

SUBSTITUTE FOR
HOUSE BILL NO. 5694

A bill to amend 1917 PA 350, entitled
"An act to regulate and license second hand dealers and junk
dealers; and to prescribe penalties for the violation of the
provisions of this act,"
by amending sections 4, 5, and 8 (MCL 445.404, 445.405, and
445.408), as amended by 2006 PA 675.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) A second hand dealer or junk dealer shall post in
2 a conspicuous place in or upon its place of business a sign having
3 its name and occupation.

4 (2) A second hand or junk dealer shall ~~keep~~**MAKE AND MAINTAIN**
5 a separate book or other **WRITTEN OR ELECTRONIC** record, **NUMBERED**
6 **CONSECUTIVELY, AND** open to inspection by a member of a local law
7 enforcement agency, in which shall be written or entered in the
8 English language at the time of the purchase or exchange of any
9 article a description of the article, ~~the~~**AND ALL OF THE FOLLOWING:**

1 (A) **THE** name, description, fingerprint, operator's or
2 chauffeur's license or state identification number, registration
3 plate number, and address of the person from whom the article was
4 purchased and received. ~~and the~~ **THE SECOND HAND DEALER OR JUNK**
5 **DEALER SHALL MAKE A COPY OF THE OPERATOR'S LICENSE, CHAUFFEUR'S**
6 **LICENSE, OR STATE IDENTIFICATION CARD AS PART OF THE BOOK OR**
7 **RECORD.**

8 (B) **THE** day and hour ~~when~~ the purchase or exchange was made.
9 ~~as well as the~~

10 (C) **THE** location from which the item was obtained. ~~if~~
11 ~~applicable. Each entry shall be numbered consecutively.~~

12 (D) **PAYMENT FOR AN ITEM SHALL BE MADE ONLY BY CHECK OR BY AN**
13 **ELECTRONIC PAYMENT SYSTEM. THE RECORD SHALL INDICATE THE METHOD OF**
14 **PAYMENT.**

15 Sec. 5. (1) The articles purchased or exchanged shall be
16 retained by the purchaser for at least 15 days before disposing of
17 them, in an accessible place in the building where the articles are
18 purchased and received. A tag shall be attached to the articles in
19 some visible and convenient place, with the number written
20 thereupon, to correspond with the entry number in the book or other
21 record.

22 (2) The purchaser shall prepare and deliver on Monday of each
23 week to the chief of police or chief law enforcement officer of the
24 local unit of government in which ~~such~~ **THAT** business is carried on,
25 before 12 o'clock noon, a legible and correct **PAPER OR ELECTRONIC**
26 ~~written~~ copy, ~~written~~ in the English language, from the book or other
27 **WRITTEN OR ELECTRONIC** record, containing a description of each

1 article purchased or received during the preceding week, the hour
2 and day when the purchase was made, ~~and the description of the~~
3 person from whom it was purchased, **AND A COPY OF THE DOCUMENTATION**
4 **REQUIRED UNDER SECTION 4 REGARDING THE PERSON FROM WHOM IT WAS**
5 **PURCHASED.** The statement shall be verified ~~by the person~~
6 ~~subscribing his or her name thereto~~ **IN A MANNER ACCEPTABLE TO THE**
7 **CHIEF OF POLICE OR CHIEF LAW ENFORCEMENT OFFICER.**

8 (3) This section does not apply to old rags, waste paper, and
9 household goods except radios, televisions, record players, and
10 electrical appliances and does not require the purchaser to retain
11 articles purchased from individuals, firms, or corporations having
12 a fixed place of business after those articles shall have been
13 reported.

14 Sec. 8. (1) Except as otherwise provided for in this section,
15 a person who violates this act is guilty of a misdemeanor and shall
16 be imprisoned for not more than 6 months and shall be fined not
17 less than \$500.00 or more than \$1,000.00.

