

By: Phillips

H.B. No. 441

A BILL TO BE ENTITLED

AN ACT

1
2 relating to sales of certain regulated material and to the criminal
3 penalties for violations relating to those sales.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1956.004, Occupations Code, is amended
6 to read as follows:

7 Sec. 1956.004. INFORMATION PROVIDED BY SELLER. (a) A
8 person attempting to sell regulated material to a secondhand metal
9 dealer shall:

10 (1) display to the secondhand metal dealer the
11 person's personal identification document;

12 (2) provide to the secondhand metal dealer the make,
13 model, and license plate number of the motor vehicle used to
14 transport the regulated material [~~or sign a statement that the~~
15 ~~person does not possess such a document~~]; and

16 (3) [(2)] sign a written statement provided by the
17 secondhand metal dealer that the person is the legal owner of or is
18 lawfully entitled to sell the regulated material offered for sale.

19 (b) A person required by a municipality to prepare a signed
20 statement consisting of the information required by Subsection
21 (a)(3) [~~(a)(1) or (2)~~] may use the statement required by the
22 municipality to comply with Subsection (a)(3) [~~(a)(1) or (2)~~].

23 (c) The secondhand metal dealer or the dealer's agent shall
24 visually verify the accuracy of the identification presented by the

1 seller at the time of the purchase of regulated material and make a
2 copy of the identification to be maintained by the dealer in the
3 dealer's records.

4 SECTION 2. Section 1956.005, Occupations Code, is amended
5 to read as follows:

6 Sec. 1956.005. RECORD OF PURCHASE. (a) A secondhand metal
7 dealer in this state shall keep an accurate and legible written
8 record of each purchase made in the course of the dealer's business
9 from an individual of:

- 10 (1) copper or brass material [~~in excess of 50 pounds~~];
- 11 (2) bronze material; or
- 12 (3) aluminum material in excess of 10 [~~40~~] pounds.

13 (b) The record must be in English and include:

- 14 (1) the place and date of the purchase;
- 15 (2) the name and address of each individual from whom
16 the regulated material is purchased or obtained;

17 (3) the identifying number of the seller's personal
18 identification document;

19 (4) a description made in accordance with the custom
20 of the trade of the type and quantity of regulated material
21 purchased; and

22 (5) the information [~~statement~~] required by Section
23 1956.004 [~~1956.004(a)(2)~~].

24 SECTION 3. Section 1956.006, Occupations Code, is amended
25 to read as follows:

26 Sec. 1956.006. PRESERVATION OF RECORDS. A secondhand metal
27 dealer shall preserve each record required by Sections 1956.004 and

1 ~~[Section]~~ 1956.005 until the third anniversary of the date the
2 record was made.

3 SECTION 4. Section 1956.010, Occupations Code, is amended
4 to read as follows:

5 Sec. 1956.010. PROHIBITED ACTS. A person may not, with the
6 intent to deceive:

7 (1) display to a secondhand metal dealer a false or
8 invalid personal identification document in connection with the
9 person's attempted sale of regulated material; ~~[or]~~

10 (2) make a false, material statement or representation
11 to a secondhand metal dealer in connection with:

12 (A) that person's execution of a written
13 statement required by Section 1956.004(a)(3) ~~[1956.004(a)(1) or~~
14 ~~(2)]~~; or

15 (B) the dealer's efforts to obtain the
16 information required under Section 1956.005(b); or

17 (3) display or provide to a secondhand metal dealer
18 any information required under Section 1956.004 that the person
19 knows is false or invalid.

20 SECTION 5. Sections 1956.011(b), (c), and (d), Occupations
21 Code, are amended to read as follows:

22 (b) An ~~[Except as provided by Subsection (c), an]~~ offense
23 under this section is a felony of the third degree unless it is
24 shown on the trial of the offense that ~~[Class B misdemeanor.~~

25 ~~[(c) An offense under this section is a Class A misdemeanor~~
26 ~~if]~~ the person has been convicted of a violation of this subchapter
27 within the 24 ~~[36]~~ months preceding the date of the offense, in

1 which event the offense is a felony of the second degree, and~~[-~~

2 ~~[(d) On the conviction of a secondhand metal dealer for an~~
3 ~~offense punishable under Subsection (c),]~~ a court, in addition to
4 imposing any other applicable penalty, may order that the dealer
5 cease doing business as a secondhand metal dealer for a period not
6 to exceed two years ~~[30 days]~~ from the date of the order for each
7 violation that forms the basis of the conviction.

8 SECTION 6. The change in law made by this Act applies only
9 to an offense committed on or after September 1, 2007. An offense
10 committed before September 1, 2007, is governed by the law in effect
11 when the offense was committed, and the former law is continued in
12 effect for that purpose. For purposes of this section, an offense
13 was committed before September 1, 2007, if any element of the
14 offense was committed before that date.

15 SECTION 7. This Act takes effect September 1, 2007.