

1 **SCRAP METAL TRANSACTIONS**

2 2007 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Jon J. Greiner**

5 House Sponsor: Brad L. Dee

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**LONG TITLE**

7 **General Description:**

8 This bill modifies the Criminal Code and requires identification and related procedures  
9 for the sale of specified metals and imposes penalties for participating in transactions  
10 involving these metals without providing appropriate identification.  
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12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines "regulated metals";
- 15 ▶ specifies identification that must be provided in order to sell regulated metals to  
16 dealers;
- 17 ▶ requires that dealers post a sign advising sellers that they must provide identification  
18 in compliance with state law;
- 19 ▶ requires that dealers keep a written or electronic log of identification and sales for

20 **Ⓢ→ [three years;] not less than one year**

20a **Ⓜ→ [requires that sellers provide a fingerprint; ←Ⓢ] ←Ⓜ**

21 ▶ requires authorization from a governmental entity in order to sell certain regulated  
22 metals such as manhole covers;

23 ▶ requires authorization of the owner in order to sell specified regulated metals that  
24 are defined as "suspect metals," such as copper and grave site vases;

25 **Ⓜ→ [~~requires that dealers segregate and label regulated metals that they purchase;~~ ←Ⓜ**

26 ▶ **Ⓢ→ [~~requires that dealers hold regulated metals for three days and]~~ ←Ⓢ** allows a law  
27 enforcement agency to place a hold up to 60 days if the agency believes the metal is

S.B. 44



28 stolen;

29 **§→ provides an exemption for businesses with established accounts who maintain specified records**  
29a **with the dealer; ←§**

29b ▶ provides that violation of these requirements by the dealer or the seller is a class **§→ [B]**

29c **C ←§**

30 misdemeanor; and

31 ▶ repeals the current identification and records requirements for dealers in junk other  
32 than regulated metals.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

39 76-10-901, as last amended by Chapter 102, Laws of Utah 1993

40 76-10-907, as last amended by Chapter 102, Laws of Utah 1993

41 76-10-908, as last amended by Chapter 20, Laws of Utah 1995

42 76-10-910, as last amended by Chapter 20, Laws of Utah 1995

43 ENACTS:

44 76-10-900.5, Utah Code Annotated 1953

45 76-10-907.1, Utah Code Annotated 1953

46 76-10-907.2, Utah Code Annotated 1953

47 76-10-907.3, Utah Code Annotated 1953

48 ~~§→ [76-10-907.7, Utah Code Annotated 1953] ←§~~

49 ~~§→ [76-10-910.2, Utah Code Annotated 1953] ←§~~

50 76-10-910.5, Utah Code Annotated 1953

51 REPEALS:

52 **76-10-909**, as last amended by Chapter 20, Laws of Utah 1995



54 *Be it enacted by the Legislature of the state of Utah:*

55 Section 1. Section **76-10-900.5** is enacted to read:

56 **Part 9. Regulation of Metal Dealers**

57 **76-10-900.5. Title.**

58 This part is known as "Regulation of Metal Dealers."

59 Section 2. Section **76-10-901** is amended to read:

60 **76-10-901. Definitions.**

61 [~~For the purpose of~~] As used in this part:

62 (1) "Dealer" means any scrap metal processor or secondary metals dealer or recycler,  
 63 but does not include junk dealers ~~H~~→ **or solid waste management facilities as defined in**  
 63a **Section 19-6-502** ←~~H~~ .

64 (2) "Ferrous metal" means a metal that contains significant quantities of iron or steel.

65 (3) "Identification" means a form of positive identification issued by a governmental  
 66 entity that:

67 (a) contains a numerical identifier and a photograph of the person identified;

68 (b) provides the date of birth of the person identified; and

69 (c) includes a state identification card, a state driver license, a United States military  
 70 identification card, or a United States passport.

71 [(+)] (4) "Junk dealer" means all persons, firms, or corporations engaged in the  
 72 business of purchasing or selling secondhand[;] or castoff material [~~of any kind, such as old~~  
 73 iron, copper, brass, lead, zinc, tin, steel, aluminum, and other metals, metallic cables, wires],  
 74 including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not  
 75 including regulated metal.

