HOUSE DOCKET, NO. 1814 FILED ON: 1/17/2013

HOUSE . . . . . No. 250

The Commonwealth of Massachusetts

PRESENTED BY:

Christopher M. Markey

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:
Christopher M. Markey	*9th Bristol*
Paul A. Schmid, III	*8th Bristol*
Robert M. Koczera	*11th Bristol*
William M. Straus	*10th Bristol*
Viriato Manuel deMacedo	*1st Plymouth*
Paul Brodeur	*32nd Middlesex*
Susan Williams Gifford	*2nd Plymouth*
Keiko M. Orrall	*12th Bristol*
Thomas A. Golden, Jr.	*16th Middlesex*

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HOUSE . . . . . No. 250

By Mr. Markey of Dartmouth, a petition (accompanied by bill, House, No. 250) of Christopher M. Markey and others for legislation to further regulate the business of secondary metals dealing. 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.

"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.

"Registration", process by which the scrap metal dealer will file a form at the local municipal police station which will be addressed to the local police chief which will include basic information regarding the scrap metal facility. Such form shall list the name of the registrant, nature of the business and address and contact information.

"Secondary metals dealer", any business, individual, corporation, association or organization engaged in secondary metals dealing for profit.

"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.

21 SECTION 2. (a) In accordance with Section 4 of Chapter 140 of the General Laws, no
22 person shall carry on the business of being a scrap metal processor, collector of, dealer in or
23 keeper of a shop for the purchase, sale, and barter of junk, scrap metal commodities, old metals
24 or second hand articles without filing a registration form with the municipality's chief of police
25 or designee.

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

30 (c) The fee for such registration shall be determined by the chief of police or his
31 designee . Societies, associations or corporations organized solely for religious or charitable
32 purposes shall not be required to pay a fee for such registration . No registrations shall be
33 transferred without prior consent of the chief of police and all registrations shall be posted on
34 the registrant's premises in a conspicuous place and manner.

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

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

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

48 SECTION 3. Chapter 140 of the General Laws is hereby amended by inserting after
49 section 54A the following new section:- Section 54B. A dealer registered under section 54 shall
50 comply with the following procedures when purchasing any metal product. 1. The Dealer shall
51 keep a daily transaction log, in the English language. The log information will include: a. Name,
52 date of birth and residence of the person with whom such a transaction was made, or company or
53 organization name and principal address with whom such a transaction was made; b. The date
54 and time when such a transaction occurred; c. The price paid for the article; d. A description of
55 the article, including type, weight and quantity; e. The license plate number and state of issue of
56 the vehicle being used by the person offering the article to transport the article to the registrant's
57 place of business. f. A written statement from the person offering the article stating that he or she

58 is in lawful possession of the article being offered. 2. A secondary metals dealer may not accept
59 or purchase new production scrap or new materials that are part of a manufacturing process, from
60 any individual, who is not company affiliated or an authorized contractor of the manufacturer,
61 municipality, government or utility. 3. The record file shall be retained by the Dealer for a
62 period of one (1) year from the date of the transaction. Accompanying documentation may be
63 destroyed following the one year period. If documentation is stored electronically said
64 documents must be stored or backed-up by any current electronic means and may be deleted at
65 the completion of the one year period. 4. The Dealer shall ascertain the identity of an individual
66 selling the metal s by requiring him to produce any state-issued photo identification, and
67 maintaining a copy of the same in the record of transaction. 5. The Dealer shall ascertain the
68 identity of any business, organization, society, corporation etc., selling the metals by requiring
69 him to provide a Massachusetts or state-issued identification number, and maintaining a copy of
70 the same in the record of transaction. 6. During the one year period, the log shall be open for
71 inspection by the state and local police upon reasonable request. 7. Failure to comply with the
72 above procedures shall be cause for the revocation of the dealer's registration.

73 SECTION 4. (a) Following notification, either verbally or in writing, from a law
74 enforcement officer that certain scrap materials have been reported as stolen, a scrap processor or
75 recycling facility operator that is in possession of the scrap material in question shall hold that
76 scrap material intact and safe from alteration, damage or commingling and shall place an
77 identifying tag or other suitable identification upon the scrap material.

78 (b) A law enforcement officer making a verbal request shall provide the scrap processor
79 or recycling facility operator, upon request, with the officer's name, badge number and
80 department contact telephone number so that the scrap processor or recycling facility operator
81 may call back to confirm the identity of the law enforcement officer.

82 (c) Within 24 hours of notification by the law enforcement officer or 24 hours of the
83 receipt of the material, whichever is later, the scrap processor or recycling facility operator shall
84 notify the law enforcement officer that scrap material matching the law enforcement officer's
85 description is on the premises.

86 (d) The scrap processor or recycling facility shall hold the scrap material for a period of
87 time as directed by the applicable law enforcement agency, up to a maximum of 48 hours
88 following notification, unless extended pursuant to sub-section (f) of Section 4 of this section.

89 (e) A law enforcement officer shall not place a hold on any scrap material unless that law
90 enforcement officer reasonably suspects that the scrap material is lost or stolen. The request to
91 hold scrap material shall be as specific as possible by using descriptive language, including, but
92 not limited to, the type and style of the material, length or weight or any other such description to
93 identify the material to be held. Any hold that is placed on scrap material shall not exceed 48

hours, and the scrap material must be returned to the owner or released when the hold has been released or has expired.

(f) A holding period may be extended beyond 48 hours only upon the order of a magisterial district judge after the magisterial district judge has determined that probable cause exists that the scrap material is lost or stolen.

(g) A scrap processor or recycling facility operator that receives material that does not meet the description materials being sought by a law enforcement officer may dispose of that material at its discretion.