



BILL NO. 90

Government Bill

*3rd Session, 61st General Assembly
Nova Scotia
60 Elizabeth II, 2011*

An Act to Regulate Transactions by Scrap-Metal Dealers and Recyclers

CHAPTER 45
ACTS OF 2011

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 15, 2011**

The Honourable Ross Landry
Minister of Justice

*Halifax, Nova Scotia
Printed by Authority of the Speaker of the House of Assembly*

This page is intentionally blank.

An Act to Regulate Transactions by Scrap-Metal Dealers and Recyclers

Be it enacted by the Governor and Assembly as follows:

- 1** This Act may be cited as the *Safe Collection of Scrap Metal Act*.
- 2** In this Act,
 - (a) “local law-enforcement agency” means the police department providing policing services for the municipality in which a transaction occurs to which this Act applies;
 - (b) “prescribed” means prescribed by the regulations;
 - (c) “record” means a book, paper, document or notebook, whether in electronic form or otherwise, that may contain information respecting the business of a scrap-metal dealer or recycler;
 - (d) “scrap metal” means new or used items substantially made of metal prescribed by the regulations;
 - (e) “scrap-metal dealer or recycler” mean a person engaged in the business of purchasing, trading, bartering or otherwise receiving scrap metal and includes employees of that person.
- 3** **(1)** Before purchasing or receiving scrap metal, a scrap-metal dealer or recycler shall
 - (a) confirm the identity of the person who is selling or providing the scrap metal by reference to prescribed identification provided by that person; and
 - (b) obtain and record all prescribed information respecting the transaction.
 - (2)** A scrap-metal dealer or recycler shall inform a person entering into a transaction that the information obtained is being collected and may be provided to a peace officer or the local law-enforcement agency.
 - (3)** A person who sells or provides scrap metal to a scrap-metal dealer or recycler and provides the prescribed information is deemed to consent to the transfer of the prescribed information to a peace officer or the local law-enforcement agency.
 - (4)** A scrap-metal dealer or recycler shall maintain the prescribed information obtained pursuant to subsection (1) for one year after the transaction.
 - (5)** This Section does not apply to the purchase or receipt of used cans or containers for food, beverages, paint or domestic or household products normally recycled to avoid waste.
 - (6)** This Section does not apply to commercial-scrap transactions, as defined by the regulations, or any other transactions exempted by the regulations.

4 No scrap-metal dealer or recycler shall purchase or receive scrap metal from any person who

- (a) fails to identify himself or herself when requested to do so under Section 3; or
- (b) fails to provide the prescribed information about the transaction as required by Section 3.

5 (1) A peace officer may conduct an inspection of a scrap-metal dealer or recycler with respect to any matter that the peace officer considers necessary respecting

- (a) the administration of this Act or the regulations;
- (b) a transaction that is subject to this Act.

(2) For the purpose of an inspection pursuant to this Section, a peace officer may, at any reasonable time,

- (a) inquire into and examine
 - (i) the business affairs of the person with respect to whom the inspection is being made,
 - (ii) any record of the person with respect to whom the inspection is being made and any payments to, by or on behalf of, in relation to or in connection with that person, and
 - (iii) any property or assets of, or belongings owned, acquired or alienated in whole or in part by, the person with respect to whom the inspection is being made or by any person acting on behalf of or as agent for that person; and
- (b) subject to Section 6, enter and inspect any place that the peace officer has reasonable grounds to believe contains records, property or assets related to the inspection.

(3) A person with respect to whom an inspection is being made shall promptly provide detailed answers to the peace officer with respect to all inquiries pertaining to the inspection.

6 Notwithstanding anything contained in this Act, a peace officer may not enter a private dwelling place or any part of a place that is designated to be used and is being used as a permanent or temporary private dwelling place except

- (a) with the consent of the occupant of the place; or
- (b) pursuant to a warrant of entry issued under Section 9.

7 (1) A peace officer may, at any reasonable time, demand the production of or inspect any record of a person with respect to whom an inspection is being made, and any person who has the custody, possession or control of that record shall produce it and permit inspection of it by the peace officer.

(2) Upon demand by a peace officer, a scrap-metal dealer or recycler shall provide access to any scrap metal that has come into the possession of the scrap-metal dealer or recycler in the course of business and that remains in his or her possession.

8 (1) Where a record has been examined or inspected pursuant to Section 5 or 7, a peace officer may make copies of that record.

(2) A copy of a record certified by a peace officer to be a copy made pursuant to this Section

(a) is admissible in evidence without proof of the office or signature of the person purporting to have signed the certificate; and

(b) has the same probative force as the original record.

(3) A peace officer shall ensure that, after copies of any records examined pursuant to Section 5 or inspected pursuant to Section 7 are made, the originals are promptly returned to the person from whom they were obtained.

