

1 State of Arkansas
2 88th General Assembly
3 Regular Session, 2011

As Engrossed: H3/30/11

A Bill

HOUSE BILL 2119

4
5 By: Representative Hammer
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7 For An Act To Be Entitled

8 AN ACT REGARDING SCRAP METAL DEALERS AND SALES; AND
9 FOR OTHER PURPOSES.
10

11 Subtitle

12 REGARDING SCRAP METAL DEALERS AND SALES.
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16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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18 *SECTION 1. Arkansas Title 5, Chapter 36, Subchapter 1 is amended to*
19 *add a new section to read as follows:*

20 *"5-36-124. Theft by receiving of scrap metal.*

21 *(a) As used in this section:*

22 *(1) "Receiving" means acquiring possession, control, or title or*
23 *lending on the security of the scrap metal; and*

24 *(2) "Scrap metal" means copper, copper alloy, copper utility*
25 *wire, any bronze, or any aluminum as described in § 17-44-101 et seq.*

26 *(b) A person commits the offense of theft by receiving of scrap metal*
27 *if he or she receives, retains, or disposes of scrap metal of another person*
28 *knowing that the scrap metal was stolen.*

29 *(c)(1) Theft by receiving of scrap metal is a:*

30 *(A) Class D felony if the value of the scrap metal is more*
31 *than one thousand dollars (\$1,000); or*

32 *(B) Class A misdemeanor.*

33 *(2) A person who is found guilty of or pleads guilty or nolo*
34 *contendere to a second or subsequent violation of this section is guilty of a*
35 *Class D felony.*
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1 SECTION 2. Arkansas Code § 17-44-102 is amended as follows:

2 17-44-102. Records required.

3 (a) As used in this section, "reasonable, written documentation" means
4 a written document that includes the following information provided by the
5 seller of the scrap metal to the scrap metal recycler:

6 (1) The name of the entity or individual from whom the seller
7 acquired the scrap metal;

8 (2) The date the seller acquired the scrap metal;

9 (3) The physical address from where the seller acquired the
10 scrap metal;

11 (4) An affirmation or certification from the seller in the
12 written document that he or she is the owner of the scrap metal or is the
13 employer, agent, licensed contractor, licensed HVACR, plumber, electrician,
14 or other person authorized to sell the scrap metal on behalf of the owner;
15 and

16 (5) An affirmation or certification from the seller in the
17 written document that he or she has not pleaded guilty or nolo contendere to
18 or been found guilty of theft, burglary, or vandalism when the offense
19 involved scrap metal.

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

24 ~~(a)(1)(c)(1)~~ (1) Each scrap metal recycler doing business in the State of
25 Arkansas shall maintain an accurate and legible record of each scrap metal
26 purchase transaction.

27 (2) Individual records shall not be required for a series of
28 scrap metal purchase transactions made under a contract.

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

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

35 ~~(b)(d)~~ (d) The record of each scrap metal purchase transaction shall
36 contain the following information taken at the time of sale and kept on

1 *record:*

2 (1) *The name, address, gender, birth date, and identifying*
3 *number from the seller's driver's license, military identification card,*
4 *passport, or other form of government-issued photo identification;*

5 (2) *A photocopy of the government-issued photo identification*
6 *provided under subdivision ~~(b)(1)~~(d)(1) of this section;*

7 (3) *The date of the scrap metal purchase transaction;*

8 (4) *The digital thumbprints of the seller;*

9 (5)(A) *A general description of the predominant types of scrap*
10 *metal purchased.*

11 (B) *The general description shall be made in accordance*
12 *with the custom of the trade;*

13 (6) *A general description of the configuration of the scrap*
14 *metal and whether the material is insulated;*

15 (7) *The weight, quantity, or volume, recorded in accordance with*
16 *the custom of the trade, of the scrap metal purchased;*

17 (8) *The consideration paid;*

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

20 (10)(A) *A clearly identifiable date-and-time-stamped digital*
21 *photograph of the:*

22 ~~(A)(i)~~ *Seller; and*

23 ~~(B)(ii)~~ *Scrap metal in the form in which it was*
24 *purchased.*

25 ~~(G)(B)~~ *The name of the person taking the photographs under*
26 *this subdivision (10) ~~(b)(10)(A) of this section~~ shall be recorded and*
27 *provided with the photographs.*

28 ~~(e)(e)~~ *The photocopy required under subdivision ~~(b)(2)~~(d)(2) of this*
29 *section, the digital thumbprints required under subdivision ~~(b)(4)~~(d)(4) of*
30 *this section, and the digital photographs taken required under subdivision*
31 *~~(b)(10)(A)~~(d)(10)(A) of this section shall be reasonably clear.*

32 ~~(d)(1)(f)(1)~~ *For records required under ~~subsection (b)~~ subsections (a)*
33 *and (d) of this section, a scrap metal recycler shall file a daily electronic*
34 *record of scrap metal purchases made for that day.*

35 (2) *The report shall be made daily by entering the information*
36 *into an automated database which may be interfaced by law enforcement*

1 statewide.

