ASSEMBLY, No. 4070

STATE OF NEW JERSEY

219th LEGISLATURE

INTRODUCED MAY 7, 2020

Sponsored by:
Assemblyman RONALD S. DANCER
District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Makes various revisions to scrap metal law.

CURRENT VERSION OF TEXT

As introduced.

AN ACT concerning scrap metal businesses and amending and supplementing P.L.2009, c.8, and repealing section 2 of P.L.2009, c.8.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.2009, c.8 (C.45:28-1) is amended to read as follows:

1. As used in this act:

"Nonferrous scrap metal" means all scrap metal except for ferrous scrap metal.

"Scrap metal" means used, discarded, or previously owned items that consist predominantly of ferrous metals, aluminum, brass, copper, lead, chromium, tin, nickel, or alloys.

"Scrap metal business" means a commercial establishment which, as one of its principal business purposes, purchases scrap metal for purposes of resale or processing.

(cf: P.L.2009, c.8, s.1)

2. Section 4 of P.L.2009, c.8 (C.45:28-3) is amended to read as follows:

4. The operator of a scrap metal business shall immediately report to an appropriate law enforcement agency any delivery, inadvertent purchase, or sale of scrap metal under circumstances that would cause a reasonable person to believe the scrap metal was probably stolen or otherwise inappropriately obtained, as soon as practicable.

(cf: P.L.2009, c.8, s.4)

3. Section 5 of P.L.2009, c.8 (C.45:28-4) is amended to read as follows:

5. Notwithstanding any provision of the law to the contrary, any person who reports information to a law enforcement official or agency concerning the suspect delivery, inadvertent purchase, or sale of scrap metal shall be immune from any civil liability on account of the report, unless such person has acted in bad faith or with malicious purpose.

(cf: P.L.2009, c.8, s.5)

4. Section 6 of P.L.2009, c.8 (C.45:28-5) is amended to read as follows:

6. Violations of **[**section 2 or 4 of**]** P.L.2009, c.8 **[**(C.45:28-2 or C.45:28-3)**]** (C.45:28-1 et seq.) are **[**disorderly persons offenses for a first or second offense, and crimes of the fourth degree for

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

third and subsequent offenses**]** punishable by a penalty of not less than $1,000 and not more than $5,000 to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Attorney General or the prosecuting attorney of the municipality or county in which the offense was committed may prosecute the case.
(cf: P.L.2009, c.8, s.6)

5. (New section) The operator of a scrap metal business shall:

a. Issue a receipt to the person delivering the nonferrous scrap metal purchased by the scrap metal business. The receipt shall be signed by the person delivering the nonferrous scrap metal, and the scrap metal business shall be able to provide documentation regarding the employee who completed the transaction.

b. Maintain a paper or electronic record of all purchase transactions in which the scrap metal business purchases nonferrous scrap metal. Required records include:

(1) The name and address of the scrap metal business;

(2) The name, initials, or other identification of the individual entering the information;

(3) The date of the transaction;

(4) The weight of the nonferrous scrap metal purchased;

(5) The description made in accordance with the custom of the trade of the type of nonferrous scrap metal purchased;

(6) The amount of consideration given for the nonferrous scrap metal;

(7) The name and address of the seller of the nonferrous scrap metal;

(8) A photocopy or electronic scan of the government-issued photo identification card of the person delivering the nonferrous scrap metal to the scrap metal business. If the scrap metal business has a copy of a valid photo identification of the person delivering the nonferrous scrap metal on file, the scrap metal business shall examine the photo identification, but may reference the photo identification that is on file without making a separate photocopy or electronic scan for each subsequent transaction. If the person delivering the nonferrous scrap metal does not have a government-issued photo identification card, the scrap metal business shall not complete the transaction;

(9) A copy of the receipt under subsection a. of this section if all the information required under that subsection is clear and legible, or, if that the copy of the receipt is not clear and legible, the original receipt; and

(10) Any other information as the Attorney General may require.

c. Maintain the information required under subsection b. of this section for not less than 180 days from the date of the purchase of the nonferrous metal. Records shall be securely maintained at all

times and shall be destroyed in a manner that protects the identity of the owner, seller, and purchaser of the nonferrous metal.

