

Substitute for SENATE BILL No. 219

By Committee on Judiciary

3-26

1 AN ACT concerning consumer protection; relating to the scrap metal theft
2 reduction act; creating the scrap metal data repository fund; scrap metal
3 transaction requirements; dealer registration; amending K.S.A. 2018
4 Supp. 50-6,109a, 50-6,110, 50-6,112a and 50-6,112b and repealing the
5 existing sections.
6

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

8 Section 1. K.S.A. 2018 Supp. 50-6,109a is hereby amended to read as
9 follows: 50-6,109a. (a) The attorney general is hereby given jurisdiction
10 and authority over all matters involving the implementation,
11 administration and enforcement of the provisions of the scrap metal theft
12 reduction act including to:

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

15 (2) contract;

16 (3) expend funds;

17 (4) license and discipline;

18 (5) investigate;

19 (6) issue subpoenas;

20 (7) keep statistics; and

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

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

27 (c) There is hereby established in the state treasury the scrap metal
28 theft reduction fee fund to be administered by the attorney general. All
29 moneys received by the attorney general from fees, charges or penalties
30 collected under the provisions of the scrap metal theft reduction act shall
31 be remitted to the state treasurer in accordance with the provisions of
32 K.S.A. 75-4215, and amendments thereto, who shall deposit the entire
33 amount thereof in the state treasury to the credit of the scrap metal theft
34 reduction fee fund. All expenditures from such fund shall be made in
35 accordance with appropriation acts upon warrants of the director of
36 accounts and reports issued pursuant to vouchers approved by the attorney

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

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

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

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

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

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

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

43 *(2) not be a public record and shall not be subject to the Kansas open*

1 records act, K.S.A. 45-215 et seq., and amendments thereto. The
2 provisions of this subsection shall expire on July 1, ~~2020~~{2024}, unless the
3 legislature reviews and reenacts this provision pursuant to K.S.A. 45-229,
4 and amendments thereto.

5 ***{(h) On or before February 1, 2020, and annually on or before***
6 ***February 1 thereafter, the attorney general shall submit a report to the***
7 ***president of the senate, the speaker of the house of representatives and***
8 ***the standing committees on judiciary in the senate and the house of***
9 ***representatives on the implementation, administration and enforcement***
10 ***of the provisions of the scrap metal theft reduction act.***

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

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

26 Sec. 2. K.S.A. 2018 Supp. 50-6,110 is hereby amended to read as
27 follows: 50-6,110. (a) It shall be unlawful for any person to sell any item
28 or items of regulated scrap metal to a scrap metal dealer, or employee or
29 agent of a dealer, in this state unless such person meets the requirements of
30 this subsection.

31 (1) Such person shall present to such scrap metal dealer, or employee
32 or agent of such dealer, at or before the time of sale, the following: The
33 seller's name, address, *telephone number*, ~~email address~~, sex, date of birth
34 and the seller's driver's license, military identification card, passport or
35 personal identification license. ~~An official governmental document for a~~
36 ~~country other than the United States may be used to meet this requirement~~
37 ~~provided that a legible fingerprint is also obtained from the seller. {An~~
38 ~~official governmental document for a country other than the United~~
39 ~~States may be used to meet this requirement.}~~

40 (2) Such person shall complete and sign the statement provided for in
41 subsection (b)(10).

42 (b) Every scrap metal dealer shall keep a register in which the dealer,
43 or employee or agent of the dealer, shall at the time of purchase or receipt

1 of any item for which such information is required to be presented, cross-
2 reference to previously received information, or accurately and legibly
3 record at the time of sale the following information:

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

5 (2) the seller's name, address, *telephone number*; ~~*email address*~~; sex,
6 date of birth and{:

7 (A) }The identifying number from the seller's driver's license, military
8 identification card, passport or personal identification license; ~~the~~
9 ~~identifying number from an official governmental document for a country~~
10 ~~other than the United States may be used to meet this requirement~~
11 ~~provided that a legible fingerprint is also obtained from the seller; }or~~

12 (B) *the identifying number from the seller's official governmental*
13 *document for a country other than the United States;*}

14 (3) a copy of the identification card or document containing such
15 identifying number. ~~Failure to comply with the provisions of this~~
16 ~~paragraph between June 1, 2017, and January 1, 2020, may result in an~~
17 ~~assessment of a civil penalty by the attorney general of not less than \$100~~
18 ~~nor more than \$5,000 for each violation, unless the dealer has a copy of~~
19 ~~the card or document in the dealer's register from a prior transaction;~~

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

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

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

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

31 (8) the price paid for, traded for or dealt for in a transaction for the
32 junk vehicle or other regulated scrap metal property;

33 (9) the full name of the individual acting on behalf of the regulated
34 scrap metal dealer in making the purchase; and

35 (10) a signed statement from the seller indicating from where the
36 property was obtained and that: (A) Each item is the seller's own personal
37 property, is free of encumbrances and is not stolen; or (B) the seller is
38 acting for the owner and has permission to sell each item. If the seller is
39 not the owner, such statement shall include the name and address of the
40 owner of the property.