9 (1) Where a person refuses to allow or interferes with an entry or inspection described in Section 5 or 7, a peace officer may apply to a justice for a warrant of entry authorizing a person named in the warrant of entry to

(a) enter the land or building and carry out the inspection authorized or required by this Act; and

(b) search for and seize anything relevant to the subject-matter of the warrant of entry.

(2) On an application pursuant to subsection (1), the justice may issue the warrant of entry sought on any terms and conditions that the justice considers appropriate.

10 (1) In this Section, “personal information” means personal information as defined in the *Freedom of Information and Protection of Privacy Act*.

(2) A peace officer or any employee of a local law-enforcement agency shall keep confidential all personal information received by him or her pursuant to this Act, except as required for the performance of policing services as authorized by the *Police Act*.

11 (1) No action lies against a peace officer or any employee of a local law-enforcement agency, where that person is acting pursuant to the authority of this Act or the regulations, for anything in good faith done, caused or permitted or authorized to be done, attempted to be done or omitted to be done by that person or by any of those persons pursuant to or in the exercise or supposed exercise of any power conferred by this Act or the regulations or in the carrying out or supposed carrying out of any order made pursuant to this Act or any duty imposed by this Act or the regulations.

(2) No action lies against a scrap-metal dealer or recycler for the disclosure of any information or record pursuant to this Act or the regulations if such disclosure is made in good faith for the purpose of this Act.

12 (1) Every person who contravenes this Act or the regulations is guilty of an offence and liable on summary conviction to

(a) for a first offence

(i) in the case of an individual, a fine not exceeding five thousand dollars or imprisonment for a term not exceeding one year, or both,

(ii) in the case of a corporation, a fine not exceeding fifteen thousand dollars; and

(b) in the case of a second or subsequent offence

(i) in the case of an individual, a fine not exceeding fifteen thousand dollars or imprisonment for a term not exceeding one year, or both,

(ii) in the case of a corporation, a fine not exceeding fifty thousand dollars.

(2) Where a corporation commits an offence under this Act or the regulations, any director, officer or agent of the corporation who directed, authorized or assented to, acquiesced in or participated in an act or omission that constitutes an offence by the corporation is guilty of that offence and is liable on summary conviction to the penalties provided for the offence whether or not the corporation has been prosecuted or convicted.

(3) In a prosecution for an offence under this Act or the regulations, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for the offence, unless the accused establishes that the offence was committed without the knowledge or consent of the accused.

(4) Unless otherwise provided in this Act, no person may be convicted of an offence under this Act or the regulations if the person establishes that the person exercised all due diligence to prevent the commission of the offence.

13 (1) The Governor in Council may make regulations

(a) prescribing types of identification that are acceptable for confirming the identity of persons selling or providing scrap metal for the purpose of this Act;

(b) prescribing the information that must be obtained by a scrap-metal dealer or recycler from a person selling or providing scrap metal and recorded by the scrap-metal dealer or recycler;

(c) respecting the manner in which prescribed information is to be recorded and maintained by scrap-metal dealers or recyclers;

(d) prescribing materials as scrap metal for the purpose of this Act;

(e) defining “commercial-scrap transaction” for the purpose of subsection 3(6);

(f) prescribing conditions that a person selling or providing scrap metal must meet before a scrap-metal dealer or recycler may purchase or receive the scrap metal;

(g) exempting any transaction or person or any class of transactions or persons from all or any provision of this Act and prescribing any circumstance in which all or any provision of this Act does not apply;

(h) for the purpose of Section 3, prescribing

(i) additional information that must be obtained and recorded with respect to a transaction or purchase and the manner of recording that information,

(ii) the manner in which recorded information must be provided to a local law-enforcement agency or peace officer,

(iii) the timing or frequency of the provision of recorded information to a local law-enforcement agency or peace officer;

(i) defining any word or expression used but not defined in this Act;

(j) prescribing any matter or thing required or authorized by this Act to be prescribed in the regulations;

(k) respecting any matter or thing the Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is regulations within the meaning of the *Regulations Act*.

14 Within three years of the coming into force of this Section, the Minister of Justice shall review this Act and assess

(a) the impact of the Act on the scrap metal industry; and

(b) the effectiveness of the Act as a means of reducing the rate of theft of scrap metal.

15 Schedule B of Chapter 450 of the Revised Statutes, 1989, the *Summary Proceedings Act*, as enacted by Chapter 30 of the Acts of 2002 and amended by Chapter 4 of the Acts of 2004, Chapter 32 of the Acts of 2007, Chapter 9 of the Acts of 2010 and Chapter 2 of the Acts of 2011, is further amended by adding the following in alphabetical order:

Safe Collection of Scrap Metal Act

16 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
