

# Senate Bill 570

Sponsored by Senators ATKINSON, BATES, BONAMICI, BOQUIST, BURDICK, CARTER, COURTNEY, DEVLIN, DINGFELDER, FERRIOLI, GEORGE, GIROD, HASS, JOHNSON, KRUSE, METSGER, MONNES ANDERSON, MONROE, MORRISSETTE, MORSE, NELSON, PROZANSKI, ROSENBAUM, SCHRADER, STARR, TELFER, VERGER, WALKER, WHITSETT, WINTERS, Representatives BAILEY, BARKER, BARNHART, BARTON, BENTZ, BERGER, BEYER, BOONE, BRUUN, BUCKLEY, CAMERON, CANNON, CLEM, COWAN, DEMBROW, C EDWARDS, D EDWARDS, ESQUIVEL, FREEMAN, GALIZIO, GARRARD, GARRETT, GELSER, GILLIAM, GILMAN, GREENLICK, HANNA, HARKER, HOLVEY, HUFFMAN, HUNT, JENSON, KAHL, KENNEMER, KOMP, KOTEK, KRIEGER, MATTHEWS, MAURER, NATHANSON, NOLAN, OLSON, READ, RICHARDSON, RILEY, ROBLAN, SCHAUFLE, G SMITH, J SMITH, SPRENGER, STIEGLER, THATCHER, THOMPSON, TOMEI, VANORMAN, WEIDNER, WHISNANT, WINGARD, WITT

## 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**.

Requires scrap metal business to create and maintain certain records of purchase or receipt of metal property or other transactions related to metal property. Prohibits scrap metal business from purchasing, receiving or conducting transaction related to certain types of metal property. Requires payment for purchase or transaction by check mailed to seller's street address.

Requires scrap metal business to produce records in response to lawful demand and to segregate, identify and hold metal property reasonably suspected to be lost or stolen. Requires within 10 days determination of whether metal property is lost or stolen.

Requires consignment or secondhand store that purchases or receives metal property to comply with provisions of Act.

Provides immunity to owner of land for injury or damage caused by theft or attempted theft of metal property.

Specifies civil penalty of not more than \$1,000 for first violation of certain provisions of Act and not more than \$2,000 for subsequent violations.

Creates crime of unlawfully altering metal property. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Creates crime of making false statement on metal property record. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Creates crime of unlawfully purchasing or receiving metal property. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

Creates crime of unlawfully possessing metal property. Punishes by maximum of one year's imprisonment, \$6,250 fine, or both.

## A BILL FOR AN ACT

1  
2 Relating to commerce in metal property; creating new provisions; and amending ORS 161.005,  
3 165.107, 646A.060 and 646A.062.

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

### **SECTION 1. As used in sections 1 to 5 of this 2009 Act:**

5  
6 (1) **"Commercial account" means an agreement or arrangement between a commercial**  
7 **seller and a scrap metal business for regularly or periodically selling, delivering, purchasing**  
8 **or receiving metal property.**

9 (2) **"Commercial metal property" means an item fabricated or containing parts made of**  
10 **metal or metal alloys that:**

11 (a) **Is used as, used in or used as part of:**

12 (A) **A utility access cover or a cover for a utility meter;**

13 (B) **A pole, fixture or component of a street light or traffic light;**

14 (C) **A sign or marker located, with the permission of a governmental entity, alongside a**  
15 **street, road or bridge for the purpose of directing or controlling traffic or providing infor-**

**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 mation to motorists;

2 (D) A traffic safety device, including a guardrail for a highway, road or bridge;

3 (E) A vase, plaque, marker, tablet, plate or other sign or ornament affixed to or in  
4 proximity to a historic site, grave, statue, monument or similar property accessible to  
5 members of the public; or

6 (F) An agricultural implement, including an irrigation wheel, sprinkler head or pipe;

7 (b) Bears the name of, or a serial or model number, logo or other device used by, a  
8 commercial seller to identify the commercial seller's property including, but not limited to,  
9 implements or equipment used by railroads and utilities that provide telephone, commercial  
10 mobile radio, cable television, electricity, water, natural gas or similar services; or

11 (c) Consists of material used in building construction or other commercial construction,  
12 including:

13 (A) Copper or aluminum pipe, tubing or wiring;

14 (B) Aluminum gutters, downspouts, siding, decking, bleachers or risers; or

15 (C) Aluminum or stainless steel fence panels made of one-inch tubing 42 inches long, with  
16 four-inch gaps.

