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## **An Act To Prevent the Theft and Illegal Sale of Copper and Other 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,** the theft of copper and other metals and their subsequent sale as scrap metal is a growing problem in Maine and the nation; and

**Whereas,** the theft of metal, such as catalytic converters, manhole covers and traffic signs, places members of the public in jeopardy; and

**Whereas,** without further restrictions on the sale of scrap metal, the theft of scrap metal will continue to grow, further endangering lives and the well-being of the public; 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 §3772, sub-§1,** as enacted by PL 2007, c. 549, §1, is amended to read:

**1. Maintenance of records 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.~~

**Sec. 2. 30-A MRSA §3772, sub-§1-A** is enacted to read:

**1-A. Form and method of payment.** 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. A scrap metal processor shall send the payment by first-class mail to the seller's physical address.

**Sec. 3. 30-A MRSA §3772, sub-§3, ¶A,** as enacted by PL 2007, c. 549, §1, is amended to read:

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. The scrap metal processor shall photocopy the form of photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor shall photograph the seller. 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;

**Sec. 4. 30-A MRSA §3772, sub-§3, ¶F**, as enacted by PL 2007, c. 549, §1, is amended to read:

F. The consideration paid; and

**Sec. 5. 30-A MRSA §3772, sub-§3, ¶G**, as enacted by PL 2007, c. 549, §1, is amended to read:

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

**Sec. 6. 30-A MRSA §3772, sub-§3, ¶H** is enacted to read:

H. The make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal.

**Sec. 7. 30-A MRSA §3775-A** is enacted to read:

### **§ 3775-A. Holding period; inspection**

A scrap metal processor shall retain and make available for inspection by a law enforcement officer for a minimum of 72 hours, not including weekends or holidays, scrap metal purchased by that scrap metal processor.

**1. Fifteen-day hold.** If a law enforcement officer has a reasonable suspicion that scrap metal being held by a scrap metal processor is stolen, the officer may issue a written order to the scrap metal processor, specifying the scrap metal that must be retained and the length of time, but no more than 15 days, that the scrap metal processor must retain the identified scrap metal.

**2. Additional hold.** Prior to the expiration of the time period of the hold specified by a law enforcement officer pursuant to subsection 1, a law enforcement officer may impose an additional hold period of no more than 15 days. The law enforcement officer imposing the additional hold shall provide the scrap metal processor with a written description of the scrap metal to be retained and the length of time the scrap metal processor must retain the identified scrap metal.

**Sec. 8. 30-A MRSA §3777**, as enacted by PL 2007, c. 549, §1, is repealed.

**Sec. 9. 30-A MRSA §3778** is enacted to read:

### **§ 3778. Penalties**

The following penalties apply to the following violations of this subchapter.

**1. False information.** The following penalties apply to a person who provides false or misleading information in response to a requirement of this subchapter.

A. A person who knowingly makes a written false material statement or displays a false or altered form of identification with respect to the requirements of section 3772 or any other provision of this subchapter commits a Class D crime.

B. Notwithstanding Title 17-A, section 453, a person who violates paragraph A and at the time of the offense has one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A commits a Class C crime.

Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

**2. Receiving stolen scrap metal.** The following penalties apply to a person who receives stolen scrap metal.

A. A person who receives, retains or disposes of, by sale or otherwise, scrap metal that is the property of another, knowing that it has been stolen or believing that it has probably been stolen, with the intent to deprive the owner of the property is guilty of receiving stolen property and is subject to the provisions of Title 17-A, section 359, subsection 1, paragraph A. Violation of this paragraph is a Class E crime.

B. Notwithstanding Title 17-A, section 359, subsection 1, paragraph B, subparagraph (6), a person who violates paragraph A and at the time of the offense has one or more prior convictions for engaging in conduct substantially similar to that contained in paragraph A commits a Class C crime.

Title 17-A, section 9-A governs the use of prior convictions when determining a sentence.

As used in this subsection, "receives" means acquiring possession, control or title or lending on the security of the scrap metal. For purposes of this subsection, scrap metal is "stolen" if it was obtained or unauthorized control was exercised over it in violation of this subchapter or Title 17-A, chapter 15.

**3. Other penalties.** In addition to the penalties described in subsections 1 and 2, a scrap metal processor who violates a provision of this subchapter is subject to the following fines and civil penalties:

A. For the first violation of this subchapter, the scrap metal processor is subject to a mandatory fine of \$1,000;

B. For a 2nd violation of this subchapter, the scrap metal processor is subject to a mandatory fine of \$3,000; and

C. For a 3rd and subsequent violation of this subchapter, the scrap metal processor is subject to a mandatory fine of \$5,000 and is prohibited from acting as a scrap metal processor for 6 months.

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

## SUMMARY

This bill makes the following changes to the laws regulating the sale and purchase of scrap metal.

1. Current law regulates transactions involving more than 100 pounds or \$50 of scrap metal. This bill removes that limitation so that the law applies to all scrap metal transactions.

2. Current law requires the seller to be paid with a check. This bill strengthens that limitation by requiring the check to be mailed to the seller's physical address.

3. Current law requires a scrap metal processor to record certain information regarding the seller of scrap metal, such as name, address and gender. This bill requires the scrap metal processor to also photocopy the form of photo identification presented and record the distinct identifying number of that photo identification. If the proof of identification contains a photograph that is faded, out of date or otherwise indiscernible, the scrap metal processor is required to photograph the seller. The bill also requires the scrap metal processor to record the make, model and number and state of issue of the license plate of the vehicle being used to deliver the scrap metal.

4. This bill requires a scrap metal processor to retain any scrap metal received for 72 hours, not including weekends and holidays, and to make the scrap metal available for inspection by law enforcement. If a law enforcement officer has a reasonable suspicion that the scrap metal is stolen, the officer may, in writing, require the scrap metal processor to retain the scrap metal for 15 days; this holding period may be extended by no more than 15 additional days.

5. Current law provides that a violation of the laws regulating scrap metal purchases and sales is a civil violation. This bill makes a first violation of providing false information a Class D crime and a first violation of receiving stolen scrap metal a Class E crime; a 2nd or subsequent violation of those prohibitions is a Class C crime. A scrap metal processor is also subject to mandatory fines ranging from \$1,000 to \$5,000 and a 6-month suspension from scrap metal processing, depending on the number of violations.