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AN ACT

RELATING TO THE SALE OF RECYCLED METALS; ENACTING THE SALE OF RECYCLED METALS ACT; REGULATING THE SALE OF CERTAIN RECYCLED METALS; PROVIDING FOR PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the "Sale of Recycled Metals Act".

Section 2. DEFINITIONS.--As used in the Sale of Recycled Metals Act:

A. "aluminum material" means a product made from aluminum, an aluminum alloy or an aluminum byproduct.

"Aluminum material" includes an aluminum beer keg but does not include other types of aluminum cans used to contain a food or beverage;

B. "bronze material" means:

(1) a cemetery vase, receptacle or memorial made from bronze;

(2) bronze statuary; and

(3) material readily identifiable as bronze;

C. "business day" means any calendar day except Sunday or the following business holidays: New Year's day, Washington's birthday, Memorial day, Independence day, Labor day, Columbus day, Veterans' day, Thanksgiving day, Christmas day, Martin Luther King, Jr.'s birthday and any other legal

1 public holiday of the state of New Mexico or the United
2 States;

3 D. "copper or brass material" means:

4 (1) insulated or noninsulated copper wire,
5 hardware or cable of the type used by a public utility,
6 commercial mobile radio service carrier or common carrier
7 that consists of at least twenty-five percent copper; and

8 (2) a copper or brass item of a type
9 commonly used in construction or by a public utility,
10 commercial mobile radio service carrier or common carrier;

11 E. "department" means the regulation and licensing
12 department;

13 F. "peace officer" means any full-time salaried
14 and commissioned or certified law enforcement officer of a
15 police or sheriff's department that is part of or
16 administered by the state or any political subdivision of the
17 state;

18 G. "personal identification document" means:

19 (1) a driver's license;

20 (2) a military identification card;

21 (3) a passport issued by the United States
22 or by another country and recognized by the United States;
23 and

24 (4) a personal identification certificate
25 issued by the department, or a corresponding card or

1 certificate issued by another state;

2 H. "regulated material" means:

3 (1) aluminum material;

4 (2) bronze material;

5 (3) copper or brass material; and

6 (4) steel material;

7 I. "secondhand metal dealer" means:

8 (1) an auto wrecker, a scrap metal processor
9 or other person that purchases, collects or solicits
10 regulated material; and

11 (2) a person who operates or maintains a
12 scrap metal yard or other place in which scrap metal or
13 cast-off regulated material is collected or kept for
14 shipment, sale or transfer;

15 J. "steel material" means a product made from an
16 alloy of iron, chromium, nickel or manganese, including
17 stainless steel beer kegs; and

18 K. "superintendent" means the superintendent of
19 regulation and licensing.

20 Section 3. NOTICE TO SELLERS.--

21 A. A secondhand metal dealer shall at all times
22 maintain in a prominent place in the dealer's place of
23 business, in open view to a seller of regulated material, a
24 notice in two-inch lettering that:

25 (1) includes the following language:

1 "A PERSON ATTEMPTING TO SELL REGULATED MATERIAL MUST
2 PRESENT SUFFICIENT IDENTIFICATION AS REQUIRED BY STATE LAW.

3 WARNING: STATE LAW PROVIDES A CIVIL FINE FOR A PERSON
4 WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION
5 OR OTHER FALSE INFORMATION TO A SECONDHAND METAL DEALER WHILE
6 ATTEMPTING TO SELL REGULATED MATERIAL."; and

7 (2) states the secondhand metal dealer's
8 usual business hours.

9 B. The notice required by this section may be
10 contained on a sign that contains another notice if the
11 secondhand metal dealer is required to display another notice
12 pursuant to applicable law.

13 Section 4. INFORMATION PROVIDED BY SELLER.--

14 A. A person attempting to sell regulated material
15 to a secondhand metal dealer shall:

16 (1) display to the secondhand metal dealer
17 the person's personal identification document;

18 (2) sign a written statement provided by the
19 secondhand metal dealer that the person is the legal owner of
20 or is lawfully entitled to sell the regulated material
21 offered for sale; and

22 (3) provide to the secondhand metal dealer
23 the year, make, model and license plate number of the motor
24 vehicle used to transport the regulated material.

25 B. The secondhand metal dealer or the dealer's

1 agent shall visually verify the accuracy of the personal
2 identification document and vehicle identification presented
3 by the seller at the time of the dealer's purchase of
4 regulated material.