17 (3) "Commercial seller" means a business entity, as defined in ORS 60.470, or govern-  
18 mental entity that regularly or periodically sells or delivers metal property to a scrap metal  
19 business as part of the entity's business functions.

20 (4) "Metal property" means commercial metal property, nonferrous metal property or  
21 private metal property.

22 (5)(a) "Nonferrous metal property" means an item fabricated or containing parts made  
23 of or in an alloy with copper, brass, aluminum, bronze, lead, zinc or nickel.

24 (b) "Nonferrous metal property" does not include gold, silver or platinum that is used in  
25 the manufacture, repair, sale or resale of jewelry.

26 (6) "Private metal property" means a catalytic converter that has been removed from a  
27 vehicle and is offered for sale as an independent item, whether individually or as part of a  
28 bundle, bale or in other bulk form.

29 (7) "Scrap metal business" means a person that is licensed to do business in this state  
30 or another state and that:

31 (a) Maintains a permanent or fixed place of business at which the person:

32 (A) Engages in the business of purchasing or receiving metal property;

33 (B) Alters or prepares metal property the person receives for use in manufacturing other  
34 products; and

35 (C) Owns, leases, rents, maintains or uses a device used in metal recycling, including a  
36 hydraulic baler, metal shearer or metal shredder;

37 (b) Maintains a permanent or fixed place of business at which the person engages in the  
38 business of purchasing or receiving metal property for the purpose of aggregation and sale  
39 to another scrap metal business; or

40 (c) Does not necessarily maintain a permanent or fixed place of business in this state but  
41 engages in the business of purchasing or receiving nonferrous metal property or private  
42 metal property for the purpose of aggregation and sale to another scrap metal business.

43 (8)(a) "Transaction" means a sale, purchase, receipt or trade of, or a contract, agreement  
44 or pledge to sell, purchase, receive or trade, private metal property or nonferrous metal  
45 property that occurs or forms between an individual and a scrap metal business.

1 (b) "Transaction" does not include:

2 (A) A donation made without a provision for or expectation of a reciprocal benefit; or

3 (B) A sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell,  
4 purchase, receive or trade, private metal property or nonferrous metal property that occurs  
5 or forms between:

6 (i) A commercial seller or an authorized employee or agent of the commercial seller; and

7 (ii) A scrap metal business or an authorized employee or agent of the scrap metal busi-  
8 ness.

9 **SECTION 2.** (1) Before completing a transaction, a scrap metal business engaged in  
10 business in this state shall:

11 (a) Create a record for the transaction at the time and in the location where the trans-  
12 action occurs. The record of the transaction must:

13 (A) Be accurate and written clearly and legibly in English;

14 (B) Be entered onto a standardized printed form or an electronic form that is securely  
15 stored and is capable of ready retrieval and printing; and

16 (C) Contain all of the following information:

17 (i) The signature of the individual with whom the scrap metal business conducts the  
18 transaction;

19 (ii) The time, date, location and monetary amount or other value of the transaction;

20 (iii) The name of the employee who conducted the transaction on behalf of the scrap  
21 metal business;

22 (iv) The name, street address and telephone number of the individual with whom the  
23 scrap metal business conducts the transaction;

24 (v) A description of, and the license number and issuing state shown on the license plate  
25 affixed to, the motor vehicle, if any, used to transport the individual who conducts, or the  
26 nonferrous metal property or private metal property that is the subject of, the transaction;

