

Enrolled
House Bill 2403

Sponsored by Representatives OLSON, CLEM; Representatives BOONE, CAMERON, CONGER, DOHERTY, HARKER, JENSON, KRIEGER, WHISNANT (Presession filed.)

CHAPTER

AN ACT

Relating to scrap metal businesses; creating new provisions; amending ORS 165.107; and declaring an emergency.

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

SECTION 1. ORS 165.107 is amended to read:

165.107. (1) Before completing a transaction, a scrap metal business engaged in business in this state shall:

(a) Create a metal property record for the transaction at the time and in the location where the transaction occurs. The record must:

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

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

(C) Contain all of the following information:

(i) The signature of the individual with whom the scrap metal business conducts the transaction.

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

(iii) The name of the employee who conducts the transaction on behalf of the scrap metal business.

(iv) The name and telephone number of the individual with whom the scrap metal business conducts the transaction and a street address [*to which the scrap metal business will mail payment to the individual. The metal property record may contain an address other than a street address if the address*] **or, if a post office box** is listed on the government-issued photo identification described in sub-subparagraph (vi) of this subparagraph, **a post office box, to which the scrap metal business will mail payment to the individual.**

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

(vi) A photocopy of a current, valid driver license or other government-issued photo identification belonging to the individual with whom the scrap metal business conducts the transaction.

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

(viii) A general description of the nonferrous metal property or private metal property that constitutes the predominant part of the transaction. The description must include any identifiable marks on the property, if readily discernible, and must specify the weight, quantity or volume of the nonferrous metal property or private metal property.

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

I, _____, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN PROPERTY.

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

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

(2) A scrap metal business engaged in business in this state may not do any of the following:

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

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

(c) Conduct a transaction with an individual in which the scrap metal business pays the individual other than by mailing a nontransferable check, made payable to the individual, for the amount of the transaction to the **street address or post office box** the individual provided under subsection (1)(a)(C)(iv) of this section not earlier than three business days after the date of the transaction. The check must be drawn on an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008.

(d) Purchase metal property from a nonprofit corporation other than by mailing a nontransferable check, made payable to the nonprofit corporation, for the amount of the purchase price to the business address provided under subsection [(3)(a)(B)] (4)(a)(B) of this section not earlier than three business days after the date of the purchase. The check must be drawn on an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008.

(e) Cash or release a check issued in payment for a transaction or for a purchase described in paragraph (d) of this subsection other than as provided in this paragraph or paragraph (c) or (d) of this subsection. **If a check is not delivered to the intended recipient within 10 days of the date of the transaction or the purchase, the scrap metal business may release the check directly to the individual or nonprofit corporation with the written approval of a law enforcement agency having jurisdiction over the scrap metal business.** If a check is returned as undelivered or undeliverable, the scrap metal business **shall**:

(A) Release the check directly to the individual or nonprofit corporation with the written approval of a law enforcement agency having jurisdiction over the scrap metal business; or

[(A)] **(B) [Shall]** Retain the check until the individual or nonprofit corporation to which the check was mailed provides a valid address in accordance with subsection (1)(a)(C)(iv) or [(3)(a)(B)] (4)(a)(B) of this section. If after 30 days following the date of the transaction or the purchase de-

scribed in paragraph (d) of this subsection the individual or nonprofit corporation fails to provide a valid address, the scrap metal business may cancel the check and the individual or nonprofit corporation shall forfeit to the scrap metal business the amount due as payment.[: or]

[(B) May Release the check directly to the individual or nonprofit corporation with the written approval of a law enforcement agency having jurisdiction over the scrap metal business.]

(3) If a scrap metal business obtains the approval of a law enforcement agency under subsection (2)(e) of this section, the scrap metal business shall retain the written approval for one year following the date the approval is received.

[(3)] **(4)** Before purchasing or receiving metal property from a commercial seller, a scrap metal business shall:

(a) Create and maintain a commercial account with the commercial seller. As part of the commercial account, the scrap metal business shall enter accurately, clearly and legibly in English onto a standardized printed form, or an electronic form that is securely stored and is capable of ready retrieval and printing, the following information:

(A) The full name of the commercial seller;

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

(C) The full name of each employee, agent or other individual the commercial seller authorizes to *[deliver metal property to]* **receive payment for metal property from** the scrap metal business.

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

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

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

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

(D) The signature of the individual who delivered the metal property to the scrap metal business.

[(4)] **(5)** A scrap metal business may require an individual from whom the business obtains metal property to provide the individual's thumbprint to the scrap metal business.

[(5)] **(6)** A scrap metal business shall make all records and accounts required to be maintained under this section available to any peace officer on demand.

[(6)(a)] **(7)(a)** Violation of *[subsections (1) to (3) of]* this section is a specific fine violation, and the presumptive fine for the violation is \$1,000.

(b) Notwithstanding paragraph (a) of this subsection, the presumptive fine for a violation of a provision of *[subsections (1) to (3) of]* this section is \$5,000 if the scrap metal business has at least three previous convictions for violations of a provision of *[subsections (1) to (3) of]* this section.

[(7) The definitions in ORS 165.116 apply to this section.]

SECTION 2. ORS 165.107 is added to and made a part of ORS 165.116 to 165.124.

SECTION 3. This 2013 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect on its passage.

Passed by House April 8, 2013

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Ramona J. Line, Chief Clerk of House

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Tina Kotek, Speaker of House

Passed by Senate May 9, 2013

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Peter Courtney, President of Senate

Received by Governor:

.....M,....., 2013

Approved:

.....M,....., 2013

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John Kitzhaber, Governor

Filed in Office of Secretary of State:

.....M,....., 2013

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Kate Brown, Secretary of State