

As Introduced

**129th General Assembly
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H. B. No. 390

Representative Combs

Cosponsors: Representatives Bubp, Okey

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A B I L L

To amend section 4737.04 of the Revised Code to 1
prohibit scrap metal dealers from purchasing or 2
receiving copper plumbing pipe from any person 3
other than a plumber and purchasing or receiving 4
an air conditioning unit from any person other 5
than a heating, ventilating, and air conditioning 6
contractor. 7

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

Section 1. That section 4737.04 of the Revised Code be 8
amended to read as follows: 9

Sec. 4737.04. (A) As used in this section and sections 10
4737.041, 4737.042, and 4737.043 of the Revised Code: 11

(1) "Scrap metal dealer" means the owner or operator of a 12
business that purchases or receives scrap metal. 13

(2) "Special purchase article" means all of the following: 14

(a) Beer kegs; 15

(b) Cable, wire, electrical components, and other equipment 16
used in providing cable service or any utility service, including, 17
but not limited to, copper or aluminum coverings, housings, or 18

enclosures related thereto;	19
(c) Grave markers, sculptures, plaques, and vases made out of metal, the appearance of which suggest <u>suggests</u> that the articles have been obtained from a cemetery;	20 21 22
(d) Guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; manhole <u>worker access hole</u> 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;	23 24 25 26 27 28 29 30
(e) Historical, commemorative, and memorial markers and plaques made out of metal;	31 32
(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;	33 34 35
(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.	36 37 38
(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.	39 40 41 42 43 44 45 46 47 48
(4) "Consumer goods" has the same meaning as in section	49

1309.102 of the Revised Code. 50

(5) "Recyclable materials" means the metal materials 51
described in division (B)(5) of this section, on the condition 52
that those metal materials are not special purchase articles. 53

(6) "Motor vehicle" has the same meaning as in section 54
4501.01 of the Revised Code. 55

(B) Every scrap metal dealer shall maintain a record book or 56
electronic file, in which the dealer shall keep an accurate and 57
complete record of all articles purchased or received by the 58
dealer in the course of the dealer's daily business. On and after 59
~~the effective date of this amendment~~ September 11, 2008, every 60
entry in the record book or electronic file shall be numbered 61
consecutively. Every dealer shall maintain the record for each 62
article purchased or received for a minimum period of one year 63
after the date the dealer purchased or received the article. ~~Said~~ 64
The records shall contain all of the following: 65

(1) ~~Name~~ The name and residence of the person from whom ~~said~~ 66
the articles were purchased or received and a copy of that 67
person's personal identification card; 68

(2) The date and time the scrap metal dealer purchased or 69
received the articles; 70

(3) If the seller or provider of the articles arrives at the 71
dealer's place of business in a motor vehicle, the license plate 72
number of that motor vehicle along with the state that issued the 73
license plate; 74

(4) For metal articles that are not recyclable materials, a 75
full and accurate description of each article purchased or 76
received by the dealer that includes identifying letters or marks 77
written, inscribed, or otherwise included on the article and the 78
name and maker of the article if known; 79

(5) For recyclable materials that are not special purchase articles, a scrap metal dealer shall use the following category codes to identify the recyclable materials that the dealer receives:	80 81 82 83
(a) "Number one copper," which includes clean copper pipe, clean copper wire, or other number one copper that does not have solder, paint, or coating;	84 85 86
(b) "Number two copper," which includes unclean copper pipe, unclean copper wire, or other number two copper;	87 88
(c) "Sheet copper," which includes copper roofing, copper gutters, copper downspouts, and other sheet copper;	89 90
(d) "Insulated copper wire";	91
(e) "Aluminum or copper radiators," which includes aluminum radiators, aluminum copper radiators, and copper radiators;	92 93
(f) "Red brass," which includes red brass valves and other red brass;	94 95
(g) "Yellow brass," which includes yellow brass fixtures, yellow brass valve and fitting, ornamental brass, and other yellow brass;	96 97 98
(h) "Aluminum sheet";	99
(i) "Aluminum extrusions," which includes aluminum bleachers, aluminum benches, aluminum frames, aluminum pipe, and other aluminum extrusions;	100 101 102
(j) "Cast aluminum," which includes aluminum grills, lawnmower decks made of aluminum, aluminum motor vehicle parts and rims, and other cast aluminum;	103 104 105
(k) "Clean aluminum wire";	106
(l) "Unclean aluminum wire";	107
(m) "Aluminum exteriors," which includes aluminum siding,	108

aluminum gutters and downspouts, aluminum shutters, aluminum trim,	109
and other aluminum exterior items;	110
(n) "Contaminated aluminum";	111
(o) "Stainless steel," which includes, sinks, appliance	112
housing, dishes, pots, pans, pipe, and other items made out of	113
stainless steel;	114
(p) "Large appliances," which includes consumer and other	115
appliances;	116
(q) "Miscellaneous steel," which includes steel grates, steel	117
farm machinery, steel industrial machinery, steel motor vehicle	118
frames, and other items made out of steel;	119
(r) "Sheet irons," which includes bicycles, motor vehicle	120
body parts made of iron, and other items made using sheet iron;	121
(s) "Motor vehicle nonbody parts," which includes motor	122
vehicle batteries, radiators, and other nonbody motor vehicle	123
parts;	124
(t) "Catalytic converters";	125
(u) "Lead";	126
(v) "Electric motors."	127
(C) All journal brasses, and other railroad metals, other	128
than purchases and sales under sections 4973.13 to 4973.16 of the	129
Revised Code, shall be held by the dealer for a period of thirty	130
days after being purchased or acquired.	131
(D) The records required under division (B) of this section	132
shall be open for inspection by the representative of any law	133
enforcement agency and the director of public safety or the	134
director's designated representative during all business hours. A	135
scrap metal dealer shall provide a copy of those records to any	136
law enforcement agency that requests the records or to the	137
director or director's representative, upon request. Records	138

