



General Assembly

January Session, 2011

**Raised Bill No. 1131**

LCO No. 4162

\*04162\_\_\_\_\_GL\_\*

Referred to Committee on General Law

Introduced by:

(GL)

**AN ACT CONCERNING CONSUMER PROTECTION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 21-11a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) A scrap metal processor, as defined in section 14-67w, shall  
4 record, for all loads of scrap metal purchased or received by such  
5 processor, a description of such scrap metal, the weight of such metal,  
6 the price paid for such metal and the identification of the person who  
7 delivered such metal. The person who delivered such metal shall  
8 certify the origin of such metal in writing to such processor. Such scrap  
9 metal processor shall take a photograph of the motor vehicle  
10 delivering such scrap metal, including the license plate of such vehicle.  
11 Such scrap metal processor shall not be required to segregate scrap  
12 metal it receives from other materials on its premises and hold the  
13 same for five days except for wire or cable that could be used in the  
14 transmission of telecommunications or data or scrap equipment, wire  
15 or cable that could be used in the transmission or distribution of  
16 electricity by an electric distribution company unless purchased from

17 (1) a person licensed pursuant to section 29-402 to engage in the  
18 business of demolition of buildings, or (2) a person who has already  
19 segregated such scrap metal pursuant to this chapter and such person  
20 provides such scrap metal processor with a written statement  
21 affirming such segregation. Upon receipt of a load of scrap metal  
22 which contains wire or cable that could be used in the transmission of  
23 telecommunications or data or scrap equipment, wire or cable that  
24 could be used in the transmission or distribution of electricity by an  
25 electric distribution company, such scrap metal processor shall take a  
26 photograph of the motor vehicle delivering such scrap metal,  
27 including the license plate of such vehicle, and of such load of scrap  
28 metal. Upon receipt of wire or cable that could be used in the  
29 transmission of telecommunications or data or scrap equipment, wire  
30 or cable that could be used in the transmission or distribution of  
31 electricity by an electric distribution company, such scrap metal  
32 processor shall make a copy of the certificate of registration of such  
33 vehicle, record a description of the material received, and record a  
34 statement as to the location from which the material came.

35 (b) The scrap metal processor shall maintain the documents,  
36 photographs and other records required under subsection (a) of this  
37 section in good condition and shall retain such records for a period of  
38 not less than two years. Such records shall be open for inspection by  
39 law enforcement officials upon request during normal business hours.

40 (c) A scrap metal processor, junk dealer or junk yard owner or  
41 operator shall immediately notify a municipal law enforcement  
42 authority in the municipality in which such scrap metal processor,  
43 junk dealer or junk yard is located of the name, if known, and motor  
44 vehicle license plate number, if available, of any person offering to sell  
45 a bronze statue, plaque, historical marker, cannon, cannon ball, bell,  
46 lamp, lighting fixture, lamp post, architectural artifact or similar item  
47 to such scrap metal processor, junk dealer or junk yard owner or  
48 operator.

49 (d) No scrap metal processor, junk dealer or junk yard owner or  
50 operator may purchase or receive a stainless steel or aluminum alloy  
51 beer or other beverage keg container if such container is marked with  
52 an indicia of ownership of any person or entity other than the person  
53 or entity presenting such container for sale. For purposes of this  
54 subsection, "indicia of ownership" means words, symbols or a  
55 registered trademark printed, stamped, etched, attached or otherwise  
56 displayed on such container that identify the owner of such container.

57 (e) A scrap metal processor who has purchased scrap metal that is  
58 subsequently determined to have been stolen and is returned to the  
59 owner of such metal shall have a civil cause of action against the  
60 person from whom such metal was purchased.

61 (f) A first violation of subsection (a), (b), (c) or (d) of this section  
62 shall be a class C misdemeanor. A second violation of any of said  
63 subsections shall be a class B misdemeanor and a third or subsequent  
64 violation of any of said subsections shall be a class A misdemeanor.

65 Sec. 2. Subsection (c) of section 20-332 of the general statutes is  
66 repealed and the following is substituted in lieu thereof (*Effective*  
67 *October 1, 2011*):

68 (c) If, after a hearing in accordance with the regulations adopted by  
69 the Commissioner of Consumer Protection, it appears that the  
70 provisions of this chapter or the regulations adopted under this  
71 chapter have been violated, in addition to the penalties in this chapter,  
72 the [appropriate examining board, or the] commissioner, [or the  
73 commissioner's authorized agent] with the advice and consent of the  
74 appropriate examining board, shall report such violation to the office  
75 of the state's attorney for the judicial district in which such violation  
76 occurred.

