

1 **SENATE FLOOR VERSION**

2 February 27, 2020

3 **AS AMENDED**

4 SENATE BILL NO. 1749

5 By: Hall

6 An Act relating to the Oklahoma Scrap Metal Dealers
7 Act; amending 59 O.S. 2011, Sections 1422, as amended
8 by Section 2, Chapter 230, O.S.L. 2013, and as
9 renumbered by Section 4, Chapter 18, O.S.L. 2014,
10 1423, as renumbered by Section 5, Chapter 18, O.S.L.
11 2014, and as last amended by Section 1, Chapter 23,
12 O.S.L. 2018, 1424, as renumbered by Section 6,
13 Chapter 18, O.S.L. 2014, and 1425, as amended by
14 Section 4, Chapter 230, O.S.L. 2013, and as
15 renumbered by Section 7, Chapter 18, O.S.L. 2014 (2
16 O.S. Supp. 2019, Sections 11-91, 11-92, 11-93 and 11-
17 94), which relate to definitions, records of data,
18 prohibited items and penalties; adding definitions;
19 modifying definitions; modifying content requirements
20 of certain scrap metal dealer records; requiring
21 certain records be held for certain period;
22 eliminating requirement that scrap metal with certain
23 labels be held separate; eliminating prohibition
24 against certain copper sales and purchase; clarifying
term; modifying declaration of ownership form
contents; modifying procedure for scrap metal dealer
purchase of a vehicle; removing exception for the
purchase or sale of aluminum beverage cans; expanding
types of accepted proof of ownership; prohibiting
purchase of regulated metals not delivered in or on a
motor vehicle; expanding list of items regulated by
the Oklahoma Scrap Metal Dealers Act; updating
statutory references; and providing an effective
date.

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

1 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1422, as
2 amended by Section 2, Chapter 230, O.S.L. 2013, and as renumbered by
3 Section 4, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2019, Section 11-
4 91), is amended to read as follows:

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

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

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

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

13 4. "Digital image" means pixels intended for display on a
14 computer monitor or for transformation into another format, such as
15 a printed page. For purposes of this paragraph, "pixels" shall mean
16 raster-based, two-dimensional, rectangular arrays of static data
17 elements;

18 5. "Exempted seller" means any person, firm, corporation or
19 municipal corporation which constructs, operates or maintains
20 electric distribution and transmission or communications facilities;
21 or any person, firm or corporation, business or governmental entity
22 that produces or otherwise acquires any scrap metal regulated by the
23 provisions of the Oklahoma Scrap Metal Dealers Act in the normal
24 course of business as including but not limited to:

- 1 a. a mechanical, electrical or plumbing contractor
2 currently licensed to do business in ~~this~~ any state,
- 3 b. a scrap metal dealer (Standard Industrial
4 Classification Codes 5051 or 5093), currently licensed
5 pursuant to the provisions of the Oklahoma Scrap Metal
6 Dealers Act,
- 7 c. holder of a current farm-use tax permit,
8 d. manufacturer,
9 e. distributor, ~~or~~
10 f. retailer with a current sales tax permit, or
11 any state-recognized business entity including a
12 corporation, limited liability company, partnership,
13 limited partnership and sole proprietorship;

14 ~~5.~~ 6. "License" means a scrap metal dealer license;

15 ~~6.~~ 7. "Remote storage battery" means a battery commonly used in
16 telecommunications, the oil industry or infrastructure;

17 8. "Scrap metal" means any copper material or aluminum material
18 or any item listed in Section ~~1424~~ 11-93 of this title, offered for
19 sale or resale or purchased by any person, firm or ~~corporation~~
20 business;

21 ~~7.~~ 9. "Scrap metal dealer" means any person, firm or
22 ~~corporation~~ business being an owner, keeper or proprietor of a
23 retail or wholesale business which buys, sells, salvages, processes
24

1 or otherwise handles scrap metal materials regulated by the
2 provisions of the Oklahoma Scrap Metal Dealers Act; and

3 ~~8.~~ 10. "Yard" means the place where any scrap metal dealer
4 stores scrap metal materials or keeps such materials for purpose of
5 sale.

6 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1423, as
7 renumbered by Section 5, Chapter 18, O.S.L. 2014, and as last
8 amended by Section 1, Chapter 23, O.S.L. 2018 (2 O.S. Supp. 2019,
9 Section 11-92), is amended to read as follows:

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

15 1. A legible photocopy of the seller's driver license or
16 government provided photo identification, issued by the United
17 States government, State of Oklahoma, or any other state of the
18 United States, or any other federally recognized identification that
19 contains his or her name, ~~address,~~ and date of birth, ~~weight and~~
20 ~~height;~~ however, if the photo identification does not contain an
21 address, an address must be provided;

22 2. Vehicle description and license tag number ~~of the seller,~~ or
23 vehicle identification number if no state license plate is affixed,
24 if 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; and

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~~ The digital image of
12 the items purchased and a digital image of the seller. The digital
13 images shall contain depictions that clearly identify the items sold
14 and the seller and are captured in the common JPEG format. The
15 digital images shall be retained by the purchaser for a minimum of
16 ninety (90) days from the date of purchase.

