

HOUSE BILL No. 2349

By Committee on Judiciary

Requested by Marlee Carpenter on behalf of the City of Wichita and Wichita
Police Department

2-7

AN ACT concerning the scrap metal theft reduction act; authorizing law enforcement officers to conduct investigations of violations of the act; establishing criminal penalties for certain violations of the act; permitting municipalities to enact or enforce ordinances, resolutions and regulations relating to scrap metal that are not in conflict with the act; amending K.S.A. 2024 Supp. 50-6,109a, 50-6,109c and 50-6,109f and repealing the existing sections.

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

Section 1. K.S.A. 2024 Supp. 50-6,109a is hereby amended to read as follows: 50-6,109a. (a) *(1) Except as provided in paragraphs (2) and (3), the attorney general is hereby given jurisdiction and authority over all matters involving the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act including to:*

~~(4)~~(A) Employ or appoint agents as necessary to implement, administer and enforce the act;

~~(2)~~(B) contract;

~~(3)~~(C) expend funds;

~~(4)~~(D) license and discipline;

~~(5)~~(E) investigate;

~~(6)~~(F) issue subpoenas;

~~(7)~~(G) keep statistics; and

~~(8)~~(H) conduct education and outreach programs to promote compliance with the act.

(2) Kansas law enforcement officers are hereby authorized to conduct investigations of violations of the scrap metal theft reduction act. Upon conclusion of an investigation, investigative reports shall be submitted to the attorney general regardless of whether any local action was taken as a result of such investigation.

(3) Any local enforcement action taken for a violation of the scrap metal theft reduction act shall be reported to the attorney general.

(b) In accordance with the rules and regulations filing act, the attorney general is hereby authorized to adopt rules and regulations necessary to implement the provisions of the scrap metal theft reduction

1 act.

2 (c) There is hereby established in the state treasury the scrap metal
3 theft reduction fee fund to be administered by the attorney general. All
4 moneys received by the attorney general from fees, charges or penalties
5 collected under the provisions of the scrap metal theft reduction act shall
6 be remitted to the state treasurer in accordance with the provisions of
7 K.S.A. 75-4215, and amendments thereto, who shall deposit the entire
8 amount thereof in the state treasury to the credit of the scrap metal theft
9 reduction fee fund. All expenditures from such fund shall be made in
10 accordance with appropriation acts upon warrants of the director of
11 accounts and reports issued pursuant to vouchers approved by the attorney
12 general or the attorney general's designee. All moneys credited to the scrap
13 metal theft reduction fee fund shall be expended for the administration of
14 the duties, functions and operating expenses incurred under the provisions
15 of the scrap metal theft reduction act.

16 (d) There is hereby established in the state treasury the scrap metal
17 data repository fund to be administered by the director of the Kansas
18 bureau of investigation. All expenditures from such fund shall be made in
19 accordance with appropriation acts upon warrants of the director of
20 accounts and reports issued pursuant to vouchers approved by the director
21 of the Kansas bureau of investigation or the director's designee. All
22 moneys credited to the scrap metal data repository fund shall be expended
23 for the administration of the duties, functions and operating expenses
24 incurred under the provisions of the scrap metal theft reduction act.

25 (e) The attorney general may transfer any moneys from the scrap
26 metal theft reduction fee fund to the scrap metal data repository fund. The
27 attorney general shall certify each such transfer to the director of accounts
28 and reports and shall transmit a copy of each such certification to the
29 director of the budget and the director of legislative research.

30 (f) On July 1, 2020, the Kansas bureau of investigation shall establish
31 and maintain a database which shall be a central repository for the
32 information required to be provided under K.S.A. 2024 Supp. 50-6,110,
33 and amendments thereto. The database shall be maintained for the purpose
34 of providing information to law enforcement and for any other purpose
35 deemed necessary by the attorney general to implement and enforce the
36 provisions of the scrap metal theft reduction act.

37 (g) The information maintained in such database by the Kansas
38 bureau of investigation, or by any entity contracting with the Kansas
39 bureau of investigation, submitted to, maintained or stored as part of the
40 system may be provided to the attorney general and shall:

41 (1) Be confidential, shall only be used for investigatory, evidentiary
42 or analysis purposes related to criminal violations of city, state or federal
43 law and shall only be released to law enforcement in response to an

1 official investigation or as permitted in subsection (f); and

2 (2) not be a public record and shall not be subject to the Kansas open
3 records act, K.S.A. 45-215 et seq., and amendments thereto.

4 (h) On or before February 1, 2021, and annually on or before
5 February 1 thereafter, the attorney general shall submit a report to the
6 president of the senate, the speaker of the house of representatives and the
7 standing committees on judiciary in the senate and the house of
8 representatives on the implementation, administration and enforcement of
9 the provisions of the scrap metal theft reduction act.

