

**HOUSE . . . . . No. 3723**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Twelve**  
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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:*

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

3           CHAPTER 140B½ SECONDARY METAL DEALING

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

6           “Engaging in a business”, a regular occupation or constant employment; not an isolated  
7 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) 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  
34 the 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 (e) The chief of police or designee may grant an exemption to any one or more of the  
38 requirements in sub-section (c) for a particular transaction. A request for an exemption must be  
39 made by the registrant in writing to the chief of police or designee stating the reason for the  
40 request. The chief of police or designee shall approve or disapprove the request and send written  
41 notification of the decision to the registrant . The chief of police or designee , in his/her  
42 discretion may impose any terms, conditions, restrictions on any exemption granted under this  
43 section.

44 (f) Any person carrying on the business of being a collector of, dealer in or keeper of a  
45 shop for the purchase, sale, barter of junk, old metals or second hand articles without registration  
46 or in violation of this section shall be assessed a fine in the amount established by the Secretary  
47 of Public Safety.

48 SECTION 3. Chapter 140 of the General Laws is hereby amended by inserting after  
49 section 54A the following new section:- Section 54B. A dealer registered under section 54 shall  
50 comply with the following procedures when purchasing any metal product. 1. The Dealer shall  
51 keep a daily transaction log, in the English language. The log information will include: a. Name,  
52 date of birth and residence of the person with whom such a transaction was made, or company or  
53 organization name and principal address with whom such a transaction was made; b. The date  
54 and time when such a transaction occurred; c. The price paid for the article; d. A description of  
55 the article, including type, weight and quantity; e. The license plate number and state of issue of  
56 the vehicle being used by the person offering the article to transport the article to the registrant's

57 place of business. f. A written statement from the person offering the article stating that he or she  
58 is in lawful possession of the article being offered. 2. A secondary metals dealer may not accept  
59 or purchase new production scrap or new materials that are part of a manufacturing process, from  
60 any individual, who is not company affiliated or an authorized contractor of the manufacturer,  
61 municipality, government or utility. Other items that cannot be accepted by a secondary metals  
62 dealer are: 1. materials used only by governments, utilities, or for very specific purposes; 2.  
63 guardrails, 3. manhole covers, 4. cables used only in high voltage transmission lines, 5. historical  
64 markers, 6. cemetery plaques, 7. full sized new materials, such as those used in construction and  
65 8. equipment tools used by contractors 9. bleachers from an athletic field 10. traffic signs, 11.  
66 beer kegs, and 12. materials that have been reported stolen through the ISRI alert system. A list  
67 of the materials named above which are deemed unacceptable shall be prominently posted on a  
68 large sign at every registered facility in the Commonwealth. 3. The record file shall be retained  
69 by the Dealer for a period of one (1) year from the date of the transaction. Accompanying  
70 documentation may be destroyed following the one year period. If documentation is stored  
71 electronically said documents must be stored or backed-up by any current electronic means and  
72 may be deleted at the completion of the one year period. 4. The Dealer shall ascertain the identity  
73 of an individual selling the metal s by requiring him to produce a Massachusetts or state-issued  
74 photo identification, and maintaining a copy of the same in the record of transaction. 5. The  
75 Dealer shall ascertain the identity of any business, organization, society, corporation etc., selling  
76 the metals by requiring him to provide a Massachusetts or state-issued identification number, and  
77 maintaining a copy of the same in the record of transaction. 6. During the one year period, the  
78 log shall be open for inspection by the state and local police upon reasonable request. 7. Failure  
79 to comply with the above procedures shall be cause for the revocation of the dealer's registration.

80 SECTION 4. (a) Following notification, either verbally or in writing, from a law  
81 enforcement officer that certain scrap materials have been reported as stolen, a scrap processor or  
82 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 24 hours of notification by the law enforcement officer or 24 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 Section 4 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  
104 magisterial district judge after the magisterial district judge has determined that probable cause  
105 exists that the scrap 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.