

**As Passed by the House**

**127th General Assembly**

**Regular Session**

**2007-2008**

**Sub. S. B. No. 171**

**Senator Stivers**

**Cosponsors: Senators Jacobson, Schuring, Schuler, Mumper, Amstutz,**

**Buehrer, Harris, Schaffer, Wagoner, Padgett, Goodman, Faber**

**Representatives Daniels, Hite, Domenick, Flowers, Carmichael, Boyd,**

**Chandler, Collier, DeBose, DeGeeter, Dodd, Dyer, Evans, Fende, Garrison,**

**Hagan, J., Hagan, R., Hottinger, Koziura, Letson, Luckie, Mallory,**

**McGregor, J., Oelslager, Okey, Sayre, Stewart, J., Szollosi, Ujvagi,**

**Williams, B., Williams, S., Yuko, Zehringer**

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**A B I L L**

To amend sections 1333.99, 4737.01, 4737.04, and 1  
4737.99 and to enact sections 1333.71, 4737.041, 2  
4737.042, 4737.043, and 4737.044 of the Revised 3  
Code to make certain changes to the laws 4  
regulating secondhand dealers and scrap metal 5  
dealers. 6

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1333.99, 4737.01, 4737.04, and 7  
4737.99 be amended and sections 1333.71, 4737.041, 4737.042, 8  
4737.043, and 4737.044 of the Revised Code be enacted to read as 9  
follows: 10

**Sec. 1333.71.** No person shall sell or purchase a plastic 11  
crate or tray that is used for the carrying of retail containers 12  
of milk or baked goods and that has embossed upon it a company 13

logo. 14

**Sec. 1333.99.** (A) Whoever violates sections 1333.01 to 15  
1333.04 of the Revised Code is guilty of a minor misdemeanor. 16

(B) Whoever violates section 1333.12 or 1333.71 of the 17  
Revised Code is guilty of a misdemeanor of the fourth degree. 18

(C) Whoever violates section 1333.36 of the Revised Code is 19  
guilty of a misdemeanor of the third degree. 20

(D) A prosecuting attorney may file an action to restrain any 21  
person found in violation of section 1333.36 of the Revised Code. 22  
Upon the filing of such an action, the common pleas court may 23  
receive evidence of such violation and forthwith grant a temporary 24  
restraining order as may be prayed for, pending a hearing on the 25  
merits of said cause. 26

(E) Whoever violates division (A)(1) of section 1333.52 or 27  
section 1333.81 of the Revised Code is guilty of a misdemeanor of 28  
the first degree. 29

(F) Whoever violates division (A)(2) or (B) of section 30  
1333.52 of the Revised Code is guilty of a misdemeanor of the 31  
second degree. 32

(G) Except as otherwise provided in this division, whoever 33  
violates section 1333.92 of the Revised Code is guilty of a 34  
misdemeanor of the first degree. If the value of the compensation 35  
is five hundred dollars or more and less than five thousand 36  
dollars, whoever violates section 1333.92 of the Revised Code is 37  
guilty of a felony of the fifth degree. If the value of the 38  
compensation is five thousand dollars or more and less than one 39  
hundred thousand dollars, whoever violates section 1333.92 of the 40  
Revised Code is guilty of a felony of the fourth degree. If the 41  
value of the compensation is one hundred thousand dollars or more, 42  
whoever violates section 1333.92 of the Revised Code is guilty of 43

a felony of the third degree.

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**Sec. 4737.01.** (A) "Personal identification card" means a  
current and valid driver's license, military identification card,  
state identification card issued under sections 4507.50 to 4507.52  
of the Revised Code, or a state identification card issued by  
another state on the condition that that card contains information  
substantially similar to the information contained on a state  
identification card issued under sections 4507.50 to 4507.52 of  
the Revised Code and also contains a photograph of the person to  
whom the card is issued.

