

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Prevent the Theft of Certain Metals

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 30-A MRSA c. 183, sub-c. 1-A is enacted to read:

SUBCHAPTER 1-A

scrap metal recyclers

§ 3771. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Beverage container. "Beverage container" means a can, bottle, jar or other container made of aluminum or metal that is sealed by a manufacturer.

2. Nonferrous metal. "Nonferrous metal" means a metal that does not contain significant quantities of iron or steel. "Nonferrous metal" includes the following metals and their alloys:

- A. Copper;
- B. Brass;
- C. Aluminum;
- D. Bronze;
- E. Lead;
- F. Zinc; and
- G. Nickel.

3. Record. "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

4. Scrap metal. "Scrap metal" means bits and pieces of metal parts that may be combined together with bolts or soldering and can be recycled when worn or superfluous.

5. Scrap metal processor. "Scrap metal processor" means a person that, from a fixed location, engages in the business of using machinery or equipment for the processing or manufacturing of iron, steel or nonferrous metal scrap.

6. Scrap metal recycler. "Scrap metal recycler" means any person that purchases scrap metal in quantities of less than 5,000 pounds.

7. Seller. "Seller" means any person that receives in a transaction monetary consideration from a scrap metal recycler in exchange for nonferrous metal, iron or steel. "Seller" does not include a person that sells scrap metal generated in a manufacturing or production process and sold to a scrap metal recycler under a contract or an agreement.

§ 3772. Permit required

A person may not establish, operate or maintain a business as a scrap metal recycler without first obtaining a nontransferable permit from the municipal officers of the municipality in which the scrap metal recycling business is to be located or from the county commissioners of the county of any unorganized territory in which the scrap metal recycling business is to be located. A permit issued to a scrap metal recycling business under this section is valid for 5 years from the date of issuance and is renewable as long as the permit holder furnishes a sworn statement, annually on the anniversary date of the granting of the permit, that the facility complies with the standards of operation applicable at the time of issuance of the permit.

§ 3773. Records of purchases maintained by scrap metal recyclers

1. Requirement. Except as provided in subsection 2, a scrap metal recycler doing business in the State shall maintain an accurate and legible record of each scrap metal purchase transaction that exceeds 100 pounds or \$50.

2. Exception. A scrap metal recycler doing business in the State is not required to maintain individual records concerning a series of scrap metal purchase transactions made pursuant to a contract.

3. Information required. The record of each scrap metal purchase transaction required under subsection 1 must contain the following information:

A. The name, address, gender, birth date and identifying number from the seller's driver's license, military identification card, passport or other form of government-issued photo identification. Information required under this paragraph may be maintained for repeat sellers in a relational database that allows the scrap metal recycler to record the information one time and relate future purchase records to that information;

B. The date of the scrap metal purchase transaction;

C. A general description of the predominant types of scrap metal purchased, which must be made in accordance with the custom of the trade;

D. A general description of the configuration of the scrap metal and whether the material is insulated;

E. The weight, quantity or volume, recorded in accordance with the custom of the trade, of the scrap metal purchased; and

F. The consideration paid.

§ 3774. Information provided to scrap metal recyclers

A seller shall provide the following information to a scrap metal recycler:

1. Identification. A copy of a driver's license, military identification card, passport or other form of government-issued photo identification; and

2. Authorization to sell. A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal.

§ 3775. Maintenance of records and statements

The records required under section 3773, subsection 3 and the statements required under section 3774, subsection 2 must be:

1. Retain for one year. Kept for a period of 1 year;

2. Availability. Made available to any law enforcement office of the State and any municipality or county; and

3. Use in legal proceedings. Made available for use in any legal proceeding.

§ 3776. Application

This subchapter does not apply to transactions:

1. Certain transactions between scrap metal processors. In which a scrap metal processor purchases, transfers or otherwise conveys scrap metal to another scrap metal processor if the purchaser or transferee obtained a bill of sale or similar document at the time of transfer; or

