

**As Passed by the Senate
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Sub. S. B. No. 193

Senator Seitz

**Cosponsors: Senators Patton, Hughes, Bacon, Balderson, Beagle, Brown,
Burke, Cafaro, Eklund, Hite, Jones, Kearney, LaRose, Lehner, Manning,
Niehaus, Oelslager, Sawyer, Schiavoni, Tavares, Turner, Wagoner**

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A B I L L

To amend sections 4737.04 and 4737.99 and to enact 1
section 4737.012 of the Revised Code to require 2
scrap metal dealers to take and keep as part of 3
the sales record a photograph of each person 4
selling or giving an article to the dealer and to 5
shorten the hold period for records. 6

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

Section 1. That sections 4737.04 and 4737.99 be amended and 7
section 4737.012 of the Revised Code be enacted to read as 8
follows: 9

Sec. 4737.012. (A) A dealer who is in the business of 10
purchasing, reselling, exchanging, recycling, shredding, or 11
receiving bulk merchandise containers shall not purchase or 12
receive more than four plastic bulk merchandise containers that 13
are marked with a company name or logo or more than nine wooden 14
bulk merchandise containers from any other person at one time, 15
unless the dealer maintains a record book or electronic file, in 16

which the dealer keeps an accurate and complete record of all 17
containers purchased or received by the dealer. Every entry in the 18
record book or electronic file shall be numbered consecutively. 19
Every dealer shall maintain the record for each container 20
purchased or received for a minimum period of one year after the 21
date the dealer purchased or received the container. The records 22
shall contain all of the following: 23

(1) The name and residence of the person from whom the 24
containers were purchased or received, a copy of that person's 25
personal identification card, and a photograph of the person taken 26
pursuant to division (B)(2) of this section; 27

(2) A photograph of the containers, taken pursuant to 28
division (B)(1) of this section, and a description of the 29
containers, including the number purchased or received; 30

(3) The date and time the dealer purchased or received the 31
containers; 32

(4) If the seller or provider of the containers arrives at 33
the dealer's place of business in a motor vehicle, the license 34
plate number of that motor vehicle along with the state that 35
issued the license plate. 36

(B) Every dealer who is in the business of reselling bulk 37
merchandise containers shall take a photograph, by any 38
photographic means available, of both of the following: 39

(1) Each container for which the dealer must make a record 40
under division (A) of this section; 41

(2) Each person who sells or otherwise gives the dealer the 42
containers. 43

The dealer shall take the required photographs at the time 44
the dealer purchases or receives the containers and shall keep the 45
photographs as part of the record in accordance with division (A) 46

of this section. 47

(C) A dealer who is in the business of purchasing, reselling, 48
exchanging, recycling, shredding, or receiving bulk merchandise 49
containers shall fulfill the requirements placed on scrap metal 50
dealers in section 4737.041 of the Revised Code. 51

(D) As used in this section, "bulk merchandise container" 52
means a plastic or wooden carrier or holder used by a manufacturer 53
or distributor to transport merchandise to wholesale and retail 54
outlets. 55

Sec. 4737.04. (A) As used in this section and sections 56
4737.041, 4737.042, and 4737.043 of the Revised Code: 57

(1) "Scrap metal dealer" means the owner or operator of a 58
business that purchases or receives scrap metal. 59

(2) "Special purchase article" means all of the following: 60

(a) Beer kegs; 61

(b) Cable, wire, electrical components, and other equipment 62
used in providing cable service or any utility service, including, 63
but not limited to, copper or aluminum coverings, housings, or 64
enclosures related thereto; 65

(c) Grave markers, sculptures, plaques, and vases made out of 66
metal, the appearance of which suggest that the articles have been 67
obtained from a cemetery; 68

(d) Guard rails for bridges, highways, and roads; highway and 69
street signs; street light poles and fixtures; ~~manhole~~ worker 70
access hole covers, water meter covers, and other similar types of 71
utility access covers; traffic directional and control signs and 72
light signals, metal marked with the name of a political 73
subdivision of the state, and other metal articles that are 74
purchased and installed for use upon authorization of the state or 75
any political subdivision of the state; 76

(e) Historical, commemorative, and memorial markers and plaques made out of metal;	77 78
(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;	79 80 81
(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.	82 83 84
(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.	85 86 87 88 89 90 91 92 93 94
(4) "Consumer goods" has the same meaning as in section 1309.102 of the Revised Code.	95 96
(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.	97 98 99
(6) "Motor vehicle" has the same meaning as in section 4501.01 of the Revised Code.	100 101
(B) Every scrap metal dealer shall maintain a record book or electronic file, in which the dealer shall keep an accurate and complete record of all articles purchased or received by the dealer in the course of the dealer's daily business. On and after the effective date of this amendment <u>September 11, 2008</u> , every entry in the record book or electronic file shall be numbered	102 103 104 105 106 107

consecutively. Every dealer shall maintain the record for each 108
article purchased or received for a minimum period of ~~one year~~ 109
sixty days after the date the dealer purchased or received the 110
article. Said records shall contain all of the following: 111