27 (vi) A copy of, or the identifying number of, a valid driver license or other government-  
28 issued photo identification belonging to the individual with whom the scrap metal business  
29 conducts the transaction;

30 (vii) A photograph of, or video surveillance depicting, a recognizable facial image of the  
31 individual with whom the scrap metal business conducts the transaction; and

32 (viii) A description of the nonferrous metal property or private metal property that con-  
33 stitutes the predominant part of the transaction. The description must specify the weight,  
34 quantity or volume of the nonferrous metal property or private metal property and indicate  
35 the appropriate classification code from the current edition of the Institute of Scrap Recy-  
36 cling Industries' Scrap Specifications Circular, or successor publication, for each separately  
37 classifiable component of the nonferrous metal property or private metal property.

38 (b) Require the individual with whom the scrap metal business conducts a transaction  
39 to sign and date a declaration printed in conspicuous type, either on the record described in  
40 this subsection or on a receipt issued to the individual with whom the scrap metal business  
41 conducts the transaction, that states:

42 \_\_\_\_\_

43  
44 I, \_\_\_\_\_, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY  
45 I AM SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE,

**1 STOLEN PROPERTY.**

2  
3  
4 (c) Require the employee of the scrap metal business who conducts the transaction on  
5 behalf of the scrap metal business to witness the individual sign the declaration, and also to  
6 sign and date the declaration in a space provided for that purpose.

7 (d) For one year following the date of the transaction, keep a copy of the record and the  
8 signed and dated declaration described in this section. If the scrap metal business uses a  
9 video surveillance recording as part of the record kept in accordance with this subsection,  
10 the scrap metal business need not keep the video surveillance recording for one year, but  
11 shall retain the video surveillance recording for a minimum of 30 days following the date of  
12 the transaction. The scrap metal business shall at all times keep the copies at the current  
13 place of business for the scrap metal business.

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

16 (a) Purchase or receive metallic wire from which insulation was removed, in whole or in  
17 part, by burning unless the individual offering the metallic wire for purchase or receipt can  
18 prove by appropriate documentation that the individual owns or is entitled to offer the wire  
19 for purchase or receipt and that the burning was the result of a fire or other accident or  
20 was done by legitimate means or for a legitimate purpose. The scrap metal business shall  
21 retain a copy of the documentation provided.

22 (b) Purchase or receive kegs or similar metallic containers used to store or dispense al-  
23 coholic beverages, except from a person that manufactures the kegs or containers or from  
24 a person licensed by the Oregon Liquor Control Commission under ORS 471.155.

25 (c) Conduct a transaction with an individual if the individual does not at the time of the  
26 transaction consent to the creation of the record described in subsection (1) of this section  
27 and produce for inspection a valid driver license or other government-issued photo identifi-  
28 cation that belongs to the individual.

29 (d) Conduct a transaction with an individual in which the scrap metal business pays the  
30 individual other than by mailing a nontransferable check for the amount of the transaction  
31 to the street address the individual provided under subsection (1) of this section not earlier  
32 than 10 days after the date of the transaction. The check must be drawn on an account that  
33 the scrap metal business maintains with a financial institution, as defined in ORS 706.008.

34 (e) Cash a check issued in payment for a transaction or release a check issued in pay-  
35 ment for a transaction other than as provided in paragraph (d) of this subsection. If a check  
36 is returned as undelivered or undeliverable, the scrap metal business shall retain the check  
37 until the individual with whom the scrap metal business conducted the transaction provides  
38 a valid street address for the individual. If after 30 days following the date of the transaction  
39 the individual fails to provide a valid street address, the scrap metal business may cancel the  
40 check and the individual shall forfeit to the scrap metal business the amount due as pay-  
41 ment.

