

SENATE BILL No. 237

AN ACT concerning crimes, punishment and criminal procedure; amending K.S.A. 21-3826 and K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 21-3826 is hereby amended to read as follows: 21-3826. (a) Traffic in contraband in a correctional institution *or care and treatment facility* is introducing or attempting to introduce into or upon the grounds of any correctional institution *or care and treatment facility* or taking, sending, attempting to take or attempting to send from any correctional institution *or care and treatment facility* or any unauthorized possession while in any correctional institution *or care and treatment facility* or distributing within any correctional institution *or care and treatment facility*, any item without the consent of the administrator of the correctional institution *or care and treatment facility*.

(b) For purposes of this section:

(1) "Correctional institution" means any state correctional institution or facility, conservation camp, ~~state security hospital~~, juvenile correctional facility, community correction center or facility for detention or confinement, juvenile detention facility or jail.

(2) "Care and treatment facility" means the state security hospital provided for under K.S.A. 76-1305 *et seq.*, and amendments thereto, and a facility operated by the department of social and rehabilitation services for the purposes provided for under K.S.A. 59-29a02 *et seq.*, and amendments thereto.

(c) (1) Traffic in contraband in a correctional institution *or care and treatment facility* of firearms, ammunition, explosives or a controlled substance which is defined in subsection (e) of K.S.A. 65-4101, and amendments thereto, is a severity level 5, nonperson felony. *This paragraph shall not apply to the possession of a firearm or ammunition by a person licensed under the personal and family protection act, K.S.A. 75-7c01 et seq., and amendments thereto, in a parking lot open to the public if the firearm or ammunition is carried on the person while in a vehicle or while securing the firearm or ammunition in the vehicle, or stored out of plain view in a locked but unoccupied vehicle.*

(2) Traffic in any contraband, as defined by rules and regulations adopted by the secretary, in a correctional institution by an employee of a correctional institution is a severity level 5, nonperson felony.

(3) *Traffic in any contraband, as defined by rules and regulations adopted by the secretary of social and rehabilitation services, in a care and treatment facility by an employee of a care and treatment facility is a severity level 5, nonperson felony.*

(d) Except as provided in subsection (c), traffic in contraband in a correctional institution *or care and treatment facility* is a severity level 6, nonperson felony.

Sec. 2. K.S.A. 2008 Supp. 50-6,109 is hereby amended to read as follows: 50-6,109. As used in K.S.A. 2008 Supp. 50-6,109 through 50-6,112, and amendments thereto:

(a) "Scrap metal dealer" means any person that operates a business out of a fixed location, and that is also either:

(1) Engaged in the business of buying and dealing in regulated scrap metal;

(2) purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or

(3) operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.

(b) "Regulated scrap metal yard" means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.

(c) "Regulated scrap metal" shall mean wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, *junk vehicles, vehicle parts*, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 2008 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; *any item composed in whole or in part of any nonferrous metal other than an item*

composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers.

(d) “Bales of regulated metal” means regulated scrap metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.

(e) “Ferrous metal” means a metal that contains iron or steel.

(f) “Junk vehicle” means a vehicle not requiring a title as provided in chapter 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.

(g) “Nonferrous metal” means a metal that does not contain iron or steel, including but not limited to, copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

(h) “Tin” means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.

(i) “Vehicle part” means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit; or any other vehicle part.

Sec. 3. K.S.A. 2008 Supp. 50-6,110 is hereby amended to read as follows: 50-6,110. (a) *Except as provided in subsection (d), it shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person presents to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following information described below regarding such item or items of regulated scrap metal:*

~~Such information shall include: The seller’s name, address and place of business, if any, sex, date of birth and the identifying number from the seller’s driver’s license, military identification card, passport or personal identification license. The identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.~~

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or ~~enter the name, residence or place of business, if any, of the person from whom the scrap metal dealer purchased or received the item, a description made in accordance with the commodity code standards of the trade of items purchased, the price paid for such item or items, and a copy of the seller’s photo driver’s license card or another government-issued photo identification card.~~ accurately and legibly record at the time of sale the following information:

