

1 State of Arkansas *As Engrossed: H3/27/13 H4/1/13 S4/5/13*

2 89th General Assembly

A Bill

3 Regular Session, 2013

HOUSE BILL 1975

4

5 By: Representatives Williams, Hammer, Rice, McCrary, Hillman, Wright

6 By: Senators A. Clark, L. Chesterfield

7

8

For An Act To Be Entitled

9 AN ACT CONCERNING ACCOMPLICE LIABILITY FOR THEFT OF
10 SCRAP METAL OR THEFT BY RECEIVING OF SCRAP METAL; TO
11 INCREASE CIVIL PENALTIES; TO PROHIBIT A PERSON FROM
12 SELLING SCRAP METAL UNDER CERTAIN CONDITIONS;
13 REQUIRING TIMELY ELECTRONIC RECORDS; TO PROVIDE FOR
14 PENALTIES FOR NONCOMPLIANCE; AND FOR OTHER PURPOSES.

15

16

17

Subtitle

18

19

20

21

22

23

24

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

25

26

*SECTION 1. Arkansas Code § 5-36-106, concerning the offense of theft
27 by receiving, is amended to add a new subsection to read as follows:*

28

29

30

*(f) A person convicted of a felony offense under this section is
subject to an enhanced sentence of an additional term of imprisonment of five
(5) years at the discretion of the court if the finder of fact finds that the
stolen property was nonferrous metal, as it is defined in § 17-44-101.*

31

32

33

*SECTION 2. Arkansas Code § 5-36-123(a), concerning the offense of
34 theft of scrap metal, is amended to read as follows:*

35

36

*(a) A person commits theft of scrap metal if he or she commits, aids,
or is an accomplice to a commission of theft of property under § 5-36-103(a)*



1 and the property is scrap metal.

2
3 SECTION 3. Arkansas Code § 5-36-124(b), concerning the offense of
4 theft by receiving of scrap metal, is amended to read as follows:

5 (b) A person commits the offense of theft by receiving of scrap metal
6 if he or she receives, retains, purchases, or disposes of scrap metal of
7 another person ~~knowing~~ and he or she knows or should have known that the
8 scrap metal was stolen.

9
10 SECTION 4. Arkansas Code § 5-36-124, concerning the offense of theft
11 by receiving of scrap metal, is amended to add a new subsection to read as
12 follows:

13 (d) A person convicted of a felony offense under this section is
14 subject to an enhanced sentence of an additional term of imprisonment of five
15 (5) years at the discretion of the court if the finder of fact finds that the
16 scrap metal was nonferrous metal, as it is defined in § 17-44-101.

17
18 SECTION 5. Arkansas Code § 5-38-203, concerning the offense of
19 criminal mischief in the first degree, is amended to add a new subsection to
20 read as follows:

21 (d) A person convicted of a felony offense under this section is
22 subject to an enhanced sentence of an additional term of imprisonment of five
23 (5) years at the discretion of the court if the finder of fact finds that the
24 damage to property involved the removal of nonferrous metal, as it is defined
25 in § 17-44-101.

26
27 SECTION 6. Arkansas Code § 5-38-204, concerning the offense of
28 criminal mischief in the second degree, is amended to add a new subsection to
29 read as follows:

30 (c) A person convicted of a felony offense under this section is
31 subject to an enhanced sentence of an additional term of imprisonment of five
32 (5) years at the discretion of the court if the finder of fact finds that the
33 damage to property involved the removal of nonferrous metal, as it is defined
34 in § 17-44-101.

35
36 SECTION 7. Arkansas Code § 17-44-102(f), concerning records of scrap

1 metal transactions, is amended to read as follows:

2 (f)(1)(A) For records required under subsections (a) and (d) of this
3 section, a scrap metal recycler shall file a daily electronic record of scrap
4 metal purchases made for that day.

5 ~~(2)(B)~~ The report shall be made daily by entering the
6 information into an automated database which may be ~~interfaced~~ accessed by
7 law enforcement statewide.

8 (2)(A) The operator of the electronic database under this
9 section shall send a report that shall include a list of all scrap metal
10 recyclers in the county that have accessed or that have access to the
11 database but have not filed a daily electronic record of scrap metal
12 purchases as required by this section:

13 (i) To the county sheriff every seven (7) days; and

14 (ii) To any law enforcement agency that requests
15 periodic copies of the report more frequently than every seven (7) days.

16 (B)(i) A scrap metal recycler who fails to file a daily
17 electronic record of scrap metal purchases as required by this section shall
18 be subject to the civil penalty provided for under § 17-44-106(a) for the
19 first offense.

20 (ii) A second violation of the daily reporting
21 requirement of this section is a Class A misdemeanor.

22 (iii) A third or subsequent violation is a Class D
23 felony.

24 (C) The report by the operator of the electronic database
25 shall include a list of all scrap metal recyclers in the county that have
26 accessed or that have access to the database but have not filed a daily
27 electronic record of scrap metal purchases as required by this section.

28
29 SECTION 8. Arkansas Code § 17-44-106 is amended to read as follows:
30 17-44-106. Penalties.

31 (a) A person ~~that~~ who violates this chapter may be assessed a civil
32 penalty of no more than ~~five hundred dollars (\$500)~~ one thousand dollars
33 (\$1,000) per violation.

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

1
2 SECTION 9. Arkansas Code Title 17, Chapter 44, is amended to add
3 additional sections to read as follows:

4 17-44-107. Lifetime ban.

5 (a) A person who is convicted of theft of scrap metal under § 5-36-123
6 is forever prohibited from selling scrap metal under this chapter.

7 (b) A person violating this section is subject to the civil penalties
8 under § 17-44-106.

9
10 17-44-108. License to sell required.

11 (a)(1) A license is required for all scrap metal recyclers to be
12 issued by the county sheriff.

13 (2)(A) A license under this section shall cost two hundred and
14 fifty dollars (\$250) and may be renewed annually for twenty-five dollars
15 (\$25.00).

16 (B) The fees described in subsection (a)(2)(A) do not
17 apply to a not-for-profit scrap metal dealer or not-for-profit scrap metal
18 recycler.

19 (3) The license fee shall be payable to the county sheriff and
20 shall be used for the county sheriff's general operating expenses.

21 (b) Before a license may be issued under this section, a person
22 operating as a scrap metal recycler shall:

23 (1) Have a fixed physical location with a full complement of
24 permanent utilities, if applicable, including without limitation:

25 (A) Water;

26 (B) Sewer;

27 (C) Electricity; and

28 (D) Gas;

29 (2) Show proof of a required national pollution discharge
30 elimination system stormwater permit issued by Arkansas Department of
31 Environmental Quality; and

32 (3) Have the ability to comply with online reporting as required
33 by this chapter.

34 (c) A license under this section may be suspended or revoked by a
35 court having jurisdiction if the prosecuting attorney shows in a civil action
36 that a scrap metal recycler has failed to comply with the requirements of

1 this subchapter.

2

3

/s/Williams

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

36