

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 749 of the Regular Session

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007
4

As Engrossed: S3/22/07

A Bill

HOUSE BILL 2443

5 By: Representative Maloch
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8 **For An Act To Be Entitled**

9 AN ACT TO STREAMLINE AND STRENGTHEN NONFERROUS
10 SCRAP METAL RECORDKEEPING REQUIREMENTS; TO ASSIST
11 LAW ENFORCEMENT IN INVESTIGATING THEFTS; TO
12 EXPAND THE INFORMATION COLLECTED AT THE POINT OF
13 SALE; REGULATING SALES BY MINORS; AND FOR OTHER
14 PURPOSES.

15
16 **Subtitle**

17 TO STREAMLINE AND STRENGTHEN NONFERROUS
18 SCRAP METAL RECORDKEEPING REQUIREMENTS
19 AND TO ASSIST LAW ENFORCEMENT IN
20 INVESTIGATING THEFTS.
21
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 17-44-101 is amended to read as follows:

26 17-44-101. ~~Records generally.~~ Definitions.

27 ~~(a) All dealers or purchasers of junk and scrap metals and materials~~
28 ~~doing business in the State of Arkansas shall prepare and keep records~~
29 ~~showing:~~

30 ~~(1) The seller's full name, address, driver's license number,~~
31 ~~and social security number;~~

32 ~~(2) The type of scrap metals and material so purchased;~~

33 ~~(3) The weights of the materials; and~~

34 ~~(4) The license number of the vehicle used in transporting the~~
35 ~~materials to the place of business.~~



1 ~~(b) These records shall be:~~

2 ~~(1) Kept for a period of three (3) years;~~

3 ~~(2) Made available to any law enforcement officer of the State~~
4 ~~of Arkansas or of any municipality; and~~

5 ~~(3) Available for use in any court, should that be necessary.~~

6 ~~(c) Any person, firm, or corporation failing to comply with the~~
7 ~~provisions of this section shall be guilty of a Class A misdemeanor.~~

8 As used in this chapter:

9 (1) "Beverage container" means a can, bottle, jar, or other
10 container made of aluminum or metal that is sealed by a manufacturer;

11 (2) "Minor" means a person under eighteen (18) years of age;

12 (3)(A) "Nonferrous metal" means a metal that does not contain
13 significant quantities of iron or steel.

14 (B) "Nonferrous metal" includes without limitation the
15 following metals and their alloys:

16 (i) Copper;

17 (ii) Brass;

18 (iii) Aluminum;

19 (iv) Bronze;

20 (v) Lead;

21 (vi) Zinc; and

22 (vii) Nickel;

23 (4) "Person" means an individual, a partnership, a corporation,
24 a joint venture, a trust, an association, or any other legal entity;

25 (5) "Record" means paper, electronic, or other method of storing
26 information;

27 (6) "Scrap metal" means bits and pieces of metal parts that may
28 be combined together with bolts or soldering and can be recycled when worn or
29 superfluous;

30 (7) "Scrap metal processor" means a person that, from a fixed
31 location, engages in the business of using machinery or equipment for the
32 processing or manufacturing of iron, steel, or nonferrous metal scrap;

33 (8)(A) "Scrap metal recycler" means any person that purchases
34 scrap metal.

35 (B) "Scrap metal recycler" does not include a person who
36 only buys in quantities of five thousand pounds (5,000 lbs.) or more; and

1 (9)(A) "Seller" means any person that receives in a transaction
2 monetary consideration from a scrap metal recycler in exchange for nonferrous
3 metal, iron, or steel, including without limitation copper, brass, aluminum,
4 bronze, lead, zinc, nickel, and their alloys.

5 (B) "Seller" does not include a person that sells scrap
6 metal generated in a manufacturing or production process and sold to a scrap
7 metal recycler under a contract or an agreement.

8
9 SECTION 2. Arkansas Code § 17-44-102 is amended to read as follows:

10 17-44-102. Records ~~of copper purchases~~ required.

