



Legislation Text

File #: 0441-2007, Version: 2

The theft of motor vehicles, motor vehicle parts, and various types of metal material and articles that have value as scrap metal is a significant and growing problem for law enforcement agencies, contractors and builders, utility providers, business owners, homeowners, and the citizens of Columbus. Current regulation of businesses that deal in scrap metal has proven to be ineffective at detecting or preventing this illegal activity at the point at which stolen items are sold as scrap metal. This ordinance is designed to provide licensing and regulation of scrap metal dealers to help ensure that motor vehicles and metal sold as scrap metal are legitimately owned by the seller and not stolen property and to assist in the recovery of stolen property. This will be accomplished through the establishment of licensing, record-keeping, and retention period requirements, along with inspection authority to ensure compliance with these requirements.

The repeal of the existing City Code chapter dealing with salvage motor vehicle dealers is the consequence of regulating the purchase of motor vehicles and parts for scrap under this new chapter and the preemption by state law of local regulation of salvage motor vehicle dealers.

To amend Title 5 of the Columbus City Codes, 1959, by enacting new Chapter 550 of the Columbus City Codes, entitled "Scrap Metal Dealers," to establish licensing requirements for scrap metal dealers, and to repeal existing Chapter 543, entitled "Salvage Motor Vehicle Dealers."

WHEREAS, the theft of motor vehicles, motor vehicle parts, and various types of metal material and articles that have value as scrap metal is a significant and growing problem for law enforcement agencies, contractors and builders, utility providers, business owners, homeowners, and the citizens of Columbus; and,

WHEREAS, current regulation of businesses that deal in scrap metal has proven to be ineffective at detecting or preventing this illegal activity at the point at which stolen items are sold as scrap metal; and,

WHEREAS, there is a need to provide licensing and regulation of scrap metal dealers to help ensure that motor vehicles and metal sold as scrap metal are legitimately owned by the seller and not stolen property and to assist in the recovery of stolen property; now therefore

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:

Section 1. That Columbus City Codes Chapter 550, entitled "Scrap Metal Dealers," be and hereby is enacted as follows:

CHAPTER 550 Scrap Metal Dealers

550.01 Definitions.

As used in Chapter 550 of the Columbus City Codes:

"Scrap metal facility" means any facility, establishment or place of business that is maintained or operated for the primary purpose of receiving, storing, processing, buying, or selling scrap metal for remelting or recycling purposes.

"Scrap metal facility licensee" or "licensee" means any person holding a scrap metal facility license issued pursuant to this chapter and includes any person acting as the license holder's authorized agent or employee.

"Scrap metal" means any scrap article or material composed of iron, steel, or nonferrous metal or metal alloy, including but not limited to, copper, brass, bronze, aluminum, or stainless steel.

"Motor vehicle" shall have the same meaning as set forth in Section 2101.20 of the Columbus City Codes.

"Vehicle identification number or derivative thereof" means any number or derivative of such a number that is embossed, engraved,

etched, or otherwise marked on any vehicle or vehicle part by the manufacturer. "Vehicle identification number" also includes a duplicate vehicle identification number replaced upon a vehicle under the authority of the registrar of motor vehicles.

"Retail transaction" means any transaction involving any person other than an industrial or commercial account, a nonprofit account, or a governmental account, in which a scrap metal facility purchases or receives scrap metal.

"Industrial or commercial account" means any person, operating from a fixed location, that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification. The term may include other scrap metal facilities.

"Nonprofit account" means any nonprofit organization that is exempt from federal income taxation under subsection 501(a) of the Internal Revenue Code, 26 U.S.C.A. 501(a), and that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification.

"Governmental account" means any political subdivision, as defined in Section 2744.01(F) of the Ohio Revised Code, that sells scrap metal to a scrap metal facility pursuant to a written agreement or written account certification.

550.02 License requirement; expiration.

No person shall operate a scrap metal facility in the city of Columbus except under authority of a valid scrap metal facility license issued by the Department of Public Safety, License Section, in the name of the person operating the facility and for the specific site of the facility. Every license shall expire at the end of one year following its date of issuance, subject to suspension or revocation pursuant to Section 550.06 of this chapter. An application for a renewal of a license must be submitted prior to the annual expiration date of the existing license, as provided in Section 501.17 of the Columbus City Codes, and operation under authority of the existing license may continue until issuance or denial of the renewal of the license, provided submission of the renewal application is timely.

550.03 Application for scrap metal facility licenses; fee.

(A) Application for a scrap metal facility license required by Section 550.02, including the renewal of a license, shall be made in writing and sworn to on a form provided by the License Section and pursuant to the terms of this chapter and Chapter 501 of the Columbus City Codes. Each application shall include a filing fee of five hundred dollars (\$500.00), which shall not be refundable, and identify the applicant and the address of the facility to be licensed. The filing fee shall be waived for any person that is operating a scrap metal facility at that specific site under a valid junk yard or salvage yard license issued pursuant to Section 3392.02 of the Columbus City Codes.

