HOUSE DOCKET, NO. 1551 FILED ON: 1/20/2011

HOUSE . . . . . No. 1021

The Commonwealth of Massachusetts

PRESENTED BY:

Vincent A. Pedone

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act regulating secondary metals dealings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Vincent A. Pedone	*15th Worcester*
Lori A. Ehrlich	*8th Essex*
Michael A. Costello	*1st Essex*

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By Mr. Pedone of Worcester, a petition (accompanied by bill, House, No. 1021) of Vincent A. Pedone, Lori A. Ehrlich and Michael A. Costello relative to the licensing of scrap metal dealers. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

An Act regulating secondary metals dealings.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws are hereby amended by inserting after chapter 140B, the following chapter:-

CHAPTER 140B½ SECONDARY METAL DEALING

For the purposes of this chapter, the following terms shall have the following meanings unless the context clearly requires otherwise:

"Engaging in a business", a regular occupation or constant employment; not an isolated or occasional transaction.

"Licensing authority", the chief of police or the board or officer having control of the police in a city or town, or persons authorized by them.

"Metal" or "metal article", any substance or article consisting of metal or a metal alloy but excluding aluminum beverage containers if such containers have a refund value pursuant to section 322 of chapter 94.

"Secondary metals dealer", any business, individual, corporation, association or organization engaged in secondary metals dealing for profit, whether or not licensed pursuant to section 2.

"Secondary metals dealing", engaging in a business , from a fixed location or otherwise, of gathering or obtaining metal or metal articles that are no longer in use and the economic value thereof is based upon the metal or article's potential for re-use or upon the worth of the raw material of which such article is made.

Section 2. (a) In accordance with Section 4 of Chapter 140 of the General Laws, no person shall carry on the business of being a scrap metal processor, collector of, dealer in or keeper of a shop for the purchase, sale, and barter of junk, scrap metal commodities, old metals or second hand articles without a license issued by the licensing authority.

(b) All applications for licenses under this section shall be made on a form or forms to be prescribed by the licensing authority, as prescribed in Section 1 of this Act and shall set forth the name of the licensee, the nature of the business and the building or place in the city or town in which it is to be carried on.

(c) The fee for such license shall be determined by the licensing authority. Societies, associations or corporations organized solely for religious or charitable purposes shall not be required to pay a fee for such license. No licenses shall be transferred without prior consent of the chief of police and all licenses shall be posted on the licensed premises in a conspicuous place and manner.

(d) Every license issued under this section shall expire on May first following the date of issue.

(e) The licensing authority may grant an exemption to any one or more of the requirements in sub-section (c) for a particular transaction. A request for an exemption must be made by the licensee in writing to the licensing authority stating the reason for the request. The licensing authority shall approve or disapprove the request and send written notification of the decision to the licensee. The licensing authority, in his/her discretion may impose any terms, conditions, restrictions on any exemption granted under this section.

(f) Any person carrying on the business of being a collector of, dealer in or keeper of a shop for the purchase, sale, barter of junk, old metals or second hand articles without a license or in violation of this section shall be assessed a fine in the amount established by the Secretary of Public Safety.

Section 3. Chapter 140 of the General Laws is hereby amended by inserting after section 54A the following new section:- Section 54B. A dealer licensed under section 54 shall comply with the following procedures when purchasing any metal product. 1. The Dealer shall keep a daily transaction log, in the English language. The log information will include: a. Name, date of birth and residence of the person with whom such a transaction was made, or company or organization name and principal address with whom such a transaction was made; b. The date and time when such a transaction occurred; c. The price paid for the article; d. A description of the article, including type, weight and quantity; e. The license plate number and state of issue of the vehicle being used by the person offering the article to transport the article to the licensee's place of business. f. A written statement from the person offering the article stating that he or she is in lawful possession of the article being offered. 2. A secondary metals dealer may not accept or purchase new production scrap or new materials that are part of a manufacturing process, from

any individual, who is not company affiliated or an authorized contractor of the manufacturer, municipality, government or utility. Other items that cannot be accepted by a secondary metals dealer are: 1. materials used only by governments, utilities, or for very specific purposes; 2. guardrails, 3. manhole covers, 4. cables used only in high voltage transmission lines, 5. historical markers, 6. cemetery plaques, 7. full sized new materials, such as those used in construction and 8. equipment tools used by contractors 9. bleachers from an athletic field 10. traffic signs, 11. beer kegs, and 12. materials that have been reported stolen through the ISRI alert system. A list of the materials named above which are deemed unacceptable shall be prominently posted on a large sign at every licensed facility in the Commonwealth. 3. The record file shall be retained by the Dealer for a period of one (1) year from the date of the transaction. Accompanying documentation may be destroyed following the one year period. If documentation is stored electronically said documents must be stored or backed-up by any current electronic means and may be deleted at the completion of the one year period. 4. The Dealer shall ascertain the identity of an individual selling the metal s by requiring him to produce a Massachusetts or state-issued photo identification, and maintaining a copy of the same in the record of transaction. 5. The Dealer shall ascertain the identity of any business, organization, society, corporation etc., selling the metals by requiring him to provide a Massachusetts or state-issued identification number, and maintaining a copy of the same in the record of transaction. 6. During the one year period, the log shall be open for inspection by the state and local police upon reasonable request. 7. Failure to comply with the above procedures shall be cause for the revocation of the dealer’s license.