

1 STATE OF OKLAHOMA

2 1st Session of the 55th Legislature (2015)

3 SENATE BILL 657

By: Schulz

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5  
6 AS INTRODUCED

7 An Act relating to the Scrap Metal Dealers Act;  
8 amending 59 O.S. 2011, Sections 1422, as amended by  
9 Section 2, Chapter 230, O.S.L. 2013, and as  
10 renumbered by Section 4, Chapter 18, O.S.L. 2014 (2  
11 O.S. Supp. 2014, Section 11-91), 1423, as amended by  
12 Section 3, Chapter 230, O.S.L. 2013, and as  
13 renumbered by Section 5, Chapter 18, O.S.L. 2014 (2  
14 O.S. Supp. 2014, Section 11-92), 1424, as renumbered  
15 by Section 6, Chapter 18, O.S.L. 2014 (2 O.S. Supp.  
16 2014, Section 11-93), and 1425 as amended by Section  
17 4, Chapter 230, O.S.L. 2013, and as renumbered by  
18 Section 7, Chapter 18, O.S.L. 2014 (2 O.S. Supp.  
19 2014, Section 11-94), which relate to definitions,  
20 records of data, unlawful activities, declaration of  
21 ownership, items regulated, and violations;  
22 clarifying statutory language; requiring payment by  
23 mailed check; and providing an effective date.  
24

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1422, as  
amended by Section 2, Chapter 230, O.S.L. 2013, and as renumbered by  
Section 4, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2014, Section 11-  
91), is amended to read as follows:

Section 11-91. As used in the Oklahoma Scrap Metal Dealers Act:

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

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

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

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

- 14           a. mechanical, electrical or plumbing contractor licensed  
15           to do business in this state,
- 16           b. scrap metal dealer (Standard Industrial Classification  
17           Codes 5051 or 5093), licensed pursuant to the  
18           provisions of the Oklahoma Scrap Metal Dealers Act,
- 19           c. holder of a farm-use tax permit,
- 20           d. manufacturer,
- 21           e. distributor, or
- 22           f. retailer;

23           5. "License" means a scrap metal dealer license;

24

1           6. "Scrap metal" means any copper material or aluminum material  
2 or any item listed in Section ~~1424~~ 11-93 of this title, offered for  
3 sale or resale or purchased by any person, firm or corporation;

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

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

11           SECTION 2.           AMENDATORY           59 O.S. 2011, Section 1423, as  
12 amended by Section 3, Chapter 230, O.S.L. 2013, and as renumbered by  
13 Section 5, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2014, Section 11-  
14 92), is amended to read as follows:

15           Section 11-92. A. Every scrap metal dealer shall keep a  
16 separate book, record or other electronic system as authorized by  
17 the Oklahoma Scrap Metal Dealers Act, to record and maintain the  
18 following data from any seller of any amount of scrap metal as  
19 defined by the Oklahoma Scrap Metal Dealers Act:

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

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

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

3           4. Description of the items sold and weight of the items as  
4 required by the provisions of the Oklahoma Scrap Metal Dealers Act;

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

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

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

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

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

18          D. Purchases of thirty-five (35) pounds or more of scrap metal  
19 containing a manufacturer's serial number or other unique label or  
20 mark shall be held separate and apart so that the purchased scrap  
21 metal may be readily identifiable from all other purchases for a  
22 period of not less than ten (10) days from the date of purchase.  
23 During the holding period the scrap metal dealer may not change the  
24

1 form of the purchased scrap metal and shall permit any person  
2 authorized by law to make inspection of such materials.

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

20 F. No purchase of any amount of scrap metal from an exempted  
21 seller, as defined by Section ~~1422~~ 11-91 of this title, shall be  
22 subject to any holding period or digital imaging identification  
23 required by subsection D or E of this section.  
24

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

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

15 I. A scrap metal dealer shall obtain from each seller of a  
16 scrap metal item regulated by the Oklahoma Scrap Metal Dealers Act,  
17 or a parent or guardian on behalf of a minor, a written declaration  
18 of ownership containing a legible signature of the seller. The  
19 declaration of ownership shall be in the following form and shall  
20 appear on the bill of sale or transaction ticket to be completed by  
21 the seller in the presence of the purchaser at the time of the  
22 transaction:

23 "I hereby affirm under penalty of prosecution that I am the  
24 rightful owner of the hereon described merchandise; or I am an

1 authorized representative of the rightful owner and affirm that I  
2 have been given authority by the rightful owner to sell the hereon  
3 described merchandise.

4 \_\_\_\_\_  
5 Signature"

6 J. If requested by a law enforcement agency, a scrap metal  
7 dealer shall report in writing all purchases of scrap metal as  
8 defined by the Oklahoma Scrap Metal Dealers Act within forty-eight  
9 (48) hours following such purchase. The report shall contain all  
10 the information required by this section.

11 K. A scrap metal dealer purchasing a vehicle from any person  
12 shall be required to record the information required in subsection A  
13 of this section and the make, model, license tag number and vehicle  
14 identification number of the purchased vehicle. A person selling a  
15 vehicle to a scrap metal dealer shall be required to present to the  
16 dealer the title of the vehicle or a verified bill of sale from the  
17 owner of the vehicle or other proof of ownership in addition to  
18 signing a declaration of ownership as required by subsection I of  
19 this section. The provisions of this subsection shall not apply to  
20 sales, purchases or other transfer of vehicles between scrap metal  
21 dealers and licensed automotive dismantlers and parts recyclers.

22 L. The provisions of the Oklahoma Scrap Metal Dealers Act shall  
23 not apply to the sale or purchase of aluminum beverage cans for  
24 recycling purposes.

