

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 934

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DATE	D-PG	OFFICIAL STATUS
02/28/2013	458	Introduction and first reading Referred to Commerce
03/20/2013	1259a	Comm report: To pass as amended and re-refer to Transportation and Public Safety
	1357	Author added Pappas
03/21/2013		Comm report: To pass as amended and re-refer to Judiciary

A bill for an act

1.1 relating to commerce; regulating motor vehicles; amending regulation of scrap
 1.2 metal processing; requiring proof of ownership or hold period for vehicles
 1.3 purchased for scrap; creating the automated property system; creating criminal
 1.4 penalties; amending Minnesota Statutes 2012, sections 168.27, subdivision 23;
 1.5 168A.01, by adding a subdivision; 168A.153; 168A.40, subdivision 4; 325E.21,
 1.6 subdivisions 1, 1a, 4, 8, by adding a subdivision; proposing coding for new law
 1.7 in Minnesota Statutes, chapter 168A.
 1.8

1.9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.10 Section 1. Minnesota Statutes 2012, section 168.27, subdivision 23, is amended to read:

1.11 Subd. 23. ~~Registrar may file charges~~ County or city attorney to prosecute. The
 1.12 ~~registrar or the registrar's appointed inspectors may file charges with the county attorney~~
 1.13 or city attorney may file charges against any licensee who violates any of the provisions of
 1.14 this section or section 325E.21, including but not limited to, the grounds for suspension or
 1.15 revocation set out in subdivision 12.

1.16 **EFFECTIVE DATE.** This section is effective August 1, 2013.

1.17 Sec. 2. Minnesota Statutes 2012, section 168A.01, is amended by adding a subdivision
 1.18 to read:

1.19 Subd. 8c. **Aged vehicle.** "Aged vehicle" means a vehicle with a manufacturer's
 1.20 designated model year equal to or greater than the seventeenth calendar year immediately
 1.21 preceding the current calendar year, not including those vehicles registered as collector or
 1.22 designated as a restored pioneer vehicle.

1.23 Sec. 3. **[168A.1525] AFFIDAVIT OF SALABILITY.**

2.1 (a) Any person or unit of government upon whose property or in whose possession
 2.2 is found any abandoned motor vehicle, or any owner of a motor vehicle whose title
 2.3 certificate is faulty, lost, or destroyed and is thereby unable to transfer title to the motor
 2.4 vehicle, may apply to a law enforcement agency in which the motor vehicle is located for
 2.5 an affidavit of salability. The affidavit of salability gives authority for a vehicle to be sold
 2.6 to or given to a dealer for recycling or dismantling in lieu of a certificate of title.

2.7 (b) The application for an affidavit of salability shall set out the name and address of
 2.8 the applicant, and the year, make, model, and vehicle identification number of the motor
 2.9 vehicle, if ascertainable, together with any other identifying features, and shall contain a
 2.10 concise statement of the facts surrounding the abandonment, or a statement that the title of
 2.11 the motor vehicle is lost or destroyed, or the reasons for the defect of title in the owner.
 2.12 The applicant shall execute an affidavit stating that the facts alleged are true and that no
 2.13 material fact has been withheld. A law enforcement agency must execute any request for
 2.14 an affidavit of salability at the time of request.

2.15 Sec. 4. Minnesota Statutes 2012, section 168A.153, is amended to read:

2.16 **168A.153 REPORT OF VEHICLE RECEIPT.**

2.17 Subdivision 1. **Older model vehicle.** A dealer who buys an older model vehicle to
 2.18 be dismantled or destroyed shall report to the department within ~~30~~15 days including the
 2.19 vehicle's license plate number and identification number, and the seller's name and driver's
 2.20 license number. A dealer who accepts an affidavit of salability in lieu of a certificate of
 2.21 title as allowed by section 168A.1525 must report to the department the information
 2.22 required by this subdivision by the close of business the day after the transaction.

