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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **1901**

01/24/2012 Authored by McFarlane, Mullery, Cornish, Woodard, Johnson and others
The bill was read for the first time and referred to the Committee on Transportation Policy and Finance

1.1 A bill for an act
1.2 relating to commerce; amending regulation of scrap metal processing; requiring
1.3 proof of ownership or hold period for vehicles purchased for scrap; creating the
1.4 automated property system; creating criminal penalties; amending Minnesota
1.5 Statutes 2010, sections 168.27, subdivisions 1a, 19a, 23, 24; 168A.153,
1.6 subdivisions 1, 2; 325E.21, subdivisions 1, 1a, 3, 8, 9; proposing coding for new
1.7 law in Minnesota Statutes, chapter 168A.

1.8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.9 Section 1. Minnesota Statutes 2010, section 168.27, subdivision 1a, is amended to read:

1.10 Subd. 1a. **Dealer license categories.** (a) No person shall engage in the business of
1.11 selling new motor vehicles or shall offer to sell, solicit, deliver, or advertise the sale of
1.12 new motor vehicles without first acquiring a new motor vehicle dealer license.

1.13 (b) No person shall engage in the business of selling used motor vehicles or shall
1.14 offer to sell, solicit, deliver, or advertise the sale of used motor vehicles without first
1.15 acquiring a used motor vehicle dealer license.

1.16 (c) No person shall engage in the business of buying or otherwise acquiring vehicles
1.17 ~~other than hulks~~; or offering to buy or otherwise acquire, or soliciting or advertising the
1.18 buying or acquiring of, vehicles ~~other than hulks~~ for processing and selling the metal for
1.19 remelting without first acquiring a scrap metal processor license.

1.20 ~~For purposes of this paragraph, a "hulk" is a motor vehicle that is incapable, under~~
1.21 ~~its own power, of moving and is incapable of transporting persons or property and has had~~
1.22 ~~valuable used parts removed. Its sole value is its metallic content.~~

1.23 (d) No person shall be primarily engaged in the business of buying or otherwise
1.24 acquiring vehicles for the purpose of dismantling the vehicles and selling used parts and
1.25 the remaining scrap metals without first acquiring a used vehicle parts dealer license.

2.1 (e) No person shall engage in the business of storing and displaying, offering to store
2.2 or display, or soliciting or advertising the storing or displaying, for sale, of damaged
2.3 or junked vehicles as an agent or escrow agent of an insurance company without first
2.4 acquiring a vehicle salvage pool license.

2.5 (f) No person shall engage in the business of leasing motor vehicles or shall offer to
2.6 lease, solicit or advertise to lease motor vehicles without first acquiring a motor vehicle
2.7 lessor license.

2.8 (g) No person shall engage in the business of wholesaling motor vehicles to dealers
2.9 for resale or shall offer to sell, solicit or advertise the sale of motor vehicles to dealers for
2.10 resale without first acquiring a motor vehicle wholesaler license.

2.11 (h) No person shall engage in the business of auctioning motor vehicles for more
2.12 than one owner at an auction or shall offer to sell, solicit or advertise the sale of motor
2.13 vehicles at auction without first acquiring a motor vehicle auctioneer license.

2.14 (i) No person shall engage in the business of brokering motor vehicles without first
2.15 acquiring a motor vehicle broker's license.

2.16 **EFFECTIVE DATE.** This section is effective August 1, 2012.

