



AN ACT relating to the sale of copper scrap in the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

âSECTION 1. A NEW SECTION OF KRS CHAPTER 433 TO BE NUMBERED 433.888 IS CREATED TO READ AS FOLLOWS:

As used in KRS 433.888 to 433.896, unless the context otherwise requires:

(1) "Nonferrous metal" means metals not containing significant quantities of iron or steel. Non ferrous metal shall include any nonferrous metal or an alloy thereof, or an object containing nonferrous metal or an alloy thereof; and

(2) "Secondary metals recycler":

(a) Means any person engaged in the business of paying compensation for nonferrous metals that have served their original economic purpose, whether or not the person is engaged in the business of performing the manufacturing process by which nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; and

(b) Includes any recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, collector of or dealer in articles found in ashes, garbage, or other refuse, whether a dealer, collector, or vendor operates an established place of business or an itinerant business.

âSection 2. KRS 433.890 is amended to read as follows:

(1) A secondary metals recycler[Every recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, collector of or dealer in articles found in ashes, garbage, or other refuse, whether such dealers, collectors, or vendors have established places of business or operate a business of an itinerant nature,] shall, with regard to any catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rails, or nonferrous metal[or an alloy thereof, or an object containing nonferrous metal or an alloy thereof]:

(a) **Keep a register that contains:**

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1. A photocopy of a valid driver's license or other government-issued identification card or document which contains the name, photograph, and signature of the seller. If the secondary metals recycler[purchaser] has a copy of the seller's valid photo identification on file, it shall not be necessary [for the purchaser]to make another copy of the identification document for each purchase if the secondary metals recycler[purchaser] references the number on the identification document in the register at the time of each purchase;[and]
2. The state and license number of the motor vehicle used to transport the purchased catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, or nonferrous metal[or an alloy thereof, or object containing nonferrous metal or an alloy thereof,] to the place of purchase, which shall be provided by the seller of the items;
3. The time and date of the transaction;
4. A description in the usage of the trade of the kind and weight of the railroad rail, or nonferrous metal[or an alloy thereof, or object containing the nonferrous metal or an alloy thereof] purchased; and
5. The amount paid for the material and the unit basis of the purchase, such as by ounce or pound, etc.;

(b) Not purchase any metal that has been smelted, burned, or melted unless, in addition to the other requirements of this subsection, the seller provides the following, and the secondary metals recycler[purchaser] maintains a copy thereof:

1. A signed certificate of ownership stating that he or she is the owner of the metal and is entitled to sell it; or
2. A signed certificate from the owner of the metal stating that he or she is the owner of the metal, and that the person selling the metal is authorized to sell the metal on behalf of the owner;

(c) Not purchase any catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, or nonferrous metal[or an alloy thereof, or an object containing nonferrous metal or an alloy thereof] from a person who:

1. Is less than eighteen (18) years of age; or

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2. Is unable or refuses to provide the identification and information required in paragraph (a) of this subsection;

(d) 1. Not purchase from any person an item that in whole or in part consists of:

a. An air conditioner evaporator coil or condenser;

b. Copper wire; or

c. Copper, or an alloy thereof;

except as provided in subparagraphs 2. to 5. of this paragraph;

2. Notwithstanding subparagraph 1. of this paragraph, a secondary metals recycler may purchase items listed in subparagraph 1. of this paragraph from any of the following persons, or an authorized agent, representative, or identifiable employee of any of the following persons, if all other requirements of this subsection are met:

a. A heating, ventilation, and air conditioning contractor licensed pursuant to KRS Chapter 198B or in accordance with the laws of another state;

b. An electrical contractor licensed pursuant to KRS Chapter 227A or in accordance with the laws of another state;

c. A plumber licensed pursuant to KRS Chapter 318 or in accordance with the laws of another state;

d. A homebuilder or remodeler; or

e. A public or private utility company that provides a service specified in KRS Chapter 278, but is not necessarily regulated by that chapter;

3. In addition to the other requirements of this subsection, a secondary metals recycler shall require a seller listed in subparagraph 2. of this paragraph to show proof of licensure, an official professional credential, or a business license prior to any transaction involving an item listed in subparagraph 1. of this paragraph;

4. An authorized agent, representative, or identifiable employee of a person listed in subparagraph 2. of this paragraph shall be paid only by check or money order, which shall be mailed to the business or professional address of

the person on whose behalf the seller is acting, and the payee shall be the business or licensee:

5. Notwithstanding subparagraph 4. of this paragraph, a business that sells for scrap the type of metal listed in subparagraph 1. of this paragraph on a regular or frequent basis may preregister with a secondary metals recycler a list of employees who are authorized to sell on behalf of the business. A secondary metals recycler may pay an authorized preregistered employee by any method, on site, and at the time of the transaction.

