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FILED

2007 MAR 21 PM 12: 33

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2007



ENROLLED

**COMMITTEE SUBSTITUTE
FOR**

House Bill No. 2748

(By Delegates DeLong, Webster, Craig, Amores and Mahan)



Passed March 7, 2007

In Effect Ninety Days from Passage

FILED

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COMMITTEE SUBSTITUTE

FOR

H. B. 2748

(BY DELEGATES DELONG, WEBSTER, CRAIG, AMORES AND
MAHAN)

[Passed March 7, 2007; 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 the receipt and transfer of scrap metal; imposing additional reporting and record retention requirements for certain purchasers of copper, aluminum, brass, lead or other nonferrous metal or steel railroad track and track material; clarifying procedure by which law enforcement officers may take custody of materials made of such metals; providing for the inspection of records and materials by investigators employed by public utilities and railroads; providing for the return of such metals under certain conditions; and increasing criminal penalties for violations.

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, all 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 agent
4 or employee thereof, who purchases any form of copper,
5 aluminum, brass, lead or other nonferrous metal of any kind,
6 or steel railroad track and track material, shall comply with
7 the provisions of this section.

8 (b) The purchaser of such metals shall make and maintain
9 a record of each transaction which shall contain the
10 following information:

11 (1) Full name, permanent home and business addresses,
12 and telephone number, if available, of the seller;

13 (2) A description and the motor vehicle license number
14 of any vehicle used to transport any form of copper,
15 aluminum, brass, lead or other nonferrous metal or steel to
16 the place of purchase;

17 (3) The time and date of the transaction;

18 (4) A complete description of the kind, character and
19 weight of the copper, aluminum, brass, lead or other
20 nonferrous metal or steel railroad track and track material
21 purchased; and

22 (5) A statement whether the copper, aluminum, brass,
23 lead or other nonferrous metal or steel railroad track and
24 track material was purchased, taken as collateral for a loan,
25 or taken on consignment.

26 (c) The person purchasing the copper, aluminum, brass,
27 lead or other nonferrous metal or steel railroad track and
28 track material shall also require and retain from the seller the
29 following information:

30 (1) A signed certificate of ownership of the copper,
31 aluminum, brass, lead or other nonferrous metal or steel
32 railroad track and track material being sold or signed
33 authorization from the owner to sell; and

34 (2) A photocopy of a valid driver's license or
35 identification card issued by the West Virginia Division of
36 Motor Vehicles of the person delivering the copper,
37 aluminum, brass, lead or other nonferrous metal or steel
38 railroad track and track material, or in lieu thereof, any other
39 identification card containing a photograph of the seller as
40 issued by any state or federal agency of the United States:
41 *Provided*, That, if the buyer has a copy of the seller's photo
42 identification on file, the buyer may reference the
43 identification that is on file, without making a separate
44 photocopy for each transaction.

45 (d) A law-enforcement officer may at any time during an
46 investigation require the purchaser of any copper, aluminum,
47 brass, lead or other nonferrous metal or steel railroad track
48 and track material to present such items for inspection, upon
49 demand. A law-enforcement officer may obtain a warrant to
50 take into custody a representative sample of any copper,
51 aluminum, brass, lead or other nonferrous metal or steel
52 railroad track or track material which he or she has probable
53 cause to believe may have been misappropriated, stolen, or
54 taken under false pretenses. Upon the entry of a final
55 determination and order by a court of competent jurisdiction,
56 copper, aluminum, brass, lead or other nonferrous metal or
57 steel railroad track or track material found to have been
58 misappropriated, stolen or taken under false pretenses may be
59 returned to the proper owner of such material.

60 (e) Any person employed by a public utility or railroad to
61 investigate the theft of utility or railroad property shall be
62 permitted to inspect the purchased copper, aluminum, brass,
63 lead or other nonferrous metal or steel railroad track or track
64 material that is in the possession of the buyer, for the purpose
65 of detecting and identifying stolen utility or railroad property.

66 (f) It shall be unlawful for any of the aforementioned
67 persons to purchase any copper, aluminum, brass, lead or
68 other nonferrous metal or steel railroad track and track
69 material without obtaining the information set forth in
70 subsections (b) and (c) of this section. Such information
71 shall be available for inspection by any law-enforcement
72 officer or any investigator employed by a public utility or
73 railroad to investigate the theft of public utility or railroad
74 property, and must be maintained by the purchaser for not
75 less than one year after the date of the purchase.

76 (g) Nothing in this section applies to scrap purchases by
77 manufacturing facilities that melt, or otherwise alter the form
78 of scrap metal and transform it into a new product or to the
79 purchase or transportation of food and beverage containers or
80 other nonindustrial materials having a marginal value per
81 individual unit.

82 (h) Any person who knowingly or with fraudulent intent
83 violates any provision of this section, including the knowing
84 failure to make a report or the knowing falsification of any
85 required information, is guilty of a misdemeanor and, upon
86 conviction of a first offense thereof, shall be fined not less
87 than one thousand dollars nor more than three thousand
88 dollars; upon conviction of a second offense thereof, shall be
89 fined not less than two thousand dollars and not more than
90 four thousand dollars, and any business license held by that
91 person shall be suspended for six months; and upon
92 conviction of a third or subsequent offense thereof, shall be
93 fined not less than three thousand dollars and not more than
94 five thousand dollars, any business licenses held by that
95 person shall be revoked. Any person convicted for a third or

96 subsequent offense under this section and any member of his
97 or her immediate family shall be prohibited from applying
98 for, holding or obtaining any business license which would
99 permit them to own, conduct or operate any business which
100 would involve the purchase of scrap metal or the operation of
101 any salvage yard or recycling facility for a period of two
102 years.

103 For purposes of this section the term “immediate family”
104 means the spouse, child, step-child, parents, mother-in-law
105 and father-in-law of any person convicted pursuant to this
106 section.

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



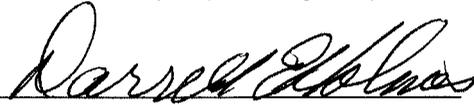
Chairman Senate Committee



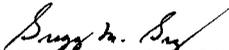
Chairman House Committee

Originating in the House.

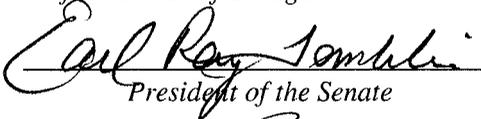
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

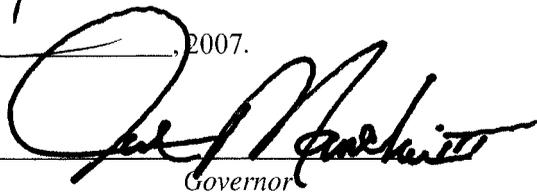


President of the Senate



Speaker of the House of Delegates

The within disappeared this the 20th
day of March, 2007.



Governor

PRESENTED TO THE
GOVERNOR

MAR 15 2007

Time

4:00 pm