

Report on the Need for a State Regulatory Process for Scrap Metal Dealers

Prepared for the 126th Legislature

Joint Standing Committee on Labor, Commerce, Research and Economic Development

Pursuant to Resolves Chapter 37

January 30, 2014



Prepared by the Department of the Secretary of State Bureau of Motor Vehicles, Office of Investigation Secretary Matthew Dunlap

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MATTHEW DUNLAP SECRETARY OF STATE STATE OF MAINE

OFFICE OF THE SECRETARY OF STATE

January 30, 2014

Senator Patrick, Representative Herbig:

I am pleased to present you with this report on the creation of a regulatory process for scrap metal dealer, as directed by Resolves, Chapter 37. The Office of Investigations brought together a diverse group of stakeholders, law enforcement and municipal representatives to complete this work.

The Secretary of State's office would be happy to talk with you further about the report and its recommendations, at your convenience.

Sincerely

Matthew Dunlap Secretary of State

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Executive Summary

Resolves, Chapter 37 (L.D. 809) directed the Secretary of State to study the need for a state regulatory process for Scrap Metal Dealers. The Resolve also required the Secretary to further identify the advantages and disadvantages of a state license, permit, or registration of the scrap metal industry in Maine. The Secretary of State is charged with submitting a report and any recommendations for legislation to the Joint Standing Committee on Labor, Commerce, Research and Economic Development by January 30, 2014. (Appendix A)

Family camps, summer homes, foreclosed and abandoned property and dwellings or businesses that are unoccupied have become prime targets for thieves seeking to capitalize on the high prices being paid for copper, electrical wiring, and other metal that can be sold as scrap. It is not unusual for camp owners to return in the spring to find plumbing of every camp on their camp road gone. The cost to these owners all across Maine has been steep.

Utility businesses such as Central Maine Power and Bangor Hydro Electric Company have not been immune to these thefts. Both utilities have suffered significant losses to metal thieves stealing large amounts of copper wire from storage facilities, substations, and other places. Bangor Hydro Electric alone as estimated the cost of these thefts at \$330,000 between 2010 and 2013.

To deal with this growing problem, the Study Committee recommends developing a licensure structure for Scrap Metal Dealers, Mobile Scrap Metal Dealers and Scrap Metal Yards, similar to the presorting and record retention requirements that currently apply to Scrap Metal Processors. Licensure will level the current uneven playing field in this industry and give law enforcement the tools needed to address the issues of metal theft.

Mandate:

Resolves, Chapter 37 (L.D. 809) directed the Secretary of State to study the need for a state regulatory process for Scrap Metal Dealers. The Resolve also required the Secretary to further identify the advantages and disadvantages of a state license, permit, or registration of the scrap metal industry in Maine. The Secretary of State is charged with submitting a report and any recommendations for legislation to the Joint Standing Committee on Labor, Commerce, Research and Economic Development by January 30, 2014.

The Secretary of State assigned this study to the Bureau of Motor Vehicles, Office of Investigation. The Office of Investigation is charged with the enforcement of laws, rules and regulations that apply to the automobile industry in Maine, including automobile recyclers and mobile crushers. The Office of Investigation's Director, Senior Detectives, and the Director of Vehicle Services participated in the study committee.

As required by the Resolve, stakeholders from the industry were included in the committee in order to identify the most effective system for statewide regulation and the enforcement of laws relating to scrap metal dealers and scrap metal thefts. The stakeholders included business owners from the scrap metal industry, representatives from Bangor Hydro and Central Maine Power, law enforcement officers and legislators. See Appendix B for a list of committee members.

Scope of the Problem:

Family camps, summer homes, foreclosed and abandoned property and dwellings or businesses that are unoccupied have become prime targets for thieves seeking to capitalize on the high prices being paid for copper, electrical wiring, and other metal that can be sold as scrap. It is not unusual for camp owners to return in the spring to find plumbing of every camp on their camp road gone. The cost to these owners all across Maine has been steep.

Utility businesses such as Central Maine Power (CMP) and Bangor Hydro Electric Company (BHEC) have not been immune to these thefts. Both utilities have suffered significant losses to metal thieves stealing large amounts of copper wire from storage facilities, substations, and other places.

Between 2010 and 2013, Bangor Hydro Electric Company has had copper theft losses totaling nearly \$165,000 from substations, and \$130,000 and \$35,000 from line and facilities. BHEC estimates that every \$1.00 paid to thieves for copper wire stolen costs the rate payers \$35.00 to replace. In addition there are very real safety concerns with the thieves targeting high voltage power stations and other electrical distribution facilities. Theft of these materials is a major

concern to these utilities, and they have been one of the key voices asking the State of Maine to address the increasing theft of copper and metal.

The Office of Investigation has attempted to add perspective to the severity of the metal thefts in Maine. With assistance from the Director of Enforcement at the Attorney General's Office, the Office of Investigation queried all the law enforcement agencies in Maine to determine how their communities have been affected by metal thefts. Communities were asked to provide the number of scrap metal theft complaints and catalytic converter thefts and the value of the stolen items. Twenty-eight departments responded with the following information covering January 2011 through September 2013.

The Law Enforcement Agencies Reported:

- Number of Complaints 1456
- 1146 7 310 5 1456 Scrap Metal Complaints
- Catalytic Converter complaints 310
- Value of items stolen at nearly \$ 2.4 million

This information gathered from only 20% of the police departments statewide, gives an idea of the severity of the metal theft problem in Maine. This is a problem states all across the nation are tackling, with varying degrees of success. As part of the process, the study committee a reviewed other state's licensure and enforcement processes.

Background Information:

As part of the task set forth in the Resolve, the Office of Investigation reviewed the scrap metal laws in forty-seven other states (Appendix C.) States vary widely in their efforts to crack down on scrap metal sales. Some are quite stringent, both on the seller and the buyer, including long "tag and hold" policies that require the buyer to tag all scrap metal inventory and hold it for a period of time, while other states require minimal record keeping.