5 Section 5. RECORD OF PURCHASE.--

6 A. A secondhand metal dealer in this state shall
7 keep an accurate and legible written record, in a form
8 approved by the department, of each purchase made in the
9 course of the dealer's business from a person of:

10 (1) copper or brass material;

11 (2) bronze material;

12 (3) aluminum material in excess of ten
13 pounds; or

14 (4) steel material in excess of one ton,
15 except that a written record shall be kept of each purchase
16 of a stainless steel beer keg.

17 B. The record shall be in English and shall
18 include:

19 (1) the place and date of the purchase;

20 (2) the name and address of each person from
21 whom the regulated material is purchased or obtained;

22 (3) the identifying number of the personal
23 identification document of each person from whom the
24 regulated material is purchased or obtained;

25 (4) the year, make, model and license plate

1 number of the motor vehicle used to transport the regulated
2 material;

3 (5) a description made in accordance with
4 the custom of the trade of the type and quantity of regulated
5 material purchased; and

6 (6) the statement required by Paragraph (2)
7 of Subsection A of Section 4 of the Sale of Recycled Metals
8 Act.

9 Section 6. PRESERVATION OF RECORDS.--A secondhand metal
10 dealer shall preserve each record required by Section 5 of
11 the Sale of Recycled Metals Act until the third anniversary
12 of the date the record was made.

13 Section 7. INSPECTION OF RECORDS BY PEACE OFFICERS AND
14 DEPARTMENT.--

15 A. Upon request, a secondhand metal dealer shall
16 produce to a peace officer or an authorized employee of the
17 department during the dealer's usual business hours the
18 requested record of purchase as required by Section 5 of the
19 Sale of Recycled Metals Act.

20 B. The inspecting peace officer or authorized
21 employee of the department shall inform the secondhand metal
22 dealer of the person's status as a peace officer or
23 authorized employee of the department.

24 Section 8. FURNISHING OF REPORT TO DEPARTMENT.--Not
25 later than the second business day after the date of the

1 purchase or other acquisition of regulated material for which
2 a record is required pursuant to Section 5 of the Sale of
3 Recycled Metals Act, a secondhand metal dealer shall mail to
4 or file with the department a report containing the
5 information required to be recorded pursuant to that section.

6 Section 9. PUBLIC DATABASE.--The department shall
7 establish and maintain an electronic database containing the
8 records required to be preserved pursuant to Section 6 of the
9 Sale of Recycled Metals Act, which database shall be
10 accessible to the public. Records received by the department
11 pursuant to Section 8 of the Sale of Recycled Metals Act
12 shall be available in the database by the end of the second
13 business day following receipt by the department.

14 Section 10. POWERS AND DUTIES OF SUPERINTENDENT.--The
15 superintendent has authority to promulgate reasonable
16 regulations for the administration and enforcement of the
17 Sale of Recycled Metals Act and is expressly authorized to
18 make regulations regarding records of purchase of regulated
19 material and the public database required pursuant to that
20 act.

21 Section 11. WAITING PERIOD FOR DISPOSAL OF REGULATED
22 MATERIAL.--A secondhand metal dealer shall not process or
23 permit to be removed from the dealer's premises regulated
24 material until the fifth business day after the date on which
25 the dealer acquired the regulated material.

1 Section 12. PROHIBITED ACTS.--A person shall not, with
2 the intent to deceive:

3 A. display to a secondhand metal dealer a false or
4 invalid personal identification document in connection with
5 the person's attempted sale of regulated material; or

6 B. make a false material statement or
7 representation to a secondhand metal dealer in connection
8 with:

9 (1) that person's execution of a written
10 statement required by Subsection A of Section 4 of the Sale
11 of Recycled Metals Act; or

12 (2) the dealer's efforts to obtain the
13 information required pursuant to Subsection B of Section 5 of
14 the Sale of Recycled Metals Act.

15 Section 13. CIVIL PENALTY.--

16 A. A person who violates any provision of the Sale
17 of Recycled Metals Act may be assessed a civil penalty by the
18 superintendent not to exceed one thousand dollars (\$1,000)
19 per violation.

20 B. Prior to the imposition of a civil penalty, the
21 person being penalized shall be afforded notice and an
22 opportunity to be heard by the superintendent pursuant to the
23 pertinent notice and hearing provisions of the Uniform
24 Licensing Act.

25 Section 14. SEVERABILITY.--If any part or application

1 of the Sale of Recycled Metals Act is held invalid, the
2 remainder or its application to other situations or persons
3 shall not be affected.

4 Section 15. APPLICABILITY.--The provisions of the Sale
5 of Recycled Metals Act shall not apply to a purchase of
6 regulated material from a manufacturing, industrial or other
7 commercial vendor that sells regulated material in the
8 ordinary course of the vendor's business.

9 Section 16. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is January 1, 2009. _____

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