REPORT OF THE JUDICIAL COUNCIL
SCRAP METAL THEFT ADVISORY COMMITTEE
ON 2014 SENATE BILL 418

In May 2014, Senator Jeff King asked the Judicial Council to review Senate Bill 418 relating to regulated scrap metal, metal theft and related sentencing provisions. The Judicial Council accepted Senator King’s request and formed a new Committee to undertake the study.

COMMITTEE MEMBERSHIP

The members of the Scrap Metal Theft Advisory Committee are:

Jeff King, Chair, Independence; State Senator from the 15th District, Vice President of the Senate and member of the Judicial Council
Marc Bennett, Wichita; Sedgwick County District Attorney
Raynard Brown, Kansas City, MO; President of Advantage Metals Recycling, LLC
Dave Holthaus, Topeka; Kansas Electric Cooperatives, Inc.
Mark Hutton, Wichita; general contractor and State Representative from the 105th District
Mike Irvin, Manhattan; Kansas Farm Bureau
Ed Klumpp, Tecumseh; Kansas Association of Chiefs of Police, Kansas Sheriffs Association, and Kansas Peace Officers Association
Morgan Koon, Wichita; general counsel of Allmetal Recycling, LLC
Carolyn McGinn, Sedgwick; State Senator from the 31st District
Kirk Thompson, Topeka; Director of the Kansas Bureau of Investigation
Melissa Wangemann, Topeka; Kansas Association of Counties

METHOD OF STUDY

The Committee met four times during the fall of 2014. The Committee reviewed a number of background materials including: Senate Bill 418, its fiscal note, and the written testimony offered by proponents and opponents when the bill was heard in Senate Judiciary; current Kansas law regarding sale of regulated scrap metal to scrap metal dealers; Wichita ordinances regulating scrap metal dealers; and legislative approaches to scrap metal theft prevention in other states.

Several Committee members attended a town hall meeting on metal theft convened by Marc Bennett in Wichita on August 28. In addition, Raynard Brown invited the Committee to tour the Advantage Metals Recycling Topeka facility to learn more about metal recycling process.

BACKGROUND

Kansas first enacted legislation addressing the problem of scrap metal theft in 2007. That initial legislation required scrap metal dealers to maintain records of information provided by sellers of regulated scrap metal, including the seller’s name, address, place of business, a description of the items purchased, the price paid, and a copy of the seller’s photo identification. An intentional violation of these requirements was deemed a class C misdemeanor, with a third or subsequent violation within a two-year period being a class A misdemeanor.
In 2009, the legislature expanded the definition of regulated scrap metal to include junk vehicles and vehicle parts and added new items to the list of information required to be recorded at the time of a sale. Scrap metal dealers were required to obtain a signed statement from the seller that the items were not stolen and to inspect any junk vehicle, record its VIN number, and obtain the vehicle’s title or bill of sale. Dealers were prohibited from buying scrap metal from a minor and from disposing of any scrap metal for 30 days when notified by law enforcement that the metal might have been stolen. Dealers were also prohibited from buying a list of specific items such as street light poles, guard rails and street signs without obtaining proof that the seller was authorized to sell the item on behalf of the governmental or other entity that owned them. Finally, the legislation provided for graduated penalties for first, second, and third or subsequent violations of the scrap metal statutes.

Legislation in 2011 required scrap metal dealers to register with the city or county where their business was located. Registration was to be accompanied by a fee and was valid for 10 years with an additional annual renewal fee. Scrap metal dealers were also required to pay by check or use a payment system that photographed or videotaped the seller of certain types of scrap metal. Finally, the general theft statute, which provides for graduated penalties depending upon the value of the property stolen, was amended so that the cost to restore the site of a scrap metal theft to its original condition could be taken into account.

Legislation in 2012 made more minor changes to existing law, including clarifications of the registration fee provisions.

In 2014, the legislature considered the bill that is the subject of the current study, S.B. 418. Drafted by the Sedgwick County District Attorney’s office, S.B. 418 contained a number of provisions intended to assist law enforcement in investigating scrap metal theft, increase penalties for scrap metal theft, and tighten restrictions on the sale of regulated scrap metal. The bill included provisions to:

- Require the KBI to establish a central database containing information received by scrap metal dealers from sellers of regulated scrap metal at the time of sale.
- Expand the current definitions of regulated scrap metal and scrap metal dealer.
- Add a sentence enhancement of 36 months’ imprisonment for felony theft of scrap metal where the offender has three prior felony convictions.
- Require scrap metal dealers to photograph the seller and the items being sold.
- Require scrap metal dealers to pay sellers by check or through an automated payment system that photographs or videotapes the seller.
- Allow cities and counties to suspend or revoke a scrap metal dealer’s license and issue fines for violations of statutory requirements.

Proponents of the bill argued that it would give law enforcement better tools to investigate metal theft and would increase consistency of regulation across the state. Opponents were concerned that expanding requirements for scrap metal dealers was unduly burdensome on their businesses and would not lead to any decrease in metal theft.
COMMITTEE DISCUSSION

The Committee began its study of S.B. 418 by discussing the problem of scrap metal theft generally and by attempting to identify problem areas in the law. The Committee found that one of the main problems was a lack of consistent enforcement across the state. For example, although cities and counties have been required to register scrap metal dealers since 2011, it appears that many cities and counties are unaware of that requirement. Based on the experience of Committee members, the Committee believes there are anywhere from 300 to 700 scrap metal dealers in Kansas; however, that number is only an estimate. Despite inquiries to local government entities, the Committee was unable to determine either the total number of scrap metal dealers or the number of scrap metal dealers who are currently registered.

In addition to lack of uniform registration, scrap metal dealers are currently subject to a patchwork of requirements depending on where they are located. Some cities in Kansas, such as Wichita, have stricter scrap metal ordinances than others, and some cities and counties have none at all.

Statewide registration and enforcement

To address the problem of inconsistent registration and enforcement across the state, the Committee concluded that a single state agency should be tasked with overseeing registration and compliance of scrap metal dealers with statutory requirements. Having a single state agency in charge of registration and enforcement would level the playing field for all scrap dealers regardless of their location. Scrap dealers would also have a single contact agency they could report to if they suspect another dealer is not in compliance.

Two state agencies expressed a willingness to take on the task of overseeing scrap metal dealers if such a program were properly funded: the Department of Agriculture and the Attorney General’s office. After meeting with representatives of both agencies, and based in part on the Attorney General’s recent undertaking of roofer registration, the Committee concluded that the Attorney General’s office would be the best fit.

The Committee recommends giving the Attorney General authority to adopt rules and regulations to enforce the registration and record keeping provisions relating to scrap metal dealers and to charge a licensing fee of not more than $1,500.

Civil and administrative license penalties for scrap metal dealers

The Committee also recognized the burden that any new or expanded regulatory requirements will place on scrap metal dealers. In an attempt to lessen that burden somewhat, the Committee agreed to recommend eliminating criminal penalties for violations of the scrap metal dealer requirements. Instead, scrap metal dealers would be subject to civil and administrative license penalties. Under this approach, criminal prosecutions would focus on scrap metal thieves, though any dealer who knowingly purchased stolen scrap metal would remain subject to criminal prosecution.

Criminal penalties – aggravated criminal damage to property

While the Committee agreed to eliminate criminal penalties for violations of scrap metal dealer requirements, it also agreed that scrap metal thieves should be subject to increased penalties, especially
a greater likelihood of serving prison time. Because the enhanced penalty provisions of S.B. 418 had resulted in a significant bed space impact statement, the Committee decided to consider other options.

The Committee recommends creating a new specific intent crime of aggravated criminal damage to property. The crime would be defined as criminal damage to property committed with the intent to obtain regulated scrap metal and would be a severity level 5 felony. A severity level 5 felony, for a defendant who had little or no criminal history, would place the defendant in a border box for sentencing purposes. However, upon a second conviction, the sentence would be presumptive imprisonment.

This approach addresses one of the biggest problems with metal theft – the incidental damage that is done to property during the theft. Also, prosecutors will be able to charge aggravated criminal damage to property as an additional felony count along with theft, trespass, or burglary depending on the facts of the case.

Database for information gathered by scrap metal dealers

The Committee found that one of the most important provisions of S.B. 418 was the requirement that the KBI establish a database to serve as a central repository for the information required to be collected by scrap metal dealers from sellers at the time of each sale or transfer of scrap metal. The database would be made available to law enforcement for investigatory or evidentiary purposes.

The Committee believes that a database would be an excellent tool to help law enforcement investigate scrap metal theft. For example, having access to statewide scrap metal transaction information would allow officers to zero in on suspicious sellers who may be frequenting a number of different scrap dealers.

Because the Committee is recommending that the Attorney General’s office take on regulatory oversight of scrap metal dealers, the Committee is also recommending that the Attorney General be responsible for establishing the database, rather than the KBI as contemplated by S.B. 418.

KBI Director Kirk Thompson reported to the Committee that Leads Online has developed an online system for tracking stolen property. This metal theft investigation system is being used in 39 states, and it has four statewide contracts: with Mississippi, Arkansas, Arizona and Georgia. In Kansas, 42 law enforcement agencies are already paid subscribers to Leads Online.

Mr. Thompson stated that the Leads Online system would be able to do everything required by SB 418 plus additional functionality such as a theft notification system. The flat fee for a statewide contract would be $150,000 per year. Mr. Thompson believes this option would be less expensive than having IT staff build a new database in-house.

The Committee recognized that requiring scrap metal dealers to enter transaction information into an online database is an additional burden, especially on smaller businesses. However, the Committee believes the burden will be minimal because dealers should need only a computer, internet access, and a camera to be able to upload the required information.
**Photo requirement**

S.B. 418 would also require scrap metal dealers to photograph both the seller and the items being sold. The Committee believes the photo requirement is important so that a person selling stolen metal can’t avoid getting caught simply by using someone else’s I.D. While the Committee recognized that some dealers might be reluctant to ask customers to stand for a picture, dealers could meet this requirement by installing cameras that take photos of each transaction discreetly.

