HOUSE DOCKET, NO. 609 FILED ON: 1/13/2015

HOUSE . . . . . No. 226

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 adoption of the accompanying bill:

An Act regulating secondary metals dealings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Ronald Mariano	*3rd Norfolk*
Gailanne M. Cariddi	*1st Berkshire*
Angelo L. D'Emilia	*8th Plymouth*
Shawn Dooley	*9th Norfolk*
Lori A. Ehrlich	*8th Essex*
James J. O'Day	*14th Worcester*
Paul W. Mark	*2nd Berkshire*
Stephen L. DiNatale	*3rd Worcester*
Robert F. Fennell	*10th Essex*
Paul Tucker	*7th Essex*
Steven S. Howitt	*4th Bristol*
Joseph W. McGonagle, Jr.	*28th Middlesex*
Thomas M. McGee	*Third Essex*
Frank A. Moran	*17th Essex*
Daniel M. Donahue	*16th Worcester*
Harriette L. Chandler	*First Worcester*
Diana DiZoglio	*14th Essex*
Anne M. Gobi	*Worcester, Hampden, Hampshire and*

	Middlesex
Michael O. Moore	*Second Worcester*
Brendan P. Crighton	*11th Essex*
Michael J. Rodrigues	*First Bristol and Plymouth*
Sal N. DiDomenico	*Middlesex and Suffolk*
Linda Dean Campbell	*15th Essex*
John J. Mahoney	*13th Worcester*
Joan B. Lovely	*Second Essex*

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HOUSE . . . . . No. 226

By Mr. Mariano of Quincy, a petition (accompanied by bill, House, No. 226) of Ronald Mariano and others relative to secondary metals dealings. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. *4274* OF 2013-2014.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

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

Section 1. 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.

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

11 “Registration”, process by which the scrap metal dealer will file a form at the local
12 municipal police station which will be addressed to the local police chief which will include
13 basic information regarding the scrap metal facility. Such form shall list the name of the
14 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) No person shall carry on the business of being a scrap metal processor,
22 collector of, dealer in or keeper of a shop for the purchase, sale, and barter of junk, scrap metal
23 commodities, old metals or second hand articles without filing a registration form with the
24 municipality’s chief of police or designee.

25 All registrations under this section shall be made on a form or forms to be prescribed by
26 the municipality’s chief of police or designee and shall set forth the name of the registrant, the
27 nature of the business and the building or place in the city or town in which it is to be carried on.

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

33 Every registration issued under this section shall expire on May first following the date of
34 issue.

35 Section 3. A secondary metals dealer registered in accordance with this section shall
36 comply with the following procedures when purchasing any metal products:

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

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

44 (c) The Dealer shall keep a daily transaction log, in the English language and such log
45 information shall include:

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

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

(3) The price paid for the article;

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

(5) 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

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

(d) 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:

(1) guardrails:

(2) manhole covers,

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

(4) historical markers;

(5) cemetery plaques;

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

(7) equipment tools used by contractors;

(8) bleachers from an athletic field;

67 (9) traffic signs;

68 (10) beer kegs;

69 (11) railroad scrap metal and

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

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

78 (f) During the 1 year period, the log shall be open for inspection by the state and local
79 police upon reasonable request.

80 Section 4. (a) Following notification, either verbally or in writing, from a law
81 enforcement officer that specific scrap materials have been reported as stolen, a scrap processor
82 or recycling facility operator that is in possession of the scrap material in question shall hold that
83 scrap material intact and safe from alteration, damage or commingling and shall place an
84 identifying tag or other suitable identification upon the scrap material.

85 (b) A law enforcement officer making a verbal request shall provide the scrap processor
86 or recycling facility operator, upon request, with the officer's name, badge number and

87 department contact telephone number so that the scrap processor or recycling facility operator
88 may call back to confirm the identity of the law enforcement officer.

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

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

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

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

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

109 Section 5. (a) For the purposes of this subsection a "prohibited metal" is any metal
110 article as provided in subsections (d)(1) to (d)(12), inclusive, of section 3 of this chapter. Any
111 secondary metals dealer who knowingly buys or receives a prohibited metal may be punished by
112 a fine of not more than $500 for the first offense. Upon a second offense, such dealer may be
113 punished by a fine of not more than $1,000. Upon a third or subsequent offense, such dealer
114 may be punished by a fine of not more than $2,000.

115 (b) It shall be illegal to engage in secondary metals dealing without registering in
116 accordance with section 2 of this chapter. Any person who illegally engages in secondary metals
117 dealing without registering may be assessed a civil penalty of not more than $3,000 by the city or
118 town in which the violation occurred. This penalty shall be imposed pursuant to any by-law or
119 ordinance adopted by a town or city under Chapter 40.

120 (c) For the purposes of this subsection a "prohibited metal" is any metal article as
121 provided in subsections (d)(1) to (d)(11), inclusive, of section 3 of this chapter. Any person who
122 violates section 30 of Chapter 266 and the property for this violation is a prohibited metal may
123 be punished by a fine of not more than $250 for the first offense. Upon a second offense, such
124 person may be punished by a fine of not more than $500. Upon a third or subsequent offense,
125 such person may be punished by a fine of not more than $1,000.

126 (d) Any person who fails to comply with the procedures and record-keeping requirements
127 as outlined in subsections (a) to (c) and (e) to (f), inclusive, of section 3 of this chapter may be
128 punished by a fine of not more than $150 for the first offense. Upon a second offense, such
129 person may be punished by a fine of not more than $300. Upon a third or subsequent offense,
130 such person may be punished by a fine of not more than $500.

131 (e) Any penalty imposed for a violation of this section shall be imposed in addition to any
132 other penalty imposed under laws of the commonwealth and shall be payable to the city or town
133 where the violation occurred.

134 Section 6. The provisions set forth in this act shall not apply to vehicles received by an
135 entity subject to the regulation and reporting requirements of the federal National Motor Vehicle
136 Title Information System, as set forth in 49 U.S.C. § 30501.

137 SECTION 2. Notwithstanding any general or special law to the contrary, the
138 commissioner of banks shall establish a 2 year pilot program to implement a Massachusetts
139 abandoned property registry, hereinafter referred to as MAP. Such registry shall require all
140 property owners, including lenders, trustees, and service companies, to properly register and
141 maintain vacant or foreclosing properties located in the commonwealth. Law enforcement
142 entities including, but not limited to, the attorney general and municipalities shall have access to
143 the MAP. The commissioner of banks shall have enforcement authority of the pilot program
144 including, but not limited to, the authority impose civil assessments. Said commissioner shall
145 adopt rules and regulations governing the implementation and administration of the MAP pilot
146 program.

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

149 SECTION 3. Section 54 of chapter 140 of the General Laws, as appearing in the 2012
150 Official Edition, is hereby amended by striking, in line 5, the words “old metals”.

151 SECTION 4. Section 202 of said chapter 140 is hereby amended by striking out, in line
152 2, the words “, old metals and .”

153 SECTION 5. This act shall take effect upon its passage.