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(B) A person other than a scrap metal dealer, as defined in  
section 4737.04 of the Revised Code, purchasing, selling,  
exchanging, or receiving secondhand articles of any kind other  
than special purchase articles as defined in section 4737.04 of  
the Revised Code, scrap iron, old and scrap metal, canvas, rope,  
branded bottles, junk or lead pipe, except plow irons, old stoves,  
and furniture, shall post in a conspicuous place in or upon his  
the person's shop, store, wagon, boat, or other place of business,  
a sign having his the person's name and occupation legibly  
inscribed thereon, and shall keep a separate record book, open to  
inspection by any law enforcement officer, or electronic file in  
which shall be written, in the English language, at the time of  
the purchase or exchange of such articles, a description thereof,  
the name, description, and residence of the person from whom  
purchased and received, and the day and hour time when such  
purchase or exchange was made, and shall make and keep a copy of  
the person's personal identification card. Every entry shall be  
numbered consecutively, commencing with number one.

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~~(B) Any person, prior to purchasing any secondhand article of~~  
~~furniture or secondhand electrical or gas appliance or equipment~~  
~~for the purpose of resale to the general public, shall demand to~~

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~~examine the seller's driver's or commercial driver's license or~~ 75  
~~identification card issued under sections 4507.50 to 4507.52 of~~ 76  
~~the Revised Code and one additional type of card typically used~~ 77  
~~for identification purposes.~~ 78

~~The purchaser shall keep a written record of the number of~~ 79  
~~the license or identification card and the type and number of the~~ 80  
~~other identification card accepted together with the date of~~ 81  
~~purchase, the name and address of the seller, and a description of~~ 82  
~~the article purchased. The purchaser shall retain the written~~ 83  
~~record book or electronic file and copies of personal~~ 84  
~~identification cards for at least one year after the purchase or~~ 85  
~~exchange date and shall make the record or file and copies~~ 86  
~~available for inspection by any law enforcement officer at all~~ 87  
~~reasonable times. ~~For the purposes of this division, the purchaser~~~~ 88  
~~may utilize the written record he is required to keep where~~ 89  
~~applicable under division (A) of this section and add to it the~~ 90  
~~information required by this division.~~ 91

**Sec. 4737.04. (A) As used in this section and sections** 92  
**4737.041, 4737.042, and 4737.043 of the Revised Code:** 93

(1) "Scrap metal dealer" means the owner or operator of a 94  
business that purchases or receives scrap metal. 95

(2) "Special purchase article" means all of the following: 96

(a) Beer kegs; 97

(b) Cable, wire, electrical components, and other equipment 98  
used in providing cable service or any utility service, including, 99  
but not limited to, copper or aluminum coverings, housings, or 100  
enclosures related thereto; 101

(c) Grave markers, sculptures, plaques, and vases made out of 102  
metal, the appearance of which suggest that the articles have been 103  
obtained from a cemetery; 104

(d) Guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; manhole covers, water meter covers, and other similar types of utility access covers; traffic directional and control signs and light signals, metal marked with the name of a political subdivision of the state, and other metal articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state;

(e) Historical, commemorative, and memorial markers and plaques made out of metal;

(f) Four-wheel metal carts, commonly referred to as "grocery carts," that are generally used by individuals to collect and transport consumer goods while shopping;

(g) Four-wheel metal carts, commonly referred to as "metal bossies," that are used to transport or merchandise food products that are stored in crates, shells, or trays.

(3) "Common recycled matter" means bottles and other containers made out of steel, tin, or aluminum and other consumer goods that are metal that are recycled by individual consumers and not in the bulk or quantity that could be supplied or recycled by large business establishments. "Common recycled matter" does not include a metal tray used by a product producer, distributor, retailer, or agent of a product producer, distributor, or retailer as a means for the bulk transportation, storage, or carrying of retail containers of milk, baked goods, eggs, or bottled beverage products.

(4) "Consumer goods" has the same meaning as in section 1309.102 of the Revised Code.

(5) "Recyclable materials" means the metal materials described in division (B)(5) of this section, on the condition that those metal materials are not special purchase articles.