18 (2) A second hand or junk dealer who buys or sells scrap
19 metal, knowing that it is stolen, is guilty of a felony punishable
20 by imprisonment for not more than ~~3~~5 years or a fine of not more
21 than ~~\$2,000.00~~\$5,000.00, or both. **THE PENALTIES IMPOSED UNDER THIS**
22 **SUBSECTION APPLY ONLY TO A FIRST VIOLATION OF THIS SUBSECTION.**

23 (3) A second hand or junk dealer who buys or sells stolen
24 scrap metal ~~that he or she has reason to believe was unlawfully~~
25 ~~removed from a utility pole, telecommunication company property,~~
26 ~~government property, or utility property or jobsite~~ **KNOWING THAT IT**
27 **WAS STOLEN** is guilty of a felony punishable by imprisonment for not

1 more than 5 years or a fine of not more than \$10,000.00, or both.
2 **THE PENALTIES IMPOSED UNDER THIS SUBSECTION APPLY TO A SECOND OR**
3 **SUBSEQUENT VIOLATION.**

4 (4) The license of a person, corporation, copartnership, or
5 firm that is found guilty of violating any of the provisions of
6 this act shall be considered to be revoked upon entry of a
7 conviction and such person, corporation, copartnership, or firm
8 shall not be permitted to carry on the business of being a second
9 hand or junk dealer within this state for a period of 1 year after
10 that conviction.

11 (5) The remedies under this act are independent and
12 cumulative. The use of 1 remedy by a person does not bar the use of
13 other lawful remedies by that person or the use of a lawful remedy
14 by another person.

SUBSTITUTE FOR
HOUSE BILL NO. 6003

A bill to amend 1917 PA 350, entitled

"An act to regulate and license second hand dealers and junk dealers; and to prescribe penalties for the violation of the provisions of this act,"

by amending the title and section 1 (MCL 445.401), section 1 as amended by 2006 PA 675.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1
2
3
4
5
6
7
8

TITLE

An act to regulate and license ~~second hand~~ **SECONDHAND** dealers and junk dealers; **TO PROVIDE FOR CERTAIN POWERS AND DUTIES TO CERTAIN STATE AGENCIES AND DEPARTMENTS;** and to prescribe penalties for the violation of the provisions of this act.

Sec. 1. (1) A person ~~, corporation, copartnership, or firm~~ shall not ~~carry on~~ **ENGAGE IN** the business of dealer in ~~second hand~~ **SECONDHAND** goods or junk dealer in any of the counties, cities, or

1 villages of this state without ~~having first obtained~~, ~~OBTAINING~~
2 from the mayor of the city or the chief executive officer of the
3 county or village where the business is to be ~~carried on~~, ~~CONDUCTED~~
4 a license under this act authorizing that person, ~~corporation,~~
5 ~~partnership, or firm to carry on~~ **ENGAGE IN** that business.

