

A-Engrossed
House Bill 3026

Ordered by the House May 2
Including House Amendments dated May 2

Sponsored by Representatives BRUUN, SCHAUFLER, OLSON, BOONE, CLEM; Representatives FLORES, HUNT, KRIEGER, WHISNANT

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Modifies crime of failing to maintain metal purchase record. Increases punishment to maximum of five years' imprisonment, \$125,000 fine, or both under specified circumstances. Imposes presumptive prison sentence under specified circumstances.]

[Expands theft in first degree to include theft of metals under certain circumstances.]

Changes crime of failing to maintain metal purchase record to offense of failing to maintain metal purchase record. Punishes by fine of \$1,000 for first to third convictions. Increases fine amount to \$5,000 for fourth or subsequent convictions.

Requires person buying goods constructed of nonferrous metal from individual for purpose of resale to maintain certain records for specified periods of time. Punishes violation by fine of \$1,000 for first to third convictions. Increases fine amount to \$5,000 for fourth or subsequent convictions.

A BILL FOR AN ACT

1
2 Relating to metals; creating new provisions; and amending ORS 161.005, 165.107, 646.848 and 646.849.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 165.107 is amended to read:

5 165.107. (1) A *[person]* **scrap metal dealer** commits the *[crime]* **offense** of failing to maintain a
6 metal purchase record if the *[person]* **scrap metal dealer knowingly** buys or otherwise obtains new,
7 used or secondhand nonferrous metals or alloys thereof without keeping a record of all such articles
8 purchased or obtained.

9 (2) The *[person]* **scrap metal dealer** purchasing or obtaining the metal shall retain the record
10 required by subsection (1) of this section for a period of not less than one year and the *[person]*
11 **scrap metal dealer** shall make the record available to any peace officer on demand. *[The record*
12 *shall contain:]*

13 *[(a) A general description of all property purchased.]*

14 *[(b) The type and quantity or weight of the property.]*

15 *[(c) The name, address, description and signature of the person who sells, makes delivery or oth-*
16 *erwise makes the metal available.]*

17 *[(d) A description of any motor vehicle and its license number used in the delivery of such*
18 *articles.]*

19 **(3) The record required by subsection (1) of this section shall contain:**

20 **(a) The time and date of the transaction and the name of the person conducting the**
21 **transaction on behalf of the scrap metal dealer.**

22 **(b) A general description of the property purchased, including the type and amount and,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 **if readily discernible, any identifiable marks on the property.**

2 **(c) A photocopy of a current, valid driver license, passport or state identification card**
3 **of the seller.**

4 **(d) The amount of the consideration given for the metals.**

5 **(e) If the transaction is valued at more than \$100, a declaration, signed by the seller, in**
6 **substantially the following form: "I, the undersigned, hereby declare that the property that**
7 **is subject to this transaction is not, to the best of my knowledge, stolen property. I under-**
8 **stand that this statement is made under penalty of perjury and may be used as evidence in**
9 **court."**

10 **(f) Video surveillance or a photograph of the seller. Notwithstanding subsection (2) of**
11 **this section, the images must be retained for 30 days from the date of the transaction.**

12 **(g) A description of any motor vehicle and its license number used in the delivery of the**
13 **property.**

14 **[(3)] (4) This section shall not apply to purchases made by or from a manufacturer, remanufac-**
15 **turer or a distributor appointed by a manufacturer of such articles.**

16 **[(4)] (5) As used in this section[,]:**

17 **(a) "Nonferrous metal" includes, but is not limited to, aluminum, stainless steel, copper, copper**
18 **wire, copper cable, brass, electrolytic nickel and zinc. "Nonferrous metal" does not include precious**
19 **metals when actually used in the manufacture, repair, sale or resale of jewelry.**

20 **(b) "Scrap metal dealer" means a person engaged in the business of purchasing or re-**
21 **ceiving nonferrous metal property for aggregation and sale to a metal processor or metal**
22 **recycler.**

23 **(c) "Seller" means a person who sells or delivers the property or otherwise makes the**
24 **property available to the scrap metal dealer.**