76 (5) "Local law enforcement agency" means the law enforcement agency that has  
 77 jurisdiction over the area the dealer's business is located.

78 (6) "Nonferrous metal":

79 (a) means a metal that does not contain significant quantities of iron or steel; and

80 (b) includes copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

81 (7) (a) "Regulated metal" means any item composed ~~S~~→ **[in whole or in part of any ferrous**  
 82 **or] primarily of** ←~~S~~ nonferrous metal, except as provided in Subsection (7)(c).

83 (b) "Regulated metal" includes:

84 (i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals,  
 85 except under Subsection (7)(c);

86 (ii) ~~S~~→ **[metals and alloys that include materials and equipment commonly used in**  
 87 **construction, agricultural operations, and electrical power generation] property owned by, and also**  
 87a **identified by marking or other means as the property of:**

87b **(A) a telephone, cable, electric, water, or other utility; or**

87c **(B) a railroad company** ←~~S~~ ;

- 88            (iii) ~~Ŝ→ [railroad equipment]~~ unused and undamaged building construction materials made
- 88a    of metal or alloy, including:
- 88b    (A) copper pipe, tubing, or wiring; and
- 88c    (B) aluminum wire, siding, downspouts, or gutters ←Ŝ ;
- 89            (iv) oil well rigs; Ŝ→ [and] ←Ŝ

90 (v) nonferrous materials, stainless steel, and nickel ~~§~~ ; and

90a (vi) irrigation pipe ~~§~~ .

91 (c) "Regulated metal" does not include:

92 (i) ~~§~~ [scrap iron] ferrous metal, except as provided in Subsections (7)(b)(ii) or (iv) ~~§~~ ;

93 (ii) household generated ~~§~~ [waste] recyclable materials ~~§~~ ;

94 (iii) items composed wholly of tin;

95 (iv) aluminum beverage containers; or

96 (v) containers used solely for containing food.

97 (8) "Secondary metals dealer or recycler" means any person who:

98 (a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or

99 (b) operates or maintains a facility where regulated metal is purchased or kept for

100 shipment, sale, transfer, or salvage.

101 ~~(2)~~ (9) "Scrap metal processor" means any person who, from a fixed location, utilizes  
102 machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap  
103 into prepared grades, and whose principal product is scrap iron, scrap steel, or nonferrous  
104 metallic scrap, not including precious metals, for sale for remelting purposes.

105 (10) "Suspect metal items" are the following items made of regulated metal:

106 (a) manhole covers and sewer grates;

107 (b) gas meters and water meters;

108 (c) traffic signs, street signs, aluminum street light poles, communications transmission  
109 towers, and guard rails;

110 (d) grave site monument vases and monument plaques;

111 (e) any monument plaque;

112 (f) brass or bronze bar stock and bar ends;

113 (g) ingots;

114 (h) ~~§~~ [inconel, monel, and hast alloy] nickel and nickel alloys containing greater than 50%

114a nickel ~~§~~ ; and

115 (i) #1 and #2 copper as defined by the most recent institute of Scrap Recycling

116 Industries, Inc., Scrap Specifications Circular ~~§~~ and unused and undamaged building materials,

116a including:

116b (A) greenline copper;

116c (B) copper pipe, tubing, or wiring; or

116d (C) aluminum wire, siding, downspouts, or gutters. ~~§~~ .

