

JAN 19 2007

A BILL FOR AN ACT

RELATING TO SCRAP DEALERS.

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

1 SECTION 1. Chapter 28, Hawaii Revised Statutes, is amended
2 by adding a new part to be appropriately designated and to read
3 as follows:

4 **"PART . SCRAP DEALER REGULATORY UNIT**

5 **§28-A Definitions.** As used in this part, unless the
6 context otherwise requires:

7 "Department" means the department of the attorney general.

8 "Scrap" means any secondhand or used metal except those
9 used motor vehicle parts provided in chapter 289.

10 "Scrap dealer" means any person engaged in the business of
11 buying, selling, or dealing in scrap, or any person operating,
12 carrying on, conducting, or maintaining a scrap yard.

13 "Scrap yard" means any yard, plot, space, enclosure,
14 building, or any other place where scrap is collected, stored,
15 gathered together, and kept.

16 **§28-B License required.** No person shall engage in the
17 business of a scrap dealer without first obtaining a license
18 under this chapter and the rules of the attorney general. The



1 attorney general shall have the power to grant, revoke, suspend,
2 and reinstate the license upon reasonable cause.

3 **§28-C Fees.** Every person holding a license under this
4 chapter shall register with the attorney general and pay an
5 annual license fee of \$10 on or before June 30 of each year.
6 Failure to pay the annual fee shall constitute a forfeiture of
7 the license as of the date of expiration. Any license so
8 forfeited may be restored within one year after the expiration
9 upon filing of an application and payment of a restoration fee,
10 to be determined by the attorney general.

11 Any person required to be licensed under chapter 289 or
12 445-171 shall not be required to pay an additional fee under
13 this chapter; provided that the person obtains the license
14 required by this chapter and follows the requirements of this
15 chapter when acting as a scrap dealer.

16 **§28-D Information required on license.** Every license
17 granted under this section shall designate the place where
18 business is carried on and sufficient identifying information,
19 including the licensee's name, address, general excise tax
20 license number, and other information which may be prescribed by
21 the attorney general.



1 **§28-E Issuance of license.** Upon receipt of an application
2 for a license to conduct business as a scrap dealer, the
3 attorney general may order the issuance of the license; provided
4 that the application is complete and in proper form.

5 Every license shall be valid only as to the scrap dealer
6 and premises named therein. The location of a scrap dealer
7 shall not be changed without the written consent of the attorney
8 general and the change of location shall be endorsed on the
9 license.

10 The license shall be transferable with the approval of the
11 attorney general.

12 **§28-F Statement required; recordkeeping.** Every scrap
13 dealer, when the dealer purchases scrap within the state, shall
14 obtain a written statement signed by the seller of the scrap or
15 the seller's agent certifying that the seller or the seller's
16 agent has the lawful right to sell and dispose of the scrap.

17 This statement shall also contain:

- 18 (1) The seller's name;
- 19 (2) The seller's business or residence address;
- 20 (3) The seller's occupation;
- 21 (4) A description, including serial numbers and other
22 identifying marks, when practical, of every scrap;



- 1 (5) The amount received by the seller;
- 2 (6) The date, time, and place of the sale; and
- 3 (7) The license number of any vehicle used to deliver the
- 4 scrap to the place of purchase.

5 The scrap dealer shall require the seller to verify the
6 seller's identity by presenting proper identification. The
7 scrap dealer shall keep at the dealer's place of business the
8 signed written statement from the seller for a period of two
9 years after the date of purchase.

10 **§28-G Entry and inspection of records.** The attorney
11 general or chief of police of the county in which the scrap
12 dealer is located may enter and inspect any building or place at
13 any time for the purpose of:

- 14 (1) Investigating an actual or suspected violation of this
- 15 chapter; and
- 16 (2) Examining, reviewing, and copying statements.

17 **§28-H Penalties; revocation of license.** Any scrap dealer
18 who violates this chapter, or who falsifies a statement required
19 under this chapter shall be guilty of a misdemeanor.

20 If a person, after being sentenced under this section on
21 three separate and prior occasions, fails to comply with the
22 requirements of this chapter, the attorney general may



1 permanently revoke the person's license provided for under this
2 chapter.

3 **§28-I Rulemaking; enforcement by state and county**
4 **authorities.** The attorney general may adopt rules pursuant to
5 chapter 91, necessary for the purposes of this chapter.

6 All state and county authorities and police officers shall
7 enforce this chapter and the rules of the department."

8 SECTION 2. Section 286-48, Hawaii Revised Statutes, is
9 amended by amending subsection (c) to read as follows:

10 "(c) Upon resale of the salvage vehicle, the seller or, if
11 the seller is an insurance company, its authorized agent shall
12 transfer the salvage certificate and issue a bill of sale to the
13 purchaser which shall be on a form prescribed by the director of
14 finance. The seller shall notify the purchaser, in writing, of
15 the requirements of this chapter regarding the recertification
16 of salvage vehicles. The seller shall sell the salvage vehicle
17 only to a person licensed pursuant to chapter 437B, [~~sections~~
18 section 28-E or 289-4, [~~or 445-232,~~] or any person who executes
19 an affidavit which states whether or not the salvage vehicle
20 would be used to construct a rebuilt vehicle as defined in
21 section 286-2 and that if the salvage vehicle is to be rebuilt,



1 the purchaser will register the rebuilt vehicle as required by
2 this chapter."

3 SECTION 3. Chapter 445, part X, Hawaii Revised Statutes,
4 is repealed.

5 SECTION 4. There is appropriated out of the general
6 revenues of the State of Hawaii the sum of \$ or so much
7 thereof as may be necessary for fiscal year 2007-2008 for the
8 transfer of license issuance and enforcement duties regarding
9 scrap dealers to the department of the attorney general.

10 The sum appropriated shall be expended by the department of
11 the attorney general for the purposes of this Act.

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

15 SECTION 6. In codifying the new part added to chapter 28,
16 Hawaii Revised Statutes, by section 1 of this Act, the revisor
17 of statutes shall substitute appropriate section numbers for the
18 letters used in designating the new sections in this Act.

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

21 SECTION 8. This Act shall take effect on July 1, 2007;
22 provided that a scrap dealer who was issued a license under



1 chapter 445, part X, Hawaii Revised Statutes, before the
2 effective date of this Act shall not be penalized by any
3 provision of this Act; provided further that the licensed scrap
4 dealer obtains a new license under the provisions of this Act
5 within one hundred eighty days of its effective date or such
6 greater time as the attorney general may require to process the
7 initial application under this Act.

8

INTRODUCED BY:

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Report Title:

Scrap Dealers; License; Seller Identification; Penalties

Description:

Transfers license issuance and enforcement duties regarding scrap dealers from counties to the Department of the Attorney General. Establishes penalties for failure to obtain a scrap dealer license, and to obtain identification and written statements from sellers regarding ownership of scrap. Exempts currently licensed scrap dealers for 180 days after effective date. Appropriates funds.

