

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 three years;
- ▶ 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;
- ▶ requires that dealers segregate and label regulated metals that they purchase;
- ▶ requires that dealers hold regulated metals for three days and allows a law enforcement agency to place a hold up to 60 days if the agency believes the metal is



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.

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)~~] (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 in whole or in part of any ferrous
82 or 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) metals and alloys that include materials and equipment commonly used in
87 construction, agricultural operations, and electrical power generation;

88 (iii) railroad equipment;

89 (iv) oil well rigs; and

90 (v) nonferrous materials, stainless steel, and nickel.

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

92 (i) scrap iron;

93 (ii) household generated waste;

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; and

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

116 Industries, Inc., Scrap Specifications Circular.

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~~];
- 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)[?];
- 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[?]; and
- 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.
- 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:
- 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 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 three years
160 from date of entry.

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. and 7 p.m.

179 (2) A dealer may not purchase any of the following regulated metal without obtaining
180 and keeping on file written proof that the seller is an 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.

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;

199 (b) the dealer has on file a statement from the business identifying those employees

200 authorized to sell all metals to the dealer; and

201 (c) 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.

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. 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 misdemeanor[; provided that this part 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 9. 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. 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.**

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

Office of Legislative Research and General Counsel

S.B. 44 - Scrap Metal Transactions

Fiscal Note

2007 General Session
State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

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.

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

Office of the Legislative Fiscal Analyst