2. Beverage containers. Involving only beverage containers.

§ 3777. Restrictions on the purchase of certain items

A seller may not sell and a scrap metal recycler may not purchase the following scrap metal unless the seller provides, in addition to the seller's statement required pursuant to section 3774, subsection 2, reasonable, written documentation that the seller is the owner of the scrap metal or is an employee, agent or other person authorized to sell the scrap metal on behalf of the owner:

1. Marked with certain initials. Scrap metal marked with the initials of an electrical, telephone, cable or other public utility or a beer manufacturer;

2. Utility access covers. Utility access covers;

3. Street lights. Street light poles and fixtures;

4. **Guard rails.** Road and bridge guard rails;
5. **Street signs.** Highway or street signs;
6. **Water meter covers.** Water meter covers;
7. **Beer kegs.** Metal beer kegs including those made of stainless steel that are clearly marked as being the property of the beer manufacturer;
8. **Traffic signs.** Traffic directional and control signs;
9. **Traffic signals.** Traffic light signals;
10. **Marked; governmental entity.** Any scrap metal marked with the name of a government entity;
11. **Marked; utility or railroad.** Property owned by a telephone, cable, electric, water or other utility or by a railroad and marked or otherwise identified as such;
12. **Certain construction or utility materials.** Unused and undamaged building construction or utility materials consisting of copper pipe, tubing or wiring or aluminum wire;
13. **Historical markers.** Historical markers; and
14. **Grave markers.** Grave markers and vases.

This section does not apply to transactions in which a scrap metal processor purchases, transfers or otherwise conveys scrap metal to another scrap metal processor.

§ 3778. Theft notification

1. **Notification to scrap metal recyclers.** A person may notify a scrap metal recycler of nonferrous metal of a known or presumed theft of nonferrous metal products, setting forth any information concerning the theft that might be available to that person, including without limitation:

- A. The approximate quantity and size of the nonferrous metal products stolen;
- B. The geographical area from which the nonferrous metal products were reported missing or presumed stolen; and
- C. Any specific distinguishing marks on or in the nonferrous metal products or other method of identifying the nonferrous metal products.

2. **Notification to law enforcement.** If notice of a known or presumed theft of nonferrous metal products is given to a scrap metal recycler pursuant to subsection 1 and, within 90 days after the notice, nonferrous metal products meeting the description in the notice are purchased by the scrap metal

recycler or offered for sale to the scrap metal recycler, then the scrap metal recycler shall notify the local police or sheriff's department that the nonferrous metal products were purchased by or offered for sale to the scrap metal recycler.

3. Application. This section does not apply to transactions that involve only beverage containers.

§ 3779. Sales by minors

1. Prohibition. A scrap metal recycler may not purchase or otherwise receive in the course of business scrap metal that is claimed by any minor or that may be in the possession of or under control of a minor, unless:

- A. The minor is accompanied by the minor's parent or guardian; and
- B. The parent or guardian states in writing that the transaction is taking place with the parent's or guardian's full knowledge and consent.

2. Retention of statement. A scrap metal recycler shall preserve and keep on file and make available for inspection the written statement required by subsection 1, paragraph B for not less than 3 years.

§ 3780. Penalties

1. Violation. A person who violates this subchapter commits a Class E crime.

2. False information. A person that knowingly gives false information with respect to the matters required to be maintained in the records provided for in this subchapter commits a Class E crime.

SUMMARY

The purpose of this bill, which is based on Arkansas law, is to prevent the theft of certain metals. Specifically, this bill:

1. Requires that scrap metal recyclers doing business in the State maintain an accurate and legible record of each scrap metal purchase transaction in excess of 100 pounds or \$50;
2. Requires that a seller of scrap metal provide to the purchaser identification and a signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal;
3. Restricts the sale and purchase of certain items without reasonable, written documentation that the seller is the owner of the scrap metal or is authorized to sell the scrap metal;
4. Provides that, if notice of a known or presumed theft of a product is given to a scrap metal recycler and, within 90 days after the notice, a product meeting the description in the notice is purchased by the scrap metal recycler or offered for sale to the scrap metal recycler, then the scrap metal recycler must notify a law enforcement agent; and

5. Prohibits the purchase of scrap metal from a minor without consent of the parent or guardian.