The record keeping requirements vary from state to state and range between one and five years. New Jersey, for example, requires the scrap dealer to maintain records for five years on transactions of more than \$50.00 or 100 pounds, and part of that record must include a copy of the seller's driver's license and a description of the material purchased.

Utah requires the records of all sales and transactions of more than \$50.00 or 25 pounds to be kept for a minimum of one year. Records are subject to inspection by law enforcement.

Two examples of the extremes of enforcement policies are Arizona, and our neighbor to the west, New Hampshire.

Arizona Scrap Laws require Dealers to:

- Record fingerprints of the seller
- Tag and hold scrap metal for 15 days at law enforcement's request
- Retain a copy of driver license or state I.D card of the seller
- Record the seller's license plate and vehicle description
- Take and retain an image of seller
- Notify law enforcement of scrap purchase within twenty-four hours of the sale
- Report seller's vehicle information to National Motor Vehicle Title Information System
- All purchases must be paid for by a nontransferable check to be mailed to the physical address listed on the seller's photo I.D.
- A video of yard activity is required
- Scrap metal yards must take an image or description of all materials purchased
- Dealers may only purchase scrap metal from the same customer one time per 24 hour period.

New Hampshire requires scrap metal dealers to maintain records of transactions for an unspecified period of time and has a seven day minimum tag and hold policy. This is important to remember, as especially in the southern part of the state, scrap metal sellers can, and often do, just drive to New Hampshire. No regulation and enforcement will stop or catch all thefts. But given the cost to Maine businesses and homeowners, the committee felt it was important to begin to take some steps to deter and track metal thefts better.

Licensure:

The stakeholders that participated in the committee unanimously agreed that licensing scrap metal recyclers and dealers should be the first step to curbing the illegal activities. This report includes proposed legislation that will provide a licensing process for legitimate scrap metal dealers to bring unlicensed scrap metal dealers into compliance, bring metal thieves and other violators to justice and strengthen the relationship between law enforcement, the public and the scrap metal industry.

Due to the diversity of the scrap metal industry, it was agreed by all committee members that two separate and distinct licenses are required; one license for Scrap Metal Recyclers, and the other for Mobile Scrap Metal Dealers, each having its own definition and requirements.

Licensure of Scrap Metal Recyclers, Mobil Scrap Metal Dealers and Scrap Metal Yards, will bring these two activities under the current regulatory structure for licensed recyclers and scrap metal recyclers, including recording of purchases, and existing reporting and record retention requirements. This method builds upon Maine's existing regulatory framework, rather than creating a new regulatory structure for Scrap Metal Recyclers and Mobil Scrap Metal Dealers.

The following describes the key categories for licensure.

Junk Yard Permit:

The first step in the licensing process for a Scrap Metal Recycler will be to obtain a land use **permit** from the municipality.

A "Junk yard" by definition in Title 30-A § 3752 means a yard, field, or other outside area used to store, dismantle, or otherwise handle:

- Discarded, worn- out or junked plumbing, heating supplies, electronic, or industrial equipment, household appliances or furniture;
- Discarded, scrap and junked lumber;
- Old or scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste and all scrap iron, steel and other scrap ferrous or nonferrous material

Subsection 3753 under Title 30-A requires the municipality to issue a junk yard permit to residents who fall under this definition, and municipalities are very good about issuing permits to automobile recyclers that are required to have a license issued by the State. The permit is the first step in the recycler's licensing process with the State. "Junk yards," however, are not required to be licensed by the State and in many cases the municipalities do not issue the required permit. Because of this it is nearly impossible to determine the number of junk yards in the State of Maine. There are many places where old discarded farm equipment, vehicles, and other metal debris are kept. Potentially all of this material could be, and probably will be, gathered up legally or illegally and sold as scrap metal.

The following are definitions are for the licensure;

Scrap Metal Recycler operates out of a scrap metal yard, and is engaged in the business of buying, processing, and selling scrap metal. They operate or maintain a scrap metal yard or a place where scrap metal is stored or kept for sale, or transfer. This definition does not include

automobile recyclers that are defined in Title 30-A §3752 (1) A. They will be licensed under Title 29-A by the Bureau of Motor Vehicles.

Mobile Scrap Metal Dealer is in the business of acquiring scrap metal for the purpose of resale to a scrap metal recycler, and does not store scrap metal in a scrap metal yard, process, or keep scrap metal for shipment. Additionally, a Mobile Scrap Metal Dealer purchases or otherwise acquires scrap metal for the purpose of resale. Licensed tradesmen such as electricians, plumbers, and other businesses that do not purchase or acquire scrap metal for the purpose of resale are exempt from mobile scrap metal license. They will be licensed under Title 29-A by the Bureau of Motor Vehicles.

Scrap Metal Yard is any yard, space, enclosure, or building where scrap metal is stored, or kept for shipment, sale, or transfer, and where the business of storing and processing scrap metal may be lawfully conducted. "Scrap Metal Yard" does not include automobile graveyards, or automobile recycler locations as defined in Title 30-A §3752(1).

The Scrap Metal Recyclers and the Mobile Scrap Metal Dealers will be required to meet the minimum standards to obtain a license and comply with the regulatory oversight. The stakeholders agreed and are willing to comply with a licensing process in order to get control of metal theft. All stakeholders agreed without appropriate law enforcement the entire process will fail.

Reporting Requirements:

The committee discussed reporting requirements, and felt having the Scrap Metal Recyclers file electronic reports to law enforcement was the best solution to ensure law enforcement had the information needed. Those Scrap Metal Recyclers that do not have the ability or the means to send information electronically will send a hard copy of their reports.

Reporting requirements will include: date and time of sale or purchase; name, date of birth, height, weight, and address of seller; registration number of the vehicle used, weight and type of metal sold, and amount paid. If the seller is a licensed Mobile Scrap Metal Dealer, then only the dealer's license number will be required to be reported.

The Scrap Metal Recyclers at the meeting felt these requirements were reasonable and will be helpful to the industry as well as law enforcement. The recyclers expressed strong concern about the information they were providing going directly to law enforcement and not through a third party. The committee all agreed that information provided by Scrap Metal Recyclers will come directly to the Office of Investigation.