(6) "Motor vehicle" has the same meaning as in section 136  
4501.01 of the Revised Code. 137

(B) Every scrap metal dealer in scrap iron, metal, and waste 138  
materials shall maintain a record book of records or electronic 139  
file, in which he the dealer shall keep an accurate and complete 140  
record of all articles purchased or received by him the dealer in 141  
the course of his the dealer's daily business. On and after the 142  
effective date of this amendment, every entry in the record book 143  
or electronic file shall be numbered consecutively. Every dealer 144  
shall maintain the record for each article purchased or received 145  
for a minimum period of one year after the date the dealer 146  
purchased or received the article. Said records shall contain all 147  
of the name, description, following: 148

(1) Name and residence of the person from whom said articles 149  
were purchased or received and the a copy of that person's 150  
personal identification card; 151

(2) The date and hour when such purchases or exchange were 152  
made time the scrap metal dealer purchased or received the 153  
articles; 154

(3) If the seller or provider of the articles arrives at the 155  
dealer's place of business in a motor vehicle, the license plate 156  
number of that motor vehicle along with the state that issued the 157  
license plate; 158

(4) For metal articles that are not recyclable materials, a 159  
full and accurate description of each article purchased or 160  
received by the dealer that includes identifying letters or marks 161  
written, inscribed, or otherwise included on the article and the 162  
name and maker of the article if known; 163

(5) For recyclable materials that are not special purchase 164  
articles, a scrap metal dealer shall use the following category 165  
codes to identify the recyclable materials that the dealer 166

<u>receives:</u>	167
<u>(a) "Number one copper," which includes clean copper pipe,</u>	168
<u>clean copper wire, or other number one copper that does not have</u>	169
<u>solder, paint, or coating;</u>	170
<u>(b) "Number two copper," which includes unclean copper pipe,</u>	171
<u>unclean copper wire, or other number two copper;</u>	172
<u>(c) "Sheet copper," which includes copper roofing, copper</u>	173
<u>gutters, copper downspouts, and other sheet copper;</u>	174
<u>(d) "Insulated copper wire";</u>	175
<u>(e) "Aluminum or copper radiators," which includes aluminum</u>	176
<u>radiators, aluminum copper radiators, and copper radiators;</u>	177
<u>(f) "Red brass," which includes red brass valves and other</u>	178
<u>red brass;</u>	179
<u>(g) "Yellow brass," which includes yellow brass fixtures,</u>	180
<u>yellow brass valve and fitting, ornamental brass, and other yellow</u>	181
<u>brass;</u>	182
<u>(h) "Aluminum sheet";</u>	183
<u>(i) "Aluminum extrusions," which includes aluminum bleachers,</u>	184
<u>aluminum benches, aluminum frames, aluminum pipe, and other</u>	185
<u>aluminum extrusions;</u>	186
<u>(j) "Cast aluminum," which includes aluminum grills,</u>	187
<u>lawnmower decks made of aluminum, aluminum motor vehicle parts and</u>	188
<u>rims, and other cast aluminum;</u>	189
<u>(k) "Clean aluminum wire";</u>	190
<u>(l) "Unclean aluminum wire";</u>	191
<u>(m) "Aluminum exteriors," which includes aluminum siding,</u>	192
<u>aluminum gutters and downspouts, aluminum shutters, aluminum trim,</u>	193
<u>and other aluminum exterior items;</u>	194
<u>(n) "Contaminated aluminum";</u>	195

(o) "Stainless steel," which includes, sinks, appliance 196  
housing, dishes, pots, pans, pipe, and other items made out of 197  
stainless steel; 198

(p) "Large appliances," which includes consumer and other 199  
appliances; 200

(q) "Miscellaneous steel," which includes steel grates, steel 201  
farm machinery, steel industrial machinery, steel motor vehicle 202  
frames, and other items made out of steel; 203

(r) "Sheet irons," which includes bicycles, motor vehicle 204  
body parts made of iron, and other items made using sheet iron; 205

(s) "Motor vehicle nonbody parts," which includes motor 206  
vehicle batteries, radiators, and other nonbody motor vehicle 207  
parts; 208