2.17 Sec. 2. Minnesota Statutes 2010, section 168.27, subdivision 19a, is amended to read:

2.18 Subd. 19a. **Injunction.** The commissioner or a county attorney may institute a civil
2.19 action in the name of the state in district court for an injunction prohibiting a violation of
2.20 this section, section 168A.1525, or 325E.21, and for civil penalties not to exceed \$1,000
2.21 for each violation of subdivision 2, 3, 3a, 4, 5a, 6, 7, or 7a. The court, upon proper proof
2.22 that the defendant has engaged in a practice prohibited by this section, section 168A.1525,
2.23 or 325E.21, may enjoin the future commission of that practice and award civil penalties
2.24 for violations of subdivision 2, 3, 3a, 4, 5a, 6, 7, or 7a. It is not a defense to an action that
2.25 the state may have adequate remedies at law. Service of process must be as in any other
2.26 civil suit, except that where a defendant in the action is a natural person or firm residing
2.27 outside the state, or is a foreign corporation, service of process may also be made by
2.28 personal service outside the state; in the manner provided by section 5.25; or as the court
2.29 may direct. Process is valid if it satisfies the requirements of due process of law, whether
2.30 or not the defendant is doing business in Minnesota regularly or habitually. Nothing in this
2.31 subdivision limits the rights or remedies otherwise available to persons under common
2.32 law or other statutes of this state.

2.33 **EFFECTIVE DATE.** This section is effective August 1, 2012.

3.1 Sec. 3. Minnesota Statutes 2010, section 168.27, subdivision 23, is amended to read:

3.2 Subd. 23. **Registrar may file charges; county attorney to prosecute.** The
 3.3 registrar or the registrar's appointed inspectors may file charges with the county attorney
 3.4 against any licensee who violates any of the provisions of this section, including but
 3.5 not limited to, the grounds for suspension or revocation set out in subdivision 12. The
 3.6 county attorney may file criminal charges against any licensee who violates this section,
 3.7 section 168A.1525, or 325E.21.

3.8 Sec. 4. Minnesota Statutes 2010, section 168.27, subdivision 24, is amended to read:

3.9 Subd. 24. **Bonds.** (a) Except as otherwise provided in this subdivision, all persons
 3.10 licensed according to this section shall keep in full force and effect a bond with a corporate
 3.11 surety to be approved by the registrar of motor vehicles in the following amounts; in the
 3.12 case of boat trailer, snowmobile trailer, horse trailer or motorized bicycle dealers, or
 3.13 dealers in trailers with a manufacturer's rated carrying capacity under 15,000 pounds
 3.14 designed to transport small construction or farm equipment, in the amount of \$5,000;
 3.15 and as to all other persons in the amount of \$50,000. The bond must be conditioned on
 3.16 the faithful performance by the licensee of the obligations imposed on persons engaged
 3.17 in motor vehicle transactions by the laws of this state, including the conduct required
 3.18 of a licensee by this section, section 168A.1525, and other sections governing the sale
 3.19 or transfer of motor vehicles, and the payment of all taxes, license fees, and penalties.
 3.20 The bond must be for the benefit of the state of Minnesota and any transferor, seller, ~~or~~
 3.21 purchaser, or owner of a motor vehicle for any monetary loss caused by failure of the
 3.22 licensee to meet the obligations enumerated above. Proceedings on the forfeiture of the
 3.23 bonds must be commenced in the district court of the county wherein the business of
 3.24 the licensed person was carried on, or if in more than one county, the county in which
 3.25 the offense occurred. This subdivision does not apply to a used vehicle parts dealer ~~or~~
 3.26 ~~a scrap metal processor.~~

3.27 (b) This subdivision does not apply to:

3.28 (1) a dealer in new trailers designed to transport small construction or farm
 3.29 equipment in any year following a year in which the dealer had less than \$500,000 in gross
 3.30 receipts from the sale of such trailers; or

3.31 (2) a dealer in new trailers designed to transport small construction or farm
 3.32 equipment who has been a dealer in such trailers for less than one year and who the
 3.33 department reasonably determines will have gross receipts of less than \$500,000 during
 3.34 the first year of business.

3.35 **EFFECTIVE DATE.** This section is effective August 1, 2012.

4.1 Sec. 5. **[168A.1525] SCRAP METAL PROCESSORS; PROOF OF VEHICLE**
4.2 **OWNERSHIP; PENALTIES.**

4.3 Subdivision 1. **Definitions.** For purposes of this section, the following terms have
4.4 the meanings given them.

4.5 (a) "Identification" means a valid Minnesota driver's license, a valid Minnesota
4.6 identification card, or a valid driver's license or identification card issued by another
4.7 state or province of Canada.