The reports received from the Scrap Metal Recyclers will be very useful to seek out unlicensed Mobile Scrap Metal Dealers as defined in this report. The data will also be extremely useful in the investigation of other types of crimes associated with the sale of scrap metal, for example, metal theft from residences and businesses, tax fraud, welfare fraud and other crimes.

Advantages and Disadvantages to Licensing Scrap Metal Dealers:

Advantages

Licensing of Scrap Metal Recyclers and Mobile Scrap Metal Dealers by the State will allow regulatory oversight by law enforcement. Licensing will provide law enforcement the tools necessary to investigate violations and bring metal theft cases to prosecution. Additionally, meeting the requirements for obtaining a license, either for a Scrap Metal Recycler or a Mobile Scrap Metal Dealer, will place the license holders in a similar regulatory structure as its competitors and will eliminate the undermining of legitimate recyclers and dealers by unlicensed recyclers and dealers.

Requiring all Scrap Metal Recyclers to obtain a Scrap Metal Recyclers license will level the very uneven playing field for these businesses that currently exists. Recyclers will have to meet standards defined by rule and statute to obtain a license to buy and sell scrap metal. Recyclers will keep records and provide information important to law enforcement through a reporting system. The SMR license will be separate from any other license. Any SMR that fails to obtain a license will be in violation of law.

Requiring all Mobile Scrap Metal Dealers to obtain a Mobile Scrap Metal Dealers (MSMD) license will put all dealers on equal ground to do business. Dealers will have to meet certain standards to obtain a license to buy and sell scrap metal. Dealers will be required to maintain records and produce them upon request by law enforcement officials during normal business hours or when transporting scrap metal. This dealer license will be separate from any other license.

The licensing of Scrap Metal Recyclers and Mobile Scrap Metal Dealers will allow regulatory oversight by law enforcement and the regulatory agency. By providing certain information and records, the industry will have a positive impact on law enforcements efforts and ability to investigate and apprehend metal thieves along with the enforcement of other violations of scrap metal laws.

Mobile Scrap Metal Dealers buy scrap metal from homeowners, businesses, and other sources, and transport said material over the roadways. Licensing will cause them to receive the most regulatory oversight. Experience and police reports show most, but not all, scrap metal thefts occur somewhere before the scrap metal reaches the recyclers place of business.

Several recyclers have reported thefts of scrap metal from their yards; thieves have stolen scrap metal from one yard and have taken it to another. Licensing Mobile Scrap Metal Dealers will

create the same requirements as the Scrap Metal Recyclers currently have, including keeping and maintaining records, marking their vehicles and allowing law enforcement to stop and inspect loads of scrap metal.

If the appropriate laws are put into place, the regulatory oversight by law enforcement and the direct attention by the enforcement entity of the regulatory agency will have a positive impact on reducing metal thefts and fraud.

Disadvantages

The major disadvantage to licensing and regulating the scrap metal industry and the enforcement of the laws, rules, and regulations is the cost of licensure designed to protect citizens and secure property from the predators that refuse to abide by the laws.

Although revenue will be realized from application fees, and license fees, that amount is impossible to determine due to the unknown number of scrap metal recyclers and mobile scrap metal dealers that will be required by law to obtain a license. It is safe to say the revenue from license fees will not be sufficient to cover the cost of regulatory oversight and appropriate law enforcement.

The scrap metal recyclers in compliance with Title 30-A § 3753 are required to obtain a permit from the municipality where their business is located. Any revenue generated from that permit will be retained by the municipality, and will not come to the state.

Enforcement Authority:

Regulatory oversight and the enforcement of the scrap metal laws, rules, and regulations will require specialized law enforcement. The Secretary of State currently has the licensing and regulatory authority over the automobile and the salvage vehicle industry in Maine. The Office of Investigation, at the Bureau of Motor Vehicles, under the authority of the Secretary of State, is the specialized law enforcement entity responsible for enforcement of all the laws, rules, and regulations that apply to the automobile industry regulated under Title 29-A.

The scrap metal industry encompasses all types of metal including automobile and all scrap metal that is transported over the roads and highways, therefore the committee unanimously agreed the Bureau of Motor Vehicles, Office of Investigation should be charged with the regulatory oversight and the law enforcement responsibilities associated with the scrap metal industry given their experience and knowledge of the industry. The licensing process for Scrap Metal Recyclers and Mobile Scrap Metal Dealers should be conducted by Dealer & Agent Services at the Bureau of Motor Vehicles.

Licensing and cost:

Licensing for Scrap Metal Recyclers (SMR) will be similar to that required of the Salvage Vehicle Recycler. It will start with an application and a land use permit issued by the municipality where the yard will be located, as required by Title 30-A §3753. An inspection will be conducted by a detective from the Office of Investigation to confirm the Scrap Metal Recyclers has an established place of business with a yard, as defined in this report, office to keep records, sign, and posted business hours.

The Mobile Scrap Metal Dealer (MSMD) will be required to submit an application for a license. Whereas the MSMD will not have a yard to store metal, no land use permit is required. The MSMD will be required to place signage on the vehicle that will be used to haul scrap metal to the Scrap Metal Recycler, maintain and keep records, have and maintain a log in the vehicle when hauling scrap metal showing from whom and where the metal was purchased, a description of the metal being transported, where the metal was sold, and the weight and the dollar amount received.

An inspection by a detective from the Office of Investigation will be conducted to determine where the permanent records will be kept, and confirm the signage on the vehicle and the vehicle description.

Cost of filing an application is a one-time fee of \$150.00 and the cost of the license is an annual fee of \$150.00. This will apply to both the Scrap Metal Recycler and the Mobile Scrap Metal Dealer. This cost is the same as the cost for a salvage vehicle recycler and new and used car dealers.

Rules will have to be established to define certain requirements, for example, minimum yard size for a SMR and letter size of the signage on a MSMD vehicle.

Please see the proposed law changes in Appendix D.