(t) "Catalytic converters"; 209

(u) "Lead"; 210

(v) "Electric motors." 211

(C) All journal brasses, and other railroad metals, other 212  
than purchases and sales under sections 4973.13 to 4973.16~~7~~ 213  
~~inclusive~~, of the Revised Code, shall be held by the dealer for a 214  
period of thirty days after being purchased or acquired. 215

~~Such~~ (D) The records required under division (B) of this 216  
section shall be open for inspection by the representative of any 217  
law enforcement agency ~~at~~ and the director of public safety or the 218  
director's designated representative during all business hours. A 219  
scrap metal dealer shall provide a copy of those records to any 220  
law enforcement agency that requests the records or to the 221  
director or director's representative, upon request. Records 222  
submitted to any law enforcement agency pursuant to this section 223  
are not public records for purposes of section 149.43 of the 224  
Revised Code. A person who claims to own a stolen article that may 225



be identified in those records, or an agent of that person, who 226  
provides proof of having filed a stolen property report with the 227  
appropriate law enforcement agency, may request those records. The 228  
law enforcement agency shall provide those records upon a request 229  
made by such a person or that person's agent, but the law 230  
enforcement agency shall redact information that reveals the name 231  
of the seller of any article and the price the dealer paid for any 232  
article the dealer purchased or the estimated value of any article 233  
the dealer received. The law enforcement agency shall determine 234  
which records to provide, based upon the time period that the 235  
alleged theft is reported to have taken place. A law enforcement 236  
agency may charge or collect a fee for providing records as 237  
required by this section. 238

(E)(1) No scrap metal dealer shall purchase or receive any 239  
metal articles from a person who refuses to show the dealer the 240  
person's personal identification card. 241

(2) The law enforcement agency that serves the jurisdiction 242  
in which a scrap metal dealer is located shall provide a list, as 243  
that agency determines appropriate, of the names and descriptions 244  
of persons known to be or who are suspected to be thieves or 245  
receivers of stolen property. No scrap metal dealer shall purchase 246  
or receive articles from any person identified on the list the 247  
dealer receives from the law enforcement agency. 248

(3) No scrap metal dealer shall purchase or receive any 249  
special purchase articles from any person who is under eighteen 250  
years of age. 251

(4) No scrap metal dealer shall purchase or receive any 252  
special purchase article without complying with division (B) of 253  
this section and division (B), (C), or (D) of section 4737.041 of 254  
the Revised Code. 255

(5) No scrap metal dealer shall purchase or receive more than 256

one catalytic converter per day from the same person except from a 257  
motor vehicle dealer as defined in section 4517.01 of the Revised 258  
Code. 259

(6) No scrap metal dealer shall treat a transaction as exempt 260  
from section 4737.04 or 4737.041 of the Revised Code unless the 261  
seller provides evidence of satisfying division (D)(3) of section 262  
4737.043 of the Revised Code. 263

(F) Every scrap metal dealer shall post a notice in a 264  
conspicuous place on the dealer's premises notifying persons who 265  
may wish to transact business with the dealer of the penalties 266  
applicable to any person who does any of the following: 267

(1) Provides a false personal identification card to the 268  
dealer; 269

(2) With purpose to defraud, provides any other false 270  
information to the dealer in connection with the dealer's duty to 271  
maintain the records required under division (B) of this section; 272

(3) Violates section 2913.02 of the Revised Code. 273

(G)(1) Except as otherwise provided in the second paragraph 274  
of division (E) of this section, a chief of police, marshal, or 275  
other chief law enforcement officer, a sheriff, constable, or 276  
chief of police of a township police department or police district 277  
police force, and a deputy, officer, or employee of the law 278  
enforcement agency served by the marshal or the municipal or 279  
township chief, the office of the sheriff, or the constable is 280  
immune from liability in a civil action, including an action for 281  
defamation, libel, or slander, to recover damages for injury, 282  
death, or loss to persons or property or reputation allegedly 283  
caused by an act or omission in connection with compiling and 284  
providing the list required by division (E) of this section. 285

(2) The immunity described in division (G)(1) of this section 286  
does not apply to a person described in that division if, in 287

relation to the act or omission in question, any of the following 288  
applies: 289

