HOUSE DOCKET, NO. 1823 FILED ON: 1/17/2013

HOUSE . . . . . No. 248

The Commonwealth of Massachusetts

PRESENTED BY:

Ronald Mariano

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act regulating secondary metals dealings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ronald Mariano	*3rd Norfolk*
Jason M. Lewis	*31st Middlesex*
Lori A. Ehrlich	*8th Essex*
Michael O. Moore	*Second Worcester*
Angelo L. D'Emilia	*8th Plymouth*
Steven S. Howitt	*4th Bristol*
Michael J. Rodrigues	*First Bristol and Plymouth*
Michael R. Knapik	*Second Hampden and Hampshire*
James J. O'Day	*14th Worcester*
Sal N. DiDomenico	*Middlesex and Suffolk*
Paul McMurtry	*11th Norfolk*
John J. Mahoney	*13th Worcester*
Anne M. Gobi	*5th Worcester*
John P. Fresolo	*16th Worcester*
Aaron Vega	*5th Hampden*
F. Jay Barrows	*1st Bristol*
Robert F. Fennell	*10th Essex*
Steven M. Walsh	*11th Essex*

Thomas M. McGee	*Third Essex*
Paul W. Mark	*2nd Berkshire*
Patricia A. Haddad	*5th Bristol*

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HOUSE . . . . . No. 248

By Mr. Mariano of Quincy, a petition (accompanied by bill, House, No. 248) of Ronald Mariano and others relative to secondary metals dealings. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *3723* OF 2011-2012.]

The Commonwealth of Massachusetts

An Act regulating secondary metals dealings.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 140B, the following chapter:-

CHAPTER 140B½ SECONDARY METAL DEALING

For the purposes of this chapter, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Engaging in a business", a regular occupation or constant employment; not an isolated or occasional transaction.

"Metal" or "metal article", any substance or article consisting of metal or a metal alloy but excluding aluminum beverage containers if such containers have a refund value pursuant to section 322 of chapter 94.

"Registration", process by which the scrap metal dealer will file a form at the local municipal police station which will be addressed to the local police chief which will include basic information regarding the scrap metal facility. Such form shall list the name of the registrant, nature of the business and address and contact information.

15 “Secondary metals dealer”, any business, individual, corporation, association or
16 organization engaged in secondary metals dealing for profit.

17 “Secondary metals dealing”, engaging in a business , from a fixed location or otherwise,
18 of gathering or obtaining metal or metal articles that are no longer in use and the economic value
19 thereof is based upon the metal or article’s potential for re-use or upon the worth of the raw
20 material of which such article is made.

21 SECTION 2. (a) In accordance with Section 4 of Chapter 140 of the General Laws, no
22 person shall carry on the business of being a scrap metal processor, collector of, dealer in or
23 keeper of a shop for the purchase, sale, and barter of junk, scrap metal commodities, old metals
24 or second hand articles without filing a registration form with the municipality’s chief of police
25 or designee.

26 (b) All registrations under this section shall be made on a form or forms to be prescribed
27 by the licensing authority, as prescribed in Section 1 of this Act and shall set forth the name of
28 the registrant, the nature of the business and the building or place in the city or town in which it
29 is to be carried on.

30 (c) The fee for such registration shall be determined by the chief of police or his
31 designee. Societies, associations or corporations organized solely for religious or charitable
32 purposes shall not be required to pay a fee for such registration. No registrations shall be
33 transferred without prior consent of the chief of police and all registrations shall be posted on the
34 registrant’s premises in a conspicuous place and manner.

35 (d) Every registration issued under this section shall expire on May first following the
36 date of issue.

37 SECTION 3. Chapter 140 of the General Laws is hereby amended by inserting after
38 section 54A the following new section:- Section 54B. A dealer registered under section 54 shall
39 comply with the following procedures when purchasing any metal products.

40 (1) The Dealer shall require the individual selling the metals by requiring him to produce
41 a Massachusetts or state-issued photo identification, and maintaining a copy of the same in the
42 record of transaction.

43 (2) The Dealer shall ascertain the identity of any business, organization, society,
44 corporation etc., selling the metals by requiring him to provide a Massachusetts or state-issued
45 identification number, and the dealer shall maintain a copy of such identification in the record of
46 transaction.