Possible revenue sources:

Due to the magnitude of the problem and the size of the State, it is estimated to take at least three detectives to enforce the laws, rules, regulations and investigate related crimes. It will require at least two support personnel, one in Dealer & Agent Services and one assigned to the Office of Investigation. The Bureau's finance office estimates with a start date of October 1, 2014 the FY15 cost will be \$302,872. The full year cost is approximately \$406,000.00 (Appendix E). It is unlikely other special revenue in the form of application fees and license fees will be adequate to fund the necessary law enforcement requirements. Another option for funding included a surcharge on metal sold to the recyclers was brought before the committee, but was not acceptable to the business members.

The business members of the committee unanimously decided to present the recommendations with a fiscal note to the legislature with no funding source identified to cover the costs of enforcement.

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Conclusion:

This study committee, with representation from the impacted business community members, agreed a licensing process rather than permitting or registration, will best serve the citizens and the scrap metal industry in Maine. Licensing by the State will provide regulatory oversight and the necessary tools for law enforcement to stop the sale of stolen scrap metal by eliminating unlicensed scrap metal dealers, thereby allowing law enforcement to bring metal thieves to prosecution.

Appendix A

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Appendix A STATE OF MAINE

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H.P. 560 - L.D. 809

Resolve, Directing the Secretary of State To Study the Need for a State Regulatory Process for Scrap Metal Dealers

Sec. 1. Secretary of State directed to study the need for a state regulatory process for scrap metal dealers. Resolved: That the Secretary of State shall study the need for state regulation of scrap metal dealers and review the advantages and disadvantages of pursuing a state license, permit or registration process for scrap metal dealers. The Secretary of State shall invite participation from stakeholders in the scrap metal industry and law enforcement and other interested parties in order to identify the most effective system for statewide regulation and the enforcement of laws relating to scrap metal dealers and scrap metal thefts; and be it further

Sec. 2. Report. Resolved: That the Secretary of State shall submit a report on the study described in section 1 and any recommended legislation to the Joint Standing Committee on Labor, Commerce, Research and Economic Development by January 30, 2014. The committee is authorized to submit a bill to the Second Regular Session of the 126th Legislature related to the subject matter of the report.

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Appendix-B

Study Group Membership

Representing Metal Industry

Colin Kelly, Schnitzer Steel Industry Kerby Littlefield, Littlefield's Garage Elise Baldacci, Maine Street Solutions Kevin T. O'Leary, One Steel Justin Lerman, E. Perry Iron & Metal Co, Inc. Paul Pinette, Pauls Pick-A-Part Inc. Dan Walker, Esq., Preti Flaherty Beliveau & Pachios LLP Jay Nutting, Esq.Verrill Dana LLP Andy Cashman, Esq., Preti Flaherty Beliveau & Pachios LLP Bill Bell, Maine Auto Recyclers Association Bob Clark, Clark's Crushing David Bolduc, DAB Inc. David Bowler, Bangor Hydro Electric **Representing Law Enforcement** Brian MacMaster, Attorney General's Office Joe Massey, Waterville Police Chief **Representing State and Local Government** Rep. Thomas R. W. Longstaff Rep. Eleanor M. Espling **Representing the Secretary of State** David W. Guilmette, Bureau of Motor Vehicles Director, Office of Investigation Garry Hinkley, Bureau of Motor Vehicles, Director, Vehicle Services Everett A. Kaherl, Bureau of Motor Vehicles, Office of Investigation Mark A. Silk, Bureau of Motor Vehicles, Office of Investigation

Bruce E. Hurley, Bureau of Motor Vehicles, Office of Investigation

Peggy Schaffer, Small Business Advocate, Secretary of State's Office

Appendix C

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Appendix C

State-by-State Synopsis of Scrap Metal Laws

Alabama

Dealer

- Must maintain records for one year
- Prohibited from paying cash exceeding \$50.00
- Checks must be mailed to seller
- 15 day tag-and-hold on notice by law enforcement

Seller:

- Signed statement they are the owner or authorized to sell
- Signed statement they have not been convicted of metal theft
- Provide a copy of state ID or driver's license
- Provide finger prints

Buyers:

- Record time/date stamp or video of seller and scrap metal being sold
- Record make, model, type of vehicle, number plate and state of seller's vehicle
- Keep record of sellers name, date of sale and address
- Sales tickets must have initials of employees, along with date and time of sale
- Show the amount paid
- Ticket must be signed by seller, copy to seller and buyer

Arizona

Dealer:

- All purchases paid by non-transferrable check, mailed to seller
- Dealer cannot purchase from same customer more than once each day
- Copy of driver's license or ID card
- Record seller's license plate and vehicle description
- Image of seller
- Notify law enforcement of purchase
- Must maintain video of yard activity
- Must have image or description of materials

Arkansas

Dealer:

- Must maintain record of all purchases for one year
- Seven day tag and hold
- Obtain fingerprints of sellers
- Video or photograph of seller
- Video or photograph of material being purchased, including weight

California

Dealer

- Must have purchaser date available to law enforcement through electronic means
- Maintain records of date and place of transaction
- 90 Day hold for law enforcement
- Delay in payment for regulated scrap metals such as copper, aluminum
- Two year record retention
- Driver's license or CA ID card

Seller

- Must provide fingerprints
- Must provide a signed statement of ownership

Colorado

Dealer:

- Must keep record of commodity metals for two years
- Five-day tag and hold when instructed by law enforcement

Connecticut

Dealer:

- Maintain records of all purchases for one year
- Seven day tag and hold
- Must obtain fingerprints of sellers
- Must have video or photograph of sellers and material
- Must have description and weight of material

• Must pay by check after three day waiting period to anyone convicted of burglary or vandalism involving scrap metal

Delaware

Dealer:

- Must maintain record of all purchases
- Photo or video of seller, (valid photo ID is acceptable)
- Must record the seller's license plate number
- Must immediately report transactions to law enforcement
- Seven day tag and hold

Florida

Dealer:

- Tag and hold
- Must capture fingerprints
- Must have video of yard
- Must notify law enforcement of scrap purchases
- Must record vehicle description and license plate
- Must have copy of driver's license
- Must obtain proof of ownership on many types of scrap, (guard rail, funeral marker etc)
- Payment for restricted items must be mailed to address given