(1) Name and residence of the person from whom said articles 112
were purchased or received ~~and~~, a copy of that person's personal 113
identification card, and a photograph of the person taken pursuant 114
to division (H) of this section; 115

(2) The date and time the scrap metal dealer purchased or 116
received the articles; 117

(3) If the seller or provider of the articles arrives at the 118
dealer's place of business in a motor vehicle, the license plate 119
number of that motor vehicle along with the state that issued the 120
license plate; 121

(4) For metal articles that are not recyclable materials, a 122
full and accurate description of each article purchased or 123
received by the dealer that includes identifying letters or marks 124
written, inscribed, or otherwise included on the article and the 125
name and maker of the article if known; 126

(5) For recyclable materials that are not special purchase 127
articles, a scrap metal dealer shall use the following category 128
codes to identify the recyclable materials that the dealer 129
receives: 130

(a) "Number one copper," which includes clean copper pipe, 131
clean copper wire, or other number one copper that does not have 132
solder, paint, or coating; 133

(b) "Number two copper," which includes unclean copper pipe, 134
unclean copper wire, or other number two copper; 135

(c) "Sheet copper," which includes copper roofing, copper 136
gutters, copper downspouts, and other sheet copper; 137

(d) "Insulated copper wire";	138
(e) "Aluminum or copper radiators," which includes aluminum radiators, aluminum copper radiators, and copper radiators;	139 140
(f) "Red brass," which includes red brass valves and other red brass;	141 142
(g) "Yellow brass," which includes yellow brass fixtures, yellow brass valve and fitting, ornamental brass, and other yellow brass;	143 144 145
(h) "Aluminum sheet";	146
(i) "Aluminum extrusions," which includes aluminum bleachers, aluminum benches, aluminum frames, aluminum pipe, and other aluminum extrusions;	147 148 149
(j) "Cast aluminum," which includes aluminum grills, lawnmower decks made of aluminum, aluminum motor vehicle parts and rims, and other cast aluminum;	150 151 152
(k) "Clean aluminum wire";	153
(l) "Unclean aluminum wire";	154
(m) "Aluminum exteriors," which includes aluminum siding, aluminum gutters and downspouts, aluminum shutters, aluminum trim, and other aluminum exterior items;	155 156 157
(n) "Contaminated aluminum";	158
(o) "Stainless steel," which includes, sinks, appliance housing, dishes, pots, pans, pipe, and other items made out of stainless steel;	159 160 161
(p) "Large appliances," which includes consumer and other appliances;	162 163
(q) "Miscellaneous steel," which includes steel grates, steel farm machinery, steel industrial machinery, steel motor vehicle frames, and other items made out of steel;	164 165 166

(r) "Sheet irons," which includes bicycles, motor vehicle 167
body parts made of iron, and other items made using sheet iron; 168

(s) "Motor vehicle nonbody parts," which includes motor 169
vehicle batteries, radiators, and other nonbody motor vehicle 170
parts; 171

(t) "Catalytic converters"; 172

(u) "Lead"; 173

(v) "Electric motors." 174

(C) All journal brasses, and other railroad metals, other 175
than purchases and sales under sections 4973.13 to 4973.16 of the 176
Revised Code, shall be held by the dealer for a period of thirty 177
days after being purchased or acquired. 178

(D) The records required under division (B) of this section 179
or under section 4737.012 of the Revised Code shall be open for 180
inspection by the representative of any law enforcement agency and 181
the director of public safety or the director's designated 182
representative during all business hours. A scrap metal dealer or 183
bulk merchandise container dealer shall provide a copy of those 184
records to any law enforcement agency that requests the records or 185
to the director or director's representative, upon request. 186
Records submitted to any law enforcement agency pursuant to this 187
section are not public records for purposes of section 149.43 of 188
the Revised Code. A person who claims to own a stolen article that 189
may be identified in those records, or an agent of that person, 190
who provides proof of having filed a stolen property report with 191
the appropriate law enforcement agency, may request those records. 192
The law enforcement agency shall provide those records upon a 193
request made by such a person or that person's agent, but the law 194
enforcement agency shall redact information that reveals the name 195
of the seller of any article and the price the dealer paid for any 196
article the dealer purchased or the estimated value of any article 197

the dealer received. The law enforcement agency shall determine 198
which records to provide, based upon the time period that the 199
alleged theft is reported to have taken place. A law enforcement 200
agency may charge or collect a fee for providing records as 201
required by this section. 202

