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

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

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

(1) For purchases less than 100 pounds of scrap metal, there shall be no tax;
(2) for purchases greater than 100 pounds and less than one ton of scrap metal, the rate of tax shall be $0.50; and
(3) for purchases greater than one ton of scrap metal, the rate of tax shall be $1 per ton of scrap metal.

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

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

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

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

(f) The excise tax imposed by this section shall be in addition to all
other state and local sales or excise taxes.

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

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

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

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

Sec. 2. K.S.A. 2018 Supp. 50-6,109a is hereby amended to read as follows: 50-6,109a. (a) 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:

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

(2) contract;

(3) expend funds;

(4) license and discipline;

(5) investigate;

(6) issue subpoenas;

(7) keep statistics; and

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

(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 act.

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

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

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

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

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

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

(1) Be confidential, shall only be used for investigatory, evidentiary
or analysis purposes related to criminal violations of city, state or federal
law and shall only be released to law enforcement in response to an
official investigation or as permitted in subsection (d) (f); and
not be a public record and shall not be subject to the Kansas open
records act, K.S.A. 45-215 et seq., and amendments thereto. The
provisions of this subsection shall expire on July 1, 2020, unless the
legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,
and amendments thereto.

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

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

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

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

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

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

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

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

(5) the applicant shall disclose any prior convictions within 10 years
immediately preceding the date of making the registration for: A violation
of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their
repeal, or K.S.A. 2018 Supp. 21-5801 through 21-5839 or K.S.A. 2018
Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805,
prior to its repeal, or K.S.A. 2018 Supp. 21-5903, and amendments
thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal; interference with law enforcement, K.S.A. 2018 Supp. 21-5904, and amendments thereto; interference with judicial process, K.S.A. 2018 Supp. 21-5905, and amendments thereto; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

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

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

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

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

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

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

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

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