

COPPER WIRE AND METAL THEFT AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Don L. Ipson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Criminal Code regarding buying and selling scrap metal.

Highlighted Provisions:

This bill:

▶ applies some of the requirements of pawnbrokers to scrap metal dealers, including requiring a seller's fingerprint;

▶ reduces the identification exemption for a one-time purchase of regulated metal to 25 pounds and \$50; and

▶ provides a penalty of a class B misdemeanor for a dealer who violates the provisions of Title 76, Chapter 10, Part 9, Regulation of Metal Dealers.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

76-6-408, as last amended by Laws of Utah 2009, Chapter 272

76-10-907, as last amended by Laws of Utah 2009, Chapter 325

76-10-908, as last amended by Laws of Utah 2007, Chapter 320



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

29 Section 1. Section **76-6-408** is amended to read:

30 **76-6-408. Receiving stolen property -- Duties of pawnbrokers, secondhand**
31 **businesses, and coin dealers.**

32 (1) A person commits theft if he receives, retains, or disposes of the property of
33 another knowing that it has been stolen, or believing that it probably has been stolen, or who
34 conceals, sells, withholds or aids in concealing, selling, or withholding the property from the
35 owner, knowing the property to be stolen, intending to deprive the owner of it.

36 (2) The knowledge or belief required for Subsection (1) is presumed in the case of an
37 actor who:

38 (a) is found in possession or control of other property stolen on a separate occasion;

39 (b) has received other stolen property within the year preceding the receiving offense
40 charged;

41 (c) is a pawnbroker or person who has or operates a business dealing in or collecting
42 used or secondhand merchandise or personal property, or an agent, employee, or representative
43 of a pawnbroker or person who buys, receives, or obtains property and fails to require the seller
44 or person delivering the property to:

45 (i) certify, in writing, that he has the legal rights to sell the property;

46 (ii) provide a legible print, preferably the right thumb, at the bottom of the certificate
47 next to his signature; and

48 (iii) provide at least one positive form of identification; or

49 (d) is a coin dealer or an employee of the coin dealer as defined in Section 13-32a-102
50 who does not comply with the requirements of Section 13-32a-104.5.

51 (3) Every pawnbroker or person who has or operates a business dealing in or collecting
52 used or secondhand merchandise or personal property, and every agent, employee, or
53 representative of a pawnbroker or person who fails to comply with the requirements of
54 Subsection (2)(c) is presumed to have bought, received, or obtained the property knowing it to
55 have been stolen or unlawfully obtained. This presumption may be rebutted by proof.

56 (4) When, in a prosecution under this section, it appears from the evidence that the
57 defendant was a pawnbroker or a person who has or operates a business dealing in or collecting
58 used or secondhand merchandise or personal property, or was an agent, employee, or

59 representative of a pawnbroker or person, that the defendant bought, received, concealed, or
60 withheld the property without obtaining the information required in Subsection (2)(c) or (2)(d),
61 then the burden shall be upon the defendant to show that the property bought, received, or
62 obtained was not stolen.

63 ~~[(5) Subsections (2)(c), (3), and (4) do not apply to scrap metal processors as defined in~~
64 ~~Section 76-10-901.]~~

65 ~~[(6)]~~ (5) As used in this section:

66 (a) "Dealer" means a person in the business of buying or selling goods.

67 (b) "Pawnbroker" means a person who:

68 (i) loans money on deposit of personal property, or deals in the purchase, exchange, or
69 possession of personal property on condition of selling the same property back again to the
70 pledge or depositor;

71 (ii) loans or advances money on personal property by taking chattel mortgage security
72 on the property and takes or receives the personal property into his possession and who sells
73 the unredeemed pledges; or

74 (iii) receives personal property in exchange for money or in trade for other personal
75 property.

76 (c) "Receives" means acquiring possession, control, or title or lending on the security
77 of the property.

78 Section 2. Section **76-10-907** is amended to read:

79 **76-10-907. Records of sales and purchases -- Identification required.**

80 (1) Every dealer shall:

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

83 (b) maintain for each purchase of regulated metal the information required by this part
84 in a written or electronic log, in the English language.

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

87 (a) a complete description of the regulated metal, including weight and metallic
88 description, in accordance with scrap metal recycling industry standards;

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

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

92 (d) the price per pound and the amount paid for each type of regulated metal purchased
93 by the dealer;

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

95 (f) the type and number of the identification provided in Subsection (2)(g);

96 (g) at least one form of identification;

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

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

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

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

104 (a) the county sheriff or deputies;

105 (b) any law enforcement agency; and

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

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

111 (6) Log entries made under this section shall be maintained for not less than one year
112 from date of entry.

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

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

118 (a) the weight of regulated metal is less than [~~50~~] 25 pounds; and

119 (b) the price paid to the seller is less than [~~\$100~~] \$50.

120 Section 3. Section **76-10-908** is amended to read:

121 **76-10-908. Violation by dealer -- Penalty -- Local regulation not less stringent.**

122 (1) Any dealer who violates any of the provisions of this part is guilty of a class [€] B
123 misdemeanor with a fine of not less than \$300.

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

Legislative Review Note
as of 2-23-11 11:22 AM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 462

SHORT TITLE: **Copper Wire and Metal Theft Amendments**

SPONSOR: **Ipson, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill may increase costs for local governments to jail violators of provisions of this bill; however, increased fines in the bill should cover any increased cost.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.