submitted to any law enforcement agency pursuant to this section 139
are not public records for purposes of section 149.43 of the 140
Revised Code. A person who claims to own a stolen article that may 141
be identified in those records, or an agent of that person, who 142
provides proof of having filed a stolen property report with the 143
appropriate law enforcement agency, may request those records. The 144
law enforcement agency shall provide those records upon a request 145
made by such a person or that person's agent, but the law 146
enforcement agency shall redact information that reveals the name 147
of the seller of any article and the price the dealer paid for any 148
article the dealer purchased or the estimated value of any article 149
the dealer received. The law enforcement agency shall determine 150
which records to provide, based upon the time period that the 151
alleged theft is reported to have taken place. A law enforcement 152
agency may charge or collect a fee for providing records as 153
required by this section. 154

(E)(1) No scrap metal dealer shall purchase or receive any 155
metal articles from a person who refuses to show the dealer the 156
person's personal identification card. 157

(2) The law enforcement agency that serves the jurisdiction 158
in which a scrap metal dealer is located shall provide a list, as 159
that agency determines appropriate, of the names and descriptions 160
of persons known to be or who are suspected to be thieves or 161
receivers of stolen property. No scrap metal dealer shall purchase 162
or receive articles from any person identified on the list the 163
dealer receives from the law enforcement agency. 164

(3) No scrap metal dealer shall purchase or receive any 165
special purchase articles from any person who is under eighteen 166
years of age. 167

(4) No scrap metal dealer shall purchase or receive any 168
special purchase article without complying with division (B) of 169
this section and division (B), (C), or (D) of section 4737.041 of 170

the Revised Code. 171

(5) No scrap metal dealer shall purchase or receive more than 172
one catalytic converter per day from the same person except from a 173
motor vehicle dealer as defined in section 4517.01 of the Revised 174
Code. 175

(6) No scrap metal dealer shall treat a transaction as exempt 176
from section 4737.04 or 4737.041 of the Revised Code unless the 177
seller provides evidence of satisfying division (D)(3) of section 178
4737.043 of the Revised Code. 179

(7)(a) In addition to complying with all other applicable 180
requirements of this section, no scrap metal dealer shall purchase 181
or receive either of the following: 182

(i) Copper pipe of any sort used in plumbing from a person 183
unless the person provides proof that the person is licensed as a 184
plumber under Chapter 4740. of the Revised Code, licensed as a 185
plumber by a municipal corporation located in this state, or 186
licensed as a plumber by another state; 187

(ii) An air conditioning unit from a person unless the person 188
provides proof that the person is licensed as a heating, 189
ventilating, and air conditioning contractor under Chapter 4740. 190
of the Revised Code, licensed as a heating, ventilating, and air 191
conditioning contractor by a municipal corporation located in this 192
state, or licensed as a heating, ventilating, and air conditioning 193
contractor by another state. 194

Divisions (E)(7)(a)(i) and (ii) of this section do not apply 195
if the scrap metal dealer is purchasing or receiving copper pipe 196
or an air conditioning unit from the owner of the parcel of 197
property from which the copper pipe or air conditioning unit is 198
derived. 199

(b) With respect to a sales transaction involving copper pipe 200
of any sort used in plumbing or an air conditioning unit, the 201

exemption established under division (D) of section 4737.043 of 202
the Revised Code as it relates to businesses does not apply unless 203
the business is licensed as required by division (E)(7)(a)(i) or 204
(ii) of this section, as applicable. 205

(F) Every scrap metal dealer shall post a notice in a 206
conspicuous place on the dealer's premises notifying persons who 207
may wish to transact business with the dealer of the penalties 208
applicable to any person who does any of the following: 209

(1) Provides a false personal identification card to the 210
dealer; 211

(2) With purpose to defraud, provides any other false 212
information to the dealer in connection with the dealer's duty to 213
maintain the records required under division (B) of this section; 214

(3) Violates section 2913.02 of the Revised Code. 215

(G)(1) Except as otherwise provided in ~~the second paragraph~~ 216
~~of~~ division (E)(2) of this section, a chief of police, marshal, or 217
other chief law enforcement officer, a sheriff, constable, or 218
chief of police of a township police department or police district 219
police force, and a deputy, officer, or employee of the law 220
enforcement agency served by the marshal or the municipal or 221
township chief, the office of the sheriff, or the constable is 222
immune from liability in a civil action, including an action for 223
defamation, libel, or slander, to recover damages for injury, 224
death, or loss to persons or property or reputation allegedly 225
caused by an act or omission in connection with compiling and 226
providing the list required by division (E) of this section. 227

(2) The immunity described in division (G)(1) of this section 228
does not apply to a person described in that division if, in 229
relation to the act or omission in question, any of the following 230
applies: 231

(a) The act or omission was manifestly outside the scope of 232

the person's employment or official responsibilities.	233
(b) The act or omission was with malicious purpose, in bad faith, or in a wanton or reckless manner.	234 235
(c) Liability for the act or omission is expressly imposed by a section of the Revised Code.	236 237
Section 2. That existing section 4737.04 of the Revised Code is hereby repealed.	238 239