

METAL THEFT AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: Lynn N. Hemingway

LONG TITLE

General Description:

This bill modifies the Utah Criminal Code regarding the theft of metal.

Highlighted Provisions:

This bill:

▶ provides that the records and identification requirements regarding transactions in regulated metal apply also to persons who refine or melt regulated metals; and

▶ requires that the identification provided for transactions in regulated metals be a form of identification provided by a state or the federal government.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-1402, as renumbered and amended by Laws of Utah 2013, Chapter 187

76-6-1403, as renumbered and amended by Laws of Utah 2013, Chapter 187

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

Section 1. Section **76-6-1402** is amended to read:

76-6-1402. Definitions.



28 As used in this part:

29 (1) "Catalytic converter" means a motor vehicle exhaust system component that
30 reduces vehicle emissions by breaking down harmful exhaust emissions.

31 (2) "Dealer" means ~~any~~:

32 (a) a scrap metal processor or secondary metals dealer or recycler, but does not include
33 junk dealers or solid waste management facilities as defined in Section 19-6-502[-]; or

34 (b) a metals refiner.

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

36 (4) "Identification" means a form of positive identification issued by a state of the
37 United States or the United States federal government that:

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

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

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

42 (5) "Junk dealer" means all persons, firms, or corporations engaged in the business of
43 purchasing or selling secondhand or castoff material, including ropes, cordage, bottles,
44 bagging, rags, rubber, paper, and other like materials, but not including regulated metal.

45 (6) "Local law enforcement agency" means the law enforcement agency that has
46 jurisdiction over the area where the dealer's business is located.

47 (7) "Metals refiner" means an individual or business that refines or melts any regulated
48 metal.

49 ~~[(7)]~~ (8) "Nonferrous metal":

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

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

52 ~~[(8)]~~ (9) (a) "Regulated metal" means any item composed primarily of nonferrous
53 metal, except as provided in Subsection ~~[(8)]~~ (9)(c).

54 (b) "Regulated metal" includes:

55 (i) aluminum, brass, copper, lead, chromium, tin, nickel, or alloys of these metals,
56 except under Subsection ~~[(8)]~~ (9)(c);

57 (ii) property owned by, and also identified by marking or other means as the property
58 of:

- 59 (A) a telephone, cable, electric, water, or other utility; or
- 60 (B) a railroad company;
- 61 (iii) unused and undamaged building construction materials made of metal or alloy,
- 62 including:
 - 63 (A) copper pipe, tubing, or wiring; and
 - 64 (B) aluminum wire, siding, downspouts, or gutters;
 - 65 (iv) oil well rigs, including any part of the rig;
 - 66 (v) nonferrous materials, stainless steel, and nickel; and
 - 67 (vi) irrigation pipe.
- 68 (c) "Regulated metal" does not include:
 - 69 (i) ferrous metal, except as provided in Subsection ~~[(8)]~~ (9)(b)(ii) or (iv);
 - 70 (ii) household-generated recyclable materials;
 - 71 (iii) items composed wholly of light iron or sheet steel;
 - 72 (iv) aluminum beverage containers; or
 - 73 (v) containers used solely for containing food.
- 74 ~~[(9)]~~ (10) "Secondary metals dealer or recycler" means any person who:
 - 75 (a) is engaged in the business of purchasing, collecting, or soliciting regulated metal; or
 - 76 (b) operates or maintains a facility where regulated metal is purchased or kept for
 - 77 shipment, sale, transfer, or salvage.
- 78 ~~[(10)]~~ (11) "Scrap metal processor" means any person:
 - 79 (a) who, from a fixed location, utilizes machinery and equipment for processing and
 - 80 manufacturing iron, steel, or nonferrous scrap into prepared grades; and
 - 81 (b) whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap, not
 - 82 including precious metals, for sale for remelting purposes.
- 83 ~~[(11)]~~ (12) "Suspect metal items" are the following items made of regulated metal:
 - 84 (a) manhole covers and sewer grates;
 - 85 (b) gas meters and water meters;
 - 86 (c) traffic signs, street signs, aluminum street light poles, communications transmission
 - 87 towers, and guard rails;
 - 88 (d) grave site monument vases and monument plaques;
 - 89 (e) any monument plaque;

- 90 (f) brass or bronze bar stock and bar ends;
- 91 (g) ingots;
- 92 (h) nickel and nickel alloys containing greater than 50% nickel;
- 93 (i) #1 and #2 copper as defined by the most recent institute of Scrap Recycling
- 94 Industries, Inc., Scrap Specifications Circular;
- 95 (j) unused and undamaged building materials, including:
- 96 (i) greenline copper;
- 97 (ii) copper pipe, tubing, or wiring; and
- 98 (iii) aluminum wire, siding, downspouts, or gutters;
- 99 (k) catalytic converters; and
- 100 (l) wire that has been burned or that has the appearance of having been burned.

101 Section 2. Section **76-6-1403** is amended to read:

102 **76-6-1403. Records of sales and purchases -- Identification required.**

103 (1) Every dealer shall:

104 (a) require the information under Subsection (2) for each transaction of regulated

105 metal, except under Subsection **76-6-1406(4)**; and

106 (b) maintain for each purchase of regulated metal the information required by this part

107 in a written or electronic log, in the English language.

108 (2) The dealer shall require the following information of the seller and shall record the

109 information as required under Subsection (1) for each purchase of regulated metal:

110 (a) a complete description of the regulated metal, including weight and metallic

111 description, in accordance with scrap metal recycling industry standards;

112 (b) the full name and residence of each person selling the regulated metal;

113 (c) the vehicle type and license plate number, if applicable, of the vehicle transporting

114 the regulated metal to the dealer;

115 (d) the price per pound and the amount paid for each type of regulated metal purchased

116 by the dealer;

117 (e) the date, time, and place of the purchase;

118 (f) the type and the identifying number of the identification provided in Subsection

119 (2)(g);

120 (g) [~~at least one~~] a form of identification that is a valid United States federal or

121 state-issued photo ID, which includes a driver license, a United States passport, a United States
122 passport card, or a United States military identification card;

123 (h) the seller's signature on a certificate stating that he has the legal right to sell the
124 scrap metal or junk; and

125 (i) a digital photograph or still video of the seller, taken at the time of the sale, or a
126 clearly legible photocopy of the seller's identification.

127 (3) No entry in the log may be erased, deleted, mutilated, or changed.

128 (4) The log and entries shall be open to inspection by the following officials having
129 jurisdiction over the area in which the dealer does business during regular business hours:

130 (a) the county sheriff or deputies;

131 (b) any law enforcement agency; and

132 (c) any constable or other state, municipal, or county official in the county in which the
133 dealer does business.

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

137 (6) Log entries made under this section shall be maintained for not less than three years
138 from date of entry.

139 (7) (a) The dealer may maintain the information required by Subsection (2) for repeat
140 sellers who use the same vehicle to bring regulated metal for each transaction in a relational
141 database that allows the dealer to enter an initial record of the seller's information and then
142 relate subsequent transaction records to that initial information, except under Subsection (7)(b).

143 (b) The dealer shall obtain regarding each transaction with repeat sellers:

144 (i) a photograph of the seller; and

145 (ii) a signature from the seller.

Legislative Review Note
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Office of Legislative Research and General Counsel