17 B. Municipalities or other political subdivisions may designate
18 the reporting methods and the format of the information required by
19 subsection A of this section, either written, electronic or
20 Internet-based. The Oklahoma Department of Agriculture, Food, and
21 Forestry shall designate an Internet-based reporting method that
22 applies to all geographic areas of the state that are not subject to
23 a local designation for Internet reporting.

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1 C. Records required by this section shall be retained for no
2 less than two (2) years from the date of transaction and shall be
3 made available at any time to any person authorized by law for such
4 inspection.

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

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

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

4 ~~F. No purchase of any amount of scrap metal from an exempted~~
5 ~~seller, as defined by Section 11-91 of this title, shall be subject~~
6 ~~to any holding period or digital imaging identification required by~~
7 ~~subsection D or E of this section.~~

8 ~~G. It shall be unlawful for any person to sell or purchase~~
9 ~~copper material or copper wire from which the actual or apparent~~
10 ~~insulation or other coating has been burned, melted or exposed to~~
11 ~~heat or fire resulting in melting some or all of the insulation or~~
12 ~~coating. It shall be unlawful for any person to sell or purchase~~
13 ~~copper wire that is four-gauge or larger in size. This subsection~~
14 ~~shall not apply to sales by or purchases from an exempted seller as~~
15 ~~defined by Section 11-91 of this title. Documentation of exempt~~
16 ~~seller status shall be provided to the scrap metal dealer and, if~~
17 ~~requested by a law enforcement agency where the purchase was made,~~
18 ~~shall be transmitted to the law enforcement agency and may be kept~~
19 ~~as permanent record and made available for public inspection.~~

20 ~~H. It shall be unlawful for any scrap metal dealer to purchase~~
21 ~~any item from a ~~minor~~ person under the age of sixteen (16) without~~
22 ~~having first obtained the consent, in writing, of a parent or~~
23 ~~guardian of such minor. Such written consent shall be kept with the~~
24 ~~book, record or other electronic recording system required by~~

1 subsection A of this section and, if requested by a law enforcement
2 agency where the purchase was made, shall be transmitted to the law
3 enforcement agency and may be kept as a permanent record and made
4 available for public inspection.

5 ~~I.~~ E. A scrap metal dealer shall obtain from each seller of a
6 scrap metal item regulated by the Oklahoma Scrap Metal Dealers Act,
7 or a parent or guardian on behalf of a minor, a written declaration
8 of ownership containing a legible signature of the seller. The
9 declaration of ownership shall be in the following form and shall
10 appear on the bill of sale or transaction ticket to be completed by
11 the seller in the presence of the purchaser at the time of the
12 transaction:

13 "I hereby affirm ~~under penalty of prosecution~~ that I am the
14 rightful owner of the hereon described merchandise; or I am an
15 authorized representative of the rightful owner and affirm that I
16 have been given authority by the rightful owner to sell the hereon
17 described merchandise.

18 I state under penalty of perjury under the laws of Oklahoma that
19 the foregoing is true and correct.

20 _____
21 Signature Date and Place"

22 ~~J.~~ F. If requested by a law enforcement agency, a scrap metal
23 dealer shall report in writing all purchases of scrap metal as
24 defined by the Oklahoma Scrap Metal Dealers Act within forty-eight

1 (48) hours following such purchase. The report shall contain all
2 the information required by this section.

3 ~~K. A scrap metal dealer purchasing a vehicle from any person
4 shall be required to record the information required in subsection A
5 of this section and the make, model, license tag number and vehicle
6 identification number of the purchased vehicle. A person selling a
7 vehicle to a scrap metal dealer shall be required to present to the
8 dealer the title of the vehicle or a certificate of ownership form,
9 as approved by the Oklahoma Tax Commission and available at the
10 Oklahoma Tax Commission or through a motor license agent, in
11 addition to signing a declaration of ownership as required by
12 subsection I of this section. The scrap metal dealer shall not
13 provide payment for the vehicle until the certificate of ownership
14 has been submitted to the Oklahoma Tax Commission or a motor license
15 agent, and the vehicle is determined not to be stolen. The
16 provisions of this subsection shall not apply to sales, purchases or
17 other transfer of vehicles between scrap metal dealers and licensed
18 automotive dismantlers and parts recyclers.~~

19 ~~L. The provisions of the Oklahoma Scrap Metal Dealers Act shall
20 not apply to the sale or purchase of aluminum beverage cans for
21 recycling purposes.~~

22 M. G. Prior to the purchase of a used motor vehicle, trailer or
23 nonmotorized recreational vehicle, the scrap metal dealer shall
24 require one of the following forms of proof of ownership from the

1 person selling the used motor vehicle, trailer or nonmotorized
2 recreational vehicle:

3 1. A certificate of title that matches the vehicle
4 identification number of the vehicle being sold;

5 2. A notarized power of attorney from the individual on the
6 certificate of title authorizing the seller to dispose of the
7 vehicle on behalf of the owner; or

8 3. A statement of ownership from the seller stating that the
9 vehicle was purchased from the lawful owner, accompanied by a bill
10 of sale from the lawful owner including a statement that there are
11 no outstanding liens on the vehicle, and a statement that the
12 vehicle is inoperable or incapable of operation or use on the
13 highway and has no resale value except as scrap.

