

SENATE BILL No. 219

By Committee on Ways and Means

2-27

1 AN ACT concerning consumer protection; relating to the scrap metal theft
2 reduction act; assessing an excise tax on scrap metal; creating the scrap
3 metal data repository fund; registration fees; database amending K.S.A.
4 2018 Supp. 50-6,109a and 50-6,112a and repealing the existing
5 sections.

6
7 *Be it enacted by the Legislature of the State of Kansas:*

8 New Section 1. (a) There is imposed an excise tax upon a scrap metal
9 dealer on the purchase of scrap metal. The tax shall be calculated and
10 imposed on each transaction where the scrap metal dealer purchases scrap
11 metal. The rate of tax on purchases of scrap metal shall be as follows:

12 (1) For purchases less than 100 pounds of scrap metal, there shall be
13 no tax;

14 (2) for purchases greater than 100 pounds and less than one ton of
15 scrap metal, the rate of tax shall be \$0.50; and

16 (3) for purchases greater than one ton of scrap metal, the rate of tax
17 shall be \$1 per ton of scrap metal.

18 (b) A scrap metal dealer shall record daily, in the manner required by
19 the secretary of revenue, every transaction where the dealer purchases
20 scrap metal. The dealer shall maintain the records for the period required
21 by the secretary and shall make records available for inspection and audit
22 upon request by the secretary.

23 (c) This section does not require a scrap metal dealer to impose the
24 tax on a customer of the scrap metal dealer. A scrap metal dealer has the
25 discretion to determine the manner in which the dealer derives the money
26 required to pay the tax imposed pursuant to this section and may impose
27 the tax on customers.

28 (d) The provisions of this section shall not apply to any transaction
29 that occurs between scrap metal dealers.

30 (e) The director of taxation shall administer the provisions of this
31 section. All scrap metal dealers shall make all payments required pursuant
32 to this section to the director of taxation. All such payments shall be
33 accompanied by a return upon forms devised and furnished by the director.
34 The times for making returns and paying the excise tax shall be the same
35 as provided in K.S.A. 79-3607, and amendments thereto.

36 (f) The excise tax imposed by this section shall be in addition to all

1 other state and local sales or excise taxes.

2 (g) The provisions of K.S.A. 79-3607, 79-3609, 79-3611, 79-3612,
3 79-3614, 79-3615, 79-3617 and 79-3643, and amendments thereto, and
4 related provisions that are a part of the Kansas retailers' sales tax act shall
5 have application to the tax prescribed by this section.

6 (h) All amounts collected pursuant to this section shall be remitted to
7 the state treasurer in accordance with the provisions of K.S.A. 75-4215,
8 and amendments thereto. Upon receipt of each such remittance, the state
9 treasurer shall deposit the entire amount in the state treasury to the credit
10 of the scrap metal theft reduction fee fund, established by K.S.A. 2018
11 Supp. 50-6,109a, and amendments thereto.

12 (i) The secretary of revenue shall adopt rules and regulations
13 necessary to administer and enforce the provisions of this section.

14 (j) This section shall be part of and supplemental to the scrap metal
15 theft reduction act.

16 Sec. 2. K.S.A. 2018 Supp. 50-6,109a is hereby amended to read as
17 follows: 50-6,109a. (a) The attorney general is hereby given jurisdiction
18 and authority over all matters involving the implementation,
19 administration and enforcement of the provisions of the scrap metal theft
20 reduction act including to:

21 (1) Employ or appoint agents as necessary to implement, administer
22 and enforce the act;

23 (2) contract;

24 (3) expend funds;

25 (4) license and discipline;

26 (5) investigate;

27 (6) issue subpoenas;

28 (7) keep statistics; and

29 (8) conduct education and outreach programs to promote compliance
30 with the act.

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

35 (c) There is hereby established in the state treasury the scrap metal
36 theft reduction fee fund to be administered by the attorney general. All
37 moneys received by the attorney general from fees, charges or penalties
38 collected under the provisions of the scrap metal theft reduction act shall
39 be remitted to the state treasurer in accordance with the provisions of
40 K.S.A. 75-4215, and amendments thereto, who shall deposit the entire
41 amount thereof in the state treasury to the credit of the scrap metal theft
42 reduction fee fund. All expenditures from such fund shall be made in
43 accordance with appropriation acts upon warrants of the director of

1 accounts and reports issued pursuant to vouchers approved by the attorney
 2 general or the attorney general's designee. All moneys credited to the scrap
 3 metal theft reduction fee fund shall be expended for the administration of
 4 the duties, functions and operating expenses incurred under the provisions
 5 of the scrap metal theft reduction act.

6 ~~(d)-(1)~~ *There is hereby established in the state treasury the scrap*
 7 *metal data repository fund to be administered by the director of the*
 8 *Kansas bureau of investigation. All expenditures from such fund shall be*
 9 *made in accordance with appropriation acts upon warrants of the director*
 10 *of accounts and reports issued pursuant to vouchers approved by the*
 11 *director of the Kansas bureau of investigation or the director's designee.*
 12 *All moneys credited to the scrap metal data repository fund shall be*
 13 *expended for the administration of the duties, functions and operating*
 14 *expenses incurred under the provisions of the scrap metal theft reduction*
 15 *act.*

16 *(e) The attorney general may transfer any moneys from the scrap*
 17 *metal theft reduction fee fund to the scrap metal data repository fund. The*
 18 *attorney general shall certify each such transfer to the director of*
 19 *accounts and reports and shall transmit a copy of each such certification*
 20 *to the director of the budget and the director of legislative research.*

