

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: H3/26/13  
**A Bill**

HOUSE BILL 1793

By: Representative McCrary

**For An Act To Be Entitled**

AN ACT CREATING A PRIVATE METAL RECYCLER OVERSIGHT COMMISSION; TO VEST THE COMMISSION WITH CERTAIN REGULATORY AND ENFORCEMENT POWERS; TO DETERMINE MEMBERSHIP; TO PROVIDE FOR THE OPERATIONS OF THE COMMISSION; AND FOR OTHER PURPOSES.

**Subtitle**

CREATING A PRIVATE METAL RECYCLER OVERSIGHT COMMISSION; TO VEST THE COMMISSION WITH CERTAIN REGULATORY AND ENFORCEMENT POWERS; TO DETERMINE MEMBERSHIP; AND TO PROVIDE FOR THE OPERATIONS OF THE COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

*SECTION 1. Arkansas Title 17, Chapter 44, is amended to add a new subchapter to read as follows:*

*Subchapter 2 – Scrap Metal Recycler Oversight Commission*

*17-44-201. Scrap Metal Recycler Oversight Commission – Creation – Venue.*

*(a) There is created the Scrap Metal Recycler Oversight Commission to establish and oversee the regulation and enforcement of the state's scrap metal recyclers.*

*(b) The commission shall be staffed by the Arkansas Department of Environmental Quality.*



17-44-202. Members – Duties.

(a) The Scrap Metal Recycler Oversight Commission consists of seven voting (7) members appointed by the Governor and one nonvoting ex officio member.

(b)(1) All succeeding appointments to the commission shall be for terms of five (5) years.

(2) A voting member of the commission shall not serve more than two (2) terms.

(c) The membership of the commission shall be composed of:

(1) Two (2) persons who own or conduct business as scrap metal recyclers;

(2) One (1) person who represents the interests of a public utility or railroad;

(3) One (1) person who represents an agricultural concern;

(4) One (1) person who is a certified law enforcement officer of a city or town;

(5) One (1) county sheriff;

(6) One (1) person who represents the interests of the business community; and

(7) The director of the Department of Environmental Quality or his or her designee, as a nonvoting ex officio member.

(d) The Governor shall select a qualified individual to fill a vacancy on the commission for the unexpired portion of the term in which it occurs.

(e)(1) The members of the commission shall select a chair by majority vote.

(2) The commission shall meet at least semiannually upon the call of the Chair of the Scrap Metal Recycler Oversight Commission but may meet more regularly at the discretion of the chair.

(3) A majority of the total membership of the commission constitutes a quorum.

(f) The following shall not be appointed as a member of the commission:

(1) A member of the General Assembly; or

(2) An immediate family member of a member of the General Assembly.

(g) Members of the commission may receive expense reimbursement under § 25-16-901 et seq.

(h) At the discretion of the chair, the commission may employ an executive director to oversee the operations of the commission.

17-44-203. Commission powers.

(a) The Scrap Metal Recycler Oversight Commission has all powers necessary or convenient to its usefulness in carrying out this subchapter that are not in conflict with the Arkansas Constitution or the United States Constitution, including without limitation the following powers:

(1) To adopt and alter a seal;

(2) To adopt, amend, and repeal rules for the enforcement of its affairs and the conduct of its business, to prescribe the duties of officers and employees of the commission, and to perform other matters as the commission determines;

(3) To bring suit to enforce a demand of the state under this subchapter;

(4) To administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence relative to an investigation or proceeding conducted by the commission;

(5)(A) To license scrap metal recyclers.

(B) The commission may assess a fee for a license under this subchapter;

(6) To enter into contracts or agreements with state or local law enforcement agencies for the performance of law enforcement, background investigations, and security checks;

(7) To conduct a background investigation on each scrap metal recycler;

(8) To inspect the facilities of a scrap metal recycler;

(9) To report a suspected violation of this subchapter to the appropriate prosecuting attorney or the Attorney General and to any law enforcement agency having jurisdiction over the violation;

(10) Upon request, to provide assistance to the Chief Fiscal Officer of the State, the Legislative Auditor, the appropriate prosecuting attorney, the Attorney General, or a law enforcement agency investigating a

violation of this subchapter;

(11) To enter into contracts of terms and conditions that the commission determines; and

(12) To approve, disapprove, amend, or modify any budget recommended by the chair or, if applicable, the executive director.

(b) The powers enumerated in subsection (a) of this section:

(1) Are in addition to those powers of the commission enumerated elsewhere in this subchapter; and

(2) Do not limit or restrict any other powers of the commission.

(c) The commission may delegate to one (1) or more of its members, to the director, if applicable, or to any agent or employee of the commission powers and duties it considers proper.

17-44-204. Rulemaking.

(a) The Scrap Metal Recycler Oversight Commission may adopt rules regulating the conduct of scrap metal recyclers in general, including without limitation rules specifying:

(1) Types of metals governed by this subchapter;

(2) Who may enter into a scrap metal transaction;

(3) Types of payments that are authorized;

(4) Record-keeping requirements;

(5) Circumstances under which a law enforcement agency will be notified;

(6) Administrative penalties for violations of this subchapter;

(7) A licensure application process for scrap metal recyclers;

(8) Type, duration, and cost of a license issued by the commission;

(9) Enforcement procedures;

(10) Administrative hearing processes and appeals; and

(11) Any other matters necessary, desirable, or convenient to ensure the efficient and lawful operation of scrap metal recyclers.

(b) The promulgation of rules under this subchapter shall comply with the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

17-44-205. Appealing administrative orders of the commission – Venue. A retailer, a vendor, or an applicant for a contract or a retailer

license aggrieved by an administrative order of the Scrap Metal Recycler Oversight Commission may appeal that decision to Pulaski County Circuit Court.

17-44-206. Removal of commission member.

A voting member of the Scrap Metal Recycler Oversight Commission may be removed by a majority vote of the remaining commissioners for:

(1) Conviction of a felony;

(2) Failing to attend three (3) consecutive meetings, or

(3) No longer meeting the qualifications for his or her initial appointment.

SECTION 2. DO NOT CODIFY. Temporary language.

(a)(1) Of the initial appointees to the Scrap Metal Recycler Oversight Commission by the Governor:

(A) Three (3) members shall serve a term of three (3) years;

(B) Two (2) members shall serve a term of four (4) years;  
and

(C) Two (2) members shall serve a term of five (5) years;

(2) Members of the commission shall draw lots to determine the length of the initial term.

(b) Initial appointments to the commission under this section shall be made within sixty (60) days of the effective date of this act.

(c) The commission shall hold its first meeting within ninety (90) days of the effective date of this act.

/s/McCrary