



**Kansas Attorney General**  
**Derek Schmidt**

120 SW 10th Avenue, 2nd Floor  
Topeka, KS 66612-1597

PHONE: (785) 296-2215 • FAX: (785) 296-6296  
[www.ksag.org](http://www.ksag.org)

Testimony Regarding Temporary Scrap Metal Theft Reduction Act Rules and Regulations  
Before the Rules and Regulations Board  
Randy Slater, Special Agent  
Eric Montgomery, Attorney General's Chief of Staff  
Sarah Fertig, Assistance Attorney General  
June 29, 2016

On behalf of the of the Attorney General's Office, we want to thank the Board for the opportunity to appear here today and present testimony in support of K.A.R. 16-14-10 and K.A.R. 16-14-11, the regulations which will allow for; timely manner of entry into the database, transactions involving "Licensed business", scrap metal dealers can apply for addition time for compliance, and definitions for "Database" and "Licensed business".

These proposed temporary regulations provide clarity of what will be expected when phase two of the Scrap Metal Theft Reduction Act goes into effect on July 1, 2016 as well as defining "Database" and "Licensed business," so that they may have a specific meaning in this regulation and their use throughout the entire Scrap Metal Theft Reduction Act (SMTRA).

While the temporary regulations may not necessarily preserve the public peace, health, safety, or welfare, they will allow phase two of SMTRA to go into effect with clarity and allow scrap metal dealers to make application for additional time to be in compliance, and allow for enforcement for none compliance. The data collected from each transaction shall be submitted to the database as required and immediately upon the conclusion of each purchase or receipt of regulated scrap metal.

Permanent regulations, which mirror the proposed temporary regulations, have been approved by Department of Administration and the Office of Attorney General. The permanent regulation comment period will begin on June 23, 2016 and end with public hearing set for Friday, September 9, 2016 from 1pm to 2pm in Memorial Hall auditorium located at 120 SW 10<sup>th</sup> Avenue, Topeka, KS 66612. The anticipated hearing date for JCARR is September 6, 2016.

As with any new law, it is important to have rules and regulations in place to insure businesses, consumers, and regulating government are all able to transition smoothly to a new or different way of handling transactions such as the one here today with SMTRA. It is necessary and desirable to put into effect the temporary regulations so that the scrap metal dealers that aren't able to comply with phase two of SMTRA, which goes into effect July 1, 2016, will have the means to apply for time to be in compliance with the new law provided they can properly document their circumstances. Additionally, this will give attorney general the means in which to start enforcement of this new law and provide another means of enforcing registration.



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It should be noted that there was a slight delay in the selection process of a vendor for a desired database. This delay was caused due to an oversight by the legislating body to fund the Scrap Metal Theft Reduction Act's account, which was done in very late March. Once the funds were allocated, the RFP was submitted for reviewing process. There were several issues regarding security of the information being held by a 3<sup>rd</sup> party vendor. Once this was accomplished the RFP was approved for dissemination. The RFP closes on July 15, 2016.

Questions are welcomed and answers may be provided by available personnel.

16-14-11. Definitions. As used in this article of the attorney general’s regulations and in the scrap metal theft reduction act, K.S.A. 2015 Supp. 50-6,109 et seq. and amendments thereto, each of the following terms shall have the meaning specified in this regulation:

(a) “Database” means the online central repository approved by the attorney general to be used by each scrap metal dealer to submit the information required by K.S.A. 2015 Supp. 50-6,110, and amendments thereto.

(b) “Licensed business” means a sole proprietorship, general partnership, limited partnership, limited liability partnership, corporation, or limited liability company that lawfully operates out of a fixed business location and that is reasonably expected to generate regulated scrap metal at the fixed business location in the ordinary course of business due to the nature of the products or services offered.

This regulation shall become effective on July 1, 2016. (Authorized by K.S.A. 2015 Supp. 50-6,109a; implementing K.S.A. 2015 Supp. 50-6,109a and 50-6,110; effective, T-\_\_\_\_\_, \_\_\_\_\_.)