117 Section 3. Section **76-10-907** is amended to read:

118           **76-10-907. Records of sales and purchases -- Identification required.**

119           (1) Every [junk] dealer [and scrap metal processor] shall [keep a receipt book in which  
120 shall be recorded for each purchase and sale, in ink]:

121 (a) require the information under Subsection (2) for each transaction of regulated  
 122 metal, except under Subsection 76-10-907.3(4); and

123 (b) maintain for each purchase of regulated metal the information required by this part  
 124 in a written or electronic log, in the English language[.];

125 (2) The dealer shall require the following information of the seller and shall record the  
 126 information as required under Subsection (1) for each purchase of regulated metal:

127 (a) a complete description of the [property] regulated metal, including weight and  
 128 metallic description [if scrap metal] ~~§~~ **§**, in accordance with scrap metal recycling industry  
 128a standards ~~§~~ ;

129 (b) the full name and residence of [the] each person [or persons] selling the [junk or  
 130 scrap] regulated metal;

131 (c) the vehicle type and license plate number, if applicable, of the vehicle transporting  
 132 the regulated metal to the dealer;

133 (d) the price per pound and the amount paid for each type of regulated metal [or junk]  
 134 purchased by the dealer;

135 (e) the date, time, and place of the purchase [or sale]; [and]

136 (f) the type and number of the identification provided in Subsection (2) ~~§~~ [(a)] (g) ~~§~~ [-];

137 [~~(2) In addition, the seller shall be required by the junk dealer or scrap metal processor~~  
 138 ~~to provide:~~]

139 [(a)] (g) at least one form of [picture] identification [to consummate the transaction;  
 140 and];

141 [(b) his] (h) the seller's signature on a certificate stating that he has the legal right to  
 142 sell the scrap metal or junk[-]; ~~§~~ ~~§~~ [f] and [i] ~~§~~ ~~§~~

143 (i) a digital photograph or still video of the seller, taken at the time of the sale, or a  
 144 clearly legible photocopy of the seller's identification ~~§~~ ~~§~~; and

144a (j) a legible fingerprint of the seller's right thumb, or if the right thumb cannot be fingerprinted, a  
 144b legible fingerprint of the seller with a written notation identifying the fingerprint and the reason why  
 144c the thumb print was unavailable ~~§~~ ~~§~~ .

145 (3) No entry in the [receipt book] log may be erased, deleted, mutilated, or changed.

146 (4) The [receipt book] log and entries shall ~~§~~ **§** [at all times] ~~§~~ be open to inspection by the  
 147 following officials [in] having jurisdiction over the area in which the [junk] dealer [or scrap  
 148 metal processor] does business ~~§~~ **§** during regular business hours ~~§~~ :

149 (a) the county sheriff [of the county or any of his] or deputies;

150 [(b) any member of the police force in the city or town; and]

151 (b) ~~§~~ **§** [the local] any ~~§~~ ~~§~~ law enforcement agency; and

152 (c) any constable or other state, municipal, or county official in the county in which  
 153 the [junk] dealer [~~or scrap metal processor~~] does business.

154 [~~(5) This section shall not apply to any sale or purchase if the value given is less than~~  
 155 ~~\$20.~~]

156 (5) A dealer shall make these records available for inspection by any law enforcement  
 157 agency, upon request, at the dealer's place of business during the dealer's regular business  
 158 hours.

159 (6) Log entries made under this section shall be maintained for not less than

159a ~~H→~~ [~~three years~~] one year ~~←H~~  
 160 from date of entry.

160a ~~S→~~ (7) The information required by Subsection (2) may be maintained for repeat sellers who use the  
 160b same vehicle to bring regulated metal for each transaction in a relational database that allows the  
 160c dealer enter an initial record of the seller's information and then relate subsequent transaction records  
 160d to that initial information.

160e (8) This section does not apply to a single purchase of regulated metal by a dealer if:

160f (a) the weight of regulated metal is less than 50 pounds; ~~H→~~ [or] and ~~←H~~

160g (b) the price paid to the seller is less than \$100. ~~←S~~

161 Section 4. Section **76-10-907.1** is enacted to read:

162 76-10-907.1. Notice to sellers of identification requirements.

163 A dealer shall at all times maintain in a prominent place at the dealer's place of  
 164 business, in open view to a seller of regulated metal, a clearly legible notice in not less than  
 165 two-inch high lettering that contains the following language: "A PERSON ATTEMPTING TO  
 166 SELL ANY REGULATED METAL MUST PROVIDE IDENTIFICATION AS REQUIRED  
 167 BY STATE LAW".

