

Senate Bill 405

Sponsored by Senator GIROD

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 **as introduced**.

Prohibits scrap metal business from conducting transaction involving metal property with individual unless individual provides name, valid street address and telephone number at time of transaction. Prohibits scrap metal business from paying individual in transaction other than by check mailed not earlier than 14 days after date of transaction to individual's street address. Prohibits scrap metal business from purchasing or receiving metallic wire from which insulation was removed by burning, with specified exceptions.

Specifies civil penalty of \$500 for first instance of violation of provisions of Act, \$2,500 for second instance of violation and \$5,000 for third instance of violation. Permits court to increase fine by \$5,000 more than court imposed for previous violations if court finds fourth or subsequent instance of violation.

A BILL FOR AN ACT

1
2 Relating to metal property.

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

4 **SECTION 1. (1) As used in this section:**

5 (a)(A) **"Metal property" means an item fabricated or containing parts made of or in an**
6 **alloy with copper, brass, aluminum, bronze, lead, zinc or nickel.**

7 (B) **"Metal property" does not include an item made of or containing gold, silver or**
8 **platinum that is used in the manufacture, repair, sale or resale of jewelry.**

9 (b) **"Scrap metal business" means a person that is licensed to do business in this state**
10 **or another state and that:**

11 (A) **Maintains a permanent or fixed place of business at which the person:**

12 (i) **Engages in the business of purchasing or receiving metal property;**

13 (ii) **Alters or prepares metal property the person receives for use in manufacturing other**
14 **products; and**

15 (iii) **Owens, leases, rents, maintains or uses a device used in metal recycling, including a**
16 **hydraulic bailer, metal shearer or metal shredder;**

17 (B) **Maintains a permanent or fixed place of business at which the person engages in the**
18 **business of purchasing or receiving metal property for the purpose of aggregation and sale**
19 **to another scrap metal business; or**

20 (C) **Does not necessarily maintain a permanent or fixed place of business in this state**
21 **but engages in the business of purchasing or receiving metal property for the purpose of**
22 **aggregation and sale to another scrap metal business.**

23 (2) **A scrap metal business engaged in business in this state may not do any of the fol-**
24 **lowing:**

25 (a) **Purchase or receive metallic wire from which insulation was removed, in whole or in**
26 **part, by burning unless the individual offering the metallic wire for purchase or receipt can**
27 **prove by appropriate documentation that the individual owns or is entitled to offer the wire**

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 for purchase or receipt and that the burning was the result of a fire or other accident or
2 was done by legitimate means or for a legitimate purpose. The scrap metal business shall
3 retain a copy of the documentation provided.

4 (b) Conduct a transaction involving metal property with an individual if the individual
5 does not at the time of the transaction provide the scrap metal business with the individual's
6 name, valid street address and telephone number and produce for inspection a valid driver
7 license or other government-issued photo identification that belongs to the individual.

8 (c) Conduct a transaction involving metal property with an individual for which the scrap
9 metal business pays the individual other than by mailing a nontransferable check for the
10 amount of the transaction to the street address the individual provided under paragraph (b)
11 of this subsection not earlier than 14 days after the date of the transaction. The check must
12 be drawn on an account that the scrap metal business maintains with a financial institution,
13 as defined in ORS 706.008.

14 (d) Cash a check issued in payment for a transaction or release a check issued in pay-
15 ment for a transaction other than as provided in paragraph (c) of this subsection. If a check
16 is returned as undelivered or undeliverable, the scrap metal business shall retain the check
17 until the individual with whom the scrap metal business conducted the transaction provides
18 a valid street address for the individual. If after 30 days following the date of the transaction
19 the individual fails to provide a valid street address, the scrap metal business may cancel the
20 check and the individual shall forfeit to the scrap metal business the amount due as pay-
21 ment.

22 **SECTION 2.** (1) A prosecuting attorney who has probable cause to believe that a person
23 has violated, is violating or is about to violate a provision of section 1 of this 2009 Act may
24 bring suit in the name of the State of Oregon in an appropriate court to enforce compliance
25 with the provisions of section 1 of this 2009 Act.

26 (2) If the court finds in a first instance that a person violated a provision of section 1
27 of this 2009 Act, the court, in addition to any other applicable penalty, may fine the person
28 not more than \$500 for each violation. Each violation found is a separate offense subject to
29 a fine under this subsection. The total of the fines imposed under this subsection shall be
30 entered as a judgment and paid to the State Treasury to the credit of the General Fund.

31 (3) If a court finds in a second instance that a person violated a provision of section 1
32 of this 2009 Act, the court, in addition to any other applicable penalty, may fine the person
33 not more than \$2,500 for each violation found under this subsection. Each violation found
34 is a separate offense subject to a fine under this subsection. The total of the fines imposed
35 under this subsection shall be entered and paid as provided in subsection (2) of this section.

36 (4) If a court finds in a third instance that a person violated a provision of section 1 of
37 this 2009 Act, the court, in addition to any other applicable penalty, may fine the person not
38 more than \$5,000 for each violation found under this subsection. Each violation found is a
39 separate offense subject to a fine under this subsection. The total of the fines imposed under
40 this subsection shall be entered and paid as provided in subsection (2) of this section.

41 (5) If a court finds in a fourth or subsequent instance that a person violated a provision
42 of section 1 of this 2009 Act, the court, in addition to any other applicable penalty, may in-
43 crease the fine the court imposes for each violation under this subsection by \$5,000 more
44 than the fine imposed on the person for a previous violation of section 1 of this 2009 Act.
45 The total of the fines imposed under this subsection shall be entered and paid as provided in

1 subsection (2) of this section.

2 (6) As used in this section, “prosecuting attorney” means the Attorney General or the
3 district attorney of the county in which a violation of section 1 of this 2009 Act is alleged to
4 have occurred.

5 SECTION 3. Sections 1 and 2 of this 2009 Act apply to transactions conducted on or after
6 the effective date of this 2009 Act.

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