(a) The act or omission was manifestly outside the scope of 290  
the person's employment or official responsibilities. 291

(b) The act or omission was with malicious purpose, in bad 292  
faith, or in a wanton or reckless manner. 293

(c) Liability for the act or omission is expressly imposed by 294  
a section of the Revised Code. 295

**Sec. 4737.041.** A scrap metal dealer shall do all of the 296  
following with respect to each special purchase article the scrap 297  
metal dealer purchases or receives: 298

(A) Comply with the requirements of this section in addition 299  
to complying with the requirements of section 4737.04 of the 300  
Revised Code; 301

(B) Take a photograph of each special purchase article; 302

(C) Obtain from the seller or provider of the special 303  
purchase article proof that the seller or provider owns the 304  
special purchase article; 305

(D) If payment is rendered for the special purchase articles, 306  
issue a check for the purchase of the special purchase articles; 307  
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(E) Withhold payment for the purchase of the special purchase 309  
articles for a period of two days after the day the special 310  
purchase articles are purchased; 311

(F) If an asserted owner of stolen special purchase articles 312  
or that owner's agent provides proof of having filed a stolen 313  
property report with the appropriate law enforcement agency, make 314  
records describing special purchase articles the scrap metal 315  
dealer purchased or received after the alleged date of theft 316

available for inspection to the asserted owner or owner's agent 317  
for a period of six months after the alleged date of theft of the 318  
articles, except that the scrap metal dealer shall withhold the 319  
name of the person from whom the special purchase articles were 320  
purchased or received and the amount paid for the special purchase 321  
articles. 322

**Sec. 4737.042.** A scrap metal dealer and a person who 323  
purchases, sells, exchanges, or receives secondhand articles may 324  
use an electronic device that decodes and records information 325  
contained in the metallic strip on a personal identification card 326  
to record a person's name, address, and photograph in lieu of 327  
making a copy of a person's personal identification card to comply 328  
with the requirements of sections 4737.01, 4737.04, and 4737.041 329  
of the Revised Code, on the condition that the dealer or person 330  
retains that recorded information and makes it available in 331  
accordance with the requirements to make copies available under 332  
those sections. 333

**Sec. 4737.043.** Sections 4737.04 and 4737.041 of the Revised 334  
Code do not apply with respect to any of the following: 335

(A) The donation of articles to nonprofit organizations or to 336  
any other person, on the condition that the person donating the 337  
articles receives no payment or any other valuable consideration 338  
in exchange for or due to donating the articles; 339

(B) The sale or donation of common recycled matter; 340

(C) Sales transacted between a scrap metal dealer and an 341  
organization that is exempt from federal taxation under section 342  
501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 285, 343  
26 U.S.C. 501(c)(3), as amended, and that collects, for its own 344  
fundraising purposes, scrap ferrous and nonferrous metals for 345  
recycling rather than disposal; 346

(D) Sales transacted between a scrap metal dealer and a 347  
government unit or another business, including a demolition 348  
company, public utility company, or another scrap metal dealer, on 349  
the condition that the government unit or business satisfies the 350  
following criteria: 351

(1) In the course of providing the government unit's or 352  
business's services to others or maintaining the government unit's 353  
or business's property, whether onsite or offsite, the government 354  
unit or business generates scrap ferrous and nonferrous metals for 355  
recycling rather than disposal. 356

(2) If the sales transaction involves a government unit, 357  
reference to the government unit as a bona fide unit of government 358  
can be readily found by the public. 359

(3) If the sales transaction involves a business, the 360  
business satisfies one of the following criteria: 361

(a) The business is registered with the secretary of state. 362

(b) The business has been issued a license under section 363  
5739.17 of the Revised Code. 364

(c) The business advertises its services in a newspaper of 365  
general circulation once a week for not less than six consecutive 366  
months or provides a receipt showing payment for such advertising, 367  
a telephone book, electronic media that is available to the 368  
public, or some other type of media that is owned and operated by 369  
a person other than the business and, if an individual operates 370  
the business, the individual advertising the business has a 371  
specific place of business that is not the individual's permanent 372  
home residence. 373