25 *[(5) Failing to maintain a metal purchase record is a Class B misdemeanor.]*

26 **(6)(a) A scrap metal dealer that violates this section shall pay a fine of \$1,000.**

27 **(b) Notwithstanding paragraph (a) of this subsection, a scrap metal dealer that violates**
28 **this section shall pay a fine of \$5,000 if the scrap metal dealer has at least three previous**
29 **convictions for violations of this section.**

30 **SECTION 2. ORS 646.848 is amended to read:**

31 **646.848. (1) A person doing business as a consignment store, a buy-sell store, a secondhand store**
32 **or a similar store or enterprise that in the regular course of business buys used goods from indi-**
33 **viduals for the purpose of resale shall:**

34 **(a) Require that the individual from whom the person buys the used goods present proof of**
35 **identification; and**

36 **(b) Maintain a record of the name and address of the individual, the type of identification pro-**
37 **vided by the individual, the date and a description of the goods bought from the individual.**

38 **(2) If the goods described in subsection (1) of this section are constructed of nonferrous**
39 **metal as that term is defined in ORS 165.107, in addition to the requirements of subsection**
40 **(1) of this section, the records shall contain the following:**

41 **(a) A photocopy of the identification provided under subsection (1)(a) of this section;**

42 **(b) The amount of consideration given for the goods;**

43 **(c) If the transaction is valued at more than \$100, a declaration, signed by the individual**
44 **from whom the person buys the used goods, in substantially the following form: "I, the**
45 **undersigned, hereby declare that the property that is subject to this transaction is not, to**

1 the best of my knowledge, stolen property. I understand that this statement is made under
2 penalty of perjury and may be used as evidence in court.”;

3 (d) Video surveillance or a photograph of the individual; and

4 (e) A description and the registration plate number of any motor vehicle used in the de-
5 livery of the goods.

6 [(2)] (3)(a) The person shall make all records required to be maintained by [subsection (1)] sub-
7 sections (1) and (2) of this section available to law enforcement personnel conducting an investi-
8 gation.

9 (b) The person shall retain the records described in subsection (2) of this section for a
10 period of not less than one year, except that the video surveillance or photograph described
11 in subsection (2)(d) of this section must be retained for 30 days from the date of the trans-
12 action.

13 [(3)] (4) This section does not apply to pawnbrokers licensed under ORS 726.080.

14 [(4)] (5) This section does not preempt, invalidate or in any way affect the operation of any
15 provision of a county, city or district ordinance regulating the activities of consignment stores,
16 buy-sell stores, secondhand stores or similar stores or enterprises that in the regular course of
17 business buy used goods from individuals for the purpose of resale.

18 **SECTION 3.** ORS 646.849 is amended to read:

19 646.849. (1) A person that violates ORS 646.848 (1) commits a Class B violation.

20 (2)(a) A person that violates ORS 646.848 (2) shall pay a fine of \$1,000.

21 (b) Notwithstanding paragraph (a) of this subsection, a person that violates ORS 646.848
22 (2) shall pay a fine of \$5,000 if the person has at least three previous convictions for vio-
23 lations of ORS 646.848 (2).

24 **SECTION 4.** ORS 161.005 is amended to read:

25 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290
26 to 161.370, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737,
27 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to
28 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.160 to 163.208, 163.215 to 163.257, 163.275,
29 163.285, 163.305 to 163.467, 163.505 to 163.575, 163.665 to 163.693, 164.005, 164.015 to 164.135, 164.140,
30 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.877, 165.002 to [165.109]
31 **165.102, 165.109,** 165.805, 166.005 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027,
32 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340 and 167.350,
33 167.810 and 167.820, shall be known and may be cited as Oregon Criminal Code of 1971.

34 **SECTION 5.** The amendments to ORS 161.005, 165.107, 646.848 and 646.849 by sections 1
35 to 4 of this 2007 Act apply to offenses committed and transactions made on or after the ef-
36 fective date of this 2007 Act.

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