

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 137

HOUSE BILL 2262

AN ACT

AMENDING SECTION 44-1641, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 44-1641.01, 44-1641.02, 44-1641.03, 44-1641.04 AND 44-1641.05; AMENDING SECTIONS 44-1642, 44-1642.01 AND 44-1644, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 44-1648 AND 44-1649; PROVIDING FOR THE DELAYED REPEAL OF SECTION 44-1649, ARIZONA REVISED STATUTES, AS ADDED BY THIS ACT; RELATING TO SCRAP METAL DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-1641, Arizona Revised Statutes, is amended to
3 read:

4 44-1641. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Business records" means records of any purchase, trade, barter or
7 other transaction that involves the receipt of scrap metals and that is made
8 in the ordinary course of business at or near the time of the purchase,
9 trade, barter or transaction including receipts, books or similar records as
10 prescribed by section 44-1642, but does not include correspondence, tax
11 returns or financial statements.

12 2. "DEPARTMENT" MEANS THE DEPARTMENT OF PUBLIC SAFETY.

13 ~~2.~~ 3. "Ferrous metals" means those metals ~~which~~ THAT will attract a
14 magnet.

15 ~~3.~~ 4. "Industrial account" means a person or business entity that
16 files or is required to file monthly returns for that person's or entity's
17 transaction privilege tax licenses or a governmental entity that sells scrap
18 metal to a scrap metal dealer.

19 ~~4. "Nonferrous metals" means those metals which will not normally
20 attract a magnet including copper, brass and aluminum.~~

21 5. "Scrap metal dealers" means each person or business entity
22 including all employees of the person or business entity, except automotive
23 recyclers as defined and licensed pursuant to title 28, chapter 10, and whose
24 primary business is the dismantling, selling or disposing of parts or
25 accessories of motor vehicles engaged in the business of purchasing, trading,
26 bartering or otherwise receiving secondhand or castoff material of any
27 kind, ~~except used beverage containers,~~ which is commonly known as scrap
28 metal.

29 6. "Scrap metals" includes insulated and uninsulated metallic cables.

30 Sec. 2. Title 44, chapter 11, article 3.1, Arizona Revised Statutes,
31 is amended by adding sections 44-1641.01, 44-1641.02, 44-1641.03, 44-1641.04
32 and 44-1641.05, to read:

33 44-1641.01. Scrap metal dealer report

34 THE DEPARTMENT SHALL SUBMIT A REPORT EVERY TWO YEARS TO THE PRESIDENT
35 OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ABOUT SCRAP
36 METAL DEALERS. THE REPORT SHALL IDENTIFY THE SCRAP METAL DEALERS REGISTERED
37 IN THIS STATE.

38 44-1641.02. Law enforcement; theft notification website

39 ALL LAW ENFORCEMENT IN THIS STATE SHALL BE REGISTERED ON A FREE THEFT
40 NOTIFICATION WEBSITE THAT ALLOWS LAW ENFORCEMENT TO SEND DETAILED
41 DESCRIPTIONS OF STOLEN ITEMS TO RECYCLING OPERATIONS AND OTHER LAW
42 ENFORCEMENT WITHIN AT LEAST A ONE HUNDRED MILE RADIUS OF A THEFT. THE
43 WEBSITE MUST ALLOW SCRAP METAL DEALERS TO ALERT LAW ENFORCEMENT WHEN THE
44 DEALERS ARE OFFERED SUSPICIOUS MATERIALS.

1 44-1641.03. Registration; application

2 A. A PERSON MUST REGISTER PURSUANT TO THIS ARTICLE TO CONDUCT BUSINESS
3 AS A SCRAP METAL DEALER IN THIS STATE.

4 B. A PERSON SHALL SUBMIT INFORMATION FOR REGISTRATION TO THE
5 DEPARTMENT IN A FORM PRESCRIBED BY THE DEPARTMENT. THE INFORMATION SHALL
6 INCLUDE ALL OF THE FOLLOWING:

7 1. THE NAME AND ADDRESS OF THE SCRAP METAL DEALER.

8 2. THE NAME OF EACH PERSON WHO OWNS AT LEAST TEN PER CENT OF A SCRAP
9 METAL DEALER BUSINESS.

10 3. FULL PERSONAL IDENTIFICATION INFORMATION ON EACH OWNER OF A SCRAP
11 METAL DEALER BUSINESS INCLUDING A COPY OF EACH OWNER'S DRIVER LICENSE.

12 4. THE LOCATION OF EACH PRINCIPAL OFFICE AND BRANCH OFFICE AT WHICH
13 THE SCRAP METAL DEALER WILL CONDUCT BUSINESS IN THIS STATE.

14 5. THE NAME AND ADDRESS OF ANY WHOLLY-OWNED SUBSIDIARY OF THE SCRAP
15 METAL DEALER.