4.8 (b) "Public impound lot" has the meaning given in section 168B.011.

4.9 (c) "Scrap metal processor" means a licensee under section 168.27, subdivision 3a.

4.10 Subd. 2. **Vehicles with proof of ownership; no hold period.** Except as provided in
4.11 subdivision 3, no scrap metal processor shall purchase a motor vehicle without receiving
4.12 the following from the seller:

4.13 (1) the vehicle title and lien releases, if the vehicle is subject to any liens, or an
4.14 official bill of sale issued by a public impound lot, each listing the vehicle identification
4.15 number;

4.16 (2) proof of seller's identification matching the name listed on the vehicle title or
4.17 official bill of sale issued by a public impound lot; and

4.18 (3) a statement signed by the seller, under penalty of perjury, attesting that the motor
4.19 vehicle is not stolen and is free of any liens or encumbrances and that the seller has the
4.20 right to sell the motor vehicle.

4.21 Subd. 3. **Vehicle without proof of ownership; 15-day hold.** (a) If the seller does
4.22 not provide the information required in subdivision 2, no scrap metal processor shall
4.23 purchase a motor vehicle unless the seller:

4.24 (1) agrees in writing to a conditional sale with a 15-day hold on completion of
4.25 the transaction, excluding Saturdays, Sundays, and holidays, pending verification that
4.26 the vehicle is not stolen;

4.27 (2) provides proof of seller's identification; and

4.28 (3) signs a statement, under penalty of perjury, attesting that the motor vehicle is
4.29 not stolen and is free of any liens or encumbrances and that the seller has the right to sell
4.30 the motor vehicle.

4.31 (b) At the end of the 15-day hold, the scrap metal processor shall check the vehicle
4.32 identification number with the registrar and the local law enforcement agency having
4.33 jurisdiction over the scrap metal processor's business to determine whether the vehicle has
4.34 been reported as stolen. If the vehicle is not reported as stolen, the scrap metal processor
4.35 may complete the purchase and disburse funds to the seller. If the vehicle is reported as

5.1 stolen, the scrap metal processor shall cancel the conditional sale of the vehicle and notify
 5.2 law enforcement of the vehicle's location.

5.3 (c) A scrap metal processor shall not scrap, resell, dismantle, remove, or in any way
 5.4 destroy a motor vehicle during the pendency of the 15-day hold period.

5.5 Subd. 4. **Disbursement of funds.** A scrap metal processor shall disburse funds for a
 5.6 transaction under this section in accordance with section 325E.21, subdivision 3.

5.7 Subd. 5. **Criminal penalties.** (a) Except as provided in paragraphs (b) and (c),
 5.8 a scrap metal processor, or an agent, employee, or representative of the scrap metal
 5.9 processor, who intentionally violates this section is guilty of a misdemeanor.

5.10 (b) A scrap metal processor, or an agent, employee, or representative of the scrap
 5.11 metal processor, who is convicted of violating this section a second time within a period of
 5.12 five years is guilty of a gross misdemeanor.

5.13 (c) A scrap metal processor, or an agent, employee, or representative of the scrap
 5.14 metal processor, who is convicted of violating this section a third or subsequent time
 5.15 within a period of five years is guilty of a felony and may be sentenced to imprisonment
 5.16 for not more than three years or to payment of a fine of not more than \$5,000, or both.

5.17 Subd. 6. **Remedy not exclusive.** Criminal penalties under this section are in
 5.18 addition to other remedies provided by law.

5.19 **EFFECTIVE DATE.** This section is effective August 1, 2012, and applies to crimes
 5.20 committed on or after that date.

5.21 Sec. 6. Minnesota Statutes 2010, section 168A.153, subdivision 1, is amended to read:

5.22 Subdivision 1. ~~Older model vehicle~~ **Report to department.** A dealer who buys ~~an~~
 5.23 ~~older model~~ a motor vehicle to be dismantled or destroyed shall report to the department
 5.24 within 30 days including the vehicle's license plate number and identification number, and
 5.25 the seller's name and driver's license number.