168 Section 5. Section **76-10-907.2** is enacted to read:

169 **76-10-907.2. Qualifications to sell to dealer.**

170 (1) A dealer may not purchase regulated metal from a person younger than 18 years of  
 171 age.

172 (2) If the person is unable to comply with all the identification requirements of  
 173 Subsection 76-10-907(2), the dealer may not conduct a transaction of regulated metal with that  
 174 person.

175 Section 6. Section **76-10-907.3** is enacted to read:

176 **76-10-907.3. Restrictions on the purchase of regulated metal -- Exemption.**

177 (1) A dealer may conduct purchase transactions involving regulated metal only

178 between the hours of ~~7 a.m.~~ 6 a.m. and 7 p.m.

179 (2) ~~Except when the dealer pays a government entity by check for regulated metal, the~~

179a dealer may not purchase any of the following regulated metal without obtaining

180 and keeping on file ~~written proof~~ reasonable documentation that the seller is an

180a employee, agent, or contractor of a  
181 governmental entity who is authorized to sell the item of regulated metal property on behalf of  
182 the governmental entity:

183 (a) a manhole cover or sewer grate;

184 (b) an electric light pole; or

185 (c) a guard rail.

186 (3) (a) A dealer may not purchase suspect metal without obtaining the information  
187 under Subsection (3)(b) identifying the owner of the suspect metal.

188 (b) The owner of the suspect metal shall provide in writing:

189 (i) his telephone number;

190 (ii) his business or residential address;

191 (iii) a copy of his driver license; and

192 (iv) a signed statement that he is the lawful owner of the suspect metal and that he  
193 authorizes the seller, whom he has identified by name, to sell the suspect metal.

194 (c) The dealer shall keep the identifying information provided in Subsection (3)(b) on  
195 file for not less than ~~§→ [three years]~~ **one year** ←§ .

196 (4) Transactions with businesses that have an established account with the dealer are  
197 exempt if:

198 (a) the business holds a valid business license; ~~§→~~ **and**

199 ~~[(b)] (i)(A) ←§~~ the dealer has on file a statement from the business identifying those  
199a employees

200 authorized to sell all metals to the dealer; and

201 ~~§→ [(c)] (B) ←§~~ the dealer conducts regulated metal transactions only with those identified  
202 employees of the business and records the name of the employee when recording the

203 transaction ~~§→~~ ; or

203a **(ii) the dealer has on file reasonable documentation from the business that any person verified as**  
203b **representing the business as an employee, and whom the dealer has verified is an employee, may sell**  
203c **regulated metal; or**

203d **(iii) the dealer makes payment for regulated metal purchased from a person by issuing a check to the**  
203e **business employing the seller. ←§ .**

204 ~~§→~~ [Section 7. Section 76-10-907.7 is enacted to read:

205 ~~76-10-907.7. Disfiguring or modifying regulated metal prohibited.~~

206 ~~— A dealer may not destroy, disfigure, or obliterate any identification marks or cause the~~  
207 ~~identity of an article to otherwise be destroyed so long as the item is in the dealer's possession.] ←§~~

208 Section ~~§→~~ [8] 7 ←§ . Section 76-10-908 is amended to read:

209 76-10-908. Violation by dealer -- Penalty -- Local regulation not impaired.

210 (1) Any ~~[junk]~~ dealer who ~~[is found guilty of a violation]~~ violates of any of the  
211 provisions of this part is guilty of a class ~~§→~~ [B] (C) ←§ misdemeanor~~]; provided that this part~~  
211a ~~shall not be~~

212 ~~construed to in any way].~~

213 (2) This section does not impair the power of counties, cities, or incorporated

214 municipalities in this state to license, tax, and regulate any junk dealer, except that local  
 215 regulations may not be any less stringent than the provisions in this part.