(e) Retain the information required by this section for a period of two (2) years, after which time, the information may be retained, destroyed in a manner that protects the identity of the owner of the property and the seller of the property, or transferred to a law enforcement agency specified in paragraph (i)[(g)] of this subsection;

(f)[(e)] If the secondary metals recycler[purchaser] ceases business, transfer all records and information required by this section to a law enforcement agency specified in paragraph (i)[(g)] of this subsection;

(g)[(f)] Permit any peace officer to inspect the register, and if the peace officer deems it necessary to locate specific stolen property, may inspect the catalytic converter, metal beverage [and]container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, or nonferrous metal¹ or an alloy thereof, or object containing nonferrous metal or an alloy thereof] received during business hours;

(h)[(g)] At the close of each business day, make a report describing any transaction involving an item listed in paragraph (d)1. of this subsection, including the information required to be retained in the register under paragraph (a) of this subsection, in person, in digital format, in writing, or by electronic means to:

1. The sheriff of the county in which the purchase was made and the sheriff of the county in which the secondary metals recycler is located; and

2. If applicable, the police department of the city, county, charter county, urban-county government, consolidated local government, or unified local government in which the purchase is made and the police department of the city, county, charter county, urban-county government, consolidated local government, or unified local government in which the secondary metals recycler is located;

(i) Upon written request of the sheriff or chief of police, as appropriate, make a report containing the information required to be retained in the register under paragraph (a) of this



subsection in person, in digital format, in writing, or by electronic means within twenty-four (24) hours of the transaction to:

1. The sheriff of the county in which the purchase was made and the sheriff of the county in which the secondary metals recycler[business] is located; and
2. *If applicable*[When the purchase was made in a city, county, urban-county, charter county, consolidated local government, or unified local government], to the police department of the city, county,[urban-county,] charter county, urban-county government, consolidated local government, or unified local government in which the purchase is made and the police department of the city, county,[urban-county,] charter county, urban-county government, consolidated local government, or unified local government in which the secondary metals recycler[business] is located[, unless there is no police department in that jurisdiction];

(j)[(h)] Comply with a written request pursuant to paragraph (j)[(g)] of this subsection until a written notice to cease sending the reports required by paragraph (j)[(g)] of this subsection is received by the secondary metals recycler[purchaser]. A request may relate to:

1. All records of purchases;
2. Records of a specific class of metals or items purchased;
3. Records of purchases during a specific period of time; or
4. Records of a specific purchase or purchases; and

(k)[(i)] Retain the property in its original form or a photograph or digital image of the property for a period of three (3) business days from the date of purchase unless notified by a peace officer having reasonable cause to believe that the property may be stolen property, in which case, the property may be seized as evidence by the peace officer or, if not seized, shall be retained for an additional thirty (30) days unless earlier notified by a peace officer that the property may be sold;

(2) *A person who is not authorized by subsection (1)(d)2. of this section shall not sell or attempt to sell to a secondary metals recycler an item specified in subsection (1)(d)1. of this section.*

(3) A sheriff or police department receiving records pursuant to this section shall retain the records for two (2) years, after which time, it may either retain or destroy the records in a

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manner that protects the identity of the owner of the property, the seller of the property, and the purchaser of the property.

(4)[(3)] Any record required to be made or reported pursuant to this section may be kept and reported in hard copy or digital or in electronic format.

(5)[(4)] This section shall not apply to the purchase, sale, or transfer of:

- (a) A motor vehicle, aircraft, or other item that is licensed by the state or federal government pursuant to a legitimate transfer of title or issuance of a junk title;
- (b) A firearm, part of a firearm, firearm accessory, ammunition, or ammunition component;
- (c) A knife, knife parts, accessory or sheath for a knife, or knife making products;
- (d) A non returnable used beverage container or food container;
- (e) Jewelry, household goods containing metal, garden tools, and similar household items, except for a catalytic converter or metal beverage container that is capable of holding more than two (2) liters of liquid and which is marketed as returnable, which takes place at a flea market or yard sale;
- (f) A single transaction involving a purchase price of ten dollars (\$10) or less, but more than two (2) transactions with the same person involving a purchase price of ten dollars (\$10) or less in one (1) seven (7) day period shall be reportable transactions;
- (g) Material disposed of as trash or refuse that contains or may contain a catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marketed as returnable, railroad rail, nonferrous metals or an alloy thereof, or an object that contains or may contain a railroad rail or non ferrous metals or an alloy thereof, which is collected by a municipal waste department or by a licensed waste hauler and no payment is made to the person from whom the material is collected by the person or agency collecting the material;
- (h) A catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and marketed as returnable, railroad rail, nonferrous metal or alloy thereof, or an object containing railroad rail, nonferrous metal, or an alloy thereof from a person who has maintained a record pursuant to this section to a person who is to further recycle the metal or object containing the metal;

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- (i) A catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and marketed as returnable, railroad rail, or nonferrous metal[or an alloy thereof, or object containing nonferrous metal or an alloy thereof] under a written contract with an organization, corporation, or association registered with the Commonwealth as a charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school sponsored organization;
- (j) A purchase, pursuant to a written contract, from a manufacturing, industrial or other commercial vendor that generates catalytic converters, metal beverage containers capable of holding more than two (2) liters of beverage and which are marketed as returnable, railroad rail, or nonferrous metal[or an alloy thereof, or object containing nonferrous metal] in the ordinary course of business;
- (k) An item purchased by, pawned to, or sold by a pawnbroker licensed pursuant to KRS Chapter 226, engaging in the business authorized by that chapter; or
- (l) Any ferrous metal item, except for a catalytic converter, metal beverage container that is capable of holding more than two (2) liters of beverage and is marked as returnable, or railroad rails.

âSection 3. KRS 433.894 is amended to read as follows:

- (1) A person is guilty of unlawful acts relating to purchase or disposition of metals when the person violates any provision of KRS 433.890 other than the recordkeeping provisions.
- (2) A person guilty of unlawful acts relating to the purchase or disposition of metals shall be fined not more than one hundred dollars (\$100) or imprisoned in the county jail for not more than thirty (30) days, or both.
- (3) Notwithstanding subsection (2) of this section, a person who violates subsection (1)(d)1.. or (2) of Section 1 of this Act shall:
 - (a) For a first offense, be fined up to two hundred fifty dollars (\$250);
 - (b) For a second offense, be guilty of a Class B misdemeanor with a fine up to two hundred fifty dollars (\$250) and up to ninety (90) days imprisonment; and
 - (c) For a third and subsequent offenses, be guilty of a Class D felony.

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âSECTION 4. A NEW SECTION OF KRS CHAPTER 512 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of unlawful acts relating to acquiring metals when the person willfully and maliciously cuts, mutilates, defaces, or otherwise injures any personal or real property, including any fixtures or improvements, for the purpose of obtaining nonferrous metal, as defined in Section 1 of this Act, in any amount.

(2) Unlawful acts relating to acquiring metals is:

(a) A Class B misdemeanor with a fine of not more than two hundred fifty dollars (\$250) or imprisonment in the county jail for not more than ninety (90) days, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is less than three thousand dollars (\$3,000); or

(b) A Class D felony with a fine of not less than one thousand dollars (\$1,000) and not more than ten thousand dollars (\$10,000) or double his or her gain from commission of the offense, whichever is the greater, or imprisonment for not less than one (1) year but not more than five (5) years, or both, if the direct injury to the property, the amount of loss in value to the property, the amount of repairs necessary to return the property to its condition before the act, or the property loss, including fixtures or improvements, is three thousand dollars (\$3,000) or more.

âSection 5. KRS 15.232 is amended to read as follows:

The Attorney General shall have concurrent jurisdiction with Commonwealth's attorneys and county attorneys in the investigation and prosecution of offenses under KRS ~~433.888~~[433.890] to 433.896.

âSection 6. KRS 65.871 is amended to read as follows:

A city, county, urban-county, charter county, unified county, or consolidated local government may adopt an ordinance relating to the purchase of metals and metal-containing products provided the ordinance:

(1) Contains at least the provisions specified in KRS 15.232, 16.066, and ~~433.888~~[433.890] to 433.896, but which may contain additional provisions; and

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(2) Does not specify a lesser penalty for a similar offense than specified in KRS 15.232, 16.066, and ~~433.888~~[433.890] to 433.896 or provides that the penalty specified in KRS ~~433.888~~[433.890] to 433.896 shall apply.

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