2.23 Subd. 2. **Late-model or high-value vehicle.** A dealer who buys a late-model or
 2.24 high-value vehicle to be dismantled or destroyed shall notify the secured party, if any, and
 2.25 the commissioner within 15 days in the manner prescribed in subdivision 3. ~~The dealer~~
 2.26 ~~must then properly destroy the certificate of title~~ A dealer who accepts an affidavit of
 2.27 salability in lieu of a certificate of title as allowed by section 168A.1525 must report to
 2.28 the department the information required by this subdivision by the close of business the
 2.29 day after the transaction.

2.30 Subd. 2a. **Aged vehicle.** (a) A dealer who buys an aged vehicle to be dismantled
 2.31 or destroyed shall report to the department within 15 days including the vehicle's license
 2.32 plate number and identification number and the seller's name.

2.33 (b) No certificate of title or other documentation is required for purchase of an
 2.34 aged vehicle.

3.1 Subd. 3. **Notification on vehicle to be dismantled or destroyed; service fee.**

3.2 ~~Within the time frames prescribed in subdivisions 1 and 2 of acquiring a vehicle titled and~~
3.3 ~~registered in Minnesota, a dealer shall notify the registrar that the dealership purchased~~
3.4 ~~the vehicle to be dismantled or destroyed. The notification~~ A dealer must maintain the
3.5 certificate of title, if any, on a vehicle for three years before destroying the title as prescribed
3.6 by the commissioner. Notifications under this section must be made electronically as
3.7 prescribed by the registrar. The dealer may contract this service to a deputy registrar and
3.8 the registrar may charge a fee not to exceed \$7 per transaction to provide this service.

3.9 Sec. 5. Minnesota Statutes 2012, section 168A.40, subdivision 4, is amended to read:

3.10 Subd. 4. **Automobile theft prevention account.** (a) A special revenue account is
3.11 created in the state treasury to be credited with the proceeds of the surcharge imposed
3.12 under subdivision 3. Of the revenue in the account, \$1,300,000 each year must be
3.13 transferred to the general fund. Revenues in excess of \$1,300,000 each year may be used
3.14 only for the automobile theft prevention program described in section 65B.84, and for
3.15 the purposes described in paragraph (b).

3.16 (b) An auto theft victim whose vehicle was sold to a dealer may apply to the
3.17 commissioner for payment from the account an amount equal to fair market value of the
3.18 vehicle. Dealers who forfeit a stolen vehicle to a law enforcement agency may apply
3.19 to the commissioner for payment from the account an amount equal to the amount the
3.20 dealer paid for the vehicle.

3.21 Sec. 6. Minnesota Statutes 2012, section 325E.21, subdivision 1, is amended to read:

3.22 Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in
3.23 this subdivision have the meanings given.

3.24 (b) "Law enforcement agency" or "agency" means a duly authorized municipal,
3.25 county, state, or federal law enforcement agency.

3.26 (c) "Person" means an individual, partnership, limited partnership, limited liability
3.27 company, corporation, or other entity.

3.28 (d) "Scrap metal" means:

3.29 (1) wire and cable commonly and customarily used by communication and electric
3.30 utilities; and

3.31 (2) copper, aluminum, or any other metal purchased primarily for its reuse or
3.32 recycling value as raw metal, including metal that is combined with other materials
3.33 at the time of purchase.

4.1 (e) "Scrap metal dealer" or "dealer" means a person engaged in the business of
 4.2 buying or selling scrap metal, or both, and includes salvage pools, but does not include
 4.3 a person engaged exclusively in the business of buying or selling new or used motor
 4.4 vehicles ~~or motor vehicle parts~~ for resale, paper or wood products, rags or furniture, or
 4.5 secondhand machinery.