21 *(f) Before January 1, 2020, the ~~attorney general~~ Kansas bureau of*
 22 *investigation shall establish and maintain a database which shall be a*
 23 *central repository for the information required to be provided under K.S.A.*
 24 *2018 Supp. 50-6,110, and amendments thereto. The database shall be*
 25 *maintained for the purpose of providing information to law enforcement*
 26 *and for any other purpose deemed necessary by the attorney general to*
 27 *implement and enforce the provisions of the scrap metal theft reduction*
 28 *act.*

29 ~~(2) On or before February 1, 2019, the attorney general shall submit a~~
 30 ~~report to the president of the senate, the speaker of the house of~~
 31 ~~representatives and the standing committees on judiciary in the senate and~~
 32 ~~the house of representatives on the progress achieved in establishing the~~
 33 ~~database required by this subsection.~~

34 ~~(e)~~(g) *The information required by K.S.A. 2018 Supp. 50-6,110, and*
 35 *amendments thereto, maintained in such database by the ~~attorney general~~*
 36 *Kansas bureau of investigation, or by any entity contracting with the*
 37 *~~attorney general~~ Kansas bureau of investigation, submitted to, maintained*
 38 *or stored as part of the system may be provided to the attorney general*
 39 *and shall:*

40 (1) *Be confidential, shall only be used for investigatory, evidentiary*
 41 *or analysis purposes related to criminal violations of city, state or federal*
 42 *law and shall only be released to law enforcement in response to an*
 43 *official investigation or as permitted in subsection ~~(d)~~ (f); and*

1 (2) not be a public record and shall not be subject to the Kansas open
2 records act, K.S.A. 45-215 et seq., and amendments thereto. The
3 provisions of this subsection shall expire on July 1, 2020, unless the
4 legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,
5 and amendments thereto.

6 Sec. 3. K.S.A. 2018 Supp. 50-6,112a is hereby amended to read as
7 follows: 50-6,112a. (a) A scrap metal dealer shall not purchase any
8 regulated scrap metal without having first registered each place of business
9 with the attorney general as herein provided.

10 (b) The attorney general shall establish a system for the public to
11 confirm scrap metal dealer registration certificates. Such system shall
12 include a listing of valid registration certificates and such other
13 information collected pursuant to the scrap metal theft reduction act, as the
14 attorney general may determine is appropriate. Disclosure of any
15 information through use of the system established by the attorney general
16 shall not be deemed to be an endorsement of any scrap metal dealer or
17 determination of any facts, qualifications, information or reputation of any
18 scrap metal dealer by the attorney general, the state, or any of their
19 respective agents, officers, employees or assigns.

20 (c) A registration for a scrap metal dealer shall be verified and upon a
21 form approved by the attorney general and contain:

22 (1) (A) The name and residence of the applicant, including all
23 previous names and aliases; or

24 (B) if the applicant is a: Corporation, the name and address of each
25 manager, officer or director thereof, and each stockholder owning in the
26 aggregate more than 25% of the stock of such corporation; or partnership
27 or limited liability company, the name and address of each partner or
28 member;

29 (2) the length of time that the applicant has resided within the state of
30 Kansas and a list of all residences outside the state of Kansas during the
31 previous 10 years;

32 (3) the particular place of business for which a registration is desired,
33 the name of the business, the address where the business is to be
34 conducted, the hours of operation and the days of the week during which
35 the applicant proposes to engage in business;

36 (4) the name of the owner of the premises upon which the place of
37 business is located; and

38 (5) the applicant shall disclose any prior convictions within 10 years
39 immediately preceding the date of making the registration for: A violation
40 of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their
41 repeal, or K.S.A. 2018 Supp. 21-5801 through 21-5839 or K.S.A. 2018
42 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805,
43 prior to its repeal, or K.S.A. 2018 Supp. 21-5903, and amendments

1 thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal;
2 obstructing legal process or official duty, K.S.A. 21-3808, prior to its
3 repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal;
4 interference with law enforcement, K.S.A. 2018 Supp. 21-5904, and
5 amendments thereto; interference with judicial process, K.S.A. 2018 Supp.
6 21-5905, and amendments thereto; or any crime involving dishonesty or
7 false statement or any substantially similar offense pursuant to the laws of
8 any city, state or of the United States.

9 (d) *On and after January 1, 2020*, each registration for a scrap metal
10 dealer to purchase regulated scrap metal shall be accompanied by a fee of
11 not ~~less~~ *more* than ~~\$500 nor more than \$1,500~~ \$750, as prescribed by the
12 attorney general, for each particular place of business for which a
13 registration is desired.

14 (e) The attorney general shall accept a registration for a scrap metal
15 dealer as otherwise provided for herein, from any scrap metal dealer
16 qualified to file such registration, to purchase regulated scrap metals. Such
17 registration shall be issued for a period of one year.

18 (f) *On and after January 1, 2020*, if an original registration is
19 accepted, the attorney general shall grant and issue renewals thereof upon
20 application of the registration holder, if the registration holder is qualified
21 to receive the same and the registration has not been revoked as provided
22 by law. The renewal fee shall be not more than ~~\$1,500~~ \$750, as prescribed
23 by the attorney general.

24 (g) Any registration issued under the scrap metal theft reduction act
25 shall not be transferable.

26 (h) This section shall not apply to a business licensed under the
27 provisions of K.S.A. 8-2404, and amendments thereto, unless such
28 business buys or recycles regulated scrap metal that are not motor vehicle
29 components.

30 ~~(i) The amendments made to subsections (d) and (f) by section 15 of~~
31 ~~chapter 96 of the 2015 Session Laws of Kansas shall be unenforceable and~~
32 ~~shall not apply from June 1, 2017, to January 1, 2020.~~

33 Sec. 4. K.S.A. 2018 Supp. 50-6,109a and 50-6,112a are hereby
34 repealed.

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