**Payment methods**

Current law requires scrap metal dealers to pay sellers by check or automated payment system that photographs or videotapes the seller when purchasing certain specific kinds of scrap metal such as catalytic converters, insulated, stripped or burnt wire, and refrigeration condensing units. Under S.B. 418, dealers would be required to use these payment methods for any transaction involving regulated scrap metal.

The Committee found that restricting dealers to payment by check or an ATM with photo or video has not worked well in practice. Some dealers have circumvented the requirement by issuing a check to the seller that the dealer then cashes for them. Also, even where checks are required to be taken to a third party for cashing, the paper trail does not seem to have aided law enforcement in their investigations. Accordingly, the Committee recommends deleting this requirement from current law.

**Other provisions**

The Committee approved the following provisions contained in S.B. 418:

- New section making scrap metal dealer’s business records admissible into evidence at a preliminary hearing without the testimony of the business records custodian. (S.B. 418, Section 2.)
- Amendments to K.S.A. 21-5804 providing that the giving of false information to a scrap dealer or the transportation of scrap metal across county or state lines constitutes prima facie evidence of intent to permanently deprive the owner of possession of the scrap metal, an element of the crime in any theft prosecution. (S.B. 418, Section 3.)

The Committee also recommends the following new or amended provisions:

- Simplified and broadened definition of scrap metal dealer, which would include mobile scrap dealers for the first time.
- Simplified definition of regulated scrap metal.

**CONCLUSION**

The Committee agreed that many of the provisions of S.B. 418 would be helpful in addressing the problem of scrap metal theft. However, the Committee made a number of changes to some of the bill’s provisions and added several new concepts. The Committee’s resulting work product is a legislative proposal that includes these main elements:
• Statewide registration of scrap metal dealers and compliance enforcement through a single state agency -- the Attorney General’s office;
• Violations of scrap metal dealer requirements subject to civil and administrative license penalties rather than criminal prosecution;
• Database of scrap metal transaction information as investigatory tool for law enforcement; and
• Increased criminal penalties for scrap metal theft offenders.

The Committee’s proposed legislation is attached on the next page, as well as a copy of the original version of S.B. 418.
New Section 1.

(a) The attorney general is hereby authorized to administer and implement the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

(b) In accordance with the rules and regulations filing act, the attorney general is hereby authorized to adopt rules and regulations necessary to implement the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

(c) There is hereby established in the state treasury the scrap metal dealer registration fee fund to be administered by the attorney general. All moneys received by the attorney general from fees, charges, or penalties collected under the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, who shall deposit the entire amount thereof in the state treasury to the credit of the scrap metal dealer registration fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the attorney general and the director of accounts and reports issued pursuant to vouchers approved by the attorney general’s designee. All moneys credited to the scrap metal dealer registration fee fund shall be expended for the administration of the duties, functions and operating expenses incurred under the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

(d) The attorney general shall establish and maintain a database which shall be a central repository for the information required to be provided under K.S.A. 50-6,110, and amendments thereto. The database shall be maintained for the purpose of providing information to law enforcement and for any other purpose deemed necessary by the attorney general to implement and enforce the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

(e) The information required by K.S.A. 50-6,110, and amendments thereto, maintained in such database by the attorney general, or by any entity contracting with the attorney general, submitted to, maintained or stored as a part of the system:

(1) Shall be confidential, shall only be used for investigatory, evidentiary or analysis purposes related to criminal violations of city, state or federal law and shall only be released to law enforcement in response to an official investigation; and

(2) shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

(f) This section shall take effect on and after January 1, 2016.
New Sec. 2. (a) At any preliminary examination, pursuant to K.S.A. 22-2902, and amendments thereto, in which the details of each sale or transaction required to be maintained by scrap metal dealers pursuant to K.S.A. 50-6,110, and amendments thereto, are to be introduced as evidence, the business records of such sale or transaction shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

(b) This section shall be a part of and supplemental to the Kansas code of criminal procedure.

(c) This section shall take effect on and after January 1, 2016.

Sec. 3. K.S.A. 2014 Supp. 21-5804 is hereby amended to read as follows: 21-5804. (a) In any prosecution under K.S.A. 2013 Supp. 5801 through 21-5839, and amendments thereto, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

1. The giving of a false identification or fictitious name, address or place of employment at the time of obtaining, buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property;

2. The failure of a person who leases or rents personal property to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

3. Destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;

4. Destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;

5. The failure of a person who leases or rents from a commercial lessor a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

6. The failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying: (A) The time and place to return the vehicle;
vehicle; and

(B) that failure to comply may be prosecuted as theft, and such
instructions are delivered to the person by the owner at the time the person
is provided with possession of the vehicle. In addition, if such vehicle
has not been returned pursuant to the specifications in such instructions,
the owner may notify the local law enforcement agency of the failure of
the person to return such motor vehicle and the local law enforcement
agency shall cause such motor vehicle to be put into any appropriate
state and local computer system listing stolen motor vehicles;

(7) removing a theft detection device, without authority, from
merchandise or disabling such device prior to purchase; or

(8) under the provisions of subsection (a)(5) of K.S.A. 2013
Supp. 21-5801, and amendments thereto, the failure to replace or
reattach the nozzle and hose of the pump used for the dispensing of
motor fuels or placing such nozzle and hose on the ground or pavement.

(b) In any prosecution for a misdemeanor under K.S.A. 2013 Supp.
21-5801, and amendments thereto, in which the object of the alleged theft
is a book or other material borrowed from a library, it shall be prima facie
evidence of intent to permanently deprive the owner of the possession, use
or benefit thereof if the defendant failed to return such book or material
within 30 days after receiving notice from the library requesting its return,
in which case the subsequent return of the book or material within the 30-
day period shall exempt such transaction from consideration as prima facie
evidence as provided in this section.

(c) In a prosecution for theft as defined in K.S.A. 2013 Supp.
21-5801, and amendments thereto, and such theft is of services, the
existence of any of the connections of meters, alterations or use of
unauthorized or unmeasured electricity, natural gas, water, telephone
service or cable television service, caused by tampering, shall be prima facie
evidence of intent to commit theft of services by the person or
persons using or receiving the direct benefits from the use of the
electricity, natural gas, water, telephone service or cable television service
passing through such connections or meters, or using the electricity,
natural gas, water, telephone service or cable television service which has
not been authorized or measured.

(d) In a prosecution for theft as defined in K.S.A. 2014 Supp. 21-
5801, and amendments thereto, and such theft is of regulated scrap metal
as defined in K.S.A. 2014 Supp. 50-6,109, and amendments thereto, either
in whole or in part, the failure to give information or the giving of false
information to a scrap metal dealer pursuant to the requirements of K.S.A.
2014 Supp. 50-6,109 et seq., and amendments thereto, the transportation
of regulated scrap metal outside the county from where it was obtained,
the transportation of regulated scrap metal across state lines or the
alteration of any regulated scrap metal prior to any transaction with a
scrap metal dealer shall be prima facie evidence of intent to permanently
deprive the owner of the regulated scrap metal of the possession, use or
benefit thereof.

(e) As used in this section:
(1) "Notice" means notice in writing and such notice in writing will
be presumed to have been given three days following deposit of the
notice as registered or certified matter in the United States mail,
addressed to such person who has leased or rented the personal property
or borrowed the library material at the address as it appears in the
information supplied by such person at the time of such leasing, renting or
borrowing, or to such person’s last known address; and

(2) "tampering" includes, but is not limited to:

(A) Making a connection of any wire, conduit or device, to
any service or transmission line owned by a public or municipal utility, or
by a cable television service provider;

(B) defacing, puncturing, removing, reversing or altering any meter
or any connections, for the purpose of securing unauthorized or
unmeasured electricity, natural gas, water, telephone service or cable
television service;

(C) preventing any such meters from properly measuring or
registering;

(D) knowingly taking, receiving, using or converting to such person's
own use, or the use of another, any electricity, water or natural gas which
has not been measured, or any telephone or cable television service which
has not been authorized; or

(E) causing, procuring, permitting, aiding or abetting any person to
do any of the preceding acts.

Sec. 4. K.S.A. 2014 Supp. 21-5813 is hereby amended to read as
follows: 21-5813. (a) Criminal damage to property is by means other than
by fire or explosive:

(1) Knowingly damaging, destroying, defacing or substantially
impairing the use of any property in which another has an interest without
the consent of such other person; or

(2) damaging, destroying, defacing or substantially impairing the use
of any property with intent to injure or defraud an insurer or lienholder.

(b) Criminal damage to property if the property:

(1) Is damaged to the extent of $25,000 or more is a severity level 7,
nonperson felony;

(2) is damaged to the extent of at least $1,000 but less than $25,000 is
a severity level 9, nonperson felony; and

(3) damaged is of the value of less than $1,000 or is of the value of
$1,000 or more and is damaged to the extent of less than $1,000 is a class B
nonperson misdemeanor.

(c) Aggravated criminal damage to property is criminal damage to
property, as defined in subsection (a)(1), regardless of the value or amount
of damage, committed with the intent to obtain any regulated scrap metal as
defined in K.S.A. 2014 Supp. 50-6,109 and amendments thereto, or any
items listed in K.S.A. 2014 Supp. 50-6,111(d)(1) through (d)(21), and
amendments thereto, upon:

(1) any building, structure, personal property or place used primarily for
worship or any religious purpose;
(2) any building, structure or place used as a school or as an educational facility; 

(3) any building, structure, or place used by a non-profit or charitable business, corporation, firm, service, or association; 

(4) any grave, cemetery, mortuary or personal property of the cemetery or mortuary or other facility used for the purpose of burial or memorializing the dead; 

(5) any agricultural property, or agricultural infrastructure; 

(6) any construction, mining, or recycling facility, structure, or site; 

(7) any utility, utility service, telecommunication, or telecommunication service facility, property, building, structure, site or component thereof; 

(8) any municipal, county or state building, structure, site, or property; 

(9) any residential, commercial, industrial or agricultural irrigation, sprinkler, or watering system or component thereof; 

(10) the infrastructure of any residence, building or structure; 

(11) any historical marker, plaque, or work of art; 

(12) any vehicle, or transportation building, facility, structure, site or property; or 

(13) any other building, structure, residence, facility, site, place, property, vehicle, or any infrastructure thereof; 

(d) Aggravated criminal damage to property, as defined in subsection (c), is a severity level 5, nonperson felony. 

