

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 390 of the Regular Session

As Engrossed: H2/20/09 S2/26/09

A Bill

1 State of Arkansas
2 87th General Assembly
3 Regular Session, 2009

HOUSE BILL 1479

4
5 By: Representatives Williams, J. Edwards, Pierce, Adcock, Allen, T. Baker, Barnett, Betts, Blount, J.
6 Brown, Carnine, Carroll, Carter, Cash, Clemmer, Cole, D. Creekmore, Dale, Davis, Dismang, English,
7 Everett, Flowers, Garner, George, Glidewell, Greenberg, Hardy, Harrelson, Hawkins, Hoyt, Hyde,
8 Ingram, Kerr, King, Lea, W. Lewellen, S. Malone, McCrary, McLean, Moore, Nickels, Pennartz, Perry,
9 Powers, Ragland, Rainey, Reep, Reynolds, Rice, J. Roebuck, T. Rogers, Sample, Saunders, Slinkard, G.
10 Smith, Summers, Tyler, Wagner, Webb, B. Wilkins, Woods, Word, *Maloch*
11 By: Senators Wilkinson, D. Johnson, Salmon, H. Wilkins, G. Baker, Bryles, Crumbly, Elliott, Luker,
12 *Madison, Steele, J. Taylor, R. Thompson, Whitaker, D. Wyatt*

13
14
15 **For An Act To Be Entitled**

16 AN ACT TO AMEND ARKANSAS LAW CONCERNING SCRAP
17 METAL DEALERS; AND FOR OTHER PURPOSES.

18
19 **Subtitle**

20 TO AMEND ARKANSAS LAW CONCERNING SCRAP
21 METAL DEALERS.

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

25
26 SECTION 1. Arkansas Code Title 5, Chapter 38, Subchapter 2, is amended
27 to add an additional section to read as follows:

28 5-38-206. Damaging wires and other fixtures of telephone, cable, and
29 electric power companies.

30 (a) It is unlawful for a person to knowingly damage, destroy, or pull
31 down a:

32 (1) Telephone, cable communications, or electric power
33 transmission pedestal or pole owned or operated by a telephone, cable, or
34 electric power company;

35 (2) Telephone, cable communications or electric power line,



1 wire, fiber insulator, power supply transformer, transmission, or other
2 apparatus, equipment, or fixture used in the transmission of telephone, cable
3 communications, or electric power owned or operated by a telephone, cable, or
4 electric power company; or

5 (3) Equipment related to wireless communications that are
6 regulated by the Federal Communications Commission.

7 (b) It is unlawful for a person to injure or destroy, steal, or remove
8 any electric power line, gas line, water line, wire or fiber insulators,
9 electric motors or other apparatus connected to farm shops, on-farm grain
10 drying and storage complexes, heating and cooling systems and environmental
11 control systems, animal production facilities, irrigation systems, dwellings,
12 or alterations that could result in physical injury.

13 (c) A violation of this section is a Class D Felony.

14
15 SECTION 2. Arkansas Code § 17-44-102 is amended to read as follows:
16 17-44-102. Records required.

17 (a)(1) Each scrap metal recycler doing business in the State of
18 Arkansas shall maintain an accurate and legible record of each scrap metal
19 purchase transaction ~~in excess of one hundred pounds (100 lbs.) or fifty~~
20 ~~dollars (\$50.00), whichever is less.~~

21 (2) Individual records shall not be required for a series of
22 scrap metal purchase transactions made ~~pursuant to~~ under a contract.

23 (3) The data required under subdivision (b)(1) of this section
24 may be maintained for repeat sellers in a relational database allowing the
25 scrap metal recycler to record the information one (1) time and relate future
26 purchase records to that information.

27 (4) A municipality or county may require by ordinance electronic
28 or digital records and reporting methods.

29 (b) The record of each scrap metal purchase transaction shall contain
30 the following information taken at the time of sale and kept on record:

31 ~~(1)(A)~~ The name, address, gender, birth date, and identifying
32 number from the seller's driver's license, military identification card,
33 passport, or other form of government-issued photo identification-

34 ~~(B) The data required under this subdivision (b)(1) may be~~
35 ~~maintained for repeat sellers in a relational database allowing the scrap~~
36 ~~metal recycler to record the information one (1) time and relate future~~

1 ~~purchase records to that information;~~

2 (2) A photocopy of the government-issued photo identification
3 provided under subdivision (b)(1) of this section;

4 ~~(2)(3)~~ The date of the scrap metal purchase transaction;

5 (4) The digital thumbprints of the seller;

6 ~~(3)(5)(A)~~ A general description of the predominant types of
7 scrap metal purchased.

8 (B) The general description shall be made in accordance
9 with the custom of the trade;

10 ~~(4)(6)~~ A general description of the configuration of the scrap
11 metal and whether the material is insulated;

12 ~~(5)(7)~~ The weight, quantity, or volume, recorded in accordance
13 with the custom of the trade, of the scrap metal purchased; ~~and~~

14 ~~(6)(8)~~ The consideration paid;

15 (9) The license plate number of the vehicle used in transporting
16 the materials to the scrap metal recycler's place of business; and

17 (10) A date and time stamped digital photograph of the:

18 (A) Seller; and

19 (B) Scrap metal in the form in which it was
20 purchased.