4.6 Sec. 7. Minnesota Statutes 2012, section 325E.21, subdivision 1a, is amended to read:

4.7 Subd. 1a. **Purchase or acquisition record required.** (a) Every scrap metal
 4.8 dealer, including an agent, employee, or representative of the dealer, shall ~~keep~~ create a
 4.9 permanent record, written in English, using ink or an electronic record program, at the
 4.10 time of each purchase or acquisition of scrap metal. The record must include:

4.11 (1) an accurate and complete account or description, including the weight if
 4.12 customarily purchased by weight, of the scrap metal purchased or acquired;

4.13 (2) if the scrap metal purchased or acquired is a motor vehicle, the vehicle
 4.14 identification number and license plate number, if any;

4.15 ~~(2)~~ (3) the date, time, and place of the receipt of the scrap metal purchased or
 4.16 acquired and a unique transaction identifier;

4.17 ~~(3)~~ (4) the name and address of the person selling or delivering the scrap metal;

4.18 ~~(4)~~ (5) the identification number and state of issue of the check or electronic transfer
 4.19 used to purchase the scrap metal;

4.20 ~~(5)~~ (6) the identification number and state of issue of the seller's or deliverer's
 4.21 driver's license, Minnesota identification card number, or other identification document
 4.22 number of an identification document issued for identification purposes by any state,
 4.23 federal, or foreign government if the document includes the person's photograph, full
 4.24 name, birth date, and signature proof of identification; ~~and~~

4.25 ~~(6)~~ (7) the license plate number and description of the vehicle used by the person
 4.26 when delivering the scrap metal, and any identifying marks on the vehicle, such as a
 4.27 business name, decals, or markings, if applicable; and

4.28 (8) a statement signed by the seller, under penalty of perjury, attesting that the scrap
 4.29 metal or motor vehicle, to the best of the seller's knowledge, is not stolen and is free of any
 4.30 liens or encumbrances and the seller has the right to sell it. This paragraph only applies if
 4.31 the scrap metal or motor vehicle is acquired from an individual.

4.32 (b) The record, as well as the scrap metal purchased or received, shall at all
 4.33 reasonable times be open to the inspection of any law enforcement agency.

4.34 (c) No record is required for property purchased from merchants, manufacturers or
 4.35 wholesale dealers, having an established place of business, or of any goods purchased

5.1 at open sale from any bankrupt stock, but a bill of sale or other evidence of open or
5.2 legitimate purchase of the property shall be obtained and kept by the person, which must
5.3 be shown upon demand to any law enforcement agency.

5.4 (d) Except as otherwise provided in this section, a scrap metal dealer or the dealer's
5.5 agent, employee, or representative may not disclose personal information concerning a
5.6 customer without the customer's consent unless the disclosure is made in response to a
5.7 request from a law enforcement agency. A scrap metal dealer must implement reasonable
5.8 safeguards to protect the security of the personal information and prevent unauthorized
5.9 access to or disclosure of the information. For purposes of this paragraph, "personal
5.10 information" is any individually identifiable information gathered in connection with a
5.11 record under paragraph (a).

5.12 (e) Law enforcement agencies in the jurisdiction where a dealer is located may
5.13 conduct regular and routine inspections to ensure compliance, refer violations to county
5.14 attorney offices for criminal prosecution, and notify the registrar of motor vehicles.

5.15 Sec. 8. Minnesota Statutes 2012, section 325E.21, subdivision 4, is amended to read:

5.16 Subd. 4. **Registration required.** (a) Every scrap metal dealer shall register with
5.17 and participate in the criminal alert network described in section 299A.61. The dealer
5.18 shall ensure that the dealer's system for receiving incoming notices from the network is
5.19 in proper working order and ready to receive incoming notices. The dealer shall check
5.20 the system for incoming notices twice each day the business is open, once upon opening
5.21 and then again before closing. The dealer shall inform all employees involved in the
5.22 purchasing or receiving of scrap metal of alerts received relating to scrap metal of the type
5.23 that might be conceivably sold to the dealer. In addition, the dealer shall post copies of the
5.24 alerts in a conspicuous location.