(e) (1) As used in this section: 

(A) “Infrastructure” includes any fixture to, attachment upon, or part of a residence, building or structure’s framework, electrical wiring and appurtenances, plumbing or heating and air systems. 

(B) “Site” includes any area, place, or location set aside for specific use or uses, including, but not limited to storage, staging, repair, sorting, transportation, planning, or organization. 

(2) Any of the items or locations listed in subsection (c), shall include the curtilage, adjoining land, and any improvements thereupon. 

(3) Nothing in subsection (c) shall be construed to require the construction or existence of any door, gate, fence, barrier, or wall. Nothing in subsection (c) shall be construed to require the existence of notice, postings, or signs to potential trespassers. 

(4) In determining the amount of damage to property, damages may include the cost of repair or replacement of the property that was damaged, the reasonable cost of the loss of production, crops, and livestock, reasonable labor costs of any kind, reasonable material costs of any kind, and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property.
Sec. 5. K.S.A. 2014 Supp. 21-6604 is hereby amended to read as follows:

. . . .
(b) (1) In addition to or in lieu of any of the above, the court shall order the defendant to pay restitution, which shall include, but not be limited to, damage or loss caused by the defendant's crime, unless the court finds compelling circumstances which would render a plan of restitution unworkable. In regard to a violation of K.S.A. 2013 Supp. 21-6107, and amendments thereto, such damage or loss shall include, but not be limited to, attorney fees and costs incurred to repair the credit history or rating of the person whose personal identification documents were obtained and used in violation of such section, and to satisfy a debt, lien or other obligation incurred by the person whose personal identification documents were obtained and used in violation of such section. In regard to a violation of 2015 Supp K.S.A. 21-5801, 2015 Supp. 21-5807, or 2015 Supp. 21-5813, such damage or loss shall include the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops, and livestock, reasonable labor costs of any kind, reasonable material costs of any kind, and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. If the court finds a plan of restitution unworkable, the court shall state on the record in detail the reasons therefor.

Sec. 6. K.S.A. 2014 Supp. 50-6,109 is hereby amended to read as follows: 50-6,109. As used in K.S.A. 2013 Supp. 50-6,112a through 50-6,112d, and amendments thereto, K.S.A. 2013 Supp. 50-6,109 through 50-6,112-50-6,112b, and amendments thereto:
(a) "Scrap metal dealer" means any individual, firm, company, partnership, association or corporation that operates a business out of a fixed location, and that is also either that is:
(1) engaged in the business of buying and trading, or dealing in regulated scrap metal for the purpose of sale for recycling; or (2) purchasing, collecting, soliciting or procuring regulated scrap metal; or (3) operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.
(b) "Regulated scrap metal yard" means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is collected, gathered together and stored or kept for shipment, sale or transfer.
(c) "Regulated scrap metal" shall mean wire, cable, bars, ingots, wirescrap, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum, catalytic converters containing platinum, palladium or rhodium, and copper, titanium,
tungsten, stainless steel and nickel in any form, for which the purchase price described in K.S.A. 2013 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Aluminum shall not include food or beverage containers. any item, in any form, for which the purchase price described in K.S.A. 2014 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of:

(1) aluminum, except that aluminum shall not include food or beverage containers;
(2) copper;
(3) brass;
(4) bronze;
(5) stainless steel;
(6) zinc;
(7) titanium;
(8) tungsten;
(9) nickel;
(10) platinum;
(11) palladium;
(12) rhodium;
(13) magnesium;
(14) lead;
(15) any other nonferrous metal; or
(16) any combination of nonferrous metals listed in subsections (c)(1) through (c)(15).

(d) "Bales of regulated metal" means regulated scrap metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.

(e) "Ferrous metal" means a metal that contains iron or steel.

(f) "Junk vehicle" means a vehicle as defined in K.S.A. 2014 Supp. 8-126(pp), and amendments thereto, not requiring a title as provided in chapter 8 of the Kansas Statutes Annotated, and amendments thereto, an aircraft, or a boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap which is being sold for scrap value.

(g) "Nonferrous metal" means a metal that does not contain iron or steel, including but not limited to: Copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

(h) "Tin" means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.

(i) "Vehicle part" means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one
unit; or the rear clip consisting of those body parts behind the rear edge of
the back doors, including both rear quarter panels, the rear window, trunk
lid, trunk floor panel and rear bumper, assembled as one unit; or any other
vehicle part.

(g) "Person" means any individual, scrap metal dealer, manager or
employee, owner, operator, corporation, partnership or association.
(h) "Attorney general" means the attorney general of the state of Kansas or
the attorney general's designee.

Sec. 7. K.S.A. 2014 Supp. 50-6,110 is hereby amended to read as
follows: 50-6,110. (a) Except as provided in subsection (d), It shall be
unlawful for any person to sell any item or items of regulated scrap metal
to a scrap metal dealer, or employee or agent of a dealer, in this state
unless such person presents to such scrap metal dealer, or employee or
agent of such dealer, at or before the time of sale, the following
information:

- The seller's name, address, sex, date of birth and the identifying
  number from the seller's driver's license, military identification card,
passport or personal identification license. The identifying
  number from An official governmental document for a country other
  than the United States may be used to meet this requirement provided
  that a legible fingerprint is also obtained from the seller. The seller must
  also complete and sign the statement provided for in subsection (b)(10).

(b) Every scrap metal dealer shall keep a register in which the dealer, or
employee or agent of the dealer, shall at the time of purchase or receipt of
any item for which such information is required to be presented, cross-
reference to previously received information, or accurately and legibly
record at the time of sale the following information:

- The time, date and place of transaction;
- the seller's name, address, sex, date of birth and the identifying
  number from the seller's driver's license, military identification card,
passport or personal identification license; the identifying number from an
  official governmental document for a country other than the United States
  may be used to meet this requirement provided that a legible fingerprint is
  also obtained from the seller;
- a copy of the identification card or document containing such
  identifying number;
- the license number, color and style or make of any motor vehicle in
  which the junk vehicle or other regulated scrap metal property is
  delivered in a purchase transaction;
- a general description, made in accordance with the custom of the
  trade, of the predominant types of junk vehicle or other regulated scrap
  metal property purchased in the transaction;
- the weight, quantity or volume, made in accordance with the
  custom of the trade, of the regulated scrap metal property purchased;
- if a junk vehicle or vehicle part is being bought or sold, a
description of the junk vehicle or vehicle part, including the make, model,
(8) the amount of consideration given in a purchase, price paid for, traded for or dealt for in a transaction for the junk vehicle or other regulated scrap metal property; and

(9) the full name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase; and

(10) a signed statement from the seller indicating from where the property was obtained and that: (A) Each item is the seller’s own personal property, is free of encumbrances and is not stolen; or (B) the seller is acting for the owner and has permission to sell each item. If the seller is not the owner, such statement shall include the name and address of the owner of the property.

(c) The scrap metal dealer shall also photograph both the seller and the item or lot of items being sold at the time of the transaction, and keep the photographs with the record of the transaction, register and copies of the identification cards.

(e) The scrap metal dealer's register, including copies of identification cards, signed statements by the seller and photographs, may be kept in electronic format.

(e) The scrap metal dealer shall forward the information required by subsection (b) to the database described in section 1, and amendments thereto.

(d) Notwithstanding the foregoing, this section shall not apply to:

(1) Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is $50.00 or less;

(2) transactions involving only catalytic converters for which the total sale price is $30.00 or less;

(3) transactions in which the seller is also a scrap metal dealer; or

(4) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

(e) The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:

(1) Catalytic converters purchased separate from a vehicle;

(2) coated or insulated wire or stripped wire or burnt wire;

(3) refrigeration condensing units or air conditioning coils of any type; or

(4) copper tubing, bars, plate, bus bar and sheet copper.

(f) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay for any of the items described in subsections (e)(1) through (e) by any means other than:

(1) A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b); or

(2) a system for automated cash or electronic payment distribution.
which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b).

(f) Notwithstanding any other provision to the contrary, this section shall not apply to transactions in which the seller is a registered scrap metal dealer, a vehicle dealer licensed under chapter 8 of the Kansas Statutes Annotated, or a scrap metal dealer or vehicle dealer registered or licensed in another state.

(g) The attorney general may determine, by regulation, which of the requirements of this section apply to transactions in which the seller is known to the purchasing scrap metal dealer to be a licensed business that operates out of a fixed business location and that can reasonably be expected to generate regulated scrap metal.

Sec. 8. K.S.A. 2013 Supp. 50-6,111 is hereby amended to read as follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2013 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 2013 Supp. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of this act shall be open at all times to peace or law enforcement officers and shall be kept for two years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace or law enforcement officers upon request.

(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2013 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without:
   (1) Each item is the seller’s own personal property, is free of encumbrances and is not stolen; or
   (2) that the seller is acting for the owner and has permission to sell each item.

(c) (b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any junk vehicle in a transaction for which K.S.A. 2013 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without:
   (1) Inspecting the vehicle offered for sale and recording the vehicle identification number; and
   (2) obtaining an appropriate vehicle title or bill of sale issued by a governmentally operated vehicle impound facility if the vehicle purchased has been impounded by such facility or agency.