42 **SECTION 3. (1) Before purchasing or receiving metal property from a commercial seller,**  
43 **a scrap metal business shall:**

44 (a) Create and maintain a commercial account with the commercial seller. As part of the  
45 commercial account, the scrap metal business shall enter accurately, clearly and legibly in

1 English onto a standardized printed form, or an electronic form that is securely stored and  
2 is capable of ready retrieval and printing, the following information:

3 (A) The full name of the commercial seller;

4 (B) The business address and telephone number of the commercial seller; and

5 (C) The full name of each employee, agent or other individual the commercial seller au-  
6 thorizes to deliver metal property to the scrap metal business.

7 (b) Record as part of the commercial account at the time the scrap metal business pur-  
8 chases or receives metal property from a commercial seller the following information:

9 (A) The time, date and location at which the commercial seller delivered the metal  
10 property for purchase or receipt;

11 (B) The monetary amount or other value of the metal property;

12 (C) A description of the type of metal property that constitutes the predominant part of  
13 the purchase or receipt; and

14 (D) The signature of the person that delivered the metal property to the scrap metal  
15 business.

16 (2) A scrap metal business may not purchase or receive commercial metal property from  
17 a person unless the person is:

18 (a) A commercial seller that has a commercial account with the scrap metal business;  
19 or

20 (b) An individual who can produce written documentation or identification that proves  
21 that the individual is an employee, agent or other individual authorized by a commercial  
22 seller that has a commercial account with the scrap metal business to deliver commercial  
23 metal property for purchase or receipt.

24 **SECTION 4.** (1) Not later than two business days after receiving from a peace officer or  
25 law enforcement agency a warrant, subpoena or other lawful demand for information related  
26 to a named or specified individual, vehicle or item of metal property, a scrap metal business  
27 shall provide to the peace officer or law enforcement agency a copy of a transaction record  
28 created under section 2 (1) of this 2009 Act or a copy of the relevant portion of a commercial  
29 account that contains the information about the individual, vehicle or item of metal property  
30 that is the subject of the lawful demand. The scrap metal business shall provide the infor-  
31 mation in any form or by any method reasonably required by the peace officer or law  
32 enforcement agency.

33 (2) If a scrap metal business has good cause to believe that metal property that the scrap  
34 metal business purchased or received or possesses or controls was lost by or stolen from the  
35 metal property's owner or lawful possessor, the scrap metal business shall promptly notify  
36 an appropriate law enforcement agency and shall:

37 (a) Name the owner or lawful possessor of the property, if known; and

38 (b) Disclose the name of the person that delivered the metal property and the date on  
39 which the scrap metal business received the metal property.

40 (3) If a peace officer or law enforcement agency notifies a scrap metal business that an  
41 item of metal property in the possession of the scrap metal business is stolen, the scrap  
42 metal business shall:

43 (a) Segregate the metal property that is the subject of the notification from other in-  
44 ventory kept by the scrap metal business;

45 (b) Protect the metal property from alteration or damage;

1 (c) Mark, tag or otherwise identify the metal property; and

2 (d) Hold the metal property for the length of time, not to exceed 10 days, that the peace  
3 officer or law enforcement agency specifies.

4 **SECTION 5.** A peace officer or law enforcement agency may not require a scrap metal  
5 business to hold metal property under the provisions of section 4 (3) of this 2009 Act unless  
6 the peace officer or law enforcement agency reasonably suspects that the metal property  
7 was lost by or stolen from the owner or lawful possessor of the metal property. Within 10  
8 days after notifying a scrap metal business that an item of metal property may be lost or  
9 stolen, the peace officer or law enforcement agency shall:

10 (1) Determine that the metal property is lost or stolen and take appropriate lawful action  
11 to impound or recover the metal property and return the metal property to the owner or  
12 lawful possessor; or

13 (2) Determine that the metal property is not lost or stolen and notify the scrap metal  
14 business that it is not necessary to hold the metal property any longer.