16 C. A REGISTERED SCRAP METAL DEALER DOES NOT NEED TO SEPARATELY
17 REGISTER EITHER OF THE FOLLOWING:

18 1. ANY OF ITS BRANCH OFFICES.

19 2. A WHOLLY-OWNED SUBSIDIARY OF THE REGISTRANT.

20 44-1641.04. Registration; fees

21 A. A SCRAP METAL DEALER MUST PROVIDE THE INFORMATION PRESCRIBED BY
22 SECTION 44-1641.03 TO THE DEPARTMENT EVERY TWO YEARS.

23 B. THE DEPARTMENT SHALL CHARGE AND COLLECT FEES AS DETERMINED BY THE
24 DIRECTOR. IT IS THE INTENT OF THE LEGISLATURE THAT FEES CHARGED AND
25 COLLECTED BY THE DEPARTMENT SHALL BE TO COVER THE COSTS OF REGISTERING THE
26 SCRAP METAL DEALERS PURSUANT TO SECTION 44-1641.03 AND THIS SECTION.

27 44-1641.05. Items required to be maintained at place of
28 business; city or county ability to recover
29 costs; violation; civil penalty

30 A. A REGISTERED SCRAP METAL DEALER MUST KEEP THE FOLLOWING AT EACH
31 PLACE OF BUSINESS:

32 1. PROOF OF REGISTRATION THAT IS ISSUED BY THE DEPARTMENT.

33 2. A STATEMENT INDICATING THAT THE APPLICANT HAS REGISTERED ON A FREE
34 THEFT NOTIFICATION WEBSITE THAT ALLOWS LAW ENFORCEMENT TO SEND DETAILED
35 DESCRIPTIONS OF STOLEN ITEMS TO RECYCLING OPERATIONS AND OTHER LAW
36 ENFORCEMENT WITHIN AT LEAST A ONE HUNDRED MILE RADIUS OF A THEFT. THE
37 WEBSITE MUST ALLOW SCRAP METAL DEALERS TO ALERT LAW ENFORCEMENT WHEN THE
38 DEALERS ARE OFFERED SUSPICIOUS MATERIALS.

39 3. AN AFFIDAVIT SIGNED BY THE APPLICANT THAT STATES THAT THE PERSON IS
40 IN COMPLIANCE WITH THIS ARTICLE.

41 4. A QUESTIONNAIRE THAT THE SCRAP METAL DEALER MUST PREPARE EVERY TWO
42 YEARS TO SHOW COMPLIANCE WITH THIS ARTICLE.

43 B. THE SCRAP METAL DEALER MUST MAINTAIN AND MAKE AVAILABLE THE ITEMS
44 PRESCRIBED BY SUBSECTION A OF THIS SECTION FOR INSPECTION BY LAW ENFORCEMENT.
45 IF AFTER INSPECTION LAW ENFORCEMENT DETERMINES THAT THE SCRAP METAL DEALER IS

1 IN VIOLATION OF THIS SECTION, LAW ENFORCEMENT MUST SUBMIT A NOTICE OF
2 VIOLATION TO THE SCRAP METAL DEALER. LAW ENFORCEMENT SHALL REINSPECT THE
3 SCRAP METAL DEALER'S PLACE OF BUSINESS NO EARLIER THAN FIFTEEN DAYS AFTER THE
4 SCRAP METAL DEALER RECEIVES THE NOTICE OF VIOLATION.

5 C. IF A PERSON VIOLATES THIS SECTION, THE PERSON IS SUBJECT TO THE
6 FOLLOWING:

7 1. FOR A FIRST VIOLATION, A CIVIL PENALTY OF FIVE HUNDRED DOLLARS,
8 EXCEPT THAT THE PERSON IS NOT SUBJECT TO A CIVIL PENALTY IF THE PERSON
9 CORRECTS THE VIOLATION WITHIN FIFTEEN DAYS AFTER RECEIVING THE NOTICE
10 PURSUANT TO SUBSECTION B OF THIS SECTION.

11 2. FOR A SECOND OR SUBSEQUENT VIOLATION, A CIVIL PENALTY OF ONE
12 THOUSAND DOLLARS AND A LICENSING JURISDICTION SHALL SUSPEND OR REVOKE THE
13 PERSON'S BUSINESS LICENSE OR, IF A BUSINESS LICENSE IS NOT REQUIRED TO
14 OPERATE A BUSINESS, THE JURISDICTION SHALL ORDER THE SUSPENSION OR PERMANENT
15 CESSATION OF THE PERSON'S BUSINESS OPERATIONS.

16 3. ANY COSTS ASSOCIATED WITH THE ENFORCEMENT OF THIS ARTICLE AS
17 DETERMINED BY A CITY OR COUNTY.