(d) (c) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase or receive any regulated scrap metal from a
minor unless such minor is accompanied by a parent or guardian or such
minor is a licensed scrap metal dealer.
(e) (d) It shall be unlawful for any scrap metal dealer, or employee or
agent of the dealer, to purchase any of the following items of regulated
scrap metal property without obtaining proof that the seller is an
employee, agent or person who is authorized to sell the item of regulated
scrap metal property on behalf of the governmental entity, utility
provider, railroad, cemetery, civic organization, manufacturing,
industrial or other commercial vendor that generates or sells such items in
the regular course of business; or scrap metal dealer:
(1) Utility access cover;
(2) street light poles or fixtures;
(3) road or bridge guard rails;
(4) highway or street sign;
(5) water meter cover;
(6) traffic directional or traffic control signs;
(7) traffic light signals;
(8) any metal marked with any form of the name or initials of a
governmental entity;
(9) property owned and marked by a telephone, cable, electric, water
or other utility provider;
(10) property owned and marked by a railroad;
(11) funeral markers or vases;
(12) historical markers;
(13) bales of regulated metal;
(14) beer kegs;
(15) manhole covers;
(16) fire hydrants or fire hydrant caps;
(17) junk vehicles with missing or altered vehicle identification
numbers;
(18) real estate signs;
(19) bleachers or risers, in whole or in part; and
(20) twisted pair copper telecommunications wiring of 25 pair or
greater existing in 19, 22, 24 or 26 gauge; and
(21) burnt wire.
(f) (e) It shall be unlawful for any scrap metal dealer, or employee or
agent of the dealer, to sell, trade, melt or crush, or in any way dispose of,
alter or destroy any regulated scrap metal, junk vehicle or vehicle part
upon notice from any law enforcement agency, or any of their agents or
employees, that they have cause to believe an item has been stolen. A scrap
metal dealer shall hold any of the items that are designated by or on behalf
of the law enforcement agency for 30 days, exclusive of weekends and
holidays.

Sec. 9. On and after January 1, 2016, K.S.A. 2013 Supp. 50-6,112a is
hereby amended to read as follows: 50-6,112a. (a) No business scrap
metal dealer shall purchase any regulated scrap metal without having
first registered each place of business as herein provided. All registrations shall be made to the attorney general. In case such place of business is located within the corporate limits of a city, the registration shall be made to the governing body of such city. In all other cases, the registration shall be made to the board of county commissioners in the county in which such place of business is to be located. 

(b) A board of county commissioners shall provide the clerk of the township with written notice of the filing of a registration by a scrap metal dealer within 10 days of registration or renewal. 

(c) The governing body of any city and the board of county commissioners shall provide the sheriff, chief of police or director of all law enforcement agencies in the county written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal. 

(d) A registration for a scrap metal dealer shall be verified and upon a form approved by the attorney general and contain: 

1. The name and residence of the applicant, including all previous names, aliases, and, if the applicant is a corporation, the name and address of each stockholder; if a limited liability company, the name and address of each member; and if a partnership, the name and address of each partner; 

2. The length of time that the applicant has resided within the state of Kansas and a list of all residences outside the state of Kansas during the previous 10 years; 

3. The particular place of business for which a registration is desired, the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business; 

4. The name of the owner of the premises upon which the place of business is located; and 

5. The applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for theft, as defined in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2013 Supp. 21-5801, and amendments thereto, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A. 2013 Supp. 21-5802, and amendments thereto, theft of services, as defined in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. 2013 Supp. 21-5803, and amendments thereto, aggravated criminal damage to property, as defined in K.S.A. 21-5813, and amendments thereto, or any other crime involving possession of stolen property. 

(e) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of not less than $100 nor more than $400, as prescribed by the board of county commissioners or the governing body of the city, as the case may be. 

(f) The board of county commissioners or the governing body of a city shall accept a registration for a scrap metal dealer as otherwise provided for herein, from any scrap metal dealer
engaged in business in such county or city and qualified to file such registration, to purchase regulated scrap metals. Such registration shall be issued for a period of 10 years-one year.

(g) If an original registration is accepted, the governing body of the city or the board of county commissioners shall grant and issue renewals thereof upon application of the registration holder, if the registration holder is qualified to receive the same and the registration has not been revoked as provided by law. The registration fee for such renewal shall be not less than $25 nor more than $50. The renewal fee shall be not more than $1,500, as prescribed by the attorney general.

(h) No registration issued under this act shall be transferable.

(i) Violation of subsection (a) is a class A nonperson misdemeanor.

(j) This section shall not apply to a business licensed under the provisions of K.S.A. 8-2404, and amendments thereto, unless such business buys or recycles regulated scrap metal that are not motor vehicle components.

Sec. 10. On and after January 1, 2016, K.S.A. 2013 Supp. 50-6,112b is hereby amended to read as follows: 50-6,112b. (a) After examining the information contained in a filing for a scrap metal dealer registration and determining the registration meets the statutory requirements for such registration, the governing body of the city or the board of county commissioners shall accept such filing and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) Any person who is not a citizen or legal permanent resident of the United States.

(2) A person who is under 18 years of age and whose parents or legal guardians have been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that such parents or legal guardians held a registration under this act.

(2) A person who, within five ten years immediately preceding the date of filing, has pled guilty to, entered a diversion agreement for, been convicted of, released from incarceration for or released from probation or parole for committing,

attempting to commit, or conspiring to commit a violation of article 37 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or K.S.A. 2013 Supp. 21-5801 through 21-5839 and subsection (a)(6) of K.S.A. 2013 Supp. 21-6412, perjury, K.S.A. 21-3805, prior to its repeal, or K.S.A. 2013 Supp. 21-5903, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, K.S.A. 2013 Supp. 21-5904, interference with judicial process, K.S.A. 2013 Supp. 21-5905, or any
crime involving moral turpitude, truth or dishonesty or any substantially similar offense pursuant to the laws of any city, state or of the United States.

(3)(4) A person who, within the five ten years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of K.S.A. 2013 Supp. 50-6,112a, and amendments thereto, K.S.A. 50-6,109 et seq., and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal three or more times.

aggravated criminal damage to property, as defined in K.S.A. 21-5813, and amendments thereto.

(4)(5) A person who within the three ten years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5)(6) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three ten years.

(6)(7) A partnership or limited liability company, unless all members of the partnership or limited liability company are otherwise qualified to file a registration.

(7)(8) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8)(9) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9)(10) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under this act.

(11) Any person who does not own the premises for which a license is sought, unless the person has a written lease for at least ¾ of the period for which the license is to be issued.

New section 11.

(a) Any scrap metal dealer who violates any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, in addition to any other penalty provided by law, may incur a civil penalty imposed under subsection (b) in the amount fixed by rules and regulations of the attorney general in an amount not less than $100 nor more than $5,000 for each violation.

(b) The attorney general, upon a finding that a scrap metal dealer or any employee or agent thereof or any person or entity required to be registered as a scrap metal dealer has violated any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, may impose a civil penalty as provided in this section upon such dealer.
(c) No civil penalty shall be imposed pursuant to this section except upon
the written order of the attorney general to the scrap metal dealer who
committed the violation. Such order shall state the violation, the penalty to
be imposed and the right of such dealer to appeal. Any such dealer, within
30 days after notification of the penalty, may appeal such decision as
provided in the Kansas administrative procedure act.
(d) This section shall take effect on and after January 1, 2016.

Sec. 12. On and after January 1, 2016, K.S.A. 2013 Supp. 50-6,112c is
hereby amended to read as follows: 50-6,112c. (a) The board of county
commissioners or the governing body of any city attorney general, upon
five days notice to the persons holding a registration, may suspend the scrap
metal dealer's registration for up to 30 days for any one of the following
reasons:
(1) The registrant has been convicted of violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto,
or any similar ordinance, resolution or rules or regulations made by the
board or the city, as the case may be;
(2) the employment or continuation in employment of a person if the
registered scrap metal dealer knows such person has, within the 24 months
prior to the notice of suspension or revocation action, been convicted of
violating any of the provisions of K.S.A. 50-6,109 et seq., and amendments thereto, or the laws of another state comparable to
such provisions, or any city or county ordinance or resolution, or regulation
controlling scrap metal sale or purchase in Kansas or any other state; or
(3) permitting any criminal activity under the Kansas criminal code, or
similar ordinance, resolution or rules or regulations made by the board or
city, as the case may be, in or upon the registrant's place of business.
(b) The board of county commissioners or the governing body of any city
attorney general may revoke the registration of a scrap metal dealer who
has had its registration suspended three or more times within a 24-month
period.
(c) The board of county commissioners or the governing body of any city
attorney general, upon five days' notice to the person holding the
registration, shall revoke or suspend the registration for any one of the
following reasons:
(1) The registrant has fraudulently registered by knowingly giving
materially false information on the registration form;
(2) the registrant has become ineligible to obtain a registration under this
act;
(3) the nonpayment of any registration fees after receiving written notice
that such registration fees are more than 30 days past due; or
(4) the nonpayment of any civil penalty after receiving written
notice that such penalty is more than 30 days past due.
(d) Within 20 days after the order of the board denying, revoking or
suspending any registration, the registrant may appeal to the district court.
and the district court shall proceed to hear such appeal as though the court
had original jurisdiction of the matter. Upon request by the registrant, the
district court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this act.

(d) Any action brought under subsections (a), (b) or (c) shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same individual, company or business entity.

(e) Any person aggrieved by the decision of the attorney general to suspend or revoke a registration under this section may appeal such decision as provided in the administrative procedure act.

Sec. 13. K.S.A. 21-5804, 21-5813, and 21-6604 and K.S.A. 2014 Supp. 50-6,109, 50-6,110, and 50-6,111 are hereby repealed.

Sec. 14. On and after January 1, 2016, K.S.A. 2014 Supp. 50-6,112, 50-6,112a, 50-6,112b and 50-6,112c are hereby repealed.

Sec. 15. This act shall take effect and be in force from and after its publication in the statute book.
SENATE BILL No. 418

By Committee on Ways and Means

AN ACT concerning regulated scrap metal; relating to the crime of theft; sentencing; evidence at preliminary examination; regulation of scrap metal dealers; unlawful acts; penalties; amending K.S.A. 2013 Supp. 21-5804, 21-6804, 50-6,109, 50-6,110, 50-6,111, 50-6,112, 50-6,112a and 50-6,112b and repealing the existing sections; also repealing K.S.A. 2013 Supp. 50-6,112c.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) The Kansas bureau of investigation shall establish a database which shall be a central repository of information received by scrap metal dealers as defined in K.S.A. 2013 Supp. 50-6,109, and amendments thereto, from sellers of regulated scrap metals at the time of the sale or transfer of regulated scrap metal, as required by K.S.A. 2013 Supp. 50-6,110, and amendments thereto. The database shall be maintained for the purpose of providing information to law enforcement.