6 (2) THE DEPARTMENT OF LABOR AND ECONOMIC GROWTH, BY
7 PROMULGATION OF A RULE UNDER THE ADMINISTRATIVE PROCEDURES ACT OF
8 1969, 1969 PA 306, MCL 24.201 TO 24.328, SHALL CREATE A MODEL
9 ORDINANCE FOR LICENSURE OF SECONDHAND DEALERS AND JUNK DEALERS. THE
10 MODEL ORDINANCE SHALL BE DESIGNED FOR USE BY A COUNTY, CITY, OR
11 VILLAGE THAT HAS NOT ADOPTED OR ENACTED AN ORDINANCE REGULATING
12 SECONDHAND DEALERS AND JUNK DEALERS. UNDER THAT MODEL ORDINANCE,
13 THE DEPARTMENT SHALL PROVIDE THAT THE APPLICANT DEMONSTRATE
14 COMPLIANCE WITH ANY APPLICABLE STATE LAWS OR LOCAL ORDINANCES
15 REGARDING THE CONDUCT OF A BUSINESS WITHIN THIS STATE AND THE
16 COUNTY, CITY, OR VILLAGE. THE DEPARTMENT SHALL ALLOW THE COUNTY,
17 CITY, OR VILLAGE TO CHARGE FEES IN AN AMOUNT TO COVER THE ISSUANCE
18 AND ADMINISTRATIVE COSTS OF THE LICENSURE. THE MODEL ORDINANCE IS
19 APPLICABLE AND HAS THE EFFECT OF LAW IN A COUNTY, CITY, OR VILLAGE,
20 UNLESS THE COUNTY, CITY, OR VILLAGE HAS ADOPTED AN ORDINANCE THAT
21 IS SUBSTANTIALLY EQUIVALENT TO THE MODEL ORDINANCE AND IS AT LEAST
22 AS STRICT AS THE MODEL ORDINANCE. A COUNTY, CITY, OR VILLAGE IN
23 WHICH THE MODEL ORDINANCE IS APPLICABLE MAY AT ANY TIME ADOPT AN
24 ORDINANCE THAT IS, AT A MINIMUM, SUBSTANTIALLY EQUIVALENT TO THE
25 MODEL ORDINANCE AND AT LEAST AS STRICT AS THE MODEL ORDINANCE. THE
26 MODEL ORDINANCE WOULD NO LONGER BE APPLICABLE ON AND AFTER THE
27 EFFECTIVE DATE OF THE ORDINANCE ENACTED BY THE COUNTY, CITY, OR

1 **VILLAGE.**

2 (3) ~~(2)~~—This ~~subsection~~ **SECTION** does not require an internet
3 drop-off store complying with subsection ~~(3)~~ **(4)**, or a person
4 engaged in the sale, purchase, consignment, or trade of personal
5 property or other valuable thing for himself or herself, to obtain
6 a license under this act.

7 (4) ~~(3)~~—An internet drop-off store in compliance with the
8 following conditions is exempt from licensure as a ~~second-hand~~
9 **SECONDHAND** dealer or junk dealer under this act:

10 (a) Has a fixed place of business within this state except
11 that he or she exclusively transacts all purchases or sales by
12 means of the internet and the purchases and sales are not
13 physically transacted on the premises of that fixed place of
14 business.

15 (b) Has the personal property or other valuable thing
16 available on a website for viewing by photograph, if available, by
17 the general public at no charge, which website shall be searchable
18 by zip code or state, or both. The website viewing shall include,
19 as applicable, serial number, make, model, and other unique
20 identifying marks, numbers, names, or letters appearing on the
21 personal property or other valuable thing.

22 (c) Maintains records of the sale, purchase, consignment, or
23 trade of the personal property or other valuable thing for at least
24 2 years, which records shall contain a description, including a
25 photograph, if available, and, if applicable, serial number, make,
26 model, and other unique identifying marks, numbers, names, or
27 letters appearing on the personal property or other valuable thing.

1 (d) Provide the local law enforcement agency with any name
2 under which it conducts business on the website and access to the
3 business premises at any time during normal business hours for
4 purposes of inspection.

5 (e) Within 24 hours after a request from a local law
6 enforcement agency, provide an electronic copy of the seller's or
7 consignor's name, address, telephone number, driver license number
8 and issuing state, the buyer's name and address if applicable, and
9 a description of the personal property or other valuable thing as
10 described in subdivision (c). The provision of information shall be
11 in a format acceptable to the local law enforcement agency but
12 shall at least be in a legible format and in the English language.

13 (f) Provide that payment for the personal property or other
14 valuable thing is executed by means of check or other electronic
15 payment system, so long as the payment is not made in cash. No
16 payment shall be provided to the seller until the item is sold.

17 (g) Immediately remove the personal property or other valuable
18 thing from the website if the local law enforcement agency
19 determines that the personal property or other valuable thing is
20 stolen.

21 Enacting section 1. This amendatory act takes effect 120 days
22 after the date the rules adopted under section 1 are filed with the
23 secretary of state.