

House Bill 2403

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

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**.

Modifies manner in which scrap metal business may purchase metal for recycling purposes.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to scrap metal businesses; creating new provisions; amending ORS 165.107; and declaring
3 an emergency.

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

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

6 165.107. (1) Before completing a transaction, a scrap metal business engaged in business in this
7 state shall:

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

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

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

13 (C) Contain all of the following information:

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

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

16 (iii) The name of the employee who conducts the transaction on behalf of the scrap metal busi-
17 ness.

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

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

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

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

31 (viii) A general description of the nonferrous metal property or private metal property that

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 constitutes the predominant part of the transaction. The description must include any identifiable
2 marks on the property, if readily discernible, and must specify the weight, quantity or volume of the
3 nonferrous metal property or private metal property.

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

8 _____
9
10 I, _____, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM
11 SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN
12 PROPERTY.
13 _____

14
15 (c) Require the employee of the scrap metal business who conducts the transaction on behalf
16 of the scrap metal business to witness the individual sign the declaration, and also to sign and date
17 the declaration in a space provided for that purpose.

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

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

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

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

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

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

44 (e) Cash or release a check issued in payment for a transaction or for a purchase described in
45 paragraph (d) of this subsection other than as provided in this paragraph or paragraph (c) or (d) of

1 this subsection. **If a check is not delivered to the intended recipient within 10 days of the date**
 2 **of the transaction or the purchase, the scrap metal business may release the check directly**
 3 **to the individual or nonprofit corporation with the written approval of a law enforcement**
 4 **agency having jurisdiction over the scrap metal business.** If a check is returned as undelivered
 5 or undeliverable, the scrap metal business shall:

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

8 [(A)] (B) [Shall] Retain the check until the individual or nonprofit corporation to which the
 9 check was mailed provides a valid address in accordance with subsection (1)(a)(C)(iv) or [(3)(a)(B)]
 10 (4)(a)(B) of this section. If after 30 days following the date of the transaction or the purchase de-
 11 scribed in paragraph (d) of this subsection the individual or nonprofit corporation fails to provide
 12 a valid address, the scrap metal business may cancel the check and the individual or nonprofit
 13 corporation shall forfeit to the scrap metal business the amount due as payment.[: or]

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

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

19 [(3)] (4) Before purchasing or receiving metal property from a commercial seller, a scrap metal
 20 business shall:

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

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

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

27 (C) The full name of each employee, agent or other individual the commercial seller authorizes
 28 to deliver metal property to the scrap metal business.

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

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

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

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

36 (D) The signature of the individual who delivered the metal property to the scrap metal busi-
 37 ness.

38 [(4)] (5) A scrap metal business may require an individual from whom the business obtains metal
 39 property to provide the individual's thumbprint to the scrap metal business.

40 [(5)] (6) A scrap metal business shall make all records and accounts required to be maintained
 41 under this section available to any peace officer on demand.

42 **(7) Notwithstanding subsection (2)(c) of this section, a scrap metal business may conduct**
 43 **a transaction with an individual in which the scrap metal business pays for the nonferrous**
 44 **metal property or private metal property other than in accordance with subsection (2)(c) of**
 45 **this section, if:**

1 (a) The payment is made to a nonprofit corporation in accordance with section 3 of this
 2 2013 Act; or

3 (b)(A) The payment is less than \$10;

4 (B) The scrap metal business pays the individual under this paragraph only once per day;
 5 and

6 (C) The scrap metal business does not pay any other occupant of the motor vehicle, if
 7 any, used to transport the individual, or the nonferrous metal property or private metal
 8 property that is the subject of the transaction, on the same day the scrap metal business
 9 pays the individual under this paragraph.

10 [(6)(a)] (8)(a) Violation of [subsections (1) to (3) of] this section is a specific fine violation, and
 11 the presumptive fine for the violation is \$1,000.

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

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

16 **SECTION 2. ORS 165.107 and section 3 of this 2013 Act are added to and made a part of**
 17 **ORS 165.116 to 165.124.**

18 **SECTION 3. (1) A nonprofit corporation that seeks to engage in a metal recycling**
 19 **fundraiser may petition the district attorney for an exemption from the requirements of ORS**
 20 **165.107 (2)(c) for a period not to exceed 31 days in a calendar year. The petition must identify**
 21 **the dates of the requested exemption and any scrap metal businesses associated with the**
 22 **fundraiser. The petition must be made:**

23 (a) To the district attorney of each county in which a scrap metal business associated
 24 with the fundraiser is located; and

25 (b) Not less than 60 days before the requested exemption period.

26 (2) If the district attorney determines that the fundraiser is unlikely to lead to criminal
 27 activity, the district attorney may issue a written waiver of the provisions of ORS 165.107
 28 (2)(c) for the period of the fundraiser. The district attorney shall provide a copy of the waiver
 29 to the nonprofit corporation and any scrap metal businesses associated with the fundraiser.
 30 The nonprofit corporation and any scrap metal businesses associated with the fundraiser
 31 shall retain the waiver until the exemption period expires.

32 (3) The district attorney shall deny a waiver under this section if, in the five-year period
 33 immediately preceding the fundraiser, a scrap metal business associated with the fundraiser,
 34 or an employee or agent of the scrap metal business, has been convicted of:

35 (a) A crime described in ORS 165.118 (3)(e)(B); or

36 (b) Violating a provision of ORS 165.107 or 165.118.

37 (4) When a district attorney grants an exemption under this section, a scrap metal
 38 business may conduct a transaction with an individual in which the scrap metal business
 39 accepts nonferrous metal property or private metal property from the individual and mails
 40 a nontransferable check, made payable to the nonprofit corporation, for the amount of the
 41 transaction to the nonprofit corporation.

42 (5) A district attorney may adopt a written policy that describes any additional informa-
 43 tion that the district attorney determines must be included in the petition.

44 **SECTION 4. This 2013 Act being necessary for the immediate preservation of the public**
 45 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**

1 **on its passage.**

2