Georgia

Dealer:

- Dealer must register with the sheriffs in the county where the dealer is located
- No purchase of metal between 7:00 p.m. and 7:00 a.m.
- Must record the make, model, license plate number and state
- Must have a digital photo or video of the material
- Time stamp on photo, weight, and description of metal with contact information
- Must have a recognizable image of seller
- Must have a signed statement that the seller has not been convicted of metal thefts

Idaho

Dealer

- Must maintain record of all purchases exceeding \$10.00
- Must include driver's license number or license plate number
- Must pay commercial accounts by check
- Ten day tag and hold when notified by law enforcement
- Must retain records for three years

Illinois

Dealer:

- Three year records for purchases over \$100
- One year record for purchase of beer kegs
- Air conditioners and parts must be paid by non-transferrable check
- Must obtain a copy of sellers driver's license
- Must obtain a photograph of seller at time of purchase

Indiana

Dealer:

- Must keep records for two years
- Must have copy of seller's driver's license
- Must have photo of seller
- Must have photo of material
- Five working day tag and hold when notified by law enforcement

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Dealer:

Must retain a copy of seller's driver's license for at least one year

Kansas

Dealer

- Must maintain record for two years
- Must have copy of seller's driver's license
- Must have copy of seller's fingerprints
- Thirty-three day tag and hold when advised by law enforcement
- Must not purchase any metals or copper that appears to be smelted, burned or melted without a signed waiver from the seller that he is the true owner

Kentucky

Dealer

- Must keep record for two years
- Must have copy of sellers driver's license
- Must have video surveillance at scale
- Must notify law enforcement of purchase within 24 hours
- Three day tag and hold

Louisiana

Dealer

- Must maintain records for two years
- Copy of seller's driver's license
- Ten day tag and hold

Maryland

Dealer

- Must maintain record of purchases for one year
- Must pay by check
- 72 Hour tag and hold per law enforcement

Massachusetts

Dealer

- Must maintain a record of all purchases for two years
- Ten day tag and hold per law enforcement order
- Transactions must be recorded and sent electronically to Criminal History Systems Board within 48 hours

Michigan

Dealer

- Must maintain a copy of seller's driver's license
- Must maintain a copy of seller's fingerprints
- Must maintain license plate number

- Must maintain signed statement from seller of authority to sell
- Seven day tag and hold on non-ferrous

Minnesota

Dealer

- Must maintain record of transactions for three years
- Must have video surveillance or photograph of seller and seller's vehicle
- Must have copy of seller's driver's license
- Must install video cameras in scale house
- Payment by check or electronic transfer
- Ninety day tag and hold per law enforcement

Mississippi

Dealer:

- Must maintain records for two years
- Must pay by electronic transfer or check
- Checks must be held for mailing for three days
- Must capture ID of all people with the seller at the time of sale
- Three day tag and hold

Missouri

Dealer:

- Must maintain records for three years
- Copy of driver's license
- Video surveillance at the scales
- Purchases over \$150 must be check or money transfer
- One purchase from any seller each day
- Information may only be given to law enforcement
- Record license plate number and state of issue, vehicle description
- Sales ticket must have location, time, date and initials of clerk
- Sales ticket must be signed by seller
- Must include a description of material
- Must show quantity, weight and/or volume of material

Seller

• Must sign statement of ownership of material

- Must sign a statement that they have not been convicted of metal theft
- Must allow copy of driver's license or ID card

Montana

Dealer:

- Must maintain record of all purchases exceeding \$50.00 for two years
- Tag and hold minimum of 10 days
- Must retain copy of driver's license
- Must record seller's license plate number or vehicle description

Nebraska

Dealer:

- Must have video or photo with date and time stamp for purchases
- Must maintain digital record of sellers name, address and date of sale
- Must keep record of vehicle description and license plate
- Minimum 10 day tag and hold

Seller:

- Must sign statement that they are the owner, or authorized to sell the metal
- Must provide fingerprint to sell copper or catalytic converters
- Must provide copy of state ID or driver's license

Nevada

Dealer:

- Must maintain record of transactions
- Must maintain photograph of seller
- Must maintain copy of seller's driver's license
- Must maintain description of seller's vehicle including license plate
- Must have video surveillance at scale
- Must have fingerprints of seller
- Seven day tag and hold per law enforcement

New Hampshire

Dealer:

• Must maintain record of transaction for unspecified time

• Seven day minimum tag and hold

New Jersey

Dealer:

- Must maintain record of transaction over \$50 or 100 lbs for five years
- Must have copy of seller's driver's license
- Must have description of material
- Must have signature of seller
- Five day tag and hold per law enforcement

New Mexico

Dealer:

- Must maintain record for three years
- Written record must be filed electronically with licensing and regulation department within 48 hours of transaction

New York

Dealer:

- Must maintain inventory records and accounting records of purchases and sales
- Must maintain records for two years
- Must maintain copy of seller's driver's license
- Tag and hold all material for five days

North Carolina

Dealer:

- Must maintain record of all transactions
- Must maintain copy of seller's driver's license
- Transaction paid in nontransferable check or money order to sellers home address
- Unlawful to purchase catalytic converter unless as part of a whole vehicle
- Fingerprints when buying catalytic converters or air conditioning parts
- Tag and hold
- Record seller's license plate number and vehicle description

North Dakota

Dealer:

- Must maintain record of transaction for one year
- Ten day tag and hold per law enforcement

Ohio

Dealer:

- Must maintain records for one year
- Video must be kept for at least 30 days
- No more than one catalytic converter purchase per day except from car dealers
- Must post notice of penalty for providing false identification or false information

Oklahoma

Dealer:

- Must maintain records for five years for more than \$50 or 100 lbs
- Must have copy of seller's driver's license
- Must have description of material purchased
- Five day tag and hold per law enforcement
- No cash payment more than \$25.00
- Must report transactions to law enforcement within 48 hours

Oregon

Dealer:

- Must maintain record of transactions
- Must use video at scales and maintain it for 30 days
- Payment by check mailed to home of seller no earlier than 3 days after the purchase
- Two day tag and hold per law enforcement