5.26 Sec. 7. Minnesota Statutes 2010, section 168A.153, subdivision 2, is amended to read:

5.27 Subd. 2. ~~Late-model or high-value vehicle~~ **Report to secured party.** A dealer
 5.28 who buys a ~~late-model or high-value~~ motor vehicle to be dismantled or destroyed shall
 5.29 notify the secured party, if any, and the commissioner in the manner prescribed in
 5.30 subdivision 3. The dealer must then properly destroy the certificate of title.

5.31 Sec. 8. Minnesota Statutes 2010, section 325E.21, subdivision 1, is amended to read:

5.32 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in
 5.33 this subdivision have the meanings given.

6.1 (b) "Law enforcement agency" or "agency" means a duly authorized municipal,
6.2 county, state, or federal law enforcement agency.

6.3 (c) "Person" means an individual, partnership, limited partnership, limited liability
6.4 company, corporation, or other entity.

6.5 (d) "Scrap metal" means:

6.6 (1) wire and cable commonly and customarily used by communication and electric
6.7 utilities; and

6.8 (2) copper, aluminum, or any other metal purchased primarily for its reuse or
6.9 recycling value as raw metal, including metal that is combined with other materials
6.10 at the time of purchase.

6.11 (e) "Scrap metal dealer" or "dealer" means a scrap metal processor as defined in
6.12 section 168.27 or a person engaged in the business of buying or selling scrap metal, or
6.13 both, but does not include a person engaged exclusively in the business of buying or
6.14 selling ~~new or used motor vehicles or motor vehicle parts~~, paper or wood products, rags or
6.15 furniture, or secondhand machinery.

6.16 (f) "Interchange file specification format" means the current version of the
6.17 Minneapolis automated property system interchange file specification format.

6.18 (g) "Billable transaction fee" means the fee assessed by the Minneapolis automated
6.19 property system.

6.20 **EFFECTIVE DATE.** This section is effective August 1, 2012.

6.21 Sec. 9. Minnesota Statutes 2010, section 325E.21, subdivision 1a, is amended to read:

6.22 Subd. 1a. **Purchase or acquisition record required.** (a) Every scrap metal
6.23 dealer, including an agent, employee, or representative of the dealer, shall ~~keep~~ create a
6.24 permanent record, written in English, using ink or an electronic record program, at the
6.25 time of each purchase or acquisition of scrap metal. The record must include:

6.26 (1) ~~an~~ a complete and accurate account or description, including the weight if
6.27 customarily purchased by weight, of the scrap metal purchased or acquired;

6.28 (2) if the scrap metal purchased or acquired is a motor vehicle, the vehicle
6.29 identification number; license plate number, state, and year of issue; vehicle make, model,
6.30 and color; and any applicable hold period under section 168A.1525;

6.31 ~~(2)~~ (3) the date, time, and place of the receipt of the scrap metal purchased or
6.32 acquired and a unique transaction identifier;

6.33 ~~(3)~~ (4) the full name and, residence address, primary telephone number, and an
6.34 accurate description of the person selling or delivering the scrap metal;

7.1 ~~(4)~~ (5) the amount paid and the number of the check or electronic transfer used to
7.2 purchase the scrap metal;

7.3 ~~(5)~~ (6) the identification number and state of issue of the seller's or deliverer's
7.4 valid driver's license, valid Minnesota identification card number, or other identification
7.5 document number of an a valid identification document issued for identification purposes
7.6 by any state, federal, or foreign government if the document includes the person's
7.7 photograph, full name, birth date, and signature; and

7.8 ~~(6)~~ (7) the license plate number and description of the vehicle used by the person
7.9 when delivering the scrap metal, including the vehicle make and model, and any
7.10 identifying marks on the vehicle, such as a business name, decals, or markings, if
7.11 applicable; and

7.12 (8) a statement signed by the seller, under penalty of perjury, attesting that the scrap
7.13 metal is not stolen and is free of any liens or encumbrances and the seller has the right
7.14 to sell it.

