

SESSION OF 2007

**CONFERENCE COMMITTEE REPORT BRIEF
SENATE SUBSTITUTE FOR HOUSE BILL NO. 2035**

As Agreed to March 29, 2007

Brief*

Senate Sub. for Sub. for HB 2035 would enact new law to regulate scrap metal dealers. The major provisions include:

- Limiting the law to apply only to scrap metal dealers who operate from a fixed location and deal in "regulated scrap metal." Regulated scrap metal would be defined to include:
 - Wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, pipes, or connectors made from aluminum, catalytic converters containing platinum, palladium or rhodium; and
 - Any form of copper, titanium, tungsten and nickel; the purchase price of which was primarily based on the content of those named metals.
- Requiring persons who are not scrap metal dealers and who are not known to the purchasing dealer to be an established business that generates regulated scrap metal, to present to the dealer, at the time of certain sales of scrap metal, the seller's name, address and place of business, if any. The information would have to be provided for sales of regulated scrap metal for over \$50.00, unless the scrap metal is a catalytic converter which would change the threshold to \$30.00. The seller would be required to present to the dealer, at the time of

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sale, a government-issued photo identification.

- Scrap metal dealers would be required to maintain records including the name, residence or place of business, of the seller, a description of the items purchased, the price paid for the item, and a copy of the seller's photo identification card. The dealer's register could be maintained electronically.
- Establishing conditions under which it would be legal for scrap metal dealers to purchase regulated scrap metal. The dealer would be required to:
 - Obtain the required identification information; and
 - Maintain the required transaction records and make hard copy of electronic records available to law enforcement officials.
- Making an intentional violation of these provisions a class A misdemeanor. (Class A misdemeanors are subject to a maximum one year jail term and a maximum \$2,500 fine or an alternative fine that does not exceed double the monetary gain from the crime.)

Conference Committee Action

The Conference Committee adopted the Senate amendments to the bill with the following exceptions:

- Removing language in Section 2 that would have required scrap metal dealers to provide payment to sellers only by check;
- Adding language to change the threshold of regulated scrap metal to \$50 for all metals except for catalytic converters which would be \$30; and

- Inserting the word intentionally in Section 4 to provide that a violation of this Act would have to be intentional in order to be a crime.

Background

The bill was introduced by the House Committee on Energy and Utilities. At the House Committee hearing on the bill, proponents included representatives of Westar Energy, Kansas City Power and Light, Kansas Electric Cooperatives, Empire District Electric Company, Triumph Structures, and the City of Wichita. Written testimony in support of the bill was presented by the Kansas Association of Chiefs of Police. Testimony in opposition to the bill was presented to the House Committee by a group of scrap metal dealers. After the Committee hearing, the bill was referred to a subcommittee that recommended the substitute bill.

The introduced version of the bill would have enacted new law creating requirements for junk or scrap dealers to register each purchase or trade of certain forms of copper or aluminum. The bill also would have created a 15 to 45 day period after purchase of those metals during which they could not be resold, transferred or disposed of. Dealers would have been required to maintain the prescribed transaction records for at least 24 months and make the records available for inspection by law enforcement officials or authorized agents of electric utilities or railroads. Violation of the introduced version of the bill would have been a class B misdemeanor subject to a fine of \$5,000 to \$10,000 and imprisonment of 30 days to six months.

The House Committee on Energy and Utilities amended the bill to replace provisions of existing law laws that regulate junk dealers with provisions regulating scrap metal sales and to create a new crime, theft of regulated scrap metal. The House Committee removed the provision requiring the scrap metal dealer to wait 15 to 45 days before the metals could be resold. The House Committee of the Whole amendment was technical in nature.

Proponents in the Senate Judiciary Committee included Dale Goter, City of Wichita; Captain Darrell Haynes, Wichita Police Department; Ed Klumpp, Kansas Association of Chiefs of Police; Randy Downing, Galamba Metals; Jeff Westeman, Triumph Structures; Paul Snider, Kansas City Power and Light; and Kyle Smith, Kansas Peace Officers Association. Senator Mike Petersen provided written testimony in support of the substitute for HB 2035.

The Senate Judiciary Committee made new provisions to regulate scrap metal dealers which incorporated the provisions in Sub. for HB 2035; with the following differences:

- Changed the threshold from \$50.00 to \$25.00.
- Deleted the new crime of theft of scrap metal;
- Added catalytic converters containing platinum, palladium, or rhodium to the definition of regulated scrap metal;
- Deleted the \$5,000 fine; and
- Deleted signage requirements.

The Senate Committee of the Whole amended the bill to add pipes to the definition of regulated scrap metal.

The Conference Committee amended the bill to:

- Strike the language in Section 2 that required payment only by check;
- Added language to change the threshold of regulated scrap metal to \$50 for all metals except for catalytic converters which would be \$30; and
- Insert the word intentionally in Section 4 to require a violation to this Act to be intentional.

The Division of the Budget's fiscal note for the introduced version of the bill may not be pertinent to the substitute bill. The original fiscal note stated that enactment would not have a fiscal impact on the Corporation Commission, but that junk or scrap metal dealers might experience increased costs as a result of the bill.

regulate scrap metal dealers