Pennsylvania
Dealer:

- Must maintain a record of transactions
- Copy of seller's driver's license
- Seller's vehicle license plate number for transactions more than \$100.
- 48 hour tag and hold, with 24 hour additional by law enforcement
- Five day hold on all data or electrical wire
- Electrical and date wire must have signed notice of where it came from
- Must have copy of seller's vehicle registration

Rhode Island

Dealer:

- Must maintain record of all transactions and description of material
- 14 day tag and hold per law enforcement

South Carolina

Dealer:

- Must maintain record of all transactions for five years
- Must have copy of seller's driver's license
- Six day tag and hold per law enforcement
- Payment after three day waiting period, cash or check

South Dakota

Dealer:

- Must maintain record of all transactions for one year
- Ten day tag and hold per law enforcement

Tennessee

Dealer:

- Must maintain record of transactions for three years
- Must have seller's fingerprints
- Must have copy of seller's driver's license
- Must have the license plate number of the seller's vehicle
- Purchasing from a business, payment must be by check mailed to the business address

• When purchasing from a non-business payment must be by check mailed to the seller's home address; or by voucher redeemable after 5 days

Texas

Dealer:

- Must maintain record of transactions for three years
- Must have photo of seller, material and seller's vehicle
- Must have copy of seller's driver's license
- Must have copy of seller's fingerprint
- Three day tag and hold, extendable to 60 days per law enforcement
- Must report electronically to the state within two day
- Must have video of yard activity
- Payment restrictions in effect

Utah

Dealer:

- Must keep a record of all transactions over \$50.00 or 25 lbs
- Records must be onsite for one year

Vermont

Dealer:

- Must keep record of transactions for five years
- 15 day tag and hold for items believed to have been unlawfully obtained
- Law enforcement must be notified of purchases by the end of same day

Virginia

Dealer:

- Must maintain record of transactions
- Must have description of material purchased
- Must have seller's vehicle license plate number
- 15 day tag and hold if material purchased is marked

- Some material may only be purchased from licensed sellers (HVA, gutters etc)
- Must notify law enforcement of transaction by noon on the following day

Washington

Dealer

- Must maintain record of transactions
- Must have seller's driver's license number
- Must have description of seller's vehicle and license plate number
- Must record description of all materials and the Institute of Scrap Recycling Industries code word for each type of material
- Payment by non-transferable check after 10 day waiting period

West Virginia

Dealer:

- Must maintain record of transactions for three years
- Transactions must be reported to law enforcement within 72 hours of purchase

Wisconsin

Dealer:

- Must maintain record of transactions for two years
- Must include a photo or video image of seller's vehicle and license plate
- Must have a signed declaration of ownership with description of material

Wyoming

Dealer:

• Must retain copy of seller's driver's license

Appendix D

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Appendix D

Suggested Statutory Changes

Recycler license is required for salvage vehicle recyclers under this section, as well as for "scrap metal recycler" or "mobile scrap metal dealer". The changes will add the definitions for Scrap Metal Recycler and Mobile Scrap Metal Dealers to this chapter of Title 29A. It will also make it a Class E crime to act as a Scrap Metal Recycler or a Mobile Scrap Metal Dealer without license under this section.

29-A §1101. RECYCLER LICENSE REQUIRED 29-A §1101. RECYCLER LICENSE REQUIRED

1. Recycler. "Recycler" means a person engaged in the business of purchasing or acquiring salvage vehicles for the purpose of:

A. Reselling the vehicle or its component parts; [1997, c. 776, §33 (NEW).]

B. Rebuilding or repairing the vehicle for the purpose of resale; [1997, c. 776, §33 (NEW).]

C. Selling the vehicle's basic materials; [1997, c. 776, §33 (NEW).]

D. Displaying or storing the vehicle or its parts; or [1997, c. 776, \$33 (NEW).]

E. Acting as a scrap processor. [1997, c. 776, §33 (NEW).]

A person may not engage in business as a recycler without a recycler license issued under this subchapter.

1.A."Scrap Metal Recycler" means a person engaged in the business of purchasing or acquiring non-vehicle related scrap metal as defined in Title 30A MRSA § 3774(4) for the purpose of processing, storing, resale or transfer.

A person may not engage in the business as a scrap metal recycler without a scrap metal recycler license issued under this subchapter.

1.B."Mobile Scrap Metal Dealer" means a person engaged in the business of purchasing or acquiring scrap metal as defined in Title 30A MRSA § 3774(4) for the purpose of resale or transfer.

A person may not engage in the business as a mobile scrap metal dealer without a mobile scrap metal dealer license issued under this subchapter.

This change of Title 29A § 1103 makes exceptions for Mobile Scrap Metal Dealers to a requirement that they have an established place of business; and requires that the Mobile Scrap Metal Dealer keep records and provide them to law enforcement during business hours on demand.

29-A §1103. LICENSE REQUIREMENTS 29-A §1103. LICENSE REQUIREMENTS

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5. Mobile Scrap Metal Dealers licensed under this chapter are exempt from this section.

A. Mobile Scrap Metal Dealers must display the name of the licensee on any vehicle used for conducting . business as a mobile scrap metal dealer.

B. Mobile Scrap Metal Dealers must provide business records on demand to any law enforcement officer during normal business hours.

C. Mobile Scrap Metal Dealers must maintain a log book and have it available to any law enforcement officer when transporting scrap metal.

Change to include scrap metal recycler and mobile scrap metal dealer in the reasons for suspension, and to provide for penalty for failing to surrender the license; provides penalties for continuing to operate as a scrap metal recycler or mobile scrap metal dealer after suspension of the license.

29-A §1108. DENIAL, SUSPENSION OR REVOCATION OF A RECYCLER LICENSE

1. Grounds. The Secretary of State may deny, suspend or revoke a recycler license on the following grounds:

A. A material misstatement in an application for a license; [1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF).]

B. Failure to comply with a provision of this subchapter, any lawful rule adopted by the Secretary of State or any provision of Title 17 or Title 17-A or this Title as they relate to being a proper person to be in the business of the sales of vehicles or parts; [1995, c. 482, Pt. A, §20 (AMD).]