(b) The information maintained in such database by the bureau, or by any entity contracting with the bureau, submitted to, maintained or stored as a part of the system:

(1) Shall be confidential, shall only be used for investigatory or evidentiary purposes related to criminal violations of city, state or federal law and shall only be released to law enforcement in response to an official investigation; and

(2) shall not be a public record and shall not be subject to the Kansas open records act, K.S.A. 45-215 et seq., and amendments thereto.

New Sec. 2. (a) At any preliminary examination, pursuant to K.S.A. 22-2902, and amendments thereto, in which the details of each sale or transaction required to be maintained by scrap metal dealers pursuant to K.S.A. 50-6,110, and amendments thereto, are to be introduced as evidence, the business records of such sale or transaction shall be admissible into evidence in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

(b) This section shall be a part of and supplemental to the Kansas code of criminal procedure.

Sec. 3. K.S.A. 2013 Supp. 21-5804 is hereby amended to read as
follows: 21-5804. (a) In any prosecution under K.S.A. 2013 Supp. 21-5801 through 21-5839, and amendments thereto, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:

(1) The giving of a false identification or fictitious name, address or place of employment at the time of obtaining buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property;

(2) the failure of a person who leases or rents personal property to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property, if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

(3) destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;

(4) destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;

(5) the failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(6) the failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying: (A) The time and place to return the vehicle; and (B) that failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;

(7) removing a theft detection device, without authority, from
merchandise or disabling such device prior to purchase; or

(8) under the provisions of subsection (a)(5) of K.S.A. 2013 Supp. 21-5801, and amendments thereto, the failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.

(b) In any prosecution for a misdemeanor under K.S.A. 2013 Supp. 21-5801, and amendments thereto, in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.

(c) In a prosecution for theft as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, and such theft is of services, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, caused by tampering, shall be prima facie evidence of intent to commit theft of services by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, water, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured.

(d) In a prosecution for theft as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, and such theft is of regulated scrap metal as defined in K.S.A. 2013 Supp. 50-6,109, and amendments thereto, either in whole or in part, the failure to give information or the giving of false information to a scrap metal dealer pursuant to the requirements of K.S.A. 2013 Supp. 50-6,109 et seq., and amendments thereto, the transportation of regulated scrap metal outside the county from where it was obtained, the transportation of regulated scrap metal across state lines or the alteration of any regulated scrap metal prior to any transaction with a scrap metal dealer shall be prima facie evidence of intent to permanently deprive the owner of the regulated scrap metal of the possession, use or benefit thereof.

(e) As used in this section:

(1) "Notice" means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied
by such person at the time of such leasing, renting or borrowing, or to such person's last known address; and

(2) "tampering" includes, but is not limited to:

(A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;

(B) defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;

(C) preventing any such meters from properly measuring or registering;

(D) knowingly taking, receiving, using or converting to such person's own use, or the use of another, any electricity, water or natural gas which has not been measured, or any telephone or cable television service which has not been authorized; or

(E) causing, procuring, permitting, aiding or abetting any person to do any of the preceding acts.

Sec. 4. K.S.A. 2013 Supp. 21-6804 is hereby amended to read as follows: 21-6804. (a) The provisions of this section shall be applicable to the sentencing guidelines grid for nondrug crimes. The following sentencing guidelines grid shall be applicable to nondrug felony crimes:
## SENTENCING RANGE - NONDRUG OFFENSES

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<th>C (1 Person &amp; 1 Nonperson Felonies)</th>
<th>D (1 Person Felony)</th>
<th>E (3 + Nonperson Felonies)</th>
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<th>G (1 Nonperson Felony)</th>
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**Legend:**
- Presumptive Probation
- Felony
- Presumptive Imprisonment
(b) Sentences expressed in the sentencing guidelines grid for nondrug crimes represent months of imprisonment.
(c) The sentencing guidelines grid is a two-dimensional crime severity and criminal history classification tool. The grid's vertical axis is the crime severity scale which classifies current crimes of conviction. The grid's horizontal axis is the criminal history scale which classifies criminal histories.
(d) The sentencing guidelines grid for nondrug crimes as provided in this section defines presumptive punishments for felony convictions, subject to the sentencing court's discretion to enter a departure sentence. The appropriate punishment for a felony conviction should depend on the severity of the crime of conviction when compared to all other crimes and the offender's criminal history.

(e) (1) The sentencing court has discretion to sentence at any place within the sentencing range. In the usual case it is recommended that the sentencing judge select the center of the range and reserve the upper and lower limits for aggravating and mitigating factors insufficient to warrant a departure.
(2) In presumptive imprisonment cases, the sentencing court shall pronounce the complete sentence which shall include the:
(A) Prison sentence;
(B) maximum potential reduction to such sentence as a result of good time; and
(C) period of postrelease supervision at the sentencing hearing.
Failure to pronounce the period of postrelease supervision shall not negate the existence of such period of postrelease supervision.
(3) In presumptive nonprison cases, the sentencing court shall pronounce the:
(A) Prison sentence; and
(B) duration of the nonprison sanction at the sentencing hearing.
(f) Each grid block states the presumptive sentencing range for an offender whose crime of conviction and criminal history place such offender in that grid block. If an offense is classified in a grid block below the dispositional line, the presumptive disposition shall be nonimprisonment. If an offense is classified in a grid block above the dispositional line, the presumptive disposition shall be imprisonment. If an offense is classified in grid blocks 5-H, 5-I or 6-G, the court may impose an optional nonprison sentence as provided in subsection (q).
(g) The sentence for a violation of K.S.A. 21-3415, prior to its repeal, aggravated battery against a law enforcement officer committed prior to July 1, 2006, or a violation of subsection (d) of K.S.A. 2013 Supp. 21-5412, and amendments thereto, aggravated assault against a law enforcement officer, which places the defendant's sentence in grid block 6-
H or 6-I shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(h) When a firearm is used to commit any person felony, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(i) (1) The sentence for the violation of the felony provision of K.S.A. 2013 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of K.S.A. 2013 Supp. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 2013 Supp. 21-5823, K.S.A. 2013 Supp. 21-6412 and K.S.A. 2013 Supp. 21-6416, and amendments thereto, shall be as provided by the specific mandatory sentencing requirements of that section and shall not be subject to the provisions of this section or K.S.A. 2013 Supp. 21-6807, and amendments thereto.

(2) If because of the offender's criminal history classification the offender is subject to presumptive imprisonment or if the judge departs from a presumptive probation sentence and the offender is subject to imprisonment, the provisions of this section and K.S.A. 2013 Supp. 21-6807, and amendments thereto, shall apply and the offender shall not be subject to the mandatory sentence as provided in K.S.A. 2013 Supp. 21-5823, and amendments thereto.

(3) Notwithstanding the provisions of any other section, the term of imprisonment imposed for the violation of the felony provision of K.S.A. 2013 Supp. 8-1025, K.S.A. 8-2,144, K.S.A. 8-1567, subsection (b)(3) of K.S.A. 2013 Supp. 21-5414, subsections (b)(3) and (b)(4) of K.S.A. 2013 Supp. 21-5823, K.S.A. 2013 Supp. 21-6412 and K.S.A. 2013 Supp. 21-6416, and amendments thereto, shall not be served in a state facility in the custody of the secretary of corrections, except that the term of imprisonment for felony violations of K.S.A. 2013 Supp. 8-1025 or K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, may be served in a state correctional facility designated by the secretary of corrections if the secretary determines that substance abuse treatment resources and facility capacity is available. The secretary's determination regarding the availability of treatment resources and facility capacity shall not be subject to review. Prior to imposing any sentence pursuant to this subsection, the court may consider assigning the defendant to a house arrest program pursuant to K.S.A. 2013 Supp. 21-6609, and amendments thereto.

(j) (1) The sentence for any persistent sex offender whose current convicted crime carries a presumptive term of imprisonment shall be double the maximum duration of the presumptive imprisonment term. The sentence for any persistent sex offender whose current conviction carries a presumptive nonprison term shall be presumed imprisonment and shall be double the maximum duration of the presumptive imprisonment term.

(2) Except as otherwise provided in this subsection, as used in this...
subsection, "persistent sex offender" means a person who:

(A) (i) Has been convicted in this state of a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(A)(i) has at least one conviction for a sexually violent crime, as defined in K.S.A. 22-3717, and amendments thereto, in this state or comparable felony under the laws of another state, the federal government or a foreign government; or

(B) (i) has been convicted of rape, as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2013 Supp. 21-5503, and amendments thereto; and

(ii) at the time of the conviction under subsection (j)(2)(B)(i) has at least one conviction for rape in this state or comparable felony under the laws of another state, the federal government or a foreign government.

(3) Except as provided in subsection (j)(2)(B), the provisions of this subsection shall not apply to any person whose current convicted crime is a severity level 1 or 2 felony.

(k) (1) If it is shown at sentencing that the offender committed any felony violation for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further or assist in any criminal conduct by gang members, the offender's sentence shall be presumed imprisonment. The court may impose an optional nonprison sentence as provided in subsection (q).

(2) As used in this subsection, "criminal street gang" means any organization, association or group of three or more persons, whether formal or informal, having as one of its primary activities:

(A) The commission of one or more person felonies; or

(B) the commission of felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009; and

(C) its members have a common name or common identifying sign or symbol; and

(D) its members, individually or collectively, engage in or have engaged in the commission, attempted commission, conspiracy to commit or solicitation of two or more person felonies or felony violations of article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009, or any substantially similar offense from another jurisdiction.

(l) Except as provided in subsection (o), the sentence for a violation
of subsection (a)(1) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2013 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of subsection (a) or (b) of K.S.A. 21-3715, prior to its repeal, 21-3716, prior to its repeal, subsection (a)(1) or (a)(2) of K.S.A. 2013 Supp. 21-5807, or subsection (b) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment.