18 D. FAILURE TO COMPLY WITH THIS SECTION MAY RESULT IN THE IMMEDIATE
19 SUSPENSION OF ALL SCRAP METAL TRANSACTIONS UNLESS ONE OF THE FOLLOWING
20 APPLIES TO THE BUSINESS:

21 1. THE BUSINESS HAS BEEN PREVIOUSLY REGISTERED AS A SCRAP METAL
22 RECYCLER.

23 2. THE BUSINESS HAS A LOCAL BUSINESS LICENSE.

24 Sec. 3. Section 44-1642, Arizona Revised Statutes, is amended to read:
25 44-1642. Records of purchase; transaction limitations; age
26 requirement for scrap metal seller; exception

27 A. Every scrap metal dealer shall keep on the business premises a book
28 or other similar record legibly printed or written in ink, in the English
29 language of each transaction ~~exceeding twenty-five dollars~~ involving the
30 receipt of scrap metal. The record of each receipt of scrap metal shall
31 include the following information:

32 1. The date, time and place of the transaction.

33 2. A photograph and an identifying description and weight of the
34 specific scrap metal received.

35 3. The dollar amount of the transaction.

36 4. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, the seller's name,
37 physical description including gender, height, weight, race and eye and hair
38 color, physical address, date of birth, AND signature and a photocopy of a
39 current driver license, nonoperating identification license issued pursuant
40 to section 28-3165 or photo identification card issued by a tribal government
41 or the United States military. The scrap metal dealer must validate the
42 recorded information by using the seller's current driver license,
43 nonoperating identification license issued pursuant to section 28-3165 or
44 photo identification card issued by a tribal government or the United States

1 military. THIS PARAGRAPH DOES NOT APPLY TO A SELLER WHO IS EXCLUSIVELY
2 SELLING ALUMINUM BEVERAGE CONTAINERS.

3 5. The seller's transaction privilege tax number, if applicable.

4 6. The number and state of issuance of the license on the vehicle used
5 to deliver the scrap metal.

6 7. A photograph, video record or digital record of the seller involved
7 in the transaction.

8 8. A right index fingerprint of the seller.

9 B. The record and entries shall be retained in a book or similar
10 record at the business premises for one year after making the final entry of
11 any transaction and shall be retained either at the business premises or any
12 other reasonably available location for an additional year. ~~A scrap metal~~
13 ~~dealer shall not purchase materials for which a record is required to be kept~~
14 ~~by this section in a series of purchases under twenty five dollars to avoid~~
15 ~~the requirements of this section.~~ A scrap metal dealer's business premises,
16 business records relating to scrap metal transactions, including a book or
17 similar record prescribed by this section, and business inventory shall be
18 open during regular business hours for reasonable inspection by a peace
19 officer. Before an inspection shall take place a peace officer shall first
20 identify himself and the purpose for the inspection to the scrap metal
21 dealer, dealer's manager or other responsible person and comply with all
22 reasonable and customary safety requirements of that scrap metal dealer for
23 the business premises inspected. The scrap metal dealer may require the
24 peace officer to sign an inspection log that includes the officer's name and
25 serial or badge number and the time, the date and the purpose for the
26 inspection.

27 C. A scrap metal dealer shall not provide payment for any scrap metal
28 on site at the time of the scrap metal transaction. Payment shall be made by
29 mailing a check or money order to a physical address provided by the seller
30 through a current driver license or other identification prescribed in
31 subsection A, paragraph 4 of this section. The check or money order shall be
32 made payable to the business name for an industrial account. This
33 subsection:

34 1. Except as provided in paragraphs 2, ~~and~~ 3 AND 4 of this subsection,
35 only applies to industrial accounts, copper and aluminum wire with a diameter
36 of at least three-eighths of an inch.

37 2. Except as provided in paragraph 3 OR 4 of this subsection, applies
38 to all scrap metal transactions of three hundred dollars or more.

39 3. Does not apply to industrial accounts if the industrial accounts
40 annually preregister employees who are authorized sellers on behalf of the
41 industrial accounts.

42 4. APPLIES TO ALL TRANSACTIONS INVOLVING AIR CONDITIONER COOLING
43 COILS, INCLUDING INDUSTRIAL ACCOUNTS.

1 D. A scrap metal dealer shall provide a receipt to the seller on site
2 at the time of the scrap metal transaction, for every transaction, and shall
3 include the following information:

- 4 1. The date, time and place of the transaction.
- 5 2. An identifying description and weight of the specific scrap metal
6 received.
- 7 3. The dollar amount of the transaction.

8 E. A scrap metal seller may not conduct a series of transactions for
9 one vehicle load of scrap metal to avoid the requirements of this section.

