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 after 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, any salvage yard owner or operator, or any public or commercial recycling facility owner or operator, or any
agent or employee thereof, who purchases any form of copper, aluminum, brass, lead or other nonferrous metal of any kind, or steel railroad track and track material, shall make a record of such purchase. Such record shall accurately list the name, permanent and business addresses and telephone number of the seller, the motor vehicle license number of any vehicle used to transport the nonferrous metal or steel to the place of purchase, the time and date of the transaction and a complete description of the kind and character of the nonferrous metal or steel railroad track and track material purchased. The person purchasing the nonferrous metal or steel railroad track and track material shall also require from the seller, and retain in the record, a signed certificate of ownership of the nonferrous metal or steel railroad track and track material being sold or authorization from the owner to sell. It shall be unlawful for any of the aforementioned persons to purchase any nonferrous metal or steel railroad track and track material without obtaining the certificate of ownership, or authorization from the owner to sell, on the part of the seller. Such record and certificate shall be available for inspection by any law-enforcement officer and must be maintained by the purchaser for not less than one year after the date of the purchase.

(b) Should the transaction involve one hundred or more pounds of copper, steel railroad track, track material or aluminum in any form, the purchaser of the copper, steel railroad track, track material or aluminum, or his or her agent, shall report in writing to the chief of police of the municipality or the sheriff of the county wherein he or she is transacting business and to the local detachment of the Division of Public Safety all the information obtained. The report must be filed within seventy-two hours after the transaction. The provisions of this subsection do not apply to purchases made at wholesale under contract or as a result of a bidding process.
(c) Nothing in this section applies to scrap purchases by manufacturing facilities that melt, or otherwise alter the form of scrap metal and transform it into a new product or to the purchase or transportation of food and beverage containers or other nonindustrial materials having a marginal value per individual unit.

(d) Any person who knowingly or with fraudulent intent violates any provision of this section, including the knowing failure to make a report or the knowing falsification of any required information, is guilty of a misdemeanor and, upon conviction, shall be fined not less than five hundred nor more than two thousand dollars.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

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

Day of ............................................. ... ............... , 2005.

Governor