C. Failure to maintain an established place of business; [1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF).]

D. Failure to notify the Secretary of State in writing 30 days prior to moving or ceasing operation; [1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF).]

E. The defrauding of a buyer, to the buyer's or another's damage, in the conduct of the licensee's business; [1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF).]

F. Conviction of a fraudulent act in connection with the business of selling motor vehicles or parts or being held liable by a civil judgment involving fraud, misrepresentation or conversion; [1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF).]G. Violation of Title 5, sections

206 to 212; Title 17, section 3203; or Title 30-A, sections 3751 to 3760; or Title 30A, sections 3772 to 3775;

H. Submission of a check, draft or money order to the Secretary of State that is dishonored or refused upon presentation; [1993, c. 683, Pt. A, §2 (NEW);1993, c. 683, Pt. B, §5 (AFF).]

I. Certification by the State Tax Assessor that a tax, other than property tax, considered final under Title 36, remained unpaid in an amount exceeding \$1,000 for a period greater than 60 days after notice of finality and that the licensee or applicant refused to cooperate with the Bureau of Revenue Services in establishing and remaining in compliance with a reasonable plan for meeting that liability; or [1993, c. 683, Pt. A, \$2 (NEW); 1993, c. 683, Pt. B, \$5 (AFF); 1997, c. 526, \$14 (AMD).]

J. Failure to appear at a hearing required by the Secretary of State or failure to appear in court pursuant to a lawful summons. [1993, c. 683, Pt. A, §2 (NEW);1993, c. 683, Pt. B, §5 (AFF).]

1-A. Appeal from action of the Secretary of State. Any person aggrieved by the act of the Secretary of State to refuse to grant or renew a license under this subchapter or to suspend or revoke a license or by any other act of the Secretary of State that the person alleges to be improper, unreasonable or unlawful under this subchapter may, within 30 days' notice of the decision, appeal to the Superior Court for a judicial review, as provided in Title 5, chapter 375, subchapter VII.

[1995, c. 65, Pt. A, §98 (NEW); 1995, c. 65, Pt. A, §153 (AFF); 1995, c. 65, Pt. C, §15 (AFF) .]

2. **Proximity to veterans' cemetery.** A license may be denied if a place of business is within one mile of a federally owned or state veterans' cemetery, unless the Secretary of State finds that:

A. The conduct of the business will not unduly interfere or degrade the purposes of the cemetery; [1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF).]

B. The business and location will be adequately screened for sight and noise; and [1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF).]

C. There is adequate distance, not less than 1,500 feet, between the cemetery and place of business. [1993, c. 683, Pt. B, §5 (AFF).]

[1993, c. 683, Pt. A, §2 (NEW); 1993, c. 683, Pt. B, §5 (AFF) .]

3. **Refusal to surrender license.** Any recycler, scrap metal recycler or mobile scrap metal dealer who fails or refuses to surrender the license upon demand of the Secretary of State following the suspension or revocation of that license, commits a Class E crime.

4. Penalties. Any person who continues to engage in business as a salvage vehicle dealer, recycler or as <u>scrap</u> <u>metal recycler or mobile scrap metal dealer</u>, after suspension or revocation of the license issued by the Secretary of State, is guilty of a Class E crime, punishable by a fine of not less than \$200 and that fine may not be suspended.

Deletes the definition of "scrap metal processor" and adds definition of "Scrap Metal Recycler" and "Mobile Scrap Metal Dealer". Defines "scrap metal yard"

30-A §3771. DEFINITIONS

30-A §3771. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [2007, c. 549, \$1 (NEW).]

1. Beverage container. "Beverage container" means a can, bottle, jar or other container made of aluminum or metal that is sealed by a manufacturer and contained, at the time of sale, a beverage, as defined by Title 32, section 1862, but does not include a beer keg.

[2007, c. 549, \$1 (NEW) .]

2. Nonferrous metal. "Nonferrous metal" means a metal that does not contain significant quantities of iron or steel. "Nonferrous metal" includes the following metals and their alloys:

A. Copper; [2007, c. 549, \$1 (NEW).]
B. Brass; [2007, c. 549, \$1 (NEW).]
C. Aluminum; [2007, c. 549, \$1 (NEW).]
D. Bronze; [2007, c. 549, \$1 (NEW).]
E. Lead; [2007, c. 549, \$1 (NEW).]
F. Zinc; [2007, c. 549, \$1 (NEW).]
G. Nickel; and [2007, c. 549, \$1 (NEW).]
H. Platinum. [2007, c. 549, \$1 (NEW).]
[2007, c. 549, \$1 (NEW).]

3. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

[2007, c. 549, §1 (NEW) .]

4. Scrap metal. "Scrap metal" means metal that can be recycled, including, but not limited to, bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous.

[2007, c. 549, §1 (NEW) .]

5. Scrap metal-processor. "Scrap metal processor" means a person that purchases scrap metal for resale or recycling.

5. Scrap Metal Recycler. means any person that is licensed under Title 29-A and operates out of a scrap metal yard, and that is also;

A. Engaged in the business of buying, processing, and selling scrap metal; and

B. Operating or maintaining a scrap metal yard or a place where scrap metal is stored or for sale or transfer;

C. Scrap Metal Recycler does not include automobile recyclers as defined in Title 30-A §3752(1) A.

6. Mobile Scrap Metal Dealer means a person that is licensed under Title 29-A and is engaged in the business of being a mobile scrap metal dealer by acquiring scrap metal for the purpose of resale to a scrap metal recycler.

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A. Mobile scrap metal dealers do not store scrap metal in a scrap metal yard, process, or keep scrap metal for shipment.

B. A person is a mobile scrap metal dealer if that person purchases or otherwise acquires scrap metal for the purpose of resale.

C. Licensed tradesmen such as electricians, plumbers, and other businesses that do not purchase or acquire scrap metal for the purpose of resale are exempt from mobile scrap metal license.