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

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

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

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

9 ~~(f)(g)~~ The records required under this section shall be:

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

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

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

14 ~~(g)(h)~~ This section ~~shall~~ does not apply to transactions:

15 (1) In which a scrap metal processor purchases, transfers, or
16 otherwise conveys scrap metal to another scrap metal processor if the
17 purchaser or transferee obtained a bill of sale or similar document at the
18 time of transfer;

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

20 (3) Involving only ferrous metals.

21

22 SECTION 3. Arkansas Code § 17-44-103, as amended by Act 348 of 2011,
23 is repealed.

24 ~~17-44-103. Restrictions on the purchase of certain items.~~

25 ~~(a) A seller shall not sell and a scrap metal recycler shall not~~
26 ~~purchase the following scrap metal unless reasonable, written documentation~~
27 ~~is provided that the seller is the owner of the scrap metal or is an~~
28 ~~employee, agent, or other person authorized to sell the scrap metal on behalf~~
29 ~~of the owner:~~

30 ~~(1) Scrap metal marked with the initials of an electrical~~
31 ~~company, a telephone company, a cable company, another public utility, or a~~
32 ~~brewer;~~

33 ~~(2) Utility access covers;~~

34 ~~(3) Street light poles and fixtures;~~

35 ~~(4) Road and bridge guard rails;~~

36 ~~(5) Highway or street signs;~~

- 1 ~~(6) Water meter covers;~~
2 ~~(7) Metal beer kegs including those made of stainless steel that~~
3 ~~are clearly marked as being the property of the beer manufacturer;~~
4 ~~(8) Traffic directional and control signs;~~
5 ~~(9) Traffic light signals;~~
6 ~~(10) Any scrap metal marked with the name of a government~~
7 ~~entity;~~
8 ~~(11) Property owned by a telephone company, a cable company, an~~
9 ~~electric company, a water company, or another utility or by a railroad and~~
10 ~~marked or otherwise identified as such;~~
11 ~~(12) Unused and undamaged building construction or utility~~
12 ~~materials consisting of copper, pipe, tubing or wiring, or aluminum wire,~~
13 ~~historical markers, or grave markers and vases;~~
14 ~~(13) Catalytic converters that are not part of an entire motor~~
15 ~~vehicle;~~
16 ~~(14) Scrap metal that has been smelted, burned, or melted;~~
17 ~~(15) Air conditioning parts unless:~~
18 ~~(A)(i) The parts are being sold by a contractor, plumber,~~
19 ~~or electrician;~~
20 ~~(ii) A current and valid HVAC license is provided at~~
21 ~~the time of the sale; and~~
22 ~~(iii) A copy of the HVAC license number is recorded~~
23 ~~by the purchaser of the scrap metal; or~~
24 ~~(B) The parts are being sold by an individual who provides~~
25 ~~evidence:~~
26 ~~(i) Of ownership of the parts by providing an:~~
27 ~~(a) Invoice for the purchase of the unit from~~
28 ~~which the parts were removed;~~
29 ~~(b) Invoice for the purchase of a unit which~~
30 ~~replaced the unit from which the parts were removed;~~
31 ~~(c) Affidavit from the dealer who sold the~~
32 ~~unit from which the parts were removed; or~~
33 ~~(d) Affidavit from the dealer who sold and~~
34 ~~installed a unit which replaced the unit from which the parts were removed;~~
35 ~~and~~
36 ~~(ii) That the parts were removed by an individual~~

1 ~~with a current and valid HVAC license;~~

2 ~~(16) Any scrap metal that has been brightly painted or marked to~~
3 ~~deter theft of the scrap metal.~~

4 ~~(b)(1) A scrap metal recycler shall not make a cash payment to a~~
5 ~~seller known by the recycler to have pleaded guilty or nolo contendere to or~~
6 ~~to have been found guilty of theft, burglary, or vandalism when the offense~~
7 ~~involved scrap metal.~~

8 ~~(2) Payments to a seller who has pleaded guilty or nolo~~
9 ~~contendere to or has been found guilty of theft, burglary, or vandalism where~~
10 ~~the offense involved scrap metal shall be made in the following manner:~~

11 ~~(A) A check mailed to the seller; or~~

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

14 ~~(3) A scrap metal recycler shall request a list of persons who~~
15 ~~have pleaded guilty or nolo contendere to or have been found guilty of theft,~~
16 ~~burglary, or vandalism when the offense involved scrap metal from the~~
17 ~~appropriate law enforcement agency.~~

18 ~~(c) This section does not apply to transactions in which a scrap metal~~
19 ~~processor purchases, transfers, or otherwise conveys scrap metal to another~~
20 ~~scrap metal processor.~~

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22 SECTION 4. Arkansas Code § 17-44-106 is amended to read as follows:
23 17-44-106. Penalties.

24 ~~(a) Any person that fails to comply with this chapter is guilty of a~~
25 ~~Class A misdemeanor A person who violates this chapter may be assessed a~~
26 ~~civil penalty of no more than five hundred dollars (\$500) per violation.~~

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

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31 /s/Hammer
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