21 (C) The name of the person taking the photographs
22 under subdivision (b)(9)(A) of this section shall be recorded and provided
23 with the photographs.

24 (c) The photocopy required under subdivision (b)(2) of this section,
25 the digital thumbprints required under subdivision (b)(4) of this section and
26 the digital photographs taken required under subdivision (b)(10)(A) of this
27 section shall be reasonably clear.

28 (d)(1) For records required under subsection (b) of this section, a
29 scrap metal recycler shall file a daily electronic record of scrap metal
30 purchases made for that day.

31 (2) The report shall be made daily by entering the information
32 into an automated database which may be interfaced by law enforcement
33 statewide.

34 ~~(e)(e)~~ A seller shall provide the following to a purchaser:

35 (1) A copy of a valid driver's license, military identification
36 card, passport, or other form of government-issued photo identification; ~~and~~

1 (2) A signed statement that the seller is the owner or is
2 otherwise authorized to sell the scrap metal; and

3 (3) A general description of where and how the seller acquired
4 the scrap metal.

5 ~~(d)~~(f) The records required under this section shall be:

6 (1) Kept for a period of one (1) year;

7 (2) Made available to any law enforcement office of the State of
8 Arkansas and any Arkansas municipality or county; and

9 (3) Available for use in any legal proceeding.

10 ~~(e)~~(g) This section shall not apply to transactions:

11 (1) In which a scrap metal processor purchases, transfers, or
12 otherwise conveys scrap metal to another scrap metal processor if the
13 purchaser or transferee obtained a bill of sale or similar document at the
14 time of transfer; ~~or~~

15 (2) Involving only beverage or food containers; or

16 (3) Involving only ferrous metals.

17
18 SECTION 3. Arkansas Code 17-44-103 is amended to read as follows:
19 17-44-103. Restrictions on the purchase of certain items.

20 (a) A seller shall not sell and a scrap metal recycler shall not
21 purchase the following scrap metal unless reasonable, written documentation
22 is provided that the seller is the owner of the scrap metal or is an
23 employee, agent, or other person authorized to sell the scrap metal on behalf
24 of the owner:

25 (1) Scrap metal marked with the initials of an electrical
26 company, a telephone company, a cable company, ~~other~~ another public utility,
27 or a brewer;

28 (2) Utility access covers;

29 (3) Street light poles and fixtures;

30 (4) Road and bridge guard rails;

31 (5) Highway or street signs;

32 (6) Water meter covers;

33 (7) Metal beer kegs including those made of stainless steel that
34 are clearly marked as being the property of the beer manufacturer;

35 (8) Traffic directional and control signs;

36 (9) Traffic light signals;

1 (10) Any scrap metal marked with the name of a government
2 entity;

3 (11) Property owned by a telephone company, a cable company, an
4 electric company, a water company, or ~~other~~ another utility or by a railroad
5 and marked or otherwise identified as such; ~~and~~

6 (12) Unused and undamaged building construction or utility
7 materials consisting of copper, pipe, tubing or wiring, or aluminum wire,
8 historical markers, or grave markers and vases;

9 (13) Catalytic converters that are not part of an entire motor
10 vehicle;

11 (14) Scrap metal that has been smelted, burned, or melted;

12 (15) Air conditioning parts unless:

13 (A) The parts are being sold by a contractor, plumber, or
14 electrician;

15 (B) A current and valid HVAC license is provided at the
16 time of the sale; and

17 (C) A copy of the HVAC license number is recorded by the
18 purchaser of the scrap metal; and

19 (16) Any scrap metal that has been brightly painted or marked to
20 deter theft of the scrap metal.

21 (b)(1) A scrap metal recycler shall not make a cash payment to a
22 seller known by the recycler to have plead guilty or nolo contendere to or
23 have been found guilty of theft, burglary, or vandalism when the offense
24 involved scrap metal.

25 (2) Payments to a seller who has plead guilty or nolo contendere
26 to or have been found guilty of theft, burglary, or vandalism where the
27 offense involved scrap metal shall be made in the following manner:

28 (A) A check mailed to the seller; or

29 (B) An electronic funds transfer initiated no earlier than
30 three (3) days after the date of the transaction.

31 (3) A scrap metal recycler shall request a list of persons who
32 have plead guilty or nolo contendere to or have been found guilty of theft,
33 burglary, or vandalism when the offense involved scrap metal from the
34 appropriate law enforcement agency.

35 ~~(b)(c)~~ This section does not apply to transactions in which a scrap
36 metal processor purchases, transfers, or otherwise conveys scrap metal to

1 another scrap metal processor.

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SECTION 4. Arkansas Code 17-44-106 is amended to read as follows:
17-44-106. Penalties.

(a) Any person that fails to comply with this chapter is guilty of a Class B A misdemeanor.

(b) Any person that knowingly gives false information with respect to the matters required to be maintained in the records provided for in this chapter is guilty of a Class B A misdemeanor.

/s/ Williams

APPROVED: 3/11/2009