6. (New section) Except as provided in section 7 of this act, no scrap metal business shall purchase:

a. Any nonferrous metal marked with identification of a telephone, cable, electric, water, other public utility, or other government entity;

b. Any utility access or water meter cover;

c. Any street light pole or fixture;

d. Any road or bridge guard rail;

e. Any highway or street sign, traffic directional or control sign, or light signal;

f. Any metal beer keg that is clearly marked as being the property of the beer manufacturer;

g. Any historical marker, grave marker, or burial vase;

h. Equipment or tools commonly used by contractors; or

i. Any central air conditioner evaporator coils or condensers or catalytic converters that are not attached to a vehicle.

7. (New section) The provisions of P.L. , c. (C.) (pending before the Legislature as this bill) shall not apply to purchases of nonferrous metals or, to purchases of those other scrap metals identified and prohibited from purchase by section 6 of P.L. , c. (C.) (pending before the Legislature as this bill), where the selling entity generates and manages those metals in the ordinary course of its business. These entities include manufacturing, industrial, government, contractor, individual, or other commercial vendors or scrap metal businesses that generate or purchase or process these scrap metals in the ordinary course of its business.

8. (New section) A scrap metal business shall clearly and prominently display at the point of purchase the company name and address and shall weigh scrap metals with a readout in plain view of the person selling the scrap metals on State-certified scales with the certificate of inspection clearly and prominently displayed.

9. Section 2 of P.L.2009, c.8 (C.45:28-2) is repealed.

10. This act shall take effect on the first day of the seventh month following enactment, but the Attorney General may take such anticipatory acts in advance of that date as may be necessary for the timely implementation of this act.

STATEMENT

This bill makes various revisions to the scrap metal law, P.L.2009, c.8 (C.45:28-1 et seq.) to prohibit the purchase of specific metal items, modify what records scrap metal businesses are required to keep, and to apply the record keeping requirements of the law to nonferrous metals only.

Specifically, the bill requires scrap metal businesses to issue a receipt to the person delivering the nonferrous metals purchased by the scrap metal business. The scrap metal business must also maintain, for not less than 180 days, a paper or electronic record of all purchase transactions in which the scrap metal business purchases nonferrous metal. Required records include:

(1) The name and address of the scrap metal business;

(2) The name, initials, or other identification of the individual entering the information;

(3) The date of the transaction;

(4) The weight of the nonferrous metal purchased;

(5) The description made in accord with the custom of the trade of the type of nonferrous metal purchased;

(6) The amount of consideration given for the nonferrous metal;

(7) The name and address of the selling entity of the nonferrous metal;

(8) A photocopy or electronic scan of the government-issued photo identification card of the person delivering the nonferrous metal to the scrap metal business;

(9) A copy of the receipt; and

(10) Any other information as the Attorney General may require.

The bill prohibits scrap metal businesses from purchasing certain scrap metal items, except from designated sellers, such as manufacturers or public entities. Prohibited items include:

(1) Any nonferrous metal marked with identification of a telephone, cable, electric, water, other public utility, or other government entity;

(2) Any utility access or water meter cover;

(3) Any street light pole or fixture;

(4) Any road or bridge guard rail;

(5) Any highway or street sign, traffic directional or control sign, or light signal;

(6) Any metal beer keg that is clearly marked as being the property of the beer manufacturer;

(7) Any historical marker, grave marker, or burial vase;

(8) Equipment or tools commonly used by contractors; or

(9) Any central air conditioner evaporator coils or condensers or catalytic converters that are not attached to a vehicle.

The bill requires scrap metal businesses to clearly and prominently display at the point of purchase the company name and address and to weigh scrap metals with a readout in plain view of

the person selling the scrap metals on State-certified scales with the certificate of inspection clearly and prominently displayed.

The bill requires scrap metal businesses to report to an appropriate law enforcement agency inadvertent purchases of scrap metal under circumstances that would cause a reasonable person to believe the scrap metal was probably stolen or otherwise inappropriately obtained, and provides immunity from civil liability for inadvertent purchases which are reported.

Additionally, the bill provides that violations of the scrap metal law are punishable by a penalty of not less than $1,000 and not more than $5,000 to be collected in a civil action by a summary proceeding under the "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.). The Attorney General or the prosecuting attorney of the municipality or county in which the offense was committed may prosecute the case.