7.15 (b) The record, as well as the scrap metal purchased or received, shall at all
7.16 reasonable times be open to the inspection of any law enforcement agency.

7.17 (c) If the scrap metal is a motor vehicle, dealers must provide all the record
7.18 information required in paragraph (a) by transferring it to the automated property system
7.19 by the close of business each day using the interchange file specification format. If
7.20 the dealer does not have an electronic point-of-sale program, the dealer may request
7.21 to be provided free software by the automated property system. If the dealer uses a
7.22 commercially available electronic point-of-sale program, it must submit the information
7.23 required under paragraph (a) using the interchange file specification format, and may
7.24 request the automated property system to assist the dealer's point-of-sale software
7.25 company to develop an interchange file specification compliant interface. If the dealer
7.26 accepts less than 25 vehicles for scrap per calendar year, does not own a computer
7.27 or does not have access to one, and keeps only paper records, information required
7.28 under paragraph (a) must be transmitted via facsimile each business day to the local
7.29 law enforcement agency having jurisdiction over the dealer's place of business, and an
7.30 additional \$10 fee per vehicle will be assessed to the dealer to cover the cost of the local
7.31 law enforcement agency entering the data into the automated property system.

7.32 Any record submitted by a dealer that does not conform to the interchange file
7.33 specification format must be corrected and resubmitted the next business day.

7.34 The dealer must display a sign at least 8-1/2 inches by 11 inches, in a conspicuous
7.35 place in the premises, which informs all patrons that all vehicle transactions are reported
7.36 to law enforcement daily.

8.1 ~~(e)~~ (d) No record is required for property purchased from merchants, manufacturers
 8.2 or wholesale dealers, having an established place of business, or of any goods purchased
 8.3 at open sale from any bankrupt stock, but a bill of sale or other evidence of open or
 8.4 legitimate purchase of the property shall be obtained and kept by the person, which must
 8.5 be shown upon demand to any law enforcement agency.

8.6 (e) Law enforcement agencies where any dealer is located shall conduct regular and
 8.7 routine inspections to ensure compliance and refer violations for criminal prosecution to
 8.8 county attorney offices and notify the registrar.

8.9 (f) A law enforcement agency is authorized to recover costs associated with ensuring
 8.10 compliance with paragraphs (c) and (e) from dealers, including billable transaction fees.

8.11 ~~(d)~~ (g) Except as otherwise provided in this section, a scrap metal dealer or the
 8.12 dealer's agent, employee, or representative may not disclose personal information
 8.13 concerning a customer without the customer's consent unless the disclosure is made
 8.14 in response to a request from a law enforcement agency. A scrap metal dealer must
 8.15 implement reasonable safeguards to protect the security of the personal information and
 8.16 prevent unauthorized access to or disclosure of the information. For purposes of this
 8.17 paragraph, "personal information" is any individually identifiable information gathered in
 8.18 connection with a record under paragraph (a).

8.19 **EFFECTIVE DATE.** This section is effective August 1, 2012.

8.20 Sec. 10. Minnesota Statutes 2010, section 325E.21, subdivision 3, is amended to read:

8.21 Subd. 3. **Payment by check or electronic transfer required.** (a) A scrap metal
 8.22 dealer or the dealer's agent, employee, or representative shall pay for all scrap metal
 8.23 purchases only by check or electronic transfer as provided in paragraph (b). Checks shall
 8.24 be payable only to the individual providing proof of identification at the time of purchase.

8.25 (b) For purchase of a vehicle or a single transaction totaling more than \$300, the
 8.26 scrap metal dealer or the dealer's agent, employee, or representative must send a check
 8.27 by certified mail, return receipt requested, to the seller's home or business address on the
 8.28 first business day following the completion of the transaction. For all other purchases,
 8.29 payment may be made by check or electronic transfer.

8.30 **EFFECTIVE DATE.** This section is effective August 1, 2012.