(1) *The time, date and place of transaction;*

(2) *the seller’s name, address, sex, date of birth and the identifying number from the seller’s driver’s license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;*

(3) *a copy of the identification card or document containing such identifying number;*

(4) *the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;*

(5) *a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;*

(6) *the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;*

(7) *if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;*

(8) *the amount of consideration given in a purchase transaction for the junk vehicle or other regulated scrap metal property; and*

(9) *the name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase.*

(c) The scrap metal dealer's register, including copies of identification cards, may be kept in electronic format.

~~(b)~~ (d) Notwithstanding the foregoing, this section shall not apply to:

(1) Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is \$50.00 or less;

(2) transactions involving only catalytic converters for which the total sale price is \$30.00 or less;

(3) transactions in which the seller is also a scrap metal dealer; or

(4) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

Sec. 4. K.S.A. 2008 Supp. 50-6,111 is hereby amended to read as follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2008 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 2008 Supp. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of this act shall be open at all times to peace or law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace or law enforcement officers upon request.

(b) *It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2008 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without obtaining from the seller a signed statement that: (1) each item is the seller's own personal property, is free of encumbrances and is not stolen; or (2) that the seller is acting for the owner and has permission to sell each item.*

(c) *It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 2008 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without: (1) inspecting the vehicle offered for sale and recording the vehicle identification number; and (2) obtaining an appropriate vehicle title or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.*

(d) *It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a minor.*

(e) *It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any of the following items of regulated scrap metal property without obtaining proof that the seller is an employee, agent or person who is authorized to sell the item of regulated scrap metal property on behalf of the governmental entity, utility provider, railroad, cemetery, civic organization or scrap metal dealer:*

(1) *Utility access cover;*

(2) *street light poles or fixtures;*

(3) *road or bridge guard rails;*

(4) *highway or street sign;*

(5) *water meter cover;*

(6) *traffic directional or traffic control signs;*

(7) *traffic light signals;*

- (8) any metal marked with any form of the name or initials of a governmental entity;
- (9) property owned and marked by a telephone, cable, electric, water or other utility provider;
- (10) property owned and marked by a railroad;
- (11) funeral markers or vases;
- (12) historical markers;
- (13) bales of regulated metal;
- (14) beer kegs;
- (15) manhole covers;
- (16) fire hydrants or fire hydrant caps;
- (17) junk vehicles with missing or altered vehicle identification numbers;
- (18) real estate signs; and
- (19) bleachers or risers, in whole or in part.

(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to sell, trade, melt or crush, or in any way dispose of, alter or destroy any regulated scrap metal, junk vehicle or vehicle part upon notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe an item has been stolen. A scrap metal dealer shall hold any of the items that are designated by or on behalf of the law enforcement agency for 30 days, exclusive of weekends and holidays.

Sec. 5. K.S.A. 2008 Supp. 50-6,112 is hereby amended to read as follows: 50-6,112. (a) Except as provided in subsections (b) and (c), any person intentionally violating the provisions of K.S.A. 2008 Supp. 50-6,109 through 50-6,111, and amendments thereto, shall be guilty of a class C misdemeanor: for which the minimum fine is \$200.

(b) Any person convicted of violating the provisions of K.S.A. 2008 Supp. 50-6,109 through 50-6,111, and amendments thereto, for the second time within a two-year period shall be guilty of a class B misdemeanor for which the minimum fine is \$500.

(c) Any person convicted of violating the provisions of K.S.A. 2008 Supp. 50-6,109 through 50-6,111, and amendments thereto, for the third and subsequent times within a two-year period shall be guilty of a class A misdemeanor for which the minimum fine is \$1,000.

Sec. 6. K.S.A. 21-3826 and K.S.A. 2008 Supp. 50-6,109, 50-6,110, 50-6,111 and 50-6,112 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

SENATE concurred in
HOUSE amendments _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.