1 M. A scrap metal dealer shall not enter into any cash  
2 transactions ~~in excess of One Thousand Dollars (\$1,000.00)~~ in  
3 payment for the purchase of scrap metal ~~that is listed in subsection~~  
4 ~~B of Section 1424 of this title unless the transaction is made with~~  
5 ~~an exempted seller.~~ Payment by check, mailed only to the physical  
6 address of a residence or business, shall be issued and made payable  
7 only to the seller of the scrap metal whose identification  
8 information has been obtained pursuant to the provisions of this  
9 section.

10 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1424, as  
11 renumbered by Section 6, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2014,  
12 Section 11-93), is amended to read as follows:

13 Section 11-93. A. Scrap metal dealers permitted to do business  
14 in this state as required by the Oklahoma Scrap Metal Dealers Act  
15 shall not purchase any item listed in subsection B of this section  
16 without:

17 1. Obtaining proof that the seller owns or is authorized to  
18 sell the property, by evidence of a receipt of purchase or a bill of  
19 sale for the property; and

20 2. Requiring the seller to sign a written declaration in the  
21 form required by subsection I of ~~Section 3 of this act~~ Section 11-92  
22 of this title; or  
23  
24

1           3. Obtaining proof that the seller is an exempted seller or an  
2 employee of an exempted seller, as defined in ~~Section 2 of this act~~  
3 Section 11-91 of this title.

4           B. The following items are regulated by the provisions of this  
5 act:

6           1. Manhole covers, street signs, traffic signs, traffic signals  
7 including their fixtures and hardware, or any other identifiable  
8 public property;

9           2. Electric light poles, including their fixtures and hardware,  
10 electric transmission or distribution cable and wires, and any other  
11 hardware associated with electric utility or telecommunication  
12 systems;

13           3. Highway guard rails;

14           4. Funeral markers, plaques or funeral vases;

15           5. Historical markers or public artifacts;

16           6. Railroad equipment;

17           7. Any metal item marked with any form of the name, initials or  
18 logo of a governmental entity, utility, cemetery or railroad;

19           8. Condensing or evaporating coil from a heating or air  
20 conditioning unit;

21           9. Aluminum or stainless steel containers or bottles designed  
22 to contain fuel;

23           10. Metal beer kegs that are clearly marked as being the  
24 property of the beer manufacturer;

1 11. Metal bleachers or other seating facilities used in  
2 recreational areas or sporting arenas;

3 12. Automotive catalytic converters;

4 13. Plumbing or electrical fixtures;

5 14. Tools;

6 15. Machinery or supplies commonly used in the drilling,  
7 completing, operating or repairing of oil or gas wells; and

8 16. Stainless steel fittings and fixtures commonly used in the  
9 operation of car wash facilities.

10 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1425, as  
11 amended by Section 4, Chapter 230, O.S.L. 2013, and as renumbered by  
12 Section 7, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2014, Section 11-  
13 94), is amended to read as follows:

14 Section 11-94. A. Any person found in violation of any  
15 provision of the Oklahoma Scrap Metal Dealers Act, with the  
16 exceptions as provided by subsections B, C and D of this section,  
17 shall, upon conviction, be guilty of a misdemeanor and punished by a  
18 fine of not more than Two Thousand Five Hundred Dollars (\$2,500.00)  
19 per offense. Any person convicted of a second violation of the  
20 Oklahoma Scrap Metal Dealers Act shall be guilty of a misdemeanor  
21 and punished by a fine of not more than Five Thousand Dollars  
22 (\$5,000.00) per offense or by imprisonment in the county jail for a  
23 period of not more than six (6) months. Any person convicted of a  
24 third or subsequent violation of the Oklahoma Scrap Metal Dealers

1 Act shall be guilty of a felony punishable by a fine of not more  
2 than Ten Thousand Dollars (\$10,000.00) per offense or by  
3 imprisonment in the custody of the Department of Corrections for a  
4 period of not more than two (2) years, or by both such fine and  
5 imprisonment.

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

13 C. Any person who knowingly provides false information with  
14 respect to the provisions of subsection I of Section ~~1423~~ 11-92 of  
15 this title shall, upon conviction, be guilty of a felony and  
16 punished by a fine of Five Thousand Dollars (\$5,000.00), or by  
17 imprisonment in the custody of the Department of Corrections for a  
18 period of not more than two (2) years, or by both such fine and  
19 imprisonment.

20 D. Any person convicted of purchasing or selling burnt copper  
21 material or copper wire as prohibited by subsection G of Section  
22 ~~1423~~ 11-92 of this title shall, upon first conviction, be guilty of  
23 a misdemeanor and punished by a fine of Two Thousand Five Hundred  
24 Dollars (\$2,500.00). Any person convicted of a second or subsequent

1 violation shall be guilty of a felony punishable by a fine of Five  
2 Thousand Dollars (\$5,000.00), or by imprisonment in the custody of  
3 the Department of Corrections for a period of not more than two (2)  
4 years, or by both such fine and imprisonment.

5 E. Each scrap metal dealer convicted of a violation of the  
6 Oklahoma Scrap Metal Dealers Act shall be reported to the Oklahoma  
7 Tax Commission by the clerk of the court rendering such verdict.

8 F. The Tax Commission shall revoke the sales tax permit of any  
9 person convicted of three separate violations of the Oklahoma Scrap  
10 Metal Dealers Act. The person shall not be eligible to receive a  
11 sales tax permit for such purpose for a period of one (1) year  
12 following the revocation. The revocation procedure shall be subject  
13 to notice and hearing as required by Section ~~1426~~ 11-95 of this  
14 title.

15 SECTION 5. This act shall become effective November 1, 2015.

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