47 (3) The Dealer shall keep a daily transaction log, in the English language and such log
48 information shall include:

(i) Name, date of birth and residence of the person with whom such a transaction was made, or company or organization name and principal address with whom such a transaction was made;

(ii) The date and time when such a transaction occurred;

(iii) The price paid for the article;

(iv) A description of the article, including type, weight and quantity;

(v) The license plate number and state of issue of the vehicle being used by the person offering the article to transport the article to the registrant's place of business and

(iv) A written statement from the person offering the article stating that he or she is in lawful possession of the article being offered.

(4) A secondary metals dealer may not accept from any individual, who is not company affiliated or an authorized contractor of the manufacturer, municipality, government or utility, the following items:

(i) guardrails:

(ii) manhole covers,

(iii) cables used only in high voltage transmission lines;

(iv) historical markers;

(v) cemetery plaques;

(vi) full sized new materials, such as those used in construction;

(vii) equipment tools used by contractors;

(viii) bleachers from an athletic field;

(ix) traffic signs;

(x) beer kegs;

(xi) railroad scrap metal and

(xii) materials that have been reported stolen through the Institute of Scrap Recycling Industries, Inc. (ISRI) alert system. A list of the materials named above which are deemed unacceptable shall be prominently posted on a large sign at every registered facility in the Commonwealth.

77 (5) The record file shall be retained by the Dealer for a period of one 1year from the date
78 of the transaction. Accompanying documentation may be destroyed following the one year
79 period. If documentation is stored electronically, said documents must be stored or backed-up by
80 any current electronic means and may be deleted at the completion of the one year period.

81 (6) During the one year period, the log shall be open for inspection by the state and local
82 police upon reasonable request.

83 SECTION 4. Notwithstanding any general or special law to the contrary, the
84 commissioner of banks shall establish a 2 year pilot program to implement a Massachusetts
85 abandoned property registry, hereinafter referred to as MAP. Such registry shall require all
86 property owners, including lenders, trustees, and service companies, to properly register and
87 maintain vacant or foreclosing properties located in the commonwealth. Law enforcement
88 entities including, but not limited to, the attorney general and municipalities shall have access to
89 the MAP. The commissioner of banks shall have enforcement authority of the pilot program
90 including, but not limited to, the authority impose civil assessments. Said commissioner shall
91 adopt rules and regulations governing the implementation and administration of the MAP pilot
92 program.

93 The MAP pilot program shall be implemented 120 days after the effective date of this act,
94 and shall expire 2 years thereafter.

95 SECTION 5. (a) Following notification, either verbally or in writing, from a law
96 enforcement officer that specific scrap materials have been reported as stolen, a scrap processor
97 or recycling facility operator that is in possession of the scrap material in question shall hold that
98 scrap material intact and safe from alteration, damage or commingling and shall place an
99 identifying tag or other suitable identification upon the scrap material.

100 (b) A law enforcement officer making a verbal request shall provide the scrap processor
101 or recycling facility operator, upon request, with the officer's name, badge number and
102 department contact telephone number so that the scrap processor or recycling facility operator
103 may call back to confirm the identity of the law enforcement officer.

104 (c) Within 48 hours of notification by the law enforcement officer or 48 hours of the
105 receipt of the material, whichever is later, the scrap processor or recycling facility operator shall
106 notify the law enforcement officer that scrap material matching the law enforcement officer's
107 description is on the premises.

108 (d) The scrap processor or recycling facility shall hold the scrap material for a period of
109 time as directed by the applicable law enforcement agency, up to a maximum of 48 hours
110 following notification, unless extended pursuant to sub-section (f) of Section 4 of this section.

111 (e) A law enforcement officer shall not place a hold on any scrap material unless that law
112 enforcement officer reasonably suspects that the scrap material is lost or stolen. The request to
113 hold scrap material shall be as specific as possible by using descriptive language, including, but
114 not limited to, the type and style of the material, length or weight or any other such description to
115 identify the material to be held. Any hold that is placed on scrap material shall not exceed 48
116 hours, and the scrap material must be returned to the owner or released when the hold has been
117 released or has expired.

118 (f) A holding period may be extended beyond 48 hours only upon the order of a clerk-
119 magistrate after the clerk-magistrate has determined that probable cause exists that the scrap
120 material is lost or stolen.

121 (g) A scrap processor or recycling facility operator that receives material that does not
122 meet the description materials being sought by a law enforcement officer may dispose of that
123 material at its discretion.