

JAN 24 2007

A BILL FOR AN ACT

RELATING TO SCRAP METAL RECYCLING.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 445-15, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "**§445-15 Control by ordinance.** Each council has the power
4 by ordinance:

5 (1) To require, or eliminate the requirement for, the
6 licensing of auctions under part II of this chapter[~~7~~]
7 and secondhand dealers under part VII of this
8 chapter[~~7~~] and to require the licensing of scrap
9 dealers under part X of this chapter;

10 (2) To impose annual license fees;

11 (3) To increase, decrease, or waive effective upon the
12 expiration of any existing license, the annual fee for
13 a license issued under this chapter, or to exempt
14 wholly or partially, the payment by any religious,
15 charitable, or educational organization or institution
16 of any license fee imposed in this chapter or any
17 ordinance enacted hereunder with respect to any



1 business which is not regularly engaged in or carried
2 on by such organization or institution; and
3 (4) To adopt rules not inconsistent with law concerning
4 the conduct of the business of all persons licensed
5 under this chapter, as deemed necessary for the public
6 health, safety, or welfare."

7 SECTION 2. Section 445-232, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "**§445-232 License.** (a) Any person who engages in [~~the~~]
10 business as a scrap dealer shall be licensed with the treasurer.
11 The treasurer shall have the power to grant a license and to
12 revoke [~~such~~] the license after hearing and upon reasonable
13 cause[-] including, but not limited to, violations of this part
14 and any rule adopted under it. The annual license fee shall be
15 \$10.

16 (b) Every license granted under this section shall
17 designate the place where business is carried on and sufficient
18 identifying information including the licensee's name, address,
19 general excise tax license number, and other information which
20 may be prescribed by the treasurer."

21 SECTION 3. Section 445-233, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "§445-233 Statement required[-]; verification; records.

2 (a) Every scrap dealer, when the dealer purchases scrap within
3 the State, shall obtain a written statement signed by the seller
4 or the seller's agent certifying that the seller or the seller's
5 agent has the lawful right to sell and dispose of the scrap.

6 This statement shall also contain [~~the seller's~~]:

7 (1) The name[~~, the seller's~~], business or residence
8 address[~~, the seller's~~], and occupation[~~, a~~] of the
9 seller and, if the scrap is sold by an agent, the
10 seller's agent;

11 (2) A description, including serial numbers and other
12 identifying marks, when practical, of every scrap;
13 [~~the amount received by the seller; the date~~]

14 (3) The date, time, and place of the sale; and [~~the~~]

15 (4) The license number, make, model, and color of any
16 vehicle used to deliver the property to the place of
17 purchase.

18 (b) The scrap dealer shall [~~require~~] also:

19 (1) Require the seller to verify the seller's identity by
20 presenting [~~proper~~] government issued photographic
21 identification[+] of which the scrap dealer shall make
22 a photocopy or computer scan or manually record the

- 1 name of the issuing entity, the type of
2 identification, and any unique number on the
3 identification;
- 4 (2) Verify the information provided by the seller in the
5 statement required by subsection (a);
- 6 (3) Record on the statement the amount paid to the seller
7 and the weight of the scrap purchased, when the scrap
8 is purchased by weight;
- 9 (4) Pay the seller only by check and keep a record of
10 checks issued and negotiated;
- 11 (5) [~~The scrap dealer shall keep~~ Keep at the dealer's
12 place of business the signed written statement from
13 the seller and the records required by paragraphs (3)
14 and (4) for a period of two years after the date of
15 purchase; and
- 16 (6) Make the statement [~~may be examined at any time~~] and
17 records available for examination during regular
18 business hours by the treasurer or [~~the chief of~~
19 police.] a law enforcement officer, as defined by
20 section 710-1000.
- 21 (c) A scrap dealer shall not purchase from an individual
22 who is not the principal or agent of an entity exempted from the



1 requirements of this section by subsection (d)(2), and a scrap
2 seller shall not sell, the following items:

3 (1) New materials for use in, or production scrap derived
4 from, a manufacturing process;

5 (2) Items used primarily by institutions, government
6 entities, or utilities, including guardrails, bleacher
7 seating, traffic signs, manhole covers, high voltage
8 transmission lines, historical markers, and cemetery
9 plaques; or

10 (3) Full-sized or new materials such as those used in
11 construction.

12 (d) This section shall not apply to sales of scrap by:

13 (1) A scrap dealer licensed under this part to another
14 scrap dealer licensed under this part; or

15 (2) An entity with whom the scrap dealer has in force a
16 written contract containing the information required
17 by subsections (a)(1) to (a)(4); provided that the
18 scrap dealer has verified the identity of the entity's
19 principal or agent as required by subsection (b)(1)
20 and made a photocopy of the general excise tax or
21 other business license of an entity; provided further



1 that the scrap dealer complies with subsection (b) (4),
2 (5), and (6)."

3 SECTION 4. Section 445-235, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "**§445-235 Prohibitions; penalty.** (a) Any person who
6 violates sections 445-232 and 445-233, or any person who
7 falsifies a statement required by section 445-233, shall be
8 guilty of a misdemeanor.

9 (b) A scrap seller convicted under this section shall be
10 sentenced as follows:

11 (1) For the first offense, or any offense not preceded
12 within a five-year period by a conviction for an
13 offense under this section, a fine of not less than
14 \$100, a term of imprisonment of not less than seven
15 days, or both:

16 (2) For an offense that occurs within five years of a
17 prior conviction for an offense under this section, a
18 fine of not less than \$500, a term of imprisonment of
19 not less than thirty days, or both; and

20 (3) For an offense that occurs within five years of two
21 prior convictions for offenses under this section, a



1 fine of not less than \$1,000 and a term of
2 imprisonment of not less than six months."

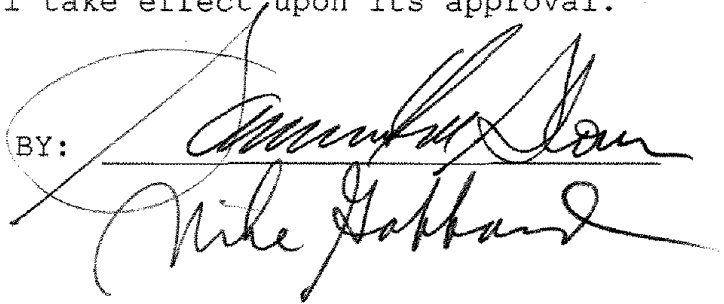
3 SECTION 5. This Act does not affect rights and duties that
4 matured, penalties that were incurred, and proceedings that were
5 begun, before its effective date.

6 SECTION 6. Statutory material to be repealed is bracketed
7 and stricken. New statutory material is underscored.

8 SECTION 7. This Act shall take effect upon its approval.

9

INTRODUCED BY:

The image shows two handwritten signatures in black ink. The top signature is written over a horizontal line and appears to be 'Michael J. Dan'. The bottom signature is 'Mike Gabbard'.



Report Title:

Scrap Metal Recycling; Theft Prevention

Description:

Establishes additional record-keeping requirements for scrap metal dealers. Exempts commercial scrap purchases and sales from certain record-keeping requirements. Prohibits purchase from, and sale by, an individual of certain scrap metal items. Establishes mandatory penalties for violations by scrap sellers.