(B) The application for a license to operate a scrap metal facility shall include the following information:

(1) A list identifying every individual who will be directly engaged in managing or supervising the daily operations of the facility, and for each individual so identified the following information shall be provided by the applicant:

(a) The individual's name, address and social security number;

(b) a photocopy of a current and valid driver's license, military identification, or other government-issued photo identification card issued to the individual;

(c) A set of fingerprints and a certified copy of the individual's criminal history information, including date, time and place of convictions for all violations except traffic offenses as obtained from any local or state law enforcement agency;

(2) The applicant's history of any government-issued licenses or permits related to the operation of any scrap metal facility, including any currently held by the applicant and any previously issued licenses or permits that were revoked or suspended within the past ten (10) years and the reasons therefor;

(3) If the applicant is a business entity that is required to register with the Secretary of State of Ohio, a copy of a current certificate of good standing issued by that office.

(C) No person shall knowingly make a false license application or procure or seek to procure a license for another.

550.04 Issuance and display of license.

(A) Subject to the terms of this chapter and Chapter 501 of the Columbus City Codes, the License Section shall issue a license to an applicant to operate a scrap metal facility at a specified location, unless the License Section finds any of the following:

(1) That the application does not contain all the required information, or that the application contains a material misrepresentation;

(2) That the facility which is to be licensed fails to conform to the Columbus City Codes, including, but not limited to, zoning, building, health and fire.

(B) The License Section may refuse to issue a license to an applicant if it finds any of the following:

(1) That the applicant, or any person having a direct or indirect interest in that which is to be licensed, has been convicted of a felony or theft offense within the past ten (10) years or is on probation or parole for a felony or theft offense;

(2) That criminal conduct as defined in Title 29 of the Ohio Revised Code or Title 23 of the Columbus City Codes has or is occurring on the premises of the facility on a repeated basis by customers, patrons, employees, operators or licensees. Repeated basis shall mean two (2) or more offenses within the previous twelve (12) months.

(C) The issued license shall be displayed in a conspicuous place within the public area of the facility.

550.05 Transfer of license.

(A) Change of location. A scrap metal facility license is not transferable to another location. No person so licensed shall transact or solicit business at any location other than at the address stated in the license. Any change in location of scrap metal facility licensed pursuant to this chapter shall require the submission of a new application and the issuance of a new license.

(B) Change of ownership. A scrap metal facility license is transferable to another person only upon written approval of the License Section, as provided in Section 501.14 of the Columbus City Codes. **An application for transfer of ownership shall be granted, provided the application is submitted in writing and contains all the information required by Section 550.03 as to the proposed new licensee.** Any request for approval of a transfer of ownership shall be in writing and shall provide all information required by Section 550.03 as to the proposed new licensee. For purposes of this section, whenever the person to which a license has been issued is a corporation or limited liability company and there is a transfer of that corporation's stock or that limited liability company's membership interests such that, following the transfer, the owner of the majority or plurality of shares of stock in the corporation would change or the owner of the majority or plurality of the limited liability company's membership interests would change, the transfer of stock or membership interests shall be considered a change of ownership.

550.06 License suspension or revocation.

(A) Subject to the requirements of Chapter 501 of the Columbus City Codes, the License Section may revoke or suspend a scrap metal facility license where it finds:

- (1) A section of this chapter or Chapter 501 of the Columbus City Codes was violated upon the facility premises;
- (2) A violation of the Ohio Revised Code or Columbus City Codes was committed upon the facility premises, and was reasonably related to the management or operation of the facility;
- (3) A material misrepresentation was made upon the application for a license;
- (4) An operator of the facility, or employee or agent of the operator, hindered, obstructed or prevented any inspection of the facility authorized by this chapter or Chapter 501 of the Columbus City Codes.

(B) Unless a stay order has been issued by the Board of License Appeals pursuant to Section 505.07 of the Columbus City Codes or by a court of competent jurisdiction, a licensee is prohibited from purchasing, receiving or selling any scrap metal articles or material during the time that the licensee's scrap metal facility license is revoked or suspended.

550.07 Records of transactions; daily reports to police.

(A) All scrap metal facility licensees shall maintain a separate record book or electronic file in which the licensee shall keep an accurate, legible and complete record of all of the following specified information for each retail transaction:

- (1) A complete and accurate description of any scrap metal article or material that has been purchased or received by the licensee, including, where available, the name and maker of the article or material, and the serial number or other identification number, letters or marks written or inscribed on the article or material;
- (2) The seller's name and current address;
- (3) The identification number from a current and valid driver's license, military identification, or other government-issued photo identification card issued to the seller;
- (4) The license plate number and state issuing the license plate of the motor vehicle being used by the seller to transport the articles or material to the facility;
- (5) An impression of the right or left thumb of the seller;
- (6) The date and time that the licensee purchased or received the article or material and the name of the individual employee or operator of the facility who conducted the transaction;
- (7) A declaration of whether the total amount paid by the licensee for the articles or material purchased or received was five hundred dollars (\$500.00) or more.

