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2005 APR 19 P 4:16

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

Regular Session, 2005

ENROLLED

Committee Substitute for

SENATE BILL NO. 238

(By Senator *Bailey*)

PASSED *April 6, 2005*

In Effect *ninety days from* Passage

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COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 238

(SENATOR BAILEY, *original sponsor*)

[Passed April 6, 2005; in effect ninety days from passage.]

AN ACT to amend and reenact §61-3-49 of the Code of West Virginia, 1931, as amended, relating to including steel railroad track and track material under statutory provisions involving the purchase of scrap metals by various commercial entities; and modifying the criminal provision of the law to require knowing and fraudulent intent.

Be it enacted by the Legislature of West Virginia:

That §61-3-49 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. CRIMES AGAINST PROPERTY.

§61-3-49. Purchase of nonferrous metals or steel railroad track and track materials by scrap metal purchasing businesses, salvage yards, or recycling facilities; certificates, records and reports of such purchases; criminal penalties.

- 1 (a) Any person in the business of purchasing scrap metal,
- 2 any salvage yard owner or operator, or any public or
- 3 commercial recycling facility owner or operator, or any

4 agent or employee thereof, who purchases any form of
5 copper, aluminum, brass, lead or other nonferrous metal of
6 any kind, or steel railroad track and track material, shall
7 make a record of such purchase. Such record shall accu-
8 rately list the name, permanent and business addresses and
9 telephone number of the seller, the motor vehicle license
10 number of any vehicle used to transport the nonferrous
11 metal or steel to the place of purchase, the time and date
12 of the transaction and a complete description of the kind
13 and character of the nonferrous metal or steel railroad
14 track and track material purchased. The person purchas-
15 ing the nonferrous metal or steel railroad track and track
16 material shall also require from the seller, and retain in
17 the record, a signed certificate of ownership of the nonfer-
18 rous metal or steel railroad track and track material being
19 sold or authorization from the owner to sell. It shall be
20 unlawful for any of the aforementioned persons to pur-
21 chase any nonferrous metal or steel railroad track and
22 track material without obtaining the certificate of owner-
23 ship, or authorization from the owner to sell, on the part
24 of the seller. Such record and certificate shall be available
25 for inspection by any law-enforcement officer and must be
26 maintained by the purchaser for not less than one year
27 after the date of the purchase.

28 (b) Should the transaction involve one hundred or more
29 pounds of copper, steel railroad track, track material or
30 aluminum in any form, the purchaser of the copper, steel
31 railroad track, track material or aluminum, or his or her
32 agent, shall report in writing to the chief of police of the
33 municipality or the sheriff of the county wherein he or she
34 is transacting business and to the local detachment of the
35 Division of Public Safety all the information obtained.
36 The report must be filed within seventy-two hours after
37 the transaction. The provisions of this subsection do not
38 apply to purchases made at wholesale under contract or as
39 a result of a bidding process.

40 (c) Nothing in this section applies to scrap purchases by
41 manufacturing facilities that melt, or otherwise alter the
42 form of scrap metal and transform it into a new product or
43 to the purchase or transportation of food and beverage
44 containers or other nonindustrial materials having a
45 marginal value per individual unit.

46 (d) Any person who knowingly or with fraudulent intent
47 violates any provision of this section, including the
48 knowing failure to make a report or the knowing falsifica-
49 tion of any required information, is guilty of a misde-
50 meanor and, upon conviction, shall be fined not less than
51 five hundred nor more than two thousand dollars.

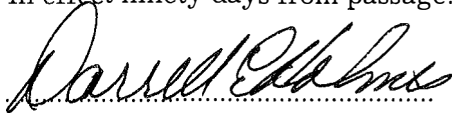
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.


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Chairman Senate Committee

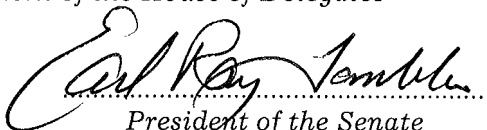

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Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate

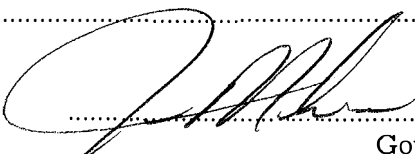

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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within..... this the.....

Day of, 2005.


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Governor

PRESENTED TO THE
GOVERNOR

Date 4/13/05

Time 10:50am