14 The provisions of this subsection shall not apply to sales,
15 purchases or other transfers of vehicles between scrap metal dealers
16 and licensed automotive dismantlers and parts recyclers, licensed
17 crushers, salvage dealers, used car dealers and licensed wreckers.

18 H. A scrap metal dealer shall not enter into any cash
19 transactions in excess of One Thousand Dollars (\$1,000.00) in
20 payment for the purchase of scrap metal that is listed in subsection
21 ~~B~~ C of Section 11-93 of this title unless the transaction is made
22 with an exempted seller. Payment by check shall be issued and made
23 payable only to the seller of the scrap metal whose identification
24

1 information has been obtained pursuant to the provisions of this
2 section.

3 I. The following are exempt from the provisions of the Oklahoma
4 Scrap Metal Dealers Act:

5 1. Scrap metal transported by a scrap metal dealer for an
6 exempt seller using a commercial motor vehicle; and

7 2. Scrap metal delivered by an exempt seller to a scrap metal
8 dealer that is paid for by the scrap metal dealer with a check made
9 payable to the exempt seller's company or entity.

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. 2019,
12 Section 11-93), is amended to read as follows:

13 Section 11-93. A. ~~Scrap~~ It shall be unlawful for scrap metal
14 dealers permitted to do business in this state as required by the
15 Oklahoma Scrap Metal Dealers Act shall not to purchase any item
16 listed in subsection ~~B~~ C of this section 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
19 of sale for the property or a contract or other documentation; and

20 2. Requiring the seller to sign a written declaration in the
21 form required by subsection ~~F~~ E of Section ~~3 of this act~~ 11-92 of
22 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 11-91 of this title.

4 B. Scrap metal dealers shall not purchase any regulated items
5 which are not delivered in or on a motor vehicle.

6 C. The following items are regulated by the provisions of ~~this~~
7 ~~act~~ the Oklahoma Scrap Metal Dealers Act:

8 1. Manhole covers, street signs, traffic signs, traffic
9 signals, including their fixtures and hardware, and highway guard
10 rails, or any other identifiable public property;

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

15 3. ~~Highway guard rails~~ Any copper wire, braided or single
16 strand, insulated or not insulated, that is four gauge or larger in
17 size;

18 4. Copper wire from which the actual or apparent insulation or
19 other coating has been burned, melted or exposed to heat or fire
20 resulting in melting some or all other insulation or coating;

21 5. Funeral markers, plaques or funeral vases;

22 ~~5.~~ 6. Historical markers or public artifacts;

23 ~~6.~~ 7. Railroad equipment;

1 ~~7.~~ 8. Any metal item marked with any form of the name, initials
2 or logo of a governmental entity, utility, cemetery or railroad;

3 ~~8.~~ 9. Condensing or evaporating coil ~~from a heating or air~~
4 ~~conditioning unit~~ including copper coil ends;

5 ~~9.~~ 10. Aluminum or stainless steel containers or bottles
6 designed to contain fuel;

7 ~~10.~~ 11. Metal beer kegs that are clearly marked as being the
8 property of the beer manufacturer;

9 ~~11.~~ 12. Metal bleachers or other seating facilities used in
10 recreational areas or sporting arenas;

11 ~~12.~~ 13. Automotive catalytic converters;

12 ~~13.~~ Plumbing or electrical fixtures;

13 14. ~~Tools;~~

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

16 ~~16.~~ 15. Stainless steel fittings and fixtures commonly used in
17 the operation of car wash facilities; and

18 16. Remote storage batteries.

19 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1425, as
20 amended by Section 4, Chapter 230, O.S.L. 2013, and as renumbered by
21 Section 7, Chapter 18, O.S.L. 2014 (2 O.S. Supp. 2019, Section 11-
22 94), is amended to read as follows:

23 Section 11-94. A. Any person found in violation of any
24 provision of the Oklahoma Scrap Metal Dealers Act, with the

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

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

22 C. Any person who knowingly provides false information with
23 respect to the provisions of subsection I of Section ~~1423~~ 11-92 of
24 this title shall, upon conviction, be guilty of a felony and

1 punished by a fine of 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
7 ~~1423~~ 11-93 of this title shall, upon first conviction, be guilty of
8 a misdemeanor and punished by a fine of Two Thousand Five Hundred
9 Dollars (\$2,500.00). Any person convicted of a second or subsequent
10 violation shall be guilty of a felony punishable by a fine of Five
11 Thousand Dollars (\$5,000.00), or by imprisonment in the custody of
12 the Department of Corrections for a period of not more than two (2)
13 years, or by both such fine and imprisonment.

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

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

24

1 SECTION 5. This act shall become effective November 1, 2020.

2 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
3 February 27, 2020 - DO PASS AS AMENDED
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