216 Section ~~Ĥ~~ → [9] **§** ← ~~Ĥ~~ . Section 76-10-910 is amended to read:

217 **76-10-910. Falsification of seller's statement to dealer.**

218 Any seller who, in [~~making his statement as contemplated~~] providing any information  
 219 as required by this part in selling, offering, or [~~trying~~] attempting to sell [~~junk~~] regulated metal  
 220 willfully makes a false statement or [gives] provides any untrue information, [shall be] is guilty  
 221 of a class B misdemeanor.

222 ~~§~~ → [Section 10. Section 76-10-910.2 is enacted to read:

223 ~~76-10-910.2. Seventy-two hour hold on regulated metal -- Management of~~  
 224 ~~regulated metal -- Exceptions:~~

225 ~~(1) Except as provided in Subsection (3), a dealer shall retain possession of purchased~~  
 226 ~~regulated metal at the dealer's place of business where the regulated metal was purchased and~~  
 227 ~~withhold the regulated metal from alteration, processing, resale, or salvage use for 72 hours~~  
 228 ~~after purchase, unless the property is released earlier by written order of the local law~~  
 229 ~~enforcement agency or by order of a court of competent jurisdiction.~~

230 ~~(2) (a) Except as provided in Subsection (2)(b), a dealer shall segregate all regulated~~  
 231 ~~metal purchased from a seller from regulated metal property purchased from other sellers and~~  
 232 ~~shall attach to the regulated metal, or to the container in which the regulated metal is held, a~~  
 233 ~~label indicating the name of the seller, the date on which the regulated metal was purchased,~~  
 234 ~~and the number of the receipt on which the purchase information is recorded.~~

235 ~~(b) If in any single purchase transaction there are multiple items of regulated metal of~~  
 236 ~~the same general type, only one representative item from each type of regulated metal must be~~  
 237 ~~segregated and labeled in accordance with this Subsection (2).~~

238 ~~(3) The hold, segregation, and labeling requirements of Subsections (1) and (2) do not~~  
 239 ~~apply to any item of regulated metal composed solely of ferrous metal material, unless the~~  
 240 ~~dealer has received a hold notice from the local law enforcement agency.~~

241 ~~(4) While in possession of purchased regulated metal, a dealer shall make the metal~~  
 242 ~~available for inspection by any law enforcement agency at the dealer's place of business during~~  
 243 ~~regular business hours of the dealer.] ← ~~§~~~~

244 Section ~~§~~ → [11] **10** ← ~~§~~ . Section 76-10-910.5 is enacted to read:

245           **76-10-910.5. Hold on stolen regulated metal property -- Hold notice.**  
246           (1) If a law enforcement agency has reasonable cause to believe that items of regulated  
247 metal in the possession of a dealer are stolen, the law enforcement agency may issue a written  
248 hold notice. The hold notice shall:  
249           (a) identify those items of regulated metal alleged to be stolen and subject to hold; and  
250           (b) inform the dealer of the restrictions imposed on the regulated metal property under  
251 Subsection (2).  
252           (2) For 60 days after the date of receiving a hold notice, a dealer may not process or  
253 remove from the dealer's place of business any regulated metal identified in the hold notice,  
254 unless the property is released earlier by the law enforcement agency or by order of a court of  
255 competent jurisdiction.  
256           (3) On the expiration of the hold notice period, the hold is automatically released, and  
257 the dealer may dispose of the regulated metal, unless otherwise directed by a court of  
258 competent jurisdiction.  
259           Section 12. **Repealer.**  
260           This bill repeals:  
261           Section **76-10-909, Junk dealer to obtain statement from sellers.**

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Legislative Review Note  
as of 12-14-06 8:16 AM

Office of Legislative Research and General Counsel

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**S.B. 44 - Scrap Metal Transactions**

**Fiscal Note**

2007 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill may have a fiscal impact on businesses and individuals that deal with the scrap metal industry, but the impact cannot be estimated at this time. There will likely not be any fiscal impact to local governments.

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*1/12/2007, 4:39:39 PM, Lead Analyst: Byrne, D.*

**Office of the Legislative Fiscal Analyst**