11 ~~(a) Every owner, keeper, or proprietor of a junk shop, junk store,~~
12 ~~salvage yard, or scrap yard or the possessor of a junk car or other vehicle,~~
13 ~~or both, and a collector or dealer in junk salvage or other second hand~~
14 ~~property, shall prepare and maintain records of all purchases in excess of~~
15 ~~twenty five dollars (\$25.00) of copper or copper alloy.~~

16 ~~(b) The records shall:~~

17 ~~(1) Contain:~~

18 ~~(A) The name and address of the one from whom the purchase~~
19 ~~was made;~~

20 ~~(B) The license tag number of the vehicle in which the~~
21 ~~copper or copper alloy is delivered; and~~

22 ~~(C) The quantity of copper or copper alloy purchased;~~

23 ~~(2) Be kept for a period of three (3) years; and~~

24 ~~(3) Be made available to any law enforcement officer at any time~~
25 ~~during regular business hours.~~

26 ~~(c) Any person, partnership, firm, or corporation failing to maintain~~
27 ~~any records required under this section upon conviction shall be guilty of a~~
28 ~~Class B misdemeanor.~~

29 ~~(d) Any person who shall knowingly give false information with respect~~
30 ~~to the matters required to be maintained in the records provided for in this~~
31 ~~section shall be guilty of a Class B misdemeanor.~~

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

36 (2) Individual records shall not be required for a series of

1 scrap metal purchase transactions made pursuant to a contract.

2 (b) The record of each scrap metal purchase transaction shall contain
3 the following information:

4 (1)(A) The name, address, gender, birth date, and identifying
5 number from the seller's driver's license, military identification card,
6 passport, or other form of government issued photo identification.

7 (B) The data required under this subdivision (b)(1) may be
8 maintained for repeat sellers in a relational database allowing the scrap
9 metal recycler to record the information one (1) time and relate future
10 purchase records to that information;

11 (2) The date of the scrap metal purchase transaction;

12 (3)(A) A general description of the predominant types of scrap
13 metal purchased.

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

16 (4) A general description of the configuration of the scrap
17 metal and whether the material is insulated;

18 (5) The weight, quantity, or volume, recorded in accordance with
19 the custom of the trade, of the scrap metal purchased; and

20 (6) The consideration paid.

21 (c) A seller shall provide the following to a purchaser:

22 (1) A copy of a driver's license, military identification card,
23 passport, or other form of government issued photo identification; and

24 (2) A signed statement that the seller is the owner or is
25 otherwise authorized to sell the scrap metal.

26 (d) The records required under this section shall be:

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

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

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

31 (e) This section shall not apply to transactions:

32 (1) In which a scrap metal processor purchases, transfers, or
33 otherwise conveys scrap metal to another scrap metal processor if the
34 purchaser or transferee obtained a bill of sale or similar document at the
35 time of transfer; or

36 (2) Involving only beverage containers.

1
2 SECTION 3. Arkansas Code § 17-44-103 is amended to read as follows:

3 17-44-103. ~~Records of scrap copper utility wire purchases~~ Restrictions
4 on the purchase of certain items.

5 ~~(a) All dealers or purchasers within this state of scrap copper~~
6 ~~utility wire shall prepare and maintain records of all purchases of scrap~~
7 ~~copper utility wire. The record will show the following:~~

8 ~~(1) The seller's full name, address, driver's license number,~~
9 ~~and social security number;~~

10 ~~(2) The license number of the vehicle used in transporting the~~
11 ~~material to the place of business;~~

12 ~~(3) The date of the purchase; and~~

13 ~~(4) The price in money or other consideration paid therefor.~~

14 ~~(b) Records shall be maintained by the dealer or purchaser for a~~
15 ~~period of three (3) years and shall be made available upon request, for~~
16 ~~inspection by law enforcement agencies and by representatives of public~~
17 ~~utilities.~~

18 ~~(c) Purchases of scrap utility wire, either burned or hard drawn, from~~
19 ~~individuals other than from utility companies must be recorded separately,~~
20 ~~including all information set forth in subsection (a) of this section, by the~~
21 ~~purchaser if the purchase exceeds two hundred fifty pounds (250 lbs.).~~