10 (i) Any entity contracting with the attorney general or the Kansas
11 bureau of investigation to provide or maintain the database required by this
12 section shall not require a scrap metal dealer to contract with such entity
13 for the authority to release proprietary or confidential data, including, but
14 not limited to, customer information. Such entity shall not charge any fee
15 to the scrap metal dealer as a condition of providing information to the
16 database as required by the scrap metal theft reduction act, including, but
17 not limited to, a fee for electronic submission of information.

18 (j) A scrap metal dealer providing information to the database as
19 required by the scrap metal theft reduction act shall not be subject to civil
20 liability for any claim arising from the negligence or omission by the state
21 of Kansas or any contracting entity in the collection, storing or release of
22 information provided by such scrap metal dealer to the database.

23 Sec. 2. K.S.A. 2024 Supp. 50-6,109c is hereby amended to read as
24 follows: 50-6,109c. (a) Any scrap metal dealer who violates any of the
25 provisions of the scrap metal theft reduction act, in addition to any other
26 penalty provided by law, may incur a civil penalty imposed pursuant to
27 subsection (b) in an amount not less than \$100 nor more than \$5,000 for
28 each violation.

29 (b) The attorney general, upon a finding that a scrap metal dealer or
30 any employee or agent thereof or any person or entity required to be
31 registered as a scrap metal dealer has violated any of the provisions of the
32 scrap metal theft reduction act may impose a civil penalty as provided in
33 this subsection upon such scrap metal dealer.

34 (c) A civil penalty shall not be imposed pursuant to this section
35 except upon the written order of the attorney general to the scrap metal
36 dealer who is responsible for the violation. Such order is a final order for
37 purposes of judicial review and shall state the violation, the penalty to be
38 imposed and the right of such dealer to appeal as provided in the Kansas
39 judicial review act.

40 (d) (1) *It shall be unlawful for any person to knowingly commit a*
41 *violation of K.S.A. 50-6,110 or 50-6,111, and amendments thereto, by:*

42 (A) *Avoiding the reporting requirements of such section;*

43 (B) *using a false description of the items sold or purchased;*

1 (C) *concealing the true identity of the seller; or*
2 (D) *accepting items a scrap metal dealer is prohibited from accepting*
3 *pursuant to such section.*

4 (2) *Violation of this subsection is a:*

5 (A) *Class B nonperson misdemeanor, except as provided in*
6 *subsection (d)(2)(B); and*

7 (B) *class A nonperson misdemeanor upon a second or subsequent*
8 *conviction.*

9 (e) (1) *It shall be unlawful for any person to knowingly commit a*
10 *violation of K.S.A. 50-6,112, and amendments thereto, by:*

11 (A) *Purchasing scrap metal while the registration required in K.S.A.*
12 *50-6,112, and amendments thereto, is suspended or revoked; or*

13 (B) *committing two or more violations of purchasing scrap metal*
14 *without registering as required in K.S.A. 50-6,112, and amendments*
15 *thereto.*

16 (2) *Violation of this subsection is a class A nonperson misdemeanor.*

17 Sec. 3. K.S.A. 2024 Supp. 50-6,109f is hereby amended to read as
18 follows: 50-6,109f. (a) A municipality shall not enact or enforce any
19 ordinance, resolution or regulation relating to the implementation,
20 administration and enforcement of the provisions of the scrap metal theft
21 reduction act *that is in conflict with this act and any criminal or civil*
22 *penalty for violation of such ordinance, resolution or regulation shall be*
23 *the same as the penalty prescribed for the comparable violation of this act.*

24 (b) Any ordinance, resolution or regulation prohibited by subsection
25 (a) ~~that was adopted prior to July 1, 2015,~~ shall be null and void. *On and*
26 *after July 1, 2025, a municipality may enact and enforce any ordinance,*
27 *resolution or regulation permitted by subsection (a).*

28 (c) ~~No action shall be commenced or prosecuted against any~~
29 ~~individual for a violation of any ordinance, resolution or regulation that is~~
30 ~~prohibited by subsection (a) and which was adopted prior to July 1, 2015,~~
31 ~~if such violation occurred on or after July 1, 2014.~~

32 (d) ~~As used in this section, "municipality" has the same~~ *means the same*
33 ~~meaning as defined in K.S.A. 75-6102, and amendments thereto.~~

34 Sec. 4. K.S.A. 2024 Supp. 50-6,109a, 50-6,109c and 50-6,109f are
35 hereby repealed.

36 Sec. 5. This act shall take effect and be in force from and after its
37 publication in the statute book.