8.31 Sec. 11. Minnesota Statutes 2010, section 325E.21, subdivision 8, is amended to read:

8.32 Subd. 8. **Property held by law enforcement Investigative holds; confiscation of**
 8.33 **vehicles.** (a) Whenever a law enforcement official from any agency ~~has probable cause~~

9.1 ~~to believe that property in the possession of~~ notifies a scrap metal dealer ~~is stolen or is~~
 9.2 ~~evidence of a crime and notifies the dealer not to sell the~~ an item, ~~the item may not be sold~~
 9.3 ~~or removed~~ the scrap metal dealer shall not process or sell the item or remove or allow
 9.4 its removal from the premises. This investigative hold ~~remains~~ must be confirmed in
 9.5 writing by the originating agency within 72 hours. When a law enforcement official has
 9.6 probable cause to believe that the item is stolen or is evidence of a crime, the official may
 9.7 confirm the investigative hold which will remain in effect for 90 days from the date of
 9.8 initial notification, or until it ~~the investigative hold~~ is canceled or a seizure order is issued
 9.9 until an order to confiscate is issued, whichever comes first.

9.10 (b) If an item is identified as stolen or evidence in a criminal case, ~~the~~ a law
 9.11 enforcement official or designee may:

9.12 (1) physically ~~seize~~ confiscate and remove it from the scrap metal dealer, pursuant to
 9.13 a written order ~~from the law enforcement official~~; or

9.14 (2) place the item on hold or extend the hold ~~as provided in this section and leave it~~
 9.15 ~~in the shop~~ under paragraph (a) for up to 30 days and leave it in the licensed premise.

9.16 ~~(e)~~ When an item is ~~seized~~ confiscated, the person doing so shall provide
 9.17 identification upon request of the scrap metal dealer, and shall provide ~~the dealer~~ the name
 9.18 and telephone number of the ~~seizing~~ confiscating agency and investigator, and the case
 9.19 number related to the ~~seizure~~ confiscation.

9.20 ~~(d) A dealer may request seized property be returned in accordance with section~~
 9.21 ~~626.04.~~

9.22 ~~(e)~~ (c) When an investigative hold or order to ~~hold or seize~~ confiscate is no longer
 9.23 necessary, the law enforcement official or designee shall so notify the ~~dealer~~ licensee.

9.24 (d) If an order to confiscate is not issued during the investigative hold or a law
 9.25 enforcement official does not physically remove the motor vehicle from the premises
 9.26 within 15 calendar days from issuance of the order, a scrap metal dealer may process
 9.27 or otherwise dispose of the motor vehicle.

9.28 **EFFECTIVE DATE.** This section is effective August 1, 2012.

9.29 Sec. 12. Minnesota Statutes 2010, section 325E.21, subdivision 9, is amended to read:

9.30 Subd. 9. **Video security cameras required.** (a) Each scrap metal dealer shall install
 9.31 and maintain at each location digital color video surveillance cameras, or digital color
 9.32 ~~still digital~~ cameras, ~~or similar devices~~ positioned to record or photograph a frontal view
 9.33 showing a readily identifiable image of the face of each seller or prospective seller of scrap
 9.34 metal who enters the location. The scrap metal dealer shall also photograph the seller's or
 9.35 prospective seller's vehicle, including license plate, either by digital color video camera

10.1 or digital color still digital camera, so that an accurate and complete description of it may
10.2 be obtained from the recordings made by the cameras. The digital color video camera
10.3 or still digital camera must be kept in operating condition and must be shown to a law
10.4 enforcement officer for inspection upon request. The camera must record and display the
10.5 accurate date and time. The video camera must be turned on at all times when the location
10.6 is open for business and at any other time when scrap metal is purchased.

10.7 (b) If the scrap metal dealer does not purchase some or any scrap metal at a specific
10.8 business location, the dealer need not comply with this subdivision with respect to those
10.9 purchases.

10.10 (c) Recordings and images required by paragraph (a) shall be retained by the scrap
10.11 metal dealer for a minimum period of 90 days and shall at all reasonable times be open to
10.12 the inspection of any law enforcement agency.

10.13 **EFFECTIVE DATE.** This section is effective August 1, 2012.