22 ~~(d) Any utility may notify dealers or purchasers of scrap utility~~
23 ~~copper wire of a known or presumed theft of wire setting forth any~~
24 ~~information concerning the theft as might be available to the utility,~~
25 ~~including, but not limited to, the approximate quantity and size of the wire~~
26 ~~stolen, the geographical area from which the wire was reported missing or~~
27 ~~presumed stolen, and any specific distinguishing marks on or in the wire or~~
28 ~~other method of identifying the wire.~~

29 ~~(e) If notice is given to a dealer or purchaser and, subsequent~~
30 ~~thereto, wire meeting that description is purchased by the dealer or offered~~
31 ~~for sale to the dealer, then the dealer shall notify the local police if~~
32 ~~within a municipality or sheriff's department if outside a municipality that~~
33 ~~the wire was purchased or offered for sale to the dealer.~~

34 ~~(f) Any person, partnership, firm, or corporation who violates any of~~
35 ~~the provisions of this section shall upon conviction be guilty of a Class A~~
36 ~~misdemeanor.~~

1 (a) A seller shall not sell and a scrap metal recycler shall not
 2 purchase the following scrap metal unless reasonable, written documentation
 3 is provided that the seller is the owner of the scrap metal or is an
 4 employee, agent, or other person authorized to sell the scrap metal on behalf
 5 of the owner:

6 (1) Scrap metal marked with the initials of an electrical, a
 7 telephone, a cable, other public utility, or a brewer

8 (2) Utility access covers;

9 (3) Street light poles and fixtures;

10 (4) Road and bridge guard rails;

11 (5) Highway or street signs;

12 (6) Water meter covers;

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

15 (8) Traffic directional and control signs;

16 (9) Traffic light signals;

17 (10) Any scrap metal marked with the name of a government
 18 entity;

19 (11) Property owned by a telephone, a cable, a electric, a
 20 water, or other utility or by a railroad and marked or otherwise identified
 21 as such; and

22 (12) Unused and undamaged building construction or utility
 23 materials consisting of copper, pipe, tubing or wiring, or aluminum wire,
 24 historical markers, or grave markers and vases.

25 (b) This section does not apply to transactions in which a scrap metal
 26 processor purchases, transfers, or otherwise conveys scrap metal to another
 27 scrap metal processor.

28
 29 SECTION 4. Arkansas Code § 17-44-104 is amended to read as follows:

30 ~~17-44-104. Records of bronze cemetery memorial purchases~~ Theft
 31 notification.

32 ~~(a) Whenever any collector of or dealer in junk or any secondhand~~
 33 ~~property purchases any bronze cemetery vase or receptacle, any bronze~~
 34 ~~cemetery memorial, or any bronze statuary, whatever may be the condition of~~
 35 ~~the vase or receptacle, cemetery memorial, or bronze statuary, he or she~~
 36 ~~shall make a record of the place of business of the seller in addition to all~~

1 ~~other information required by § 17-44-101.~~

2 ~~(b) Any peace officer of this state may inspect the register at any~~
3 ~~reasonable time.~~

4 ~~(c) Any person violating any of the provisions of this section is~~
5 ~~guilty of a Class A misdemeanor.~~

6 (a) Any person may notify scrap metal recyclers of nonferrous metal of
7 a known or presumed theft of nonferrous metal products setting forth any
8 information concerning the theft as might be available to that person,
9 including without limitation:

10 (1) The approximate quantity and size of the nonferrous metal
11 products stolen;

12 (2) The geographical area from which the nonferrous metal
13 products were reported missing or presumed stolen; and

14 (3) Any specific distinguishing marks on or in the nonferrous
15 metal products or other method of identifying the nonferrous metal products.