41 (c) Every scrap metal dealer shall photograph the item or lot of items
42 being sold at the time of purchase or receipt of any item for which such
43 information is required to be presented. Such photographs shall be kept

1 with the record of the transaction and the scrap metal dealer's register of
2 information required by subsection (b). ~~Failure to comply with the~~
3 ~~provisions of this subsection between June 1, 2017, and January 1, 2020,~~
4 ~~may result in an assessment of a civil penalty by the attorney general of~~
5 ~~not less than \$100 nor more than \$5,000 for each violation.~~

6 (d) The scrap metal dealer's register of information required by
7 subsection (b), including copies of identification cards and signed
8 statements by sellers, and photographs required by subsection (c) may be
9 kept in electronic format.

10 (e) Every scrap metal dealer shall forward the information required
11 by this section *{for each transaction}* to the database described in K.S.A.
12 2018 Supp. 50-6,109a, and amendments thereto, *within 72 hours after*
13 *the transaction occurs}*.

14 (f) Notwithstanding any other provision to the contrary, this section
15 shall not apply to transactions in which the seller is a:

16 (1) Registered scrap metal dealer;

17 (2) vehicle dealer licensed under chapter 8 of the Kansas Statutes
18 Annotated, and amendments thereto; or

19 (3) scrap metal dealer or vehicle dealer registered or licensed in
20 another state.

21 (g) (1) Except as provided in subsection (g)(2), this section shall not
22 apply to transactions in which the seller is known to the purchasing scrap
23 metal dealer to be a licensed business that operates out of a fixed business
24 location and that can reasonably be expected to generate regulated scrap
25 metal.

26 (2) The attorney general may determine, by rules and regulations,
27 which of the requirements of this section shall apply to transactions
28 described in subsection (g)(1).

29 ~~(h) The amendments made to subsection (e) by section 13 of chapter~~
30 ~~96 of the 2015 Session Laws of Kansas shall be unenforceable and shall~~
31 ~~not apply from June 1, 2017, to January 1, 2020.~~

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

36 (b) The attorney general shall establish a system for the public to
37 confirm scrap metal dealer registration certificates. Such system shall
38 include a listing of valid registration certificates and such other
39 information collected pursuant to the scrap metal theft reduction act, as the
40 attorney general may determine is appropriate. Disclosure of any
41 information through use of the system established by the attorney general
42 shall not be deemed to be an endorsement of any scrap metal dealer or
43 determination of any facts, qualifications, information or reputation of any

1 scrap metal dealer by the attorney general, the state, or any of their
2 respective agents, officers, employees or assigns.

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

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

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

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

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

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

21 (5) the applicant shall disclose any prior convictions within 10 years
22 immediately preceding the date of making the registration for: A violation
23 of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their
24 repeal, or K.S.A. 2018 Supp. 21-5801 through 21-5839 or K.S.A. 2018
25 Supp. 21-6412(a)(6), and amendments thereto; perjury, K.S.A. 21-3805,
26 prior to its repeal, or K.S.A. 2018 Supp. 21-5903, and amendments
27 thereto; compounding a crime, K.S.A. 21-3807, prior to its repeal;
28 obstructing legal process or official duty, K.S.A. 21-3808, prior to its
29 repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal;
30 interference with law enforcement, K.S.A. 2018 Supp. 21-5904, and
31 amendments thereto; interference with judicial process, K.S.A. 2018 Supp.
32 21-5905, and amendments thereto; or any crime involving dishonesty or
33 false statement or any substantially similar offense pursuant to the laws of
34 any city, state or of the United States.

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

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

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

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

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

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

16 Sec. 4. K.S.A. 2018 Supp. 50-6,112b is hereby amended to read as
17 follows: 50-6,112b. (a) After examining the information contained in a
18 filing for a scrap metal dealer registration and determining the registration
19 meets the statutory requirements for such registration, the attorney general
20 shall accept such filing and the scrap metal dealer shall be deemed to be
21 properly registered.

22 (b) No scrap metal registration shall be accepted for:

23 (1) A person who is not a citizen or legal permanent resident of the
24 United States.