(m) The sentence for a violation of K.S.A. 22-4903 or subsection (a) (2) of K.S.A. 2013 Supp. 21-5913, and amendments thereto, shall be presumptive imprisonment. If an offense under such sections is classified in grid blocks 5-E, 5-F, 5-G, 5-H or 5-I, the court may impose an optional nonprison sentence as provided in subsection (q).

(n) The sentence for a violation of criminal deprivation of property, as defined in K.S.A. 2013 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, and when such person being sentenced has any combination of two or more prior convictions of subsection (b) of K.S.A. 21-3705, prior to its repeal, or of criminal deprivation of property, as defined in K.S.A. 2013 Supp. 21-5803, and amendments thereto, when such property is a motor vehicle, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(o) The sentence for a felony violation of theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, when such person being sentenced has no prior convictions for a violation of K.S.A. 21-3701 or 21-3715, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, when such person being sentenced has one or two prior felony convictions for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2013 Supp. 21-5807, and amendments thereto; or the sentence for a felony violation of burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, when such person being sentenced has one prior felony conviction for a violation of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in
K.S.A. 2013 Supp. 21-5807, and amendments thereto, shall be the sentence as provided by this section, except that the court may order an optional nonprison sentence for a defendant to participate in a drug treatment program, including, but not limited to, an approved after-care plan, if the court makes the following findings on the record:

(1) Substance abuse was an underlying factor in the commission of the crime;
(2) substance abuse treatment in the community is likely to be more effective than a prison term in reducing the risk of offender recidivism; and
(3) participation in an intensive substance abuse treatment program will serve community safety interests.

A defendant sentenced to an optional nonprison sentence under this subsection shall be supervised by community correctional services. The provisions of subsection (f)(1) of K.S.A. 2013 Supp. 21-6824, and amendments thereto, shall apply to a defendant sentenced under this subsection. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

Except as otherwise provided in this subsection, the sentence for a felony violation of theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, when such person being sentenced has any combination of three or more prior felony convictions for violations of K.S.A. 21-3701, 21-3715 or 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2013 Supp. 21-5807, and amendments thereto; or the sentence for a violation of burglary as defined in subsection (a) of K.S.A. 2013 Supp. 21-5807, and amendments thereto, when such person being sentenced has any combination of two or more prior convictions for violations of K.S.A. 21-3701, 21-3715 and 21-3716, prior to their repeal, or theft of property as defined in K.S.A. 2013 Supp. 21-5801, and amendments thereto, or burglary or aggravated burglary as defined in K.S.A. 2013 Supp. 21-5807, and amendments thereto, shall be presumed imprisonment and the defendant shall be sentenced to prison as provided by this section, except that:

(1) The court may recommend that an offender be placed in the custody of the secretary of corrections, in a facility designated by the secretary to participate in an intensive substance abuse treatment program, upon making the following findings on the record:

(A) Substance abuse was an underlying factor in the commission of the crime;
(B) substance abuse treatment with a possibility of an early release from imprisonment is likely to be more effective than a prison term
in reducing the risk of offender recidivism; and

(3) (C) participation in an intensive substance abuse treatment program with the possibility of an early release from imprisonment will serve community safety interests by promoting offender reformation.

The intensive substance abuse treatment program shall be determined by the secretary of corrections, but shall be for a period of at least four months. Upon the successful completion of such intensive treatment program, the offender shall be returned to the court and the court may modify the sentence by directing that a less severe penalty be imposed in lieu of that originally adjudged within statutory limits. If the offender's term of imprisonment expires, the offender shall be placed under the applicable period of postrelease supervision. The sentence under this subsection shall not be considered a departure and shall not be subject to appeal.

(2) If the trier of fact makes a finding that the items, property or materials that are the subject of the present crime of conviction are or were, either in part or whole, a regulated scrap metal as defined by K.S.A. 2013 Supp. 50-6,109, and amendments thereto, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 36 months' imprisonment. The sentence imposed pursuant to this paragraph shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal. The provisions of subsection (p)(1) shall not apply to a sentence imposed pursuant to this paragraph.

(q) As used in this section, an "optional nonprison sentence" is a sentence which the court may impose, in lieu of the presumptive sentence, upon making the following findings on the record:

(1) An appropriate treatment program exists which is likely to be more effective than the presumptive prison term in reducing the risk of offender recidivism; and

(2) the recommended treatment program is available and the offender can be admitted to such program within a reasonable period of time; or

(3) the nonprison sanction will serve community safety interests by promoting offender reformation.

Any decision made by the court regarding the imposition of an optional nonprison sentence shall not be considered a departure and shall not be subject to appeal.

(r) The sentence for a violation of subsection (c)(2) of K.S.A. 2013 Supp. 21-5413, and amendments thereto, shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.
(s) The sentence for a violation of K.S.A. 2013 Supp. 21-5512, and amendments thereto, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

(t) (1) If the trier of fact makes a finding that an offender wore or used ballistic resistant material in the commission of, or attempt to commit, or flight from any felony, in addition to the sentence imposed pursuant to the Kansas sentencing guidelines act, the offender shall be sentenced to an additional 30 months' imprisonment.

(2) The sentence imposed pursuant to subsection (t)(1) shall be presumptive imprisonment and shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(3) As used in this subsection, "ballistic resistant material" means:

(A) Any commercially produced material designed with the purpose of providing ballistic and trauma protection, including, but not limited to, bulletproof vests and kevlar vests; and (B) any homemade or fabricated substance or item designed with the purpose of providing ballistic and trauma protection.

(u) The sentence for a violation of K.S.A. 2013 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy, as defined in K.S.A. 2013 Supp. 21-5301 and 21-5302, and amendments thereto, to commit such offense, when such person being sentenced has a prior conviction for a violation of K.S.A. 21-4018, prior to its repeal, or K.S.A. 2013 Supp. 21-6107, and amendments thereto, or any attempt or conspiracy to commit such offense, shall be presumptive imprisonment. Such sentence shall not be considered a departure and shall not be subject to appeal.

Sec. 5. K.S.A. 2013 Supp. 50-6,109 is hereby amended to read as follows: 50-6,109. As used in K.S.A. 2013 Supp. 50-6,112a through 50-6,112e, and amendments thereto, and K.S.A. 2013 Supp. 50-6,109 through 50-6,112, 50-6,112b, and amendments thereto:

(a) "Scrap metal dealer" means any person, firm, company, partnership, association or corporation that operates a business out of a fixed location, and that is also either that:

(1) Engaged Weighs regulated scrap metal to engage in the business of buying and, selling, trading, gathering, collecting, soliciting, procuring, receiving or dealing in regulated scrap metal; or

(2) purchasing, gathering, collecting, soliciting or procuring regulated scrap metal; or

(3) is operating, carrying on, conducting or maintaining a regulated scrap metal yard or place where regulated scrap metal is gathered together and stored or kept for shipment, sale or transfer.

(b) "Regulated scrap metal yard" means any yard, plot, space, enclosure, building or any other place where regulated scrap metal is
collected, gathered together and stored or kept for shipment, sale or transfer.

(c) "Regulated scrap metal" shall mean wire, cable, bars, ingots, wire scraps, pieces, pellets, clamps, aircraft parts, junk vehicles, vehicle parts, pipes or connectors made from aluminum; catalytic converters containing platinum, palladium or rhodium; and copper, titanium, tungsten, stainless steel and nickel in any form; for which the purchase price described in K.S.A. 2013 Supp. 50-6,110 and 50-6,111, and amendments thereto, was primarily based on the content therein of aluminum, copper, titanium, tungsten, nickel, platinum, palladium, stainless steel or rhodium; any item composed in whole or in part of any nonferrous metal other than an item composed of tin, that is purchased or otherwise acquired for the purpose of recycling or storage for later recycling. Regulated scrap metal also includes tungsten alloy tooling, water or irrigation valves, plaques, statuary, bells with a diameter of eight inches or more, works of art made of copper, brass, bronze, aluminum or stainless steel, urns, cemetery ornaments including vases or markers made of any type of metal, historical markers made of any type of metal, automotive catalytic converters, kegs capable of holding more than ten gallons of liquid and non-ferrous cutting by-products, coated or insulated wire or stripped wire or burnt wire, refrigeration condensing units or air conditioning coils of any type, copper tubing, bars, plate, buss bar and sheet copper. Aluminum shall not include food or beverage containers.

(d) "Bales of regulated metal" means regulated scrap metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a scrap metal dealer consistent with industry standards.

(e) "Ferrous metal" means a metal that contains iron or steel.

(f) "Junk vehicle" means a vehicle not requiring a title as provided in chapter 8 of the Kansas Statutes Annotated, and amendments thereto, aircraft, boat, farming implement, industrial equipment, trailer or any other conveyance used on the highways and roadways, which has no use or resale value except as scrap.

(g) "Nonferrous metal" means a metal that does not contain iron or steel, including but not limited to: Copper, brass, aluminum, bronze, lead, zinc, nickel and their alloys.

(h) "Tin" means a metal consisting predominantly of light sheet metal ferrous scrap, including large and small household appliances, construction siding and construction roofing.

(i) "Vehicle part" means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk
"Cutting by-products" means borings, turnings, shavings, filings or other particulate matter produced by the cutting or machining of non-ferrous metal either in loose or compacted form.

"Automotive catalytic converter" means a device used in automotive exhaust systems to convert carbon monoxide into carbon dioxide and other compounds.

"Person" means any individual, scrap metal dealer manager or employee, owner, operator, corporation, partnership or association.

"Property" means vehicle parts, catalytic converters and regulated scrap metal.

Sec. 6. K.S.A. 2013 Supp. 50-6,110 is hereby amended to read as follows: 50-6,110. (a) Every scrap metal dealer shall keep a register in which the dealer, employee or agent of the dealer shall, at the time of purchase or receipt of any item for which such information is required to be presented, accurately and legibly record at the time of sale the information required by subsection (b).