15 **SECTION 6.** Sections 1 to 5 of this 2009 Act do not apply to activities conducted in the  
16 ordinary course of business by:

17 (1) A person in possession of a vehicle dealer certificate issued under ORS 822.020;

18 (2) A person in possession of a dismantler certificate issued under ORS 822.110;

19 (3) A person in possession of a towing business certificate issued under ORS 822.205; or

20 (4) A person engaged in the business of buying or selling used or empty food and beverage  
21 containers, including containers made of metal.

22 **SECTION 7.** (1) As used in this section, “prosecuting attorney” means the Attorney  
23 General or the district attorney of the county in which a violation of section 2, 3 or 4 of this  
24 2009 Act is alleged to have occurred.

25 (2) A prosecuting attorney who has probable cause to believe that a person has violated,  
26 is violating or is about to violate a provision of section 2, 3 or 4 of this 2009 Act may bring  
27 suit in the name of the State of Oregon in an appropriate court to restrain the person from  
28 engaging in the violation and to enforce compliance with the provisions of section 2, 3 or 4  
29 of this 2009 Act. Upon a proper showing, the court shall grant an injunction or restraining  
30 order.

31 (3) If the court finds that a person violated a provision of section 2, 3 or 4 of this 2009  
32 Act and the violation is not otherwise subject to a criminal penalty under ORS 165.107, the  
33 court, in addition to any order the court may issue under subsection (2) of this section, may  
34 impose a fine of not more than \$1,000 for each violation. The fine shall be entered as a  
35 judgment and paid to the State Treasury to the credit of the General Fund. Each violation  
36 is a separate offense.

37 (4) If a court finds within two years after the court found a person in violation under  
38 subsection (3) of this section that the person has violated a provision of section 2, 3 or 4 of  
39 this 2009 Act and the violation is not otherwise subject to a criminal penalty under ORS  
40 165.107, the court may issue an injunction or restraining order under subsection (2) of this  
41 section and may impose a fine of not more than \$2,000 for each violation found under this  
42 subsection and for all subsequent violations. The fine shall be entered and paid as provided  
43 in subsection (3) of this section.

44 **SECTION 8.** (1) As used in this section, “owner” means a person, including a tenant,  
45 lessee, occupant or other person, that possesses an interest in land, including but not limited

1 to a possession of a fee title.

2 (2) An owner of land is not liable for personal injury, death or property damage that  
3 arises out of:

4 (a) Theft or attempted theft of metal property as defined in section 1 of this 2009 Act  
5 from the owner's land; or

6 (b) A hazardous condition that results from theft or attempted theft of metal property  
7 as defined in section 1 of this 2009 Act from the owner's land when the owner did not know  
8 or could not reasonably have known of the hazardous condition.

9 (3) The immunities provided under this section apply to:

10 (a) Public and private land;

11 (b) Roads, bodies of water, watercourses, rights of way, buildings and fixtures or struc-  
12 tures on the owner's land; and

13 (c) Machinery or equipment on the owner's land.

14 (4) This section does not create or impose a duty of care upon an owner or possessor of  
15 land that would not otherwise exist under common law.

16 **SECTION 9.** ORS 165.107 is amended to read:

17 165.107. [(1) A scrap metal dealer commits the offense of failing to maintain a metal purchase re-  
18 cord if the scrap metal dealer knowingly buys or otherwise obtains new, used or secondhand nonferrous  
19 metals or alloys thereof without keeping a record of all such articles purchased or obtained.]

20 [(2) The scrap metal dealer purchasing or obtaining the metal shall retain the record required by  
21 subsection (1) of this section for a period of not less than one year and the scrap metal dealer shall  
22 make the record available to any peace officer on demand.]

23 [(3) The record required by subsection (1) of this section shall contain:]

24 [(a) The time and date of the transaction and the name of the person conducting the transaction  
25 on behalf of the scrap metal dealer.]

26 [(b) A general description of the property purchased, including the type and amount and, if readily  
27 discernible, any identifiable marks on the property.]

28 [(c) A photocopy of a current, valid driver license, passport or state identification card of the  
29 seller.]

30 [(d) The amount of the consideration given for the metals.]

