

SCRAP METAL TRANSACTIONS

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jon J. Greiner

House Sponsor: Brad L. Dee

LONG TITLE

General Description:

This bill modifies the Criminal Code and requires identification and related procedures for the sale of specified metals and imposes penalties for participating in transactions involving these metals without providing appropriate identification.

Highlighted Provisions:

This bill:

- ▶ defines "regulated metals";
- ▶ specifies identification that must be provided in order to sell regulated metals to dealers;
- ▶ requires that dealers post a sign advising sellers that they must provide identification in compliance with state law;
- ▶ requires that dealers keep a written or electronic log of identification and sales for not less than one year;
- ▶ requires authorization from a governmental entity in order to sell certain regulated metals such as manhole covers;
- ▶ requires authorization of the owner in order to sell specified regulated metals that are defined as "suspect metals," such as copper and grave site vases;
- ▶ allows a law enforcement agency to place a hold up to 60 days if the agency believes the metal is stolen;
- ▶ provides an exemption for businesses with established accounts who maintain specified records with the dealer;
- ▶ provides that violation of these requirements by the dealer or the seller is a class 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 **76-10-910.5**, Utah Code Annotated 1953

49 REPEALS:

50 **76-10-909**, as last amended by Chapter 20, Laws of Utah 1995



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

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

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

55 **76-10-900.5. Title.**

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

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

58 **76-10-901. Definitions.**

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

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

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

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

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

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

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

70 [~~(4)~~] (4) "Junk dealer" means all persons, firms, or corporations engaged in the
71 business of purchasing or selling secondhand[;] or castoff material [~~of any kind, such as old~~
72 iron, copper, brass, lead, zinc, tin, steel, aluminum, and other metals, metallic cables, wires],
73 including ropes, cordage, bottles, bagging, rags, rubber, paper, and other like materials, but not
74 including regulated metal.

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

77 (6) "Nonferrous metal":

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

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

80 (7) (a) "Regulated metal" means any item composed primarily of nonferrous metal,
81 except as provided in Subsection (7)(c).

82 (b) "Regulated metal" includes:

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

85 (ii) property owned by, and also identified by marking or other means as the property

86 of:

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

88 (B) a railroad company;

89 (iii) unused and undamaged building construction materials made of metal or alloy,

90 including:

91 (A) copper pipe, tubing, or wiring; and

92 (B) aluminum wire, siding, downspouts, or gutters;

93 (iv) oil well rigs;

94 (v) nonferrous materials, stainless steel, and nickel; and

95 (vi) irrigation pipe.

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

97 (i) ferrous metal, except as provided in Subsection (7)(b)(ii) or (iv);

98 (ii) household generated recyclable materials;

99 (iii) items composed wholly of tin;

100 (iv) aluminum beverage containers; or

101 (v) containers used solely for containing food.

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

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

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

105 shipment, sale, transfer, or salvage.

106 [~~(2)~~] (9) "Scrap metal processor" means any person who, from a fixed location, utilizes

107 machinery and equipment for processing and manufacturing iron, steel, or nonferrous scrap

108 into prepared grades, and whose principal product is scrap iron, scrap steel, or nonferrous

109 metallic scrap, not including precious metals, for sale for remelting purposes.

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

111 (a) manhole covers and sewer grates;

112 (b) gas meters and water meters;

113 (c) traffic signs, street signs, aluminum street light poles, communications transmission

- 114 towers, and guard rails;
- 115 (d) grave site monument vases and monument plaques;
- 116 (e) any monument plaque;
- 117 (f) brass or bronze bar stock and bar ends;
- 118 (g) ingots;
- 119 (h) nickel and nickel alloys containing greater than 50% nickel; and
- 120 (i) #1 and #2 copper as defined by the most recent institute of Scrap Recycling
- 121 Industries, Inc., Scrap Specifications Circular and unused and undamaged building materials,
- 122 including:
 - 123 (i) greenline copper;
 - 124 (ii) copper pipe, tubing, or wiring; or
 - 125 (iii) aluminum wire, siding, downspouts, or gutters.