77 Sec. 3. Section 20-341 of the general statutes is repealed and the  
78 following is substituted in lieu thereof (*Effective October 1, 2011*):

79 (a) Any person who wilfully engages in or practices the work or  
80 occupation for which a license is required by this chapter without  
81 having first obtained an apprentice permit or a certificate and license  
82 for such work, or who wilfully employs or supplies for employment a  
83 person who does not have a certificate and license for such work, or  
84 who wilfully and falsely pretends to qualify to engage in or practice  
85 such work or occupation, or who wilfully engages in or practices any  
86 of the work or occupations for which a license is required by this  
87 chapter after the expiration of such person's license, shall be guilty of a  
88 class B misdemeanor, provided no criminal charges shall be instituted  
89 against such person pursuant to this subsection unless the work  
90 activity in question is reviewed by the Commissioner of Consumer  
91 Protection, or the commissioner's authorized agent, and the  
92 commissioner or such agent specifically determines, in writing, that  
93 such work activity requires a license and is not the subject of a bona  
94 fide dispute between persons engaged in any trade or craft, whether  
95 licensed or unlicensed. Notwithstanding the provisions of subsection  
96 (d) or (e) of section 53a-29 and subsection (d) of section 54-56e, if the  
97 court determines that such person cannot fully repay any victims of  
98 such person within the period of probation established in subsection  
99 (d) or (e) of section 53a-29 or subsection (d) of section 54-56e, the court  
100 may impose probation for a period of not more than five years. The  
101 penalty provided in this subsection shall be in addition to any other  
102 penalties and remedies available under this chapter or chapter 416.

103 (b) The [appropriate examining board or the] Commissioner of  
104 Consumer Protection [may] shall, after notice and hearing and with the  
105 advice and consent of the appropriate examining board, impose a civil  
106 penalty on any person who engages in or practices the work or  
107 occupation for which a license or apprentice registration certificate is  
108 required by this chapter, chapter 394 or chapter 482 without having  
109 first obtained such a license or certificate, or who wilfully employs or  
110 supplies for employment a person who does not have such a license or  
111 certificate or who wilfully and falsely pretends to qualify to engage in  
112 or practice such work or occupation, or who engages in or practices

113 any of the work or occupations for which a license or certificate is  
114 required by this chapter, chapter 394 or chapter 482 after the expiration  
115 of the license or certificate or who violates any of the provisions of this  
116 chapter, chapter 394 or chapter 482 or the regulations adopted  
117 pursuant thereto. Such penalty shall be in an amount not more than  
118 one thousand dollars for a first violation of this subsection, not more  
119 than one thousand five hundred dollars for a second violation of this  
120 subsection and not more than three thousand dollars for each violation  
121 of this subsection occurring less than three years after a second or  
122 subsequent violation of this subsection, except that any individual  
123 employed as an apprentice but improperly registered shall not be  
124 penalized for a first offense.

125 (c) If [an examining board or] the Commissioner of Consumer  
126 Protection imposes a civil penalty under the provisions of subsection  
127 (b) of this section as a result of a violation initially reported by a  
128 municipal building official in accordance with subsection (c) of section  
129 29-261, the commissioner shall, not less than sixty days after collecting  
130 such civil penalty, remit one-half of the amount collected to such  
131 municipality.

132 (d) A violation of any of the provisions of this chapter shall be  
133 deemed an unfair or deceptive trade practice under subsection (a) of  
134 section 42-110b.

135 (e) This section shall not apply to any person who (1) holds a license  
136 issued under this chapter, chapter 394 or chapter 482 and performs  
137 work that is incidentally, directly and immediately appropriate to the  
138 performance of such person's trade where such work commences at an  
139 outlet, receptacle or connection previously installed by a person  
140 holding the proper license, or (2) engages in work that does not require  
141 a license under this chapter, chapter 394 or chapter 482.

142 Sec. 4. (NEW) (*Effective January 1, 2012*) (a) Any person currently  
143 holding a license issued by the Department of Consumer Protection  
144 pursuant to title 20 of the general statutes may renew his or her license

145 as a retirement status license, provided he or she does not intend to  
146 actively engage in the practice of the occupation or trade for which the  
147 license was originally issued.