31 [(e) If the transaction is valued at more than \$100, a declaration, signed by the seller, in substan-  
32 tially the following form: "I, the undersigned, hereby declare that the property that is subject to this  
33 transaction is not, to the best of my knowledge, stolen property. I understand that this statement is  
34 made under penalty of perjury and may be used as evidence in court."]

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

37 [(g) A description of any motor vehicle and its license number used in the delivery of the  
38 property.]

39 [(4) This section shall not apply to purchases made by or from a manufacturer, remanufacturer or  
40 a distributor appointed by a manufacturer of such articles.]

41 [(5) As used in this section:]

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

45 [(b) "Scrap metal dealer" means a person engaged in the business of purchasing or receiving

1 *nonferrous metal property for aggregation and sale to a metal processor or metal recycler.]*

2 [(c) “Seller” means a person who sells or delivers the property or otherwise makes the property  
3 available to the scrap metal dealer.]

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

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

8 (1) **As used in this section:**

9 (a) **“Commercial metal property” has the meaning given that term in section 1 of this  
10 2009 Act.**

11 (b) **“Commercial seller” has the meaning given that term in section 1 of this 2009 Act.**

12 (c) **“Metal property” has the meaning given that term in section 1 of this 2009 Act.**

13 (d) **“Metal property record” means information required under section 2 (1) or 3 of this  
14 2009 Act.**

15 (e) **“Nonferrous metal property” has the meaning given that term in section 1 of this 2009  
16 Act.**

17 (f) **“Private metal property” has the meaning given that term in section 1 of this 2009  
18 Act.**

19 (g) **“Scrap metal business” has the meaning given that term in section 1 of this 2009 Act.**

20 (h) **“Transaction” has the meaning given that term in section 1 of this 2009 Act.**

21 (2) **A person commits the offense of unlawfully altering metal property if the person, with  
22 intent to deceive a scrap metal business as to the ownership or origin of an item of metal  
23 property, knowingly removes, alters, renders unreadable or invisible or obliterates a name,  
24 logo, model or serial number, personal identification number or other mark or method that  
25 a manufacturer uses to identify the metal property.**

26 (3) **A person commits the offense of making a false statement on a metal property record  
27 if the person:**

28 (a) **Knowingly makes, causes or allows to be made a false entry or misstatement of ma-  
29 terial fact in a metal property record; or**

30 (b) **Signs a declaration under section 2 (1) of this 2009 Act knowing that the nonferrous  
31 metal property or private metal property that is the subject of a transaction is stolen.**

32 (4) **A scrap metal business commits the offense of unlawfully purchasing or receiving  
33 metal property if the scrap metal business:**

34 (a) **Purchases or receives metal property from a person whom the scrap metal business  
35 knows or reasonably suspects:**

36 (A) **Is under 18 years of age;**

37 (B) **Is under the influence of intoxicating liquor or a narcotic drug or controlled sub-  
38 stance; or**

39 (C) **Has, according to information provided to the scrap metal business by a peace officer  
40 or law enforcement agency, been convicted within the past 10 years, as a principal, agent or  
41 accessory of a crime involving:**

42 (i) **Drugs;**

43 (ii) **Burglary, robbery or theft;**

44 (iii) **Possession or receipt of stolen property;**

45 (iv) **The manufacture, delivery or possession of, with intent to deliver, methamphet-**



1 **amine;**

2 (v) **The manufacture, delivery or possession of, with intent to deliver, ephedrine or a salt,**  
 3 **isomer or salt of an isomer of ephedrine;**

4 (vi) **The manufacture, delivery or possession of, with intent to deliver, pseudoephedrine**  
 5 **or a salt, isomer or salt of an isomer of pseudoephedrine; or**

6 (vii) **Possession of anhydrous ammonia with intent to manufacture methamphetamine;**  
 7 **or**

8 (b) **Purchases or receives metal property that the scrap metal business knows or rea-**  
 9 **sonably suspects has been unlawfully altered as described in subsection (2) of this section.**

