

## METAL THEFT REDUCTION ACT

[HB2223](#); 2015 Session Laws, chapter 82

[Read the bill summary](#)      [Read the bill explainer](#)

**Effective July 1, 2015 (Unless otherwise stated)**

1. **Aggravated Criminal Damage to Property is a New Crime:** KSA 21-5813 is amended by adding a new crime of Agg. Criminal Damage to Property which is damage in excess of \$5,000 occurring to any of the following while committing a theft or attempted theft of regulated scrap metal as defined in KSA 50-6,109 or 50-6,111(d): (1) Any building, structure, personal property or place used primarily for worship or any religious purpose; (2) any building, structure or place used as a school or as an educational facility; (3) any building, structure or place used by a non-profit or charitable business, corporation, firm, service or association; (4) any grave, cemetery, mortuary or personal property of the cemetery or mortuary or other facility used for the purpose of burial or memorializing the dead; (5) any agricultural property or agricultural infrastructure; (6) any construction, mining or recycling facility, structure or site; (7) any utility, utility service, telecommunication, telecommunication service, cable or video service facility, property, building, structure, site or component thereof; (8) any municipal, county or state building, structure, site or property; (9) any residential, commercial, industrial or agricultural irrigation, sprinkler or watering system or component thereof; (10) the infrastructure of any residence, building or structure; (11) any historical marker, plaque or work of art; (12) any vehicle or transportation building, facility, structure, site or property; or (13) any other building, structure, residence, facility, site, place, property, vehicle or any infrastructure thereof. Aggravated Criminal Damage to Property is a SL6 nonperson felony. KSA 21-6604 is amended to provide the dollar cost of damage or loss in the prosecution of KSA 21-5801 (theft); 21-5807 (); or 21-5803 (criminal damage to property) includes the cost of repair or replacement of the property that was damaged, the reasonable cost of any loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. KSA 21-6804 is amended by making the sentence for Aggravated Criminal Damage to Property is presumptive imprisonment if the offender has a prior conviction for any nonperson felony. §9, 10, and 11.
2. **Attorney General Authority and Creation of the Scrap Metal Theft Reduction Act:** The attorney general is given jurisdiction and authority over the implementation, administration and enforcement of the provisions of the scrap metal theft reduction act including to: (1) Employ or appoint agents as necessary to implement, administer and enforce the act; (2) contract; (3) expend funds; (4) license and discipline; (5) investigate; (6) issue subpoenas; (7) keep statistics; and (8) conduct education and outreach programs to promote compliance with the act. §1, 2, and 15-18
3. **Business Records as Evidence:** The business records of a sale or transaction required to be recorded by the Act is admissible as evidence in a preliminary hearing in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person. §7
4. **Database of Regulated Metal Transactions:** By July 1, 2016, the attorney general (probably through the KBI) will establish and maintain a database for the purpose of providing information to law enforcement and enforcing the scrap metal theft reduction act. §1(d), 12, 13 and 14
  - a. The information in the database is confidential and only for investigations, evidentiary and analysis purposes;
  - b. Only available to law enforcement for official criminal investigations or enforcement of the Act;
  - c. Is not a public record and not subject to open records.

5. **Local Regulation** Local control prohibited from enacting or enforcing any ordinance, resolution, or regulation relating to the Act and any existing ordinance, resolution or regulation is null and void. Effective July 1, 2015. §6
6. **Penalties for Violation of the Act:** Scrap metal dealers or sellers found in violation of the Act are subject to a civil penalty of \$100 to \$5,000, effective January 1, 2016. §3, 4, 5
7. **Prima Facie Evidence of Intent to Permanently Deprive:** KSA 21-5804 is amended to provide it is prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit of any property, including regulated metal, when a person provides a false identification or fictitious name, address or place of employment when buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property. It is prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, regulated metal, if a person (1) fails to give information or gives false information to a scrap metal dealer pursuant to the requirements of the Act, (2) transports regulated scrap metal outside the county from where it was obtained, (3) transports regulated scrap metal across state lines or (4) alters any regulated scrap metal prior to any transaction with a scrap metal dealer. §8
8. **Registration of Scrap Metal Dealers:** KSA 50-6,112b and 50-6,112c are amended effective January 1, 2016, with technical amendments to make the database and AG registration process work. §15-16.
9. **Regulated Metal Definition and Transactions:** KSA 50-6,109, 50-6,110, 50-6,111, 50-6,112 and 50-6,112a are amended effective July 1, 2015, with technical amendments to make the database and AG registration process work. §12-16. The amendments in §12, 13, and 14 to KSA 50-6,109; 50-6,110; and 50-6,111 make changes to the list of regulated metal and certain persons exempted from some provisions. The big change is the addition of “burnt wire” to the list of items scrap metal dealers generally cannot accept from the public.

**NOTICE:** The author is not an attorney and nothing in this document should be construed to be legal advice. The intent is to provide a reference document to the new Scrap Metal Theft Reduction Act For interpretation of the new law seek guidance from the Attorney General, your agency legal provider, or your local prosecutor. Always follow your agency’s policy and procedures in applying the law.

Send comments, suggestions, corrections, or additions to [ed.klumpp@kslawenforcementinfo.com](mailto:ed.klumpp@kslawenforcementinfo.com).