7. Scrap Metal Yard means any yard, space, enclosure or building where scrap metal is stored, kept for shipment, sale or transfer, or processed; and

A. Where the business of storing and processing scrap metal may be lawfully conducted;

B. Scrap metal yard does not include automobile graveyards or automobile recycling facilities as defined in Title 30A section 3752(1).

6. 86. **Seller.** "Seller" means any person that receives in a transaction monetary consideration from a scrap metal processor recycler or a mobile scrap metal dealer in exchange for nonferrous metal, iron or steel, including stainless steel. "Seller" does not include a person that, as part of a commercial enterprise or business, sells pursuant to a written contract or bill of sale scrap metal generated in a manufacturing or production process to a scrap metal processor-recycler or mobile scrap metal dealer.

The following changes to § 3772 reflect the change from "scrap metal processor" to "scrap metal dealer"

§3772. RECORDS OF PURCHASES MAINTAINED BY SCRAP METAL PROCESSORS <u>RECYCLERS</u>

1. Maintenance of records requirement. Except as provided in subsection 2, a scrap metal processor-recycler doing business in the State shall maintain an accurate and legible record of each scrap metal purchase transaction.

1-A. Form and method of payment. A scrap metal processor recycler or mobile scrap metal dealer shall provide payment to a seller only in the form of a credit card, as defined in Title 9-A, section 1-301, subsection 16, a debit card, as defined in Title 10, section 1271, subsection 3, or a check. If payment is made by check, the

scrap metal processor recycler or mobile scrap metal dealer shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.

2. Exception. A scrap metal-processor-recycler or mobile scrap metal dealer doing business in the State is not required to maintain individual records for a series of scrap metal purchase transactions made pursuant to a written contract or bill of sale.

3. Information required. The record of each scrap metal purchase transaction required under subsection 1 must contain the following information:

A. The name, address and gender of the seller. The scrap metal processor recycler or mobile scrap metal dealer shall require the seller to provide proof of identification with a driver's license, military identification card, passport or other form of government-issued photo identification. The scrap metal processor recycler or mobile scrap metal dealer shall photocopy the form of photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor recycler or mobile scrap metal dealer shall photograph the seller. A scrap metal processor recycler or mobile scrap metal dealer shall keep these proof of identification records in a secure, nonpublic location and, unless otherwise permitted by law, may not publish, reproduce, distribute or disclose these records for any other purpose than that described in section 3773, subsection 2. Information required under this paragraph may be maintained for repeat sellers in a relational database that allows the scrap metal processor recycler or mobile scrap metal dealer is no record the information one time and relate future purchase records to that information;

Changes reflect proposed change from "scrap metal processor" to "scrap metal recycler" and "mobile scrap metal dealer".

30-A §3775. RESTRICTIONS ON THE PURCHASE AND SALE OF SCRAP METAL

A seller may not sell and a scrap metal processor recycler or a mobile scrap metal dealer may not purchase the following scrap metal unless the seller provides to the scrap metal processor recycler or mobile scrap metal dealer in addition to the requirements of section 3772, subsection 3, a signed statement at the time of sale that the property subject to this transaction is not stolen property to the best of the seller's knowledge, and that the seller is the owner or is otherwise authorized to sell the scrap metal:

1. Marked with certain initials. Scrap metal marked with the initials of an electrical, telephone, cable or other public utility or a beer manufacturer;

2. Utility access covers. Utility access covers;

- 3. Street lights. Street light poles and fixtures;
- 4. Guard rails. Road and bridge guard rails;
- 5. Street signs. Highway or street signs;
- 6. Water meter covers. Water meter covers;

7. Beer kegs. Metal beer kegs or keg pieces including those made of stainless steel that are clearly marked as being the property of the beer manufacturer. Beer kegs or keg pieces may not be sold or purchased pursuant to this subchapter if the brewer's markings have been obliterated or made illegible;

8. Traffic signs. Traffic directional and control signs;

9. Traffic signals. Traffic light signals;

10. Marked; governmental entity. Any scrap metal marked with the name of a governmental entity;

11. Marked; utility or railroad. Property owned by a telephone, cable, electric, water or other utility or by a railroad and marked or otherwise identified as such;

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12. Certain construction or utility materials. Unused and undamaged building construction or utility materials consisting of copper pipe, tubing or wiring or aluminum wire;

13. Historical markers. Historical markers;

14. Grave markers. Grave markers and vases; and

15. Catalytic converters. Catalytic converters;

This section does not apply to transactions in which a scrap metal processor recycler purchases, transfers or otherwise conveys scrap metal to another scrap metal processor.recycler

Gives the Secretary of State rule making authority for Ch 183 subchapter 1-A, Scrap Metal Recyclers and Mobile Scrap Metal Dealers.

§ 3779. Rules

The Secretary of State shall adopt rules establishing standards for recycler or mobile scrap metal dealer under this subchapter.

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Appendix E

APPENDIX E

FY 15 Costs	Start Date	October 1, 2014
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	MV Investigator FY15		MV Investigator FY15		MV Investigator	O Associate II FY15		O Associate II FY15		Totals		
					FY15						FY15	
		Range 20		Range 20		Range 20		Range 13		Range 13		
		Step4		Step 4		Step 4		Step 4		Step 4		
Total Salaries	\$	30,753.78	\$	30,753.78	\$	30,753.78	\$	21,174.82	\$	21,174.82	\$	134,610.96
Benifets	\$	26,651.70	\$	26,651.70	\$	26,651.70	\$	23,014.61	\$	23,014.61	\$	125,984.30
Total Personal Services	\$	57,405.47	\$	57,405.47	\$	57,405.47	\$	44,189.42	\$	44,189.42	\$	260,595.26
All Other	\$	8,700.80	\$	8,700.80	\$	8,700.80	\$	820.88	\$	820.88	\$	27,744.16
Sta Cap (.0504)	\$	3,331.76	\$	3,331.76	\$	3,331.76	\$	2,268.52	\$	2,268.52	\$	14,532.31
Total Personal Services and All Other	\$	69,438.03	\$	69,438.03	\$	69,438.03	\$	47,278.82	\$	47,278.82	\$	302,871.73

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