25 (2) A person who is under 18 years of age and whose parents or legal
26 guardians have been convicted of a felony or other crime ~~which~~ *that* would
27 disqualify a person from registration under this section and such crime was
28 committed during the time that such parents or legal guardians held a
29 registration under the scrap metal theft reduction act.

30 (3) A person who, within 10 years immediately preceding the date of
31 filing, has pled guilty to, entered into a diversion agreement for, been
32 convicted of, released from incarceration for or released from probation or
33 parole for committing, attempting to commit, or conspiring to commit a
34 violation of: Article 37 of chapter 21 of the Kansas Statutes Annotated,
35 prior to their repeal, or K.S.A. 2018 Supp. 21-5801 through 21-5839 or
36 K.S.A. 2018 Supp. 21-6412(a)(6), and amendments thereto; perjury,
37 K.S.A. 21-3805, prior to its repeal, or K.S.A. 2018 Supp. 21-5903, and
38 amendments thereto; compounding a crime, K.S.A. 21-3807, prior to its
39 repeal; obstructing legal process or official duty, K.S.A. 21-3808, prior to
40 its repeal; falsely reporting a crime, K.S.A. 21-3818, prior to its repeal;
41 interference with law enforcement, K.S.A. 2018 Supp. 21-5904, and
42 amendments thereto; interference with judicial process, K.S.A. 2018 Supp.
43 21-5905, and amendments thereto; or any crime involving dishonesty or

1 false statement or any substantially similar offense pursuant to the laws of
2 any city, state or of the United States.

3 (4) A person who within the 10 years immediately preceding the date
4 of registration held a scrap metal dealer registration—~~which~~ *that* was
5 revoked, or managed a facility for a scrap metal dealer whose registration
6 was revoked, or was an employee whose conduct led to or contributed to
7 the revocation of such registration.

8 (5) A person who makes a materially false statement on the
9 registration application or has made a materially false statement on a
10 registration or similar filing within the last 10 years.

11 (6) A partnership or limited liability company, unless all partners or
12 members of the partnership or limited liability company are otherwise
13 qualified to file a registration.

14 (7) A corporation, if any manager, officer or director thereof, or any
15 stockholder owning in the aggregate more than 25% of the stock of such
16 corporation, would be ineligible to receive a license hereunder for any
17 reason.

18 (8) A person whose place of business is conducted by a manager or
19 agent unless the manager or agent possesses all of the qualifications for
20 registration.

21 (9) A person whose spouse has been convicted of a felony or other
22 crime—~~which~~ *that* would disqualify a person from registration under this
23 section and such crime was committed during the time that the spouse held
24 a registration under the scrap metal theft reduction act.

25 (10) A person who does not own the premises upon which the place
26 of business is located for which a license is sought, unless the person has a
27 written lease for at least $\frac{3}{4}$ of the period for which the license is to be
28 issued.

29 ~~(c) Any person filing a scrap metal dealer registration may be subject~~
30 ~~to a criminal history records check and may be given a written notice that~~
31 ~~a criminal history records check is required. The attorney general may~~
32 ~~require such applicant to be fingerprinted and submit to a state and~~
33 ~~national criminal history record check. If required, such fingerprints shall~~
34 ~~be used to identify the applicant and to determine whether the applicant~~
35 ~~has a record of criminal history in this state or another jurisdiction. The~~
36 ~~attorney general shall submit any fingerprints provided to the Kansas~~
37 ~~bureau of investigation and the federal bureau of investigation for a state~~
38 ~~and national criminal history record check. Local and state law~~
39 ~~enforcement officers and agencies shall assist the attorney general in the~~
40 ~~taking and processing of fingerprints of applicants. The attorney general~~
41 ~~may use the information obtained from fingerprinting and the criminal~~
42 ~~history for purposes of verifying the identification of the applicant and in~~
43 ~~the official determination of whether the scrap metal dealer registration~~

1 shall be accepted. If the criminal history record information is used to
2 disqualify an applicant, the applicant shall be informed in writing of that
3 decision.

4 ~~(d) The amendments made to subsections (b)(10) and (c) by section~~
5 ~~16 of chapter 96 of the 2015 Session Laws of Kansas shall be~~
6 ~~unenforceable and shall not apply from June 1, 2017, to January 1, 2020.~~

7 Sec. 5. K.S.A. 2018 Supp. 50-6,109a, 50-6,110, 50-6,112a and 50-
8 6,112b are hereby repealed.

9 Sec. 6. This act shall take effect and be in force from and after its
10 publication in the statute book.