5.25 (b) The scrap metal dealer shall pay to the commissioner of public safety a \$50
5.26 annual fee to participate in the criminal alert network and for the educational materials
5.27 described in section 299C.25.

5.28 (c) The commissioner shall notify the scrap metal dealer if a message sent to the
5.29 dealer is returned as undeliverable or is otherwise not accepted for delivery by the dealer's
5.30 system. The dealer shall take action necessary to ensure that future messages are received.

5.31 (d) Law enforcement agencies shall enter all appropriate information to the criminal
5.32 alert network described in section 299A.61, regarding any complaint they have received
5.33 pertaining to the theft of scrap metal or motor vehicles within 24 hours of receiving such
5.34 complaint.

6.1 Sec. 9. Minnesota Statutes 2012, section 325E.21, subdivision 8, is amended to read:

6.2 Subd. 8. **Property held by law enforcement Investigative holds; confiscation of**
 6.3 **vehicles.** (a) Whenever a law enforcement official from any agency has probable cause to
 6.4 believe that property in the possession of a scrap metal dealer is stolen or is evidence of a
 6.5 crime and notifies the dealer not to sell the item, ~~the item may not be sold or removed~~ the
 6.6 scrap metal dealer shall not (1) process or sell the item, or (2) remove or allow its removal
 6.7 from the premises. This investigative hold remains must be confirmed in writing by the
 6.8 originating agency within 72 hours and will remain in effect for 90 30 days from the date
 6.9 of initial notification, or until it the investigative hold is canceled or a seizure order is
 6.10 issued, renewed, or until an order to confiscate is issued, whichever comes first.

6.11 (b) If an item is identified as stolen or evidence in a criminal case, ~~the~~ a law
 6.12 enforcement official may:

6.13 (1) physically ~~seize~~ confiscate and remove it from the scrap metal dealer, pursuant to
 6.14 a written order ~~from the law enforcement official~~; or

6.15 (2) place the item on hold or extend the hold ~~as provided in this section and leave it~~
 6.16 ~~in the shop~~ under paragraph (a), and leave it on the license premises.

6.17 (c) When an item is ~~seized~~ confiscated, the person doing so shall provide
 6.18 identification upon request of the scrap metal dealer, and shall provide ~~the dealer~~ the name
 6.19 and telephone number of the seizing confiscating agency and investigator, and the case
 6.20 number related to the seizure confiscation.

6.21 (d) A dealer may request seized property be returned in accordance with section
 6.22 626.04.

6.23 (e) When an order to hold or seize is no longer necessary, the law enforcement
 6.24 official shall so notify the dealer.

6.25 Sec. 10. Minnesota Statutes 2012, section 325E.21, is amended by adding a subdivision
 6.26 to read:

6.27 Subd. 11. **Preemption of local ordinances.** This section preempts and supersedes
 6.28 any local ordinance or rule concerning the same subject matter.

6.29 Sec. 11. **SEARCHABLE ELECTRONIC DATABASE STEERING**
 6.30 **COMMITTEE.**

6.31 Stakeholders shall form a steering committee to develop recommendations for
 6.32 creation of a searchable electronic database for scrap metal and motor vehicle purchases
 6.33 regulated by Minnesota Statutes, section 325E.31. The steering committee shall

7.1 include industry representatives, dealers, and law enforcement agencies, and shall make

7.2 recommendations related to:

7.3 (1) the feasibility and potential effectiveness of the database;

7.4 (2) elimination of multiple reporting for scrap metal dealers;

7.5 (3) database rules and controls;

7.6 (4) data privacy, security, confidentiality, and record retention guidelines;

7.7 (5) costs and cost allocations;

7.8 (6) critical data for uploading and storage;

7.9 (7) investigative guidelines; and

7.10 (8) compliance guidelines.

7.11 The steering committee shall report their recommendations to the commissioner of public

7.12 safety no later than January 15, 2014.