(E)(1) No scrap metal dealer shall purchase or receive any 203
metal articles, and no bulk merchandise container dealer shall 204
purchase or receive any bulk merchandise containers, from a person 205
who refuses to show the dealer the person's personal 206
identification card, or who refuses to allow the dealer to take a 207
photograph of the person as required under division (H) of this 208
section or under division (A)(2) of section 4737.012 of the 209
Revised Code. 210

(2) The law enforcement agency that serves the jurisdiction 211
in which a scrap metal dealer is located shall provide a list, as 212
that agency determines appropriate, of the names and descriptions 213
of persons known to be or who are suspected to be thieves or 214
receivers of stolen property. No scrap metal dealer shall purchase 215
or receive articles from any person identified on the list the 216
dealer receives from the law enforcement agency. 217

(3) No scrap metal dealer shall purchase or receive any 218
special purchase articles from any person who is under eighteen 219
years of age. 220

(4) No scrap metal dealer shall purchase or receive any 221
special purchase article without complying with division (B) of 222
this section and division (B), (C), or (D) of section 4737.041 of 223
the Revised Code. 224

(5) No scrap metal dealer shall purchase or receive more than 225
one catalytic converter per day from the same person except from a 226
motor vehicle dealer as defined in section 4517.01 of the Revised 227
Code. 228

(6) No scrap metal dealer shall treat a transaction as exempt 229
from section 4737.04 or 4737.041 of the Revised Code unless the 230
seller provides evidence of satisfying division (D)(3) of section 231
4737.043 of the Revised Code. 232

(F) Every scrap metal dealer and bulk merchandise container 233
dealer shall post a notice in a conspicuous place on the dealer's 234
premises notifying persons who may wish to transact business with 235
the dealer of the penalties applicable to any person who does any 236
of the following: 237

(1) Provides a false personal identification card to the 238
dealer; 239

(2) With purpose to defraud, provides any other false 240
information to the dealer in connection with the dealer's duty to 241
maintain the records required under division (B) of this section 242
or under section 4737.012 of the Revised Code; 243

(3) Violates section 2913.02 of the Revised Code. 244

(G)(1) Except as otherwise provided in the second paragraph 245
of division (E) of this section, a chief of police, marshal, or 246
other chief law enforcement officer, a sheriff, constable, or 247
chief of police of a township police department or police district 248
police force, and a deputy, officer, or employee of the law 249
enforcement agency served by the marshal or the municipal or 250
township chief, the office of the sheriff, or the constable is 251
immune from liability in a civil action, including an action for 252
defamation, libel, or slander, to recover damages for injury, 253
death, or loss to persons or property or reputation allegedly 254
caused by an act or omission in connection with compiling and 255
providing the list required by division (E) of this section. 256

(2) The immunity described in division (G)(1) of this section 257
does not apply to a person described in that division if, in 258
relation to the act or omission in question, any of the following 259

applies: 260

(a) The act or omission was manifestly outside the scope of 261
the person's employment or official responsibilities. 262

(b) The act or omission was with malicious purpose, in bad 263
faith, or in a wanton or reckless manner. 264

(c) Liability for the act or omission is expressly imposed by 265
a section of the Revised Code. 266

(H) Every scrap metal dealer shall take a photograph, by any 267
photographic means available, of each person who sells or 268
otherwise gives the dealer an article for which the dealer must 269
make record under division (B) of this section. 270

The dealer shall take the required photograph at the time the 271
dealer purchases or receives the article and shall keep the 272
photograph as part of the record in accordance with division (B) 273
of this section. 274

Sec. 4737.99. (A) Except as specified in divisions (B) and 275
(C) of this section, whoever violates sections 4737.01 to 4737.11 276
of the Revised Code, shall be fined not less than twenty-five nor 277
more than one thousand dollars and the costs of prosecution. 278

(B) Whoever violates division (F)(2) of section 4737.10 of 279
the Revised Code is guilty of a misdemeanor of the fourth degree. 280

(C) Whoever fails to comply with or violates section 4737.01, 281
4737.012, or 4737.041 or division (B), (C), (E), ~~or (F)~~, or (H) of 282
section 4737.04 of the Revised Code is guilty of a misdemeanor of 283
the third degree. If the offender one time previously has violated 284
or failed to comply with section 4737.01, 4737.012, or 4737.041 or 285
division (B), (C), (D), (E), ~~or (F)~~, or (H) of section 4737.04 of 286
the Revised Code, the violation or failure is a misdemeanor of the 287
second degree. If the offender two or more times previously has 288
violated or failed to comply with section 4737.01, 4737.012, or 289

4737.041 or division (B), (C), (D), (E), ~~or (F)~~, or (H) of section 290
4737.04 of the Revised Code, the violation or failure is a 291
misdemeanor of the first degree. 292

Section 2. That existing sections 4737.04 and 4737.99 of the 293
Revised Code are hereby repealed. 294