10 (5) **A scrap metal business commits the offense of unlawfully possessing metal property**  
 11 **if the scrap metal business possesses metal property:**

12 (a) **As a consequence of a transaction conducted in violation of section 2 of this 2009 Act;**  
 13 **or**

14 (b) **As a consequence of a purchase or receipt that violated section 3 of this 2009 Act.**

15 (6) **Violation of a provision of subsections (2) to (5) of this section is a Class A**  
 16 **misdemeanor.**

17 **SECTION 10.** ORS 161.005 is amended to read:

18 161.005. ORS 161.005 to 161.055, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290  
 19 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,  
 20 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to  
 21 162.425, 162.465, 163.005, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.215 to 163.257,  
 22 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.432, 163.433, 163.505 to  
 23 163.575, 163.665 to 163.693, 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205 to 164.270, 164.305  
 24 to 164.377, 164.395 to 164.415, 164.805, 164.886, 165.002 to 165.102, **165.107**, 165.109, 165.805, 166.005  
 25 to 166.095, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.054, 167.057, 167.060 to 167.100,  
 26 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340 and 167.350, 167.810 and 167.820  
 27 shall be known and may be cited as Oregon Criminal Code of 1971.

28 **SECTION 11.** ORS 646A.060 is amended to read:

29 646A.060. (1) A person doing business as a consignment store, a buy-sell store, a secondhand  
 30 store or a similar store or enterprise that in the regular course of business buys used goods from  
 31 individuals for the purpose of resale shall:

32 (a) Require that the individual from whom the person buys the used goods present proof of  
 33 identification; and

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

36 (2) If the goods described in subsection (1) of this section are **private metal property or are**  
 37 **constructed of or contain parts made of nonferrous metal property** as *[that term is defined in ORS*  
 38 *165.107]* **those terms are defined in section 1 of this 2009 Act**, in addition to the requirements  
 39 of subsection (1) of this section, **the person shall comply with and is subject to the penalty**  
 40 **provided for violating a provision of section 2, 3 or 4 of this 2009 Act that is applicable to a**  
 41 **scrap metal business as defined in section 1 of this 2009 Act.** *[the records shall contain the fol-*  
 42 *lowing:]*

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

44 *[(b) The amount of consideration given for the goods;]*

45 *[(c) If the transaction is valued at more than \$100, a declaration, signed by the individual from*

1 *whom the person buys the used goods, in substantially the following form: "I, the undersigned, hereby*  
 2 *declare that the property that is subject to this transaction is not, to the best of my knowledge, stolen*  
 3 *property. I understand that this statement is made under penalty of perjury and may be used as evi-*  
 4 *dence in court.";*]

5 [(d) Video surveillance or a photograph of the individual; and]

6 [(e) A description and the registration plate number of any motor vehicle used in the delivery of  
 7 the goods.]

8 (3)[(a)] The person shall make all records required to be maintained [by subsections (1) and (2)]  
 9 **under subsection (1)** of this section available to law enforcement personnel conducting an investi-  
 10 gation.

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

14 (4) This section does not apply to pawnbrokers licensed under ORS 726.080.

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

19 **SECTION 12.** ORS 646A.062 is amended to read:

20 646A.062. [(1)] A person that violates ORS 646A.060 (1) commits a Class B violation.

21 [(2)(a) A person that violates ORS 646A.060 (2) shall pay a fine of \$1,000.]

22 [(b) Notwithstanding paragraph (a) of this subsection, a person that violates ORS 646A.060 (2)  
 23 shall pay a fine of \$5,000 if the person has at least three previous convictions for violations of ORS  
 24 646A.060 (2).]

25 **SECTION 13.** Sections 1 to 8 of this 2009 Act and the amendments to ORS 161.005, 165.107,  
 26 646A.060 and 646A.062 by sections 9 to 12 of this 2009 Act apply to offenses committed and  
 27 transactions conducted on or after the effective date of this 2009 Act.

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