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An Act To Prevent the Theft of Certain Metals

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, scrap metal theft is increasing at an alarming rate across the country and in the State and members of the public and businesses across the State are suffering as a result of this theft; and

Whereas, the State's efforts to track and record scrap metal transactions will help deter scrap metal theft, improve public safety and reduce the financial burden placed on the industry; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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 PROCESSORS

§ 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 and contained, at the time of sale, a beverage, as defined by Title 32, section 1862, but does not include a beer keg.

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;

G. Nickel; and

H. Platinum.

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 metal that can be recycled, including, but not limited to, 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, purchases scrap metal for resale or recycling.

6. Seller. "Seller" means any person that receives in a transaction monetary consideration from a scrap metal processor in exchange for nonferrous metal, iron or steel, including stainless steel. "Seller" does not include a person that, as part of a commercial enterprise or business, sells pursuant to a written contract or bill of sale scrap metal generated in a manufacturing or production process to a scrap metal processor.

§ 3772. Records of purchases maintained by scrap metal processors

1. Requirement. Except as provided in subsection 2, a scrap metal processor doing business in the State shall maintain an accurate and legible record of each scrap metal purchase transaction that exceeds 100 pounds or \$50. A scrap metal processor shall provide payment to a seller only in the form of a check, and shall maintain a record of the payee, check number and name of the financial institution upon which the check is drawn.

2. Exception. A scrap metal processor doing business in the State is not required to maintain individual records for a series of scrap metal purchase transactions made pursuant to a written contract or bill of sale.

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

A. The name, address and gender of the seller. The scrap metal processor shall require the seller to provide proof of identification with a 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 processor 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;

F. The consideration paid; and

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

§ 3773. Maintenance of records and statements

The records required under section 3772, subsection 3 must be:

1. Retain for one year. Retained for a period of one year; and

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

§ 3774. Application

This subchapter does not apply to transactions involving only beverage containers.

§ 3775. Restrictions on the purchase and sale of scrap metal

A seller may not sell and a scrap metal processor may not purchase the following scrap metal unless the seller provides to the scrap metal processor, in addition to the requirements of section 3772, subsection 3, a signed statement at the time of sale that the property subject to this transaction is not stolen property to the best of the seller's knowledge, and that the seller is the owner or is otherwise authorized to sell the scrap metal:

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 or keg pieces including those made of stainless steel that are clearly marked as being the property of the beer manufacturer. Beer kegs or keg pieces may not be sold or purchased pursuant to this subchapter if the brewer's markings have been obliterated or made illegible;

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 governmental 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;

14. Grave markers. Grave markers and vases; and

15. Catalytic converters. Catalytic converters.

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.

§ 3776. Sales by minors

1. Prohibition. A scrap metal processor may not purchase scrap metal from a minor unless:

A. The minor is accompanied by the minor's parent or guardian; and

B. The parent or guardian provides a written statement to the scrap metal processor that the transaction is taking place with the parent's or guardian's full knowledge and consent.

2. Retention of statement. A scrap metal processor shall preserve and keep on file and make available for inspection to any law enforcement office of the State or of any municipality or county the written statement required by subsection 1, paragraph B for not less than 3 years.

§ 3777. Penalties

1. Violation. A person who violates this subchapter commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged.

2. False information. Notwithstanding Title 17-A, section 453, a person that knowingly makes any written false statements with respect to the requirements of this subchapter commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

PUBLIC Law, Chapter 549 LD 2124, item 1, 123rd Maine State Legislature
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Effective April 3, 2008.