(b) Except as provided in subsection (d), it shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer, or employee or agent of a dealer, in this state unless such person presents to such scrap metal dealer, or employee or agent of such dealer, at or before the time of sale, the following information: The seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license. The identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller.

(b) Every scrap metal dealer shall keep a register in which the dealer, or employee or agent of the dealer, shall at the time of purchase or receipt of any item for which such information is required to be presented, cross-reference to previously received information, or accurately and legibly record at the time of sale the following information:

(1) The time, date and place of transaction;

(2) the seller's name, address, sex, date of birth and the identifying number from the seller's driver's license, military identification card, passport or personal identification license; the identifying number from an official governmental document for a country other than the United States may be used to meet this requirement provided that a legible fingerprint is also obtained from the seller;

(3) a copy of the identification card or document containing such identifying number;
(4) the license number, color and style or make of any motor vehicle in which the junk vehicle or other regulated scrap metal property is delivered in a purchase transaction;

(5) a general description, made in accordance with the custom of the trade, of the predominant types of junk vehicle or other regulated scrap metal property purchased in the transaction;

(6) the weight, quantity or volume, made in accordance with the custom of the trade, of the regulated scrap metal property purchased;

(7) if a junk vehicle or vehicle part is being bought or sold, a description of the junk vehicle or vehicle part, including the make, model, color, vehicle identification number and serial number if applicable;

(8) the amount of consideration given in a purchase price paid in a transaction for the junk vehicle or other regulated scrap metal property; and

(9) the full name of the individual acting on behalf of the regulated scrap metal dealer in making the purchase;

(10) the serial number, or any identifying markings on any property purchased, if any; and

(11) a signed statement from the seller indicating from where the property was obtained and that: (A) Each item is the seller's own personal property, is free of encumbrances and is not stolen; or (B) the seller is acting for the owner and has permission to sell each item. If the seller is not the owner, such statement shall include the name and address of the owner of the property.

(c) The scrap metal dealer shall also photograph both the seller and the item or lot of items being sold at the time of the transaction, and keep the photographs with the record of the transaction, register and copies of the identification cards.

(d) The scrap metal dealer's register, including copies of identification cards, signed statements by the seller and photographs, may be kept in electronic format.

(e) The scrap metal dealer shall forward the information required by subsection (b) to the Kansas bureau of investigation database described in section 1, and amendments thereto.

(d) Notwithstanding the foregoing, this section shall not apply to:

(1) Transactions involving regulated scrap metal, except for catalytic converters, for which the total sale price for all regulated scrap metal is $50.00 or less;

(2) transactions involving only catalytic converters for which the total sale price is $30.00 or less;

(3) transactions in which the seller is also a scrap metal dealer; or

(4) transactions for which the seller is known to the purchasing scrap metal dealer to be an established business that operates out of a fixed-
business location and that can reasonably be expected to generate regulated scrap metal.

(e) The exceptions contained in subsections (d)(1) and (d)(2) shall not apply to any purchase from any seller of the following materials:

(1) Catalytic converters purchased separate from a vehicle;
(2) coated or insulated wire or stripped wire or burnt wire;
(3) refrigeration condensing units or air conditioning coils of any type; or
(4) copper tubing, bars, plate, bus bar and sheet copper.

(f) Information required by subsection (b) may be provided to the dealer on a form supplied by the dealer, but shall be completed by the seller.

(g) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to pay, transfer or exchange for any of the items described in subsections (e)(1) through (4) items of regulated scrap metal by any means other than:

(1) A prenumbered check drawn on a regular bank account in the name of the scrap metal dealer and with such check made payable to the person documented as the seller in accordance with subsection (b) (a); or
(2) a system for automated cash or electronic payment distribution which photographs or videotapes the payment recipient and identifies the payment with a distinct transaction in the register maintained in accordance with subsection (b) (a).

(h) Notwithstanding any other provision to the contrary, this section shall not apply to transactions in which the seller is a registered scrap metal dealer.

Sec. 7. K.S.A. 2013 Supp. 50-6,111 is hereby amended to read as follows: 50-6,111. (a) It shall be unlawful for any such scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2013 Supp. 50-6,110, and amendments thereto, requires information to be presented by the seller, without demanding and receiving from the seller that information. Every scrap metal dealer shall file and maintain a record of information obtained in compliance with the requirements in K.S.A. 2013 Supp. 50-6,110, and amendments thereto. All records kept in accordance with the provisions of this act shall be open at all times to peace or law enforcement officers and shall be kept for two five years. If the required information is maintained in electronic format, the scrap metal dealer shall provide a printout of the information to peace or law enforcement officers upon request.

(b) It shall be unlawful for any scrap metal dealer, or employee or agent of the dealer, to purchase any item or items of regulated scrap metal in a transaction for which K.S.A. 2013 Supp. 50-6,110, and amendments
thereto, requires information to be presented by the seller, without
obtaining from the seller a signed statement that: (1) Each item is the
seller's own personal property, is free of encumbrances and is not stolen; or
(2) that the seller is acting for the owner and has permission to sell each
item.

(e) (b) It shall be unlawful for any scrap metal dealer, or employee or
agent of the dealer, to purchase any junk vehicle in a transaction for which
K.S.A. 2013 Supp. 50-6,110, and amendments thereto, requires
information to be presented by the seller, without: (1) Inspecting the
vehicle offered for sale and recording the vehicle identification number;
and (2) obtaining an appropriate vehicle title or bill of sale issued by a
governmentally operated vehicle impound facility if the vehicle purchased
has been impounded by such facility or agency.

(d) (c) It shall be unlawful for any scrap metal dealer, or employee or
agent of the dealer, to purchase or receive any regulated scrap metal from a
minor unless such minor is accompanied by a parent or guardian or such
minor is a licensed scrap metal dealer.

(e) (d) It shall be unlawful for any scrap metal dealer, or employee or
agent of the dealer, to purchase any of the following items of regulated
scrap metal property without obtaining proof that the seller is an
employee, agent or person who is authorized to sell the item of regulated
scrap metal property on behalf of the governmental entity, utility provider,
railroad, cemetery, civic organization or scrap metal dealer:

(1) Utility access cover;
(2) street light poles or fixtures;
(3) road or bridge guard rails;
(4) highway or street sign;
(5) water meter cover;
(6) traffic directional or traffic control signs;
(7) traffic light signals;
(8) any metal marked with any form of the name or initials of a
governmental entity;
(9) property owned and marked by a telephone, cable, electric, water
or other utility provider;
(10) property owned and marked by a railroad;
(11) funeral markers or vases;
(12) historical markers;
(13) bales of regulated metal;
(14) beer kegs;
(15) manhole covers;
(16) fire hydrants or fire hydrant caps;
(17) junk vehicles with missing or altered vehicle identification
numbers;
(18) real estate signs;
(19) bleachers or risers, in whole or in part; and
(20) twisted pair copper telecommunications wiring of 25 pair or
greater existing in 19, 22, 24 or 26 gauge.

(e) It shall be unlawful for any scrap metal dealer, or employee or
agent of the dealer, to sell, trade, melt or crush, or in any way dispose of,
alter or destroy any regulated scrap metal, junk vehicle or vehicle part
upon notice from any law enforcement agency, or any of their agents or
employees, that they have cause to believe an item has been stolen. A scrap
metal dealer shall hold any of the items that are designated by or on behalf
of the law enforcement agency for 30 days, exclusive of weekends and
holidays.

Sec. 8. K.S.A. 2013 Supp. 50-6,112 is hereby amended to read as
follows: 50-6,112. (a) (1) Except as provided in subsections (b) and (c),
any person for every transaction or sale wherein any person is found
intentionally violating the provisions of K.S.A. 2013 Supp. 50-6,109
through 50-6,111, and amendments thereto, such person shall be guilty of
a class C misdemeanor for which the minimum fine is $200.

(2) In addition to the penalty set forth in subsection (a)(1), the board
of county commissioners or the governing body of any city where the
scrap metal dealer is registered, or any state scrap metal dealer
regulatory authority, as the case may be, upon five days' notice to the
person or persons holding a registration, may suspend the scrap metal
dealer's registration for up to five days and issue a fine of up to $1,000 for
any one of the following reasons:

(A) The scrap metal dealer, an employee or manager thereof, or
agent of the dealer acting in a representative capacity, has been convicted,
as a first offense, of violating any of the provisions of K.S.A. 2013 Supp.
50-6,109 et seq., and amendments thereto, or any similar ordinance,
resolution or rules or regulations made by the board or the city, as the
case may be; or

(B) the employment or continuation of employment of a person if the
registered scrap metal dealer knows such person has, within the 24
months prior to the notice of suspension or revocation action, been
convicted of violating any of the provisions of K.S.A. 2013 Supp. 50-6,109
et seq., and amendments thereto, or the laws of another state comparable
to such provisions, or any city or county ordinance or resolution, or
regulation controlling scrap metal sale or purchase in Kansas or any
other state, as a first offense.

(b) (1) For every transaction or sale wherein any person is convicted
of violating the provisions of K.S.A. 2013 Supp. 50-6,109 through 50-
6,111, and amendments thereto, for the second time within a two-year 12-
month period shall be guilty of a class B misdemeanor for which the
minimum fine is $500.

(2) In addition to the penalty set forth in subsection (b)(1), the board of county commissioners or the governing body of any city where the scrap metal dealer is registered, or any state scrap metal dealer regulatory authority, as the case may be, upon five days' notice to the person or persons holding a registration, may suspend the scrap metal dealer's registration for up to 30 days and issue a fine of up to $2,500 for any one of the following reasons:

(A) The scrap metal dealer, an employee or manager thereof, or agent of the dealer acting in a representative capacity, has been convicted, as a second offense, of violating any of the provisions of K.S.A. 2013 Supp. 50-6,109 et seq., and amendments thereto, or any similar ordinance, resolution or rules or regulations made by the board or the city, as the case may be; or

(B) the employment or continuation of employment of a person if the registered scrap metal dealer knows such person has, within the 24 months prior to the notice of suspension or revocation action, been convicted of violating any of the provisions of K.S.A. 2013 Supp. 50-6,109 et seq., and amendments thereto, or the laws of another state comparable to such provisions, or any city or county ordinance or resolution, or regulation controlling scrap metal sale or purchase in Kansas or any other state, as a second offense.

(c) (1) For every transaction or sale wherein any person is convicted of violating the provisions of K.S.A. 2013 Supp. 50-6,109 through 50-6,111, and amendments thereto, for the third and subsequent times within a two-year 12-month period shall be guilty of a class A misdemeanor for which the minimum fine is $1,000.

(2) In addition to the penalty set forth in subsection (c)(1), the board of county commissioners or the governing body of any city where the scrap metal dealer is registered, or any state scrap metal dealer regulatory authority, as the case may be, upon five days' notice to the person or persons holding a registration, shall revoke the scrap metal dealer's registration and issue a fine of up to $5,000 for any one of the following reasons:

(A) The scrap metal dealer, an employee or manager thereof, or agent of the dealer acting in a representative capacity, has been convicted, as a third or subsequent offense, of violating any of the provisions of K.S.A. 2013 Supp. 50-6,109 et seq., and amendments thereto, or any similar ordinance, resolution or rules or regulations made by the board or the city, as the case may be; or

(B) the employment or continuation of employment of a person if the registered scrap metal dealer knows such person has, within the 24 months prior to the notice of suspension or revocation action, been
convicted of violating any of the provisions of K.S.A. 2013 Supp. 50-6,109 et seq., and amendments thereto, or the laws of another state comparable to such provisions, or any city or county ordinance or resolution, or regulation controlling scrap metal sale or purchase in Kansas or any other state, as a third or subsequent offense.

(d) The board of county commissioners or the governing body of any city where the scrap metal dealer is registered, or any state designated scrap metal dealer regulatory authority, as the case may be, shall revoke the scrap metal dealer's registration for any one of the following reasons:

(1) The registrant has fraudulently registered by knowingly giving materially false information on the registration form;

(2) the registrant has become ineligible to obtain a registration under the provisions of K.S.A. 2013 Supp. 50-6,109 et seq., and amendments thereto; or

(3) the nonpayment of any registration fees after receiving written notice that such registration fees are more than 30 days past due.

(e) Within 20 days after the order of the board of county commissioners, governing body of the city, or state designated scrap metal dealer regulatory authority denying, revoking or suspending any registration, the registrant may appeal to the district court. The district court shall proceed to hear such appeal as though the court had original jurisdiction of the matter. Upon request by the registrant, the district court may enjoin the revocation or suspension of a registration until final disposition of any action brought under this section.

(f) Any action brought under subsection (a), (b), (c) or (d) shall be brought against all of a registrant's sites and locations registered by the same individual, company or business entity.

(g) If an action is brought under subsection (c) or (d) and a dealer's registration is revoked, the registrant shall not thereafter, directly or indirectly, engage or invest in, own, manage, operate, finance, control or participate in the ownership, management, operation, financing or control of, be employed by, associated with or in any manner connected with, lend any credit to or render services or advice to, any business, firm, corporation, partnership, association, joint venture, individual or other entity that engages in, conducts, owns, operates, manages or has any aspect of, or association with, any entity governed by K.S.A. 50-6,109 et seq., and amendments thereto.

(h) In a prosecution under subsection (a), (b) or (c), the omission of recorded information as required by K.S.A. 2013 Supp. 50-6,110, and amendments thereto, shall be prima facie evidence of the scrap metal dealer's intent to violate the provisions of K.S.A. 50-6,109 et seq., and amendments thereto.

Sec. 9. K.S.A. 2013 Supp. 50-6,112a is hereby amended to read as
follows: 50-6,112a. (a) No business shall purchase any regulated scrap metal without having first registered each place of business as herein provided. All registrations shall be made to any state-designated scrap metal dealer regulatory authority. Additionally, in case such place of business is located within the corporate limits of a city, the registration shall also be made to the governing body of such city. In all other cases, the registration shall also be made to the board of county commissioners in the county in which such place of business is to be located.

(b) A board of county commissioners shall provide the clerk of the township with written notice of the filing of a registration by a scrap metal dealer within 10 days of registration or renewal.

(c) The governing body of any city and the board of county commissioners shall provide the sheriff, chief of police or director of all law enforcement agencies in the county written notice of the filing of registration by a scrap metal dealer within 10 days of registration or renewal.

(d) Each registration for a scrap metal dealer shall be verified and upon a form approved by the attorney general and contain:

1. The name and residence of the applicant, including all previous names and aliases and place of residence of each partner, and if the applicant is a corporation, then the name and address of each stockholder possessing 20% or more of the stock of the corporation;

2. The length of time that the applicant has resided within the state of Kansas and a list of all residences outside the state of Kansas during the previous 10 years;

3. The particular place of business for which a registration is desired, the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business;

4. The name of the owner of the premises upon which the place of business is located; and

5. The applicant shall disclose any prior convictions within 10 years immediately preceding the date of making the registration for theft, as defined in K.S.A. 21-3701, prior to its repeal, or K.S.A. 2013 Supp. 21-5801, and amendments thereto, theft of property lost, mislaid or delivered by mistake, as defined in K.S.A. 21-3703, prior to its repeal, or K.S.A. 2013 Supp 21-5802, and amendments thereto, theft of services, as defined in K.S.A. 21-3704, prior to its repeal, criminal deprivation of property, as defined in K.S.A. 21-3705, prior to its repeal, or K.S.A. 2013 Supp. 21-5803, and amendments thereto, or any other crime involving possession of stolen property.

(e) Each registration for a scrap metal dealer to purchase regulated scrap metal shall be accompanied by a fee of not less than $100 nor more...
than $400, as prescribed by the board of county commissioners or the
governing body of the city, as the case may be.

(e) The board of county commissioners or the governing body of a
city shall accept a registration for a scrap metal dealer as otherwise
provided for herein, from any scrap metal dealer engaged in business in
such county or city and qualified to file such registration, to purchase
regulated scrap metals. Such registration shall be issued for a period of 10
years one year.

(f) If an original registration is accepted, the governing body of
the city or the board of county commissioners shall grant and issue
renewals thereof upon application of the registration holder, if the
registration holder is qualified to receive the same and the registration has
not been revoked as provided by law. The registration fee for such renewal
shall be not less than $25 nor more than $50. The renewal fee shall be the
same as the original registration fee.

(g) No registration issued under this act shall be transferable.

(h) Violation of subsection (a) is a class A nonperson
misdemeanor.

(i) This section shall not apply to a business licensed under the
provisions of K.S.A. 8-2404, and amendments thereto, unless such
business buys or recycles regulated scrap metal that are not motor vehicle
components.

Sec. 10. K.S.A. 2013 Supp. 50-6,112b is hereby amended to read as
follows: 50-6,112b. (a) After examining the information contained in a
filing for a scrap metal dealer registration and determining the registration
meets the statutory requirements for such registration, the governing body
of the city or the board of county commissioners shall accept such filing
and the scrap metal dealer shall be deemed to be properly registered.

(b) No scrap metal registration shall be accepted for:

(1) Any person who is not a citizen or legal permanent resident of the
United States.

(2) A person who is under 18 years of age and whose parents or legal
guardians have been convicted of a felony or other crime which would
disqualify a person from registration under this section and such crime was
committed during the time that such parents or legal guardians held a
registration under this act.

(2) A person who, within five ten years immediately preceding the
date of filing, has pled guilty to, been convicted of, released from
incarceration for or released from probation or parole for committing,
attempting to commit, or conspiring to commit a violation of article 37 of
chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or
K.S.A. 2013 Supp. 21-5801 through 21-5839 and subsection (a)(6) of
K.S.A. 2013 Supp. 21-6412, perjury, K.S.A. 21-3805, prior to its repeal, or
K.S.A. 2013 Supp. 21-5903, compounding a crime, K.S.A. 21-3807, prior to its repeal, obstructing legal process or official duty, K.S.A. 21-3808, prior to its repeal, falsely reporting a crime, K.S.A. 21-3818, prior to its repeal, interference with law enforcement, K.S.A. 2013 Supp. 21-5904, interference with judicial process, K.S.A. 2013 Supp. 21-5905, or any crime involving moral turpitude truth or dishonesty or any substantially similar offense pursuant to the laws of any city, state or of the United States.

(3) (4) A person who, within the five ten years immediately preceding the date of registration, has pled guilty to, been found guilty of, or entered a diversion agreement for violating the provisions of K.S.A. 2013 Supp. 50-6,112a, and amendments thereto, K.S.A. 50-6,109 et seq., and amendments thereto, the laws of another state comparable to such provisions or laws of any county or city regulating the sale or purchase of regulated scrap metal three or more times.

(4) (5) A person who within the three ten years immediately preceding the date of registration held a scrap metal dealer registration which was revoked, or managed a facility for a scrap metal dealer whose registration was revoked, or was an employee whose conduct led to or contributed to the revocation of such registration.

(5) (6) A person who makes a materially false statement on the registration application or has made a materially false statement on a registration or similar filing within the last three ten years.

(6) (7) A partnership or limited liability company, unless all members of the partnership or limited liability company are otherwise qualified to file a registration.

(7) (8) A corporation, if any manager, officer or director thereof, or any stockholder owning in the aggregate more than 25% of the stock of such corporation, would be ineligible to receive a license hereunder for any reason.

(8) (9) A person whose place of business is conducted by a manager or agent unless the manager or agent possesses all of the qualifications for registration.

(9) (10) A person whose spouse has been convicted of a felony or other crime which would disqualify a person from registration under this section and such crime was committed during the time that the spouse held a registration under this act.

(11) Any person who does not own the premises for which a license is sought, unless the person has a written lease for at least ¾ of the period for which the license is to be issued.

(12) Any person whose business does not comply with the health and environmental codes of the governing body of the city or the board of county commissioners, the state of Kansas and of the United States.
Sec. 11. K.S.A. 2013 Supp. 21-5804, 21-6804, 50-6,109, 50-6,110, 50-6,111, 50-6,112, 50-6,112a, 50-6,112b and 50-6,112c are hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.