10 F. A scrap metal seller shall not participate in more than one cash
11 transaction per day for scrap metal.

12 G. A scrap metal seller shall be at least sixteen years ~~old~~ OF AGE.

13 ~~H. This section does not apply to transactions involving used aluminum
14 beverage containers or materials consisting of a metal product in its
15 original manufactured form that is comprised of no more than twenty per cent
16 by weight nonferrous metal.~~

17 Sec. 4. Section 44-1642.01, Arizona Revised Statutes, is amended to
18 read:

19 44-1642.01. Prohibited scrap metal transactions; exceptions;
20 violation; classification

21 A. A scrap metal dealer shall not knowingly purchase the following
22 types of scrap metal ~~in its original manufactured form~~:

23 1. Metal manhole covers that are used to cover street or alley service
24 personnel access entrances to municipal sewers and storm drains.

25 2. Brass or bronze valves or fittings that are commonly used on
26 structures for access to water for the purpose of extinguishing fires.

27 3. Brass or bronze commercial potable water backflow preventer valves
28 that are valves commonly used to prevent backflow of potable water into
29 municipal domestic water service systems from commercial structures.

30 4. Water meters that are used for measurement of the use and
31 consumption of domestic water.

32 5. Aluminum trench shoring that is commonly used for shoring below
33 ground trenches and excavations for the construction of buildings and
34 structures.

35 6. Aluminum loading ramps that are manufactured and used for loading
36 motor vehicles for hauling the motor vehicles.

37 7. Aluminum or stainless steel beer or malt beverage kegs that are
38 commonly used by brewers or producers for the sale and transportation of beer
39 or malt beverages.

40 8. Catalytic converters. For the purposes of this paragraph,
41 "catalytic converters" means motor vehicle exhaust system parts that are used
42 for controlling the exhaust emissions from motor vehicles and that contain a
43 catalyst metal.

44 B. This section does not apply to or prohibit the purchase or
45 possession of the types of items listed in subsection A and that are acquired

1 in transactions with industrial accounts, with other scrap metal dealers or
2 after the scrap metal is authorized for release by a peace officer of that
3 jurisdiction.

4 C. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 1
5 MISDEMEANOR.

6 Sec. 5. Section 44-1644, Arizona Revised Statutes, is amended to read:
7 44-1644. Report; exemption; violation; classification

8 A. Within twenty-four hours of receipt of scrap metals, except from an
9 industrial account or a scrap metal dealer, for which a record is required to
10 be kept by section 44-1642, a scrap metal dealer shall electronically submit
11 to the department ~~of public safety~~ a record of the receipt of the scrap
12 metals. The record shall include the following information:

13 1. The date, time and place of the receipt of the scrap metal.

14 2. An identifying description of the specific scrap metal received
15 including the weight and amount of the transaction or other consideration
16 given.

17 3. A description of the person delivering the metal to the scrap metal
18 dealer including the person's gender, height, weight, race and hair and eye
19 color, address and date of birth and a photocopy of a current driver license,
20 nonoperating identification license issued pursuant to section 28-3165 or
21 photo identification card issued by a tribal government or the United States
22 military.

23 4. The number and state of issuance of the license on the vehicle used
24 to deliver the scrap metal.

25 B. The department ~~of public safety~~ shall establish by rule electronic
26 submission standards. The submission standards shall allow the submission of
27 the information in an electronic format that is compatible with the output
28 format of not less than four of the record keeping software programs
29 currently in use in the scrap metal industry in this state in a manner that
30 will allow the information to be electronically merged with the ~~department of~~
31 ~~public safety's~~ DEPARTMENT'S database. A scrap metal dealer that submits
32 information to the department ~~of public safety~~ pursuant to this section shall
33 not be required to submit the same information to a local law enforcement
34 agency.

35 C. The department ~~of public safety~~ shall make the information
36 submitted pursuant to this section available to local law enforcement
37 agencies over the internet and shall provide for training and procedures to
38 allow law enforcement personnel to access the information provided
39 electronically for law enforcement purposes.

40 D. For copper, aluminum wire with a diameter of at least three-eighths
41 of an inch and transactions with a value over one hundred dollars, a scrap
42 metal dealer shall hold in its custody in the same size, shape and condition
43 in which the scrap metal was received on its business premises any scrap
44 metal received in a reportable transaction for seven days after filing the
45 report prescribed by subsection A of this section.

1 E. Subsection D of this section does not apply to transactions with
2 industrial accounts, other scrap metal dealers or purchases by scrap metal
3 dealers of used aluminum beverage containers or ferrous scrap metals and of
4 scrap metal authorized for release by a peace officer of that jurisdiction.

5 F. A person who fails to file a report prescribed by this section is
6 guilty of a class 1 misdemeanor.

7 Sec. 6. Title 44, chapter 11, article 3.1, Arizona Revised Statutes,
8 is amended by adding sections 44-1648 and 44-1649, to read:

9 44-1648. Preemption; power of local authorities

10 A. THE STATE LEGISLATURE DETERMINES THAT THE REGISTRATION OF SCRAP
11