

SCRAP METAL DEALER REGISTRATION PROGRAM

NEW REGULATIONS EFFECTIVE JULY 1, 2012 WITH PASSAGE OF SENATE BILL 2895

Section 1: The law makes attempting to sell or purchase scrap metal related to a public utility or government owned property a Class A misdemeanor unless the value of the metal or the cost to repair any damage exceeds five hundred dollars (\$500.00) in which case it shall be a Class E felony punishable by a fine of not more than five thousand dollars (\$5000.00)

Section 2: (a) The law requires the commissioner to investigate any written complaint that makes out a prima facie case of unregistered activity or violations of the restrictions on the purchase and sale of certain metals originating in public utilities or government owned property such as access covers, street light poles and fixtures, highway or street signs, water meter covers, street lamps and historical markers and graves. In addition, the Department is required to investigate any written complaint which alleges that a scrap metal dealer paid cash to an unauthorized person for the purchase of an air conditioner evaporator coil or condenser.

(b) In the event, the Department finds a violation of the purchase or sell law as enumerated then the Department shall notify the dealer in writing of the right to a hearing prior to imposing discipline. In the event, the dealer fails to notify the Department within ten (10) days of the notice from the Department; the Commissioner may impose any sanction or discipline permitted by this section.

(c) In the event the complaint matter is part of a court case pending in the state, the Commissioner may withhold its investigation or decision until the court action is resolved.

Section 3: The law defines commissioner as the commissioner of commerce and insurance or the commissioner's designee or in the event of a vacancy the deputy commissioner.

Section 4: The law gives the commissioner the right to inspect without a warrant or subpoena any purchased scrap metal in the possession of the dealer and any records required to be maintained by the dealer.

Section 5: The law requires the registration of all scrap metal dealers and all locations used by the scrap metal dealer.

Section 6: The law makes it an offense to engage in the business of buying scrap metal without registering as a scrap metal dealer or falsely registering. A scrap metal dealer who knowingly purchases illegally obtained scrap metal is guilty of a Class A misdemeanor punishable by a fine unless the value of the metal, in its original condition, exceeds five hundred dollars (\$500.00) then the dealer shall be guilty of a Class E felony punishable by a fine of no more than five thousand dollars (\$5000.00). It is an offense to knowingly sell or attempt to sell illegally obtained scrap metal, whether obtained by the seller or another party. The grading of the offense is determined by the criminal code and the value of the metal shall be determined by the original and undamaged value and the cost incurred in repairing and/or recovering the property.

Section 7: The commissioner may deny and application, take disciplinary action against a registrant or refuse to renew upon a finding that the registrant or applicant has been found guilty of a violation

involving the purchase or sale of certain metals involving public utilities or government owned property. The commissioner may assess a civil penalty of up to one thousand dollars (\$1000.00) for each violation.

Section 8: The commissioner is authorized to promulgate rules.

Section 9: The law will be effective July 1, 2012.

Possible Rule Changes:

0780-05-14-.03 REGISTRATION: (1) Any person who buys, exchanges, or deals in scrap metal either as an employer or employee must register as a scrap metal dealer with the Department of Commerce and Insurance. **All locations used by the applicant must be registered.**

(4) **Any change in address or registered location** shall be reported to the Department within thirty (30) days.

0780-05-14-.12 Civil Penalties:

(1) With respect to any scrap metal dealer, the commissioner may, in addition to or in lieu of any other lawful disciplinary action, assess a civil penalty against such licensee for each separate violation of a statute, rule or commissioner's order pertaining to scrap metal dealer's, in accordance with the following schedule:

Civil Penalty:

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| (a) | T.C.A. § 62-9-102 | \$50 - \$1000 |
| (b) | T.C.A. § 62-9-104 | \$50 - \$1000 |
| (c) | T.C.A. § 62-9-106 | \$50 - \$1000 |
| (d) | T.C.A. § 62-9-107 | \$50 - \$1000 |
| (e) | T.C.A. § 62-9-110 | \$50 - \$1000 |
| (f) | Commissioner's order | \$50 - \$1000 |

(2) With respect to any person required to be licensed in this state as a scrap metal dealer, the commissioner may assess a civil penalty against such person for each separate violation of a statute in accordance with the following schedule:

Civil Penalty

- (a) T.C.A. § 62-9-102 \$50 - \$1000

(3) Each day of continued violation may constitute a separate violation.

(4) In determining the amount of any penalty to be assessed pursuant to this rule, the commissioner may consider such factors as the following:

(a) Whether the amount imposed will be a substantial economic deterrent to the violator;

(b) The circumstances leading to the violation;

(c) The severity of the violation and the risk of harm to the public;

(d) The economic benefits gained by the violator as a result of noncompliance;

(e) The interest of the public;

(f) Willfulness of the violation.