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

127 **76-10-907. Records of sales and purchases -- Identification required.**

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

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

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

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

136 (a) a complete description of the [~~property~~] regulated metal, including weight and
137 metallic description [~~if scrap metal~~], in accordance with scrap metal recycling industry
138 standards;

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

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

142 the regulated metal to the dealer;

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

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

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

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

149 [~~(a)~~] (g) at least one form of [~~picture~~] identification [~~to consummate the transaction;~~
150 ~~and~~];

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

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

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

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

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

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

161 (b) any law enforcement agency; and

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

164 [~~(5) This section shall not apply to any sale or purchase if the value given is less than~~
165 ~~\$20.~~]

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

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

170 from date of entry.

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

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

176 (a) the weight of regulated metal is less than 50 pounds; and

177 (b) the price paid to the seller is less than \$100.

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

179 **76-10-907.1. Notice to sellers of identification requirements.**

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

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

186 **76-10-907.2. Qualifications to sell to dealer.**

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

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

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

193 **76-10-907.3. Restrictions on the purchase of regulated metal -- Exemption.**

194 (1) A dealer may conduct purchase transactions involving regulated metal only
195 between the hours of 6 a.m. and 7 p.m.

196 (2) Except when the dealer pays a government entity by check for regulated metal, the
197 dealer may not purchase any of the following regulated metal without obtaining and keeping on

198 file reasonable documentation that the seller is an employee, agent, or contractor of a
199 governmental entity who is authorized to sell the item of regulated metal property on behalf of
200 the governmental entity:

201 (a) a manhole cover or sewer grate;

202 (b) an electric light pole; or

203 (c) a guard rail.

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

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

207 (i) his telephone number;

208 (ii) his business or residential address;

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

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

212 (c) The dealer shall keep the identifying information provided in Subsection (3)(b) on
213 file for not less than one year.

214 (4) Transactions with businesses that have an established account with the dealer are
215 exempt if the business holds a valid business license, and:

216 (a) (i) the dealer has on file a statement from the business identifying those employees
217 authorized to sell all metals to the dealer; and

218 (ii) the dealer conducts regulated metal transactions only with those identified
219 employees of the business and records the name of the employee when recording the
220 transaction;

221 (b) the dealer has on file reasonable documentation from the business that any person
222 verified as representing the business as an employee, and whom the dealer has verified is an
223 employee, may sell regulated metal; or

224 (c) the dealer makes payment for regulated metal purchased from a person by issuing a
225 check to the business employing the seller.

226 Section 7. Section **76-10-908** is amended to read:

227 **76-10-908. Violation by dealer -- Penalty -- Local regulation not less stringent.**

228 (1) Any [~~junk~~] dealer who [~~is found guilty of a violation of~~] violates any of the
229 provisions of this part is guilty of a class [~~B~~] C misdemeanor[~~; provided that this part shall not~~
230 ~~be construed to in any way~~].

231 (2) This section does not impair the power of counties, cities, or incorporated
232 municipalities in this state to license, tax, and regulate any junk dealer, except that local
233 regulations may not be any less stringent than the provisions in this part.

234 Section 8. Section **76-10-910** is amended to read:

235 **76-10-910. Falsification of seller's statement to dealer.**

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

240 Section 9. Section **76-10-910.5** is enacted to read:

241 **76-10-910.5. Hold on stolen regulated metal property -- Hold notice.**

242 (1) If a law enforcement agency has reasonable cause to believe that items of regulated
243 metal in the possession of a dealer are stolen, the law enforcement agency may issue a written
244 hold notice. The hold notice shall:

- 245 (a) identify those items of regulated metal alleged to be stolen and subject to hold; and
246 (b) inform the dealer of the restrictions imposed on the regulated metal property under
247 Subsection (2).

248 (2) For 60 days after the date of receiving a hold notice, a dealer may not process or
249 remove from the dealer's place of business any regulated metal identified in the hold notice,
250 unless the property is released earlier by the law enforcement agency or by order of a court of
251 competent jurisdiction.

252 (3) On the expiration of the hold notice period, the hold is automatically released, and
253 the dealer may dispose of the regulated metal, unless otherwise directed by a court of

254 competent jurisdiction.

255 Section 10. **Repealer.**

256 This bill repeals:

257 Section **76-10-909, Junk dealer to obtain statement from sellers.**