(B) Every retail transaction shall be numbered consecutively.

(C) The licensee shall prepare a daily report listing all retail transactions occurring during the preceding day and containing all the information described in this section for each retail transaction. Before 12:00 noon each day, the licensee shall deliver a copy of the licensee's daily report to the chief of police or his or her designee. Delivery of the daily report shall be by means of a secured electronic transmission, a legible facsimile transmission, or the delivery of a paper copy or physical electronic medium containing the report. Licensees submitting a physical electronic medium or data from a computerized tracking system must submit the data in a format approved by the chief of police or his or her designee.

(D) The records described in this section shall be retained by the licensee for three years following the date of the retail transaction.

550.08 Additional requirements for motor vehicles and parts; exemption.

(A) In addition to all other requirements of this chapter, a scrap metal facility that purchases or receives in a retail transaction as scrap a motor vehicle shall also comply with all the following requirements:

(1) No motor vehicle shall be purchased or received unless at the time of the transaction the seller has provided both a valid certificate of title showing that the seller is the owner of that motor vehicle and a current and valid driver's license, military identification, or other government-issued identification card issued to the seller bearing a photograph of the seller.

(2) A scrap metal facility that purchases or receives a motor vehicle from the owner described on the certificate of title shall within ten days mark the certificate "TO BE CANCELED," keep a record of the cancellation, and forward the certificate to the clerk of the court who issued it in accordance with Section 4738.16(B) of the Ohio Revised Code. The scrap metal facility shall keep the record of the cancellation for three years after creating the record. The record shall include a copy of the canceled title.

(B) In addition to all other requirements of this chapter, a scrap metal facility that purchases or receives in a retail transaction as scrap a motor vehicle part bearing a vehicle identification number or derivative thereof shall also record, as part of the record of the retail transaction, that part's vehicle identification number or derivative thereof.

(C) This chapter shall not apply to any **operations person** licensed by the state of Ohio as a motor vehicle salvage dealer under Ohio Revised Code Chapter 4738, and who engages in business primarily for the purpose of selling salvage motor vehicle parts and secondarily for the purpose of selling at retail salvage motor vehicles or manufacturing or selling a product of gradable scrap metal. **Non auto salvage derived scrap operations shall be subject to regulation as a scrap metal facility.**

550.09 Retention of articles; permission of police for disposition; recovery of stolen goods by true owner.

(A) Except as otherwise provided in this section, a scrap metal facility licensee shall retain any and all scrap metal articles or material composed of copper, brass, aluminum or stainless steel that have been purchased or received by the licensee in a retail transaction, in the condition the article or material was received, until the expiration of at least seven (7) days after the date of purchase or receipt. This required seven (7) days retention period does not apply to: aluminum cans; motor vehicles; scrap metal articles or material other than copper, brass, aluminum or stainless steel; or, any other scrap metal articles or material for which the licensee has received written permission for disposition from the chief of police or his or her designee.

(B) For any article or material received for which a retention period is required under this section, the licensee shall attach a tag to the article or material in some visible and convenient place that identifies the date and transaction number applicable to that article or material, which tag shall remain attached until disposition of the article or material.

(C) If the chief of police or his or her designee has probable cause to believe that an article or material is stolen property, he shall notify the licensee in writing. Upon receipt of such a notice, the licensee shall retain the article or material until the expiration of thirty (30) days after receipt of the notice, unless the chief or his or her designee notifies the licensee in writing that retention of the article or material is no longer required. Upon expiration of the thirty (30) day period, absent renewal thereof by the chief or his or her designee, or the failure of the true owner to pick up the allegedly stolen property, the scrap article or material may be immediately recycled.

(D) If the chief of police or his or her designee receives a report that property has been stolen and determines the identity of the true owner of the allegedly stolen property that is in the possession of a licensee, and informs the licensee of the true owner's identity, the licensee shall hold the allegedly stolen property for at least thirty (30) days from the date of notification by the chief of police or his or her designee to enable the true owner to pick up that property from the licensee. If a licensee fails or refuses to return the allegedly stolen property that has been held as required by this division, the true owner may recover the property from the licensee in an action at law. Upon expiration of the thirty (30) day period, absent renewal thereof by the chief or his or her designee, or the failure of the true owner to pick up the allegedly stolen property, the scrap article or material may be immediately recycled.

