Act;

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

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

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

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

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

24

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

9 E. Purchases of thirty-five (35) pounds or more of scrap metal
10 which does not contain a manufacturer's serial number or other
11 unique label or mark shall either be held for the same time and in
12 the same manner as required by ~~Subsection~~ subsection D of this
13 section; or in the alternative, the scrap metal dealer shall be
14 required to obtain a digital image of the items purchased, the
15 seller of the items, a copy of the bill of sale and a copy of the
16 seller's photo identification. The digital image shall contain a
17 depiction that can reasonably be utilized for identification of the
18 seller and the items sold and captured in the common JPEG format
19 with a minimum resolution of 640 pixels by 480 pixels. The digital
20 image shall be retained by the purchaser for a minimum of ninety
21 (90) days from the date of purchase. For the purpose of this
22 section a "digital image" means a raster-based two-dimensional,
23 rectangular array of static data elements called pixels, intended
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1 for display on a computer monitor or for transformation into another
2 format, such as a printed page.

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

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

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

21 I. A scrap metal dealer shall obtain from each seller of a
22 scrap metal item regulated by ~~this act~~ the Oklahoma Scrap Metal
23 Dealers Act, or a parent or guardian on behalf of a minor, a written
24 declaration of ownership containing a legible signature of the

1 seller. The declaration of ownership shall be in the following form
2 and shall appear on the bill of sale or transaction ticket to be
3 completed by the seller in the presence of the purchaser at the time
4 of the transaction:

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

10 _____
11 Signature"

12 J. If requested by a law enforcement agency, a scrap metal
13 dealer shall report in writing all purchases of scrap metal as
14 defined by ~~this act~~ the Oklahoma Scrap Metal Dealers Act within
15 forty-eight (48) hours following such purchase. The report shall
16 contain all the information required by this section.

17 K. A scrap metal dealer purchasing a vehicle from any person
18 shall be required to record the information required in subsection A
19 of this section and the make, model, license tag number and vehicle
20 identification number of the purchased vehicle. A person selling a
21 vehicle to a scrap metal dealer shall be required to present to the
22 dealer the title of the vehicle or a verified bill of sale from the
23 owner of the vehicle or other proof of ownership in addition to
24 signing a declaration of ownership as required by subsection I of

1 this section. The provisions of this subsection shall not apply to
2 sales, purchases or other transfer of vehicles between scrap metal
3 dealers and licensed automotive dismantlers and parts recyclers.

4 L. The provisions of ~~this act~~ the Oklahoma Scrap Metal Dealers
5 Act shall not apply to the sale or purchase of aluminum beverage
6 cans for recycling purposes.

7 M. A scrap metal dealer shall not enter into any cash
8 transactions in excess of One Thousand Dollars (\$1,000.00) in
9 payment for the purchase of scrap metal. Payment by check shall be
10 issued and made payable only to the seller of the scrap metal and
11 whose identification information has been obtained pursuant to the
12 provisions of this section.

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

15 Section 1425. A. Any person found in violation of any
16 provision of ~~this act~~ the Oklahoma Scrap Metal Dealers Act, with the
17 exceptions as provided by subsections B, C and D of this section,
18 shall, upon conviction, be ~~deemed~~ guilty of a misdemeanor and
19 punished by a fine of not more than Two Thousand Five Hundred
20 Dollars (\$2,500.00) per offense. A Any person convicted of a
21 second violation of ~~this act~~ the Oklahoma Scrap Metal Dealers Act
22 shall, ~~upon conviction,~~ be ~~deemed~~ guilty of a misdemeanor and
23 punished by a fine of not more than Five Thousand Dollars
24 (\$5,000.00) per offense or by imprisonment in the county jail for a

1 period of not more than six (6) months. ~~A~~ Any person convicted of a
2 third or subsequent violation of this act the Oklahoma Scrap Metal
3 Dealers Act shall, ~~upon conviction,~~ be guilty of a felony punishable
4 by a fine of not more than Ten Thousand Dollars (\$10,000.00) per
5 offense or by imprisonment in the custody of the Department of
6 Corrections for a period of not more than two (2) years, or by both
7 such fine and imprisonment.

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

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

22 D. Any person convicted of purchasing or selling burnt copper
23 material or copper wire as prohibited by subsection G of Section ~~3~~
24 1423 of this ~~act~~ title shall, upon first conviction, be ~~deemed~~

1 guilty of a misdemeanor and punished by a fine of Two Thousand Five
2 Hundred Dollars (\$2,500.00). A Any person convicted of a second or
3 subsequent conviction violation shall be ~~deemed~~ guilty of a felony
4 ~~offense~~ punishable by a fine of Five Thousand Dollars (\$5,000.00),
5 or by imprisonment in the custody of the Department of Corrections
6 for a period of not more than two (2) years, or by both such fine
7 and imprisonment.

8 E. Each scrap metal dealer convicted of a violation of ~~this act~~
9 the Oklahoma Scrap Metal Dealers Act shall be reported to the
10 Oklahoma Tax Commission by the clerk of the court rendering such
11 verdict.

12 F. The Tax Commission shall revoke the sales tax permit of any
13 person convicted of three separate violations of ~~this act, and he or~~
14 ~~she~~ the Oklahoma Scrap Metal Dealers Act. The person shall not be
15 eligible to receive a sales tax permit for such purpose for a period
16 of one (1) year following the revocation. ~~Such~~ The revocation
17 procedure shall be subject to notice and hearing as required by
18 Section ~~6~~ 1426 of this ~~act~~ title.

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

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

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

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

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

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

14 3. The business address of the location where the scrap metal
15 dealer conducts business or will conduct business as a scrap metal
16 dealer;

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

19 5. Proof of a dedicated telephone line for the business
20 location;

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

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

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

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

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

16 C. The Department shall charge an application fee in the amount
17 of One Hundred Dollars (\$100.00) for processing an initial
18 application for a scrap metal dealer license. The Department shall
19 also charge an investigative fee of One Hundred Dollars (\$100.00) to
20 be used for the purpose of conducting an investigation of the
21 applicant. All fees shall be nonrefundable.

22 D. In addition to the application, each applicant shall submit
23 a full set of fingerprints and a photograph with each application
24 for an original license. The fingerprints shall be used for a

1 national criminal history record check as provided for in subsection
2 B of this section.

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

8 F. A scrap metal dealer license issued pursuant to the
9 provisions of the Oklahoma Scrap Metal Dealers Act is valid for the
10 conduct of business as a scrap metal dealer only at the location
11 specified in the application. A separate scrap metal dealer license
12 shall be required for each location specified in the application
13 form and each license shall designate the location to which it
14 applies. The business of the scrap metal dealer shall not be
15 conducted in any place other than that designated by the license.
16 The scrap metal dealer license shall not be transferable.

17 G. The Department shall deny the license when the applicant
18 fails to properly complete the application form or if it is
19 determined that the applicant is not eligible to receive a scrap
20 metal dealer license.

21 H. A scrap metal dealer license may be renewed any time within
22 sixty (60) days prior to the expiration date of the license. To
23 renew a scrap metal dealer license, the licensee must first obtain a
24 renewal form from the Department. The licensee must complete the

1 renewal form and submit a renewal fee in the amount of One Hundred
2 Dollars (\$100.00) to the Department. Upon receipt of the renewal
3 application and fee, the Department shall conduct a national
4 criminal history record check and investigate any other records or
5 information deemed by the Department to be relevant to the renewal
6 of the scrap metal dealer license. If the licensee appears not to
7 have any prohibition to renewing the scrap metal dealer license, the
8 Department shall issue the renewed license for a period of one (1)
9 year.

10 I. The Oklahoma Department of Agriculture, Food, and Forestry
11 shall promulgate rules and procedures governing the application
12 procedures for scrap metal dealer licenses.

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

16 The Oklahoma Department of Agriculture, Food, and Forestry may
17 suspend, cancel, revoke, or refuse reissuance of a scrap metal
18 dealer license after the person has an opportunity for public
19 hearing pursuant to the Administrative Procedures Act for any of the
20 following causes:

- 21 1. Engages in fraud or deceit in obtaining or renewing a
22 license;
- 23 2. Acts as a scrap metal dealer in this state without a
24 license;

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

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

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

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7 COMMITTEE REPORT BY: COMMITTEE ON ECONOMIC DEVELOPMENT AND FINANCIAL
8 SERVICES, dated 04/11/2013 - DO PASS, As Amended.

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