16-14-10. Submission of required information. (a) Except as provided in subsections (c) and (d), each scrap metal dealer shall submit the information required by K.S.A. 2015 Supp. 50-6,110(b) and (c), and amendments thereto, immediately upon the conclusion of each purchase or receipt of regulated scrap metal. This information shall be submitted by entering the required information into the database.

(b) Failure to timely submit the information required by K.S.A. 2015 Supp. 50-6,110(b) and (c), and amendments thereto, shall be grounds for suspension of the scrap metal dealer's registration pursuant to K.S.A. 2015 Supp. 50-6,112c, and amendments thereto.

(c) A scrap metal dealer who purchases regulated scrap metal from a licensed business shall not be required to comply with subsection (a) if the purchase is made at the fixed business location of the licensed business. In this case, each scrap metal dealer shall enter the following information into the database immediately upon the conclusion of each purchase:

- (1) The time, date, and place of the transaction;
- (2) the name of the licensed business;
- (3) the name of the individual acting on behalf of the licensed business in making the sale;
- (4) a general description of the predominant types of junk vehicle or other regulated scrap metal property being purchased in the transaction;
- (5) the weight, quantity, or volume, made in accordance with the custom of the trade, of the regulated scrap metal being purchased; and

(6) a signed statement from the individual making the sale, indicating that the individual is acting for the licensed business and has permission to sell each item on behalf of the licensed business.

(d) Any scrap metal dealer may submit a written application to the attorney general to request additional time to comply with subsection (a). Each application shall include documentation that the scrap metal dealer is unable to obtain internet access at the scrap metal dealer's place of business.

This regulation shall become effective on July 1, 2016. (Authorized by K.S.A. 2015 Supp. 50-6,109a; implementing K.S.A. 2015 Supp. 50-6,109a and 50-6,110; effective, T-\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_.)

**State of Kansas**

**Office of Attorney General Derek Schmidt  
Notice of Public Hearing on Proposed Permanent Regulations  
Scrap Metal Theft Reduction Act**

Monday, June 13, 2016

The Office of Attorney General Derek Schmidt will conduct a public hearing between 1:00 p.m. and 2:00 p.m. on Friday, August 26, 2016, in the Memorial Hall auditorium, 120 SW Tenth Ave., Topeka, Kansas, 66612, to consider the adoption of new regulations K.A.R. 16-14-10 and K.A.R. 16-14-11.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Office of the Attorney General Derek Schmidt, Scrap Metal Dealer Registration Unit, 120 SW Tenth Ave. 2<sup>nd</sup> Floor, Topeka, Kansas, 66612 or by email to [randy.slater@ag.ks.gov](mailto:randy.slater@ag.ks.gov). All interested parties will be given a reasonable opportunity during the public hearing to present their views orally regarding the adoption of the proposed regulations. In order to provide all parties an opportunity to present their views, it may be necessary to require that each participant limit any oral presentation to an appropriate timeframe.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting the Office of Attorney General Special Agent Randy Slater at [randy.slater@ag.ks.gov](mailto:randy.slater@ag.ks.gov) or 1-800-432-2310.

A summary of the proposed regulations and their estimated economic impact follow. Copies of the proposed regulations and the economic impact statement may be obtained by contacting Special Agent Randy Slater at [randy.slater@ag.ks.gov](mailto:randy.slater@ag.ks.gov) or at the phone number listed above.

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be viewed at the following website:

<http://ag.ks.gov/licensing/scrap-metal-dealers>

**K.A.R. 16-14-10.** This regulation outlines the requirements for scrap metal dealers to capture and enter data related to regulated scrap metal transactions into an online database.

**K.A.R. 16-14-11.** This regulation defines terms used in the Scrap Metal Theft Reduction Act, K.S.A. 2015 Supp. 50-6,109 *et seq.*, and in K.A.R. 16-14-10.

**Economic Impact.** It is anticipated that there will be no additional economic impact to the Office of Attorney General or to other governmental agencies. Scrap metal dealers may incur costs to enter required information into the online database, including costs to obtain internet access.