~~(E) If the chief of police or his or her designee determines that there is a need for investigative purposes to tag and retain certain articles or materials received from a specified person, the chief of police or his or her designee shall notify the licensee in writing of such need and the licensee shall tag and retain said material for three (3) days. Upon expiration of the three (3) day period, absent renewal thereof by the chief or his or her designee, the scrap article or material may be immediately recycled.~~

~~(F)~~ (E) A scrap metal facility licensee shall be exempt from the retention requirements contained in division (A) of this section provided:

(1) The licensee utilizes the automated electronic reporting system approved by the department of public safety for all retail transactions involving scrap metal for which a retention period would otherwise be required under this section; and

(2) All required data fields in the transaction report, as determined by the director or his designee, are completed and transmitted by the licensee to the approved reporting system.

550.10 Purchase of certain articles restricted.

(A) No scrap metal facility licensee shall purchase or receive any restricted article in a retail transaction unless at the time of the

transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the article, or is an employee, agent, or other person authorized to sell the article on behalf of the owner.

(B) For purposes of this section, "restricted article" means all of the following:

beer kegs; shopping carts; ~~electric or communication~~ cable or wire and their electronic components **owned by a public utility, electric or communication company**; grave markers, sculptures, plaques, and vases, the appearance of which suggest that the articles have been obtained from a cemetery; guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; manhole covers, water meter covers, and other similar types of utility access covers; traffic directional and control signs and light signals; metal marked with the name of a political subdivision of the state, and other articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state; historical markers.

(C) No scrap metal facility licensee shall purchase or receive any consumer appliance in a retail transaction unless:

(1) at the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the consumer appliance, or is an employee, agent, or other person authorized to sell the consumer appliance on behalf of the owner; or

(2) no more than two (2) consumer appliances are purchased or received per seller per day.

(D) For purposes of this section, "consumer appliance" means all of the following:

air conditioners; hot water heaters; furnaces; refrigerators; freezers; stoves; clothes washers or dryers.

(E) No scrap metal facility licensee shall purchase or receive any catalytic converter in a retail transaction unless:

(1) at the time of the transaction the seller has received reasonable, reliable, written documentation verifying that the seller is the owner of the catalytic converter, or is an employee, agent, or other person authorized to sell the catalytic converter on behalf of the owner; or

(2) no more than one (1) catalytic converter is purchased or received per seller per day.

550.11 Purchases prohibited.

No licensee shall purchase or receive any scrap metal article or material from any person under the age of eighteen (18), or from any person identified in writing to the licensee by the chief of police as a known or suspected thief or receiver of stolen property, or from any person failing or refusing to provide to the licensee all the identifying information required from the seller under Section 550.07 (A).

550.12 Authority to conduct inspections.

(A) Upon display of the proper credentials, any License Officer or any law enforcement officer authorized to enforce this chapter shall be granted entry to a scrap metal facility at any time the facility is open for business for the purpose of conducting an inspection to ensure compliance with this chapter. For purposes of such inspection, an inspecting official shall be granted full and immediate access by the licensee to the building, grounds and records of the licensee.

(B) No person shall deny access to, or in any way impede, any License Officer or any law enforcement officer authorized to enforce this chapter conducting an inspection of a licensed scrap metal facility, or any portion thereof, or fail to cooperate with an inspecting official.

550.13 Appeals.

The refusal to issue or renew, and the suspension or revocation of, a scrap metal facility license shall be pursuant to the provisions of this chapter and Chapter 501 of the Columbus City Codes, and the appeal of any such order shall be pursuant to the provisions of Chapter 505 of the Columbus City Codes.

550.14 Severability.

In the event any section or provision of this chapter shall be declared by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of this chapter as a whole or any part thereof other than the part so declared to be invalid or unconstitutional.

550.99 Penalties.

(A) Except as provided in this division (B) of this section, whoever violates any section of this chapter is guilty of a misdemeanor of the first degree and shall be fined not less than twenty-five (\$25.00) nor more than one thousand dollars (\$1,000.00) and the costs of prosecution.

(B) Whoever violates Section 550.02 or Section 550.06(B) of this chapter is guilty of Operating a Scrap Metal Facility Without a

Valid License, a misdemeanor of the first degree, and shall be fined not less than one thousand dollars (\$1,000.00) and the costs of prosecution. Each day that any person continues to operate in violation of either Section 550.02 or 550.06(B) of this chapter shall constitute a separate and complete offense.

Section 2. That existing Chapter 543 of the Columbus City Codes, 1959, entitled "Salvage Motor Vehicle Dealers," is hereby repealed in its entirety.

Section 3. That this ordinance shall take effect and be in force from and after the earliest period allowed by law, except that Section 550.09 shall take effect ninety days after the Director of the Department of Public Safety has approved an automated electronic reporting system and the Department has provided written notification to licensees of that approval and of the date on which Section 550.09 shall become effective as provided herein.