148 (b) An applicant for a retirement status license shall submit their  
149 original license to the Department of Consumer Protection, along with  
150 a letter of request for such classification. The letter shall contain a  
151 statement expressing the licensee's current retirement status and the  
152 acceptance of a restriction on the license prohibiting the applicant from  
153 actively engaging in the practice of the occupation or trade for which  
154 the license was originally issued.

155 (c) Licensees who are issued a retirement status license may restore  
156 their original license by submitting a form, to be provided by the  
157 Department of Consumer Protection, requesting reinstatement and by  
158 paying the current annual fee for such license.

159 (d) Licensees who are issued a retirement status license shall not  
160 practice or offer to practice the occupation or trade for which their  
161 license was originally issued.

162 (e) The fee for a retirement status license shall be twenty dollars.

163 Sec. 5. (NEW) (*Effective October 1, 2011*) (a) A person who is  
164 attempting to collect a debt shall not attempt to contact any person by  
165 telephone at a residence if such debt collector is told by a person who  
166 answers the telephone at such residence that the alleged debtor the  
167 debt collector is attempting to contact does not live at such residence.

168 (b) A violation of subsection (a) of this section shall be considered  
169 an abusive, harassing, fraudulent, deceptive or misleading attempt to  
170 collect a debt in violation of section 36a-646 of the general statutes.

171 (c) In addition to any penalty prescribed in chapter 669 of the  
172 general statutes, any person who violates subsection (a) of this section  
173 shall be subject to a civil penalty of one thousand dollars per violation  
174 and each such violation shall be considered an unfair or deceptive act

175 or practice pursuant to subsection (a) of section 42-110b of the general  
176 statutes.

177 Sec. 6. (NEW) (*Effective from passage*) Not later than December 31,  
178 2011, the Commissioner of Consumer Protection shall, by regulations  
179 adopted in accordance with the provisions of chapter 54 of the general  
180 statutes, amend the form of the residential property condition  
181 disclosure report required to be provided to prospective purchasers of  
182 residential property in the state pursuant to section 20-327b of the  
183 general statutes. The amended form shall include, but not be limited  
184 to, "yes" or "no" answer choices for general information, system and  
185 utilities, building, structure and improvement-related questions on  
186 such form. Such amended form shall not contain a choice of  
187 "unknown" as an answer to any question on such form.

188 Sec. 7. Section 20-619 of the general statutes is repealed and the  
189 following is substituted in lieu thereof (*Effective October 1, 2011*):

190 (a) For the purposes of section 20-579 and this section:

191 (1) "Brand name" means the proprietary or trade name selected by  
192 the manufacturer and placed upon a drug product, its container, label  
193 or wrapping at the time of packaging;

194 (2) "Generic name" means the established name designated in the  
195 official United States Pharmacopoeia/National Formulary, official  
196 Homeopathic Pharmacopoeia of the United States, or official United  
197 States adopted names or any supplement to any of them;

198 (3) "Therapeutically equivalent" means drug products that are  
199 approved under the provisions of the federal Food, Drug and  
200 Cosmetics Act for interstate distribution and that will provide  
201 essentially the same efficacy and toxicity when administered to an  
202 individual in the same dosage regimen; and

203 (4) "Dosage form" means the physical formulation or medium in  
204 which the product is intended, manufactured and made available for

205 use, including, but not limited to, tablets, capsules, oral solutions,  
206 aerosol, inhalers, gels, lotions, creams, ointments, transdermals and  
207 suppositories, and the particular form of any physical formulation or  
208 medium that uses a specific technology or mechanism to control,  
209 enhance or direct the release, targeting, systemic absorption, or other  
210 delivery of a dosage regimen in the body.

211 (b) Except as limited by subsections (c) and (e) of this section, unless  
212 the purchaser instructs otherwise, the pharmacist may substitute a  
213 generic drug product with the same strength, quantity, dose and  
214 dosage form as the prescribed drug product which is, in the  
215 pharmacist's professional opinion, therapeutically equivalent. When  
216 the prescribing practitioner is not reasonably available for consultation  
217 and the prescribed drug does not use a unique delivery system  
218 technology, the pharmacist may substitute an oral tablet, capsule or  
219 liquid form of the prescribed drug as long as the form dispensed has  
220 the same strength, dose and dose schedule and is therapeutically  
221 equivalent to the drug prescribed. The pharmacist shall inform the  
222 patient or a representative of the patient [, and the practitioner] of the  
223 substitution at the [earliest reasonable] time the generic drug product  
224 is dispensed and shall inform the practitioner of the substitution at the  
225 earliest reasonable time.

226 (c) A prescribing practitioner may specify in writing or by a  
227 telephonic or other electronic communication that there shall be no  
228 substitution for the specified brand name drug product in any  
229 prescription, provided (1) in any prescription for a Medicaid, state-  
230 administered general assistance, or ConnPACE recipient, such  
231 practitioner specifies the basis on which the brand name drug product  
232 and dosage form is medically necessary in comparison to a chemically  
233 equivalent generic drug product substitution, and (2) the phrase  
234 "BRAND MEDICALLY NECESSARY", shall be in the practitioner's  
235 handwriting on the prescription form or on an electronically-produced  
236 copy of the prescription form or, if the prohibition was communicated  
237 by telephonic or other electronic communication that did not

238 reproduce the practitioner's handwriting, a statement to that effect  
239 appears on the form. The phrase "BRAND MEDICALLY NECESSARY"  
240 shall not be preprinted or stamped or initialed on the form. If the  
241 practitioner specifies by telephonic or other electronic communication  
242 that did not reproduce the practitioner's handwriting that there shall  
243 be no substitution for the specified brand name drug product in any  
244 prescription for a Medicaid, state-administered general assistance, or  
245 ConnPACE recipient, written certification in the practitioner's  
246 handwriting bearing the phrase "BRAND MEDICALLY NECESSARY"  
247 shall be sent to the dispensing pharmacy within ten days.

248 (d) Each pharmacy shall post a sign in a location easily seen by  
249 patrons at the counter where prescriptions are dispensed stating that,  
250 "THIS PHARMACY MAY BE ABLE TO SUBSTITUTE A LESS  
251 EXPENSIVE DRUG PRODUCT WHICH IS THERAPEUTICALLY  
252 EQUIVALENT TO THE ONE PRESCRIBED BY YOUR DOCTOR  
253 UNLESS YOU DO NOT APPROVE." The printing on the sign shall be  
254 in block letters not less than one inch in height.

255 (e) A pharmacist may substitute a drug product under subsection  
256 (b) of this section only when there will be a savings in cost passed on  
257 to the purchaser. The pharmacist shall disclose the amount of the  
258 savings at the request of the patient.

259 (f) Except as provided in subsection (g) of this section, when a  
260 pharmacist dispenses a substitute drug product as authorized by  
261 subsection (b) of this section, the pharmacist shall label the  
262 prescription container with the name of the dispensed drug product  
263 and with a statement that the dispensed drug product is a substitute  
264 for a brand name drug product, if applicable. Such statement shall  
265 include the name of the brand name drug product. If the dispensed  
266 drug product does not have a brand name, the prescription label shall  
267 indicate the generic name of the drug product dispensed along with  
268 the name of the drug manufacturer or distributor.

269 (g) A prescription dispensed by a pharmacist shall bear upon the

270 label the name of the drug in the container unless the prescribing  
271 practitioner writes "DO NOT LABEL", or words of similar import, on  
272 the prescription or so designates in an oral or electronic transmission  
273 of the prescription.

274 (h) Neither the failure to instruct by the purchaser as provided in  
275 subsection (b) of this section nor the fact that a sign has been posted as  
276 provided in subsection (d) of this section shall be a defense on the part  
277 of a pharmacist against a suit brought by any such purchaser.

278 (i) The commissioner, with the advice and assistance of the  
279 commission, shall adopt regulations, in accordance with chapter 54, to  
280 carry out the provisions of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2011</i>	21-11a
Sec. 2	<i>October 1, 2011</i>	20-332(c)
Sec. 3	<i>October 1, 2011</i>	20-341
Sec. 4	<i>January 1, 2012</i>	New section
Sec. 5	<i>October 1, 2011</i>	New section
Sec. 6	<i>from passage</i>	New section
Sec. 7	<i>October 1, 2011</i>	20-619

**Statement of Purpose:**

To require persons delivering scrap metal to scrap metal processors to certify the origin of such metal, to improve enforcement of certain professional and occupational licensing, certification and registration laws, to authorize the Commissioner of Consumer Protection to issue retirement status licenses for certain occupations and trades, to prohibit certain abusive debt collection practices, to require the Commissioner of Consumer Protection to revise the residential property condition disclosure report form and to require pharmacists to provide more effective notice to patients who receive generic drug substitutes.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*