(4) The government unit provides proof of compliance with 374  
division (D)(2) of this section or the business provides proof of 375  
compliance with division (D)(3) of this section to the scrap metal 376  
dealer with whom the government unit or business transacts 377

business. 378

(E) Sales transacted between a scrap metal dealer and a 379  
person whose primary business is to create products that result in 380  
bulk quantities of ferrous and nonferrous metal used for recycling 381  
rather than disposal. 382

(F) Sales of catalytic converters transacted between a scrap 383  
metal dealer and a motor vehicle dealer as defined in section 384  
4517.01 of the Revised Code. 385

**Sec. 4737.044.** No municipal corporation or other political 386  
subdivision shall enforce any regulation that is in conflict with 387  
sections 4737.01 to 4737.043 of the Revised Code. 388

**Sec. 4737.99.** (A) Except as specified in ~~division~~ divisions 389  
(B) and (C) of this section, whoever violates sections 4737.01 to 390  
4737.11 of the Revised Code, shall be fined not less than 391  
twenty-five nor more than one thousand dollars and the costs of 392  
prosecution. 393

(B) Whoever violates division (F)(2) of section 4737.10 of 394  
the Revised Code is guilty of a misdemeanor of the fourth degree. 395

(C) Whoever fails to comply with or violates section 4737.01 396  
or 4737.041 or division (B), (C), (E), or (F) of section 4737.04 397  
of the Revised Code is guilty of a misdemeanor of the third 398  
degree. If the offender one time previously has violated or failed 399  
to comply with section 4737.01 or 4737.041 or division (B), (C), 400  
(D), (E), or (F) of section 4737.04 of the Revised Code, the 401  
violation or failure is a misdemeanor of the second degree. If the 402  
offender two or more times previously has violated or failed to 403  
comply with section 4737.01 or 4737.041 or division (B), (C), (D), 404  
(E), or (F) of section 4737.04 of the Revised Code, the violation 405  
or failure is a misdemeanor of the first degree. 406

**Section 2.** That existing sections 1333.99, 4737.01, 4737.04, 407  
and 4737.99 of the Revised Code are hereby repealed. 408

**Section 3.** During the first year of the 129th General 409  
Assembly, the President of the Senate or Speaker of the House of 410  
Representatives shall initiate creation of a joint select 411  
committee of the Senate and House of Representatives for the 412  
purpose of considering the effectiveness of this act in deterring 413  
crime and the costs of complying with this act to industries 414  
affected by this act. The President of the Senate and Speaker of 415  
the House of Representatives shall create the joint select 416  
committee in accordance with the Joint Rules of the Senate and 417  
House of Representatives for the 129th General Assembly for 418  
creation of a joint select committee. 419

The joint select committee shall hold public hearings at 420  
which time representatives of the Ohio Municipal League, the Ohio 421  
Prosecuting Attorneys Association, and the Ohio Sheriff's 422  
Association; representatives of the scrap metal recycling 423  
industry; and other interested parties may present testimony on 424  
the affect of this act on metals theft rates, theft deterrence, 425  
criminal enforcement and prosecution, and economic and 426  
administrative burdens on industry. The joint select committee 427  
shall provide advance notice of its hearings to, and shall solicit 428  
comments in advance of those hearings from, the Ohio Municipal 429  
League, Ohio Prosecuting Attorneys Association, Ohio Sheriff's 430  
Association, representatives of the scrap metal recycling 431  
industry, and other interested parties that the joint select 432  
committee determines should receive notice. 433

The joint select committee shall issue a report summarizing 434  
the effectiveness and impacts of this act and submit the report to 435  
the President of the Senate and Speaker of the House of 436  
Representatives. The Legislative Service Commission shall assist 437

the joint select committee in preparing and finalizing the report 438  
required by this section. 439

**Section 4.** The provisions of law contained in this act, and 440  
their applications, are severable. If any provision of law 441  
contained in this act, or if any application of any provision of 442  
law contained in this act, is held invalid, the invalidity does 443  
not affect other provisions of law contained in this act and their 444  
applications that can be given effect without the invalid 445  
provision or application. 446