16 (b) If notice of a known or presumed theft of nonferrous metal
17 products is given to a scrap metal recycler under subsection (a) of this
18 section and within ninety (90) days after the notice nonferrous metal
19 products meeting the description in the notice are purchased by the scrap
20 metal recycler or offered for sale to the scrap metal recycler, then the
21 scrap metal recycler shall notify the local police or sheriff's department
22 that the nonferrous metal products were purchased by or offered for sale to
23 the scrap metal recycler.

24 (c) This section does not apply to transactions that involve only
25 beverage containers.

26
27 SECTION 5. Arkansas Code § 17-44-105 is amended to read as follows:

28 17-44-105. ~~Records of aluminum purchases~~ Sales by minors.

29 ~~(a)(1) Every scrap metal dealer, junk yard operator, or operator of~~
30 ~~any junk shop, junk store, salvage yard, or scrap yard, or other collector or~~
31 ~~dealer in junk salvage shall prepare and maintain records of all purchases in~~
32 ~~excess of twenty five dollars (\$25.00) of aluminum irrigation pipe, aluminum~~
33 ~~utility wire, aluminum traffic delineators, aluminum posts, aluminum guard~~
34 ~~rails, aluminum bridge rails, or aluminum traffic signs, referred to in this~~
35 ~~section as aluminum products.~~

36 ~~(2) The records shall contain:~~

1 ~~(A) The seller's full name, address, driver's license~~
2 ~~number, and social security number;~~

3 ~~(B) The license tag number of the vehicle in which the~~
4 ~~aluminum products were delivered;~~

5 ~~(C) The quantity of aluminum products purchased;~~

6 ~~(D) The date of the purchase; and~~

7 ~~(E) The amount in money or other consideration paid for~~
8 ~~the aluminum products.~~

9 ~~(b)(1) The records provided for in this section shall be kept for a~~
10 ~~period of three (3) years.~~

11 ~~(2) The records shall be made available to any law enforcement~~
12 ~~officer at any time during regular business hours.~~

13 ~~(c) Any person may notify dealers or purchasers of scrap metals of a~~
14 ~~known or presumed theft of aluminum products setting forth any information~~
15 ~~concerning the theft as might be available to that person, including, but not~~
16 ~~limited to:~~

17 ~~(1) The approximate quantity and size of the aluminum products~~
18 ~~stolen;~~

19 ~~(2) The geographical area from which the aluminum products were~~
20 ~~reported missing or presumed stolen; and~~

21 ~~(3) Any specific distinguishing marks on or in the aluminum~~
22 ~~products, or other method of identifying the aluminum products.~~

23 ~~(d) If notice is given to a dealer or purchaser and, subsequent~~
24 ~~thereto, aluminum products meeting that description are purchased by the~~
25 ~~dealer or offered for sale to the dealer, then the dealer shall notify the~~
26 ~~local police if within a municipality or the sheriff's department if outside~~
27 ~~a municipality that the aluminum products were purchased by or offered for~~
28 ~~sale to the dealer.~~

29 ~~(e)(1) Any person, partnership, firm, or corporation failing to~~
30 ~~maintain any records required under this section upon conviction shall be~~
31 ~~guilty of a Class B misdemeanor.~~

32 ~~(2) Any person who shall knowingly give false information with~~
33 ~~respect to the matters required to be maintained in the records provided for~~
34 ~~in subsections (a) and (b) of this section shall be guilty of a Class A~~
35 ~~misdemeanor.~~

36 (a)(1) No scrap metal recycler shall purchase or otherwise receive in

1 the course of business scrap metal that is claimed by any minor or that may
2 be in the possession of or under control of a minor, unless the minor is
3 accompanied by his or her parent or guardian.

4 (2) The parent or guardian shall state in writing that the
5 transaction is taking place with the parent's or guardian's full knowledge
6 and consent.

7 (b) A scrap metal recycler shall preserve and keep on file and make
8 available for inspection the written statement required by subsection (a) of
9 this section for not less than three (3) years.

10
11 SECTION 6. Arkansas Code Title 17, Chapter 44, is amended to add
12 additional section to read as follows:

13 17-44-106. Penalties.

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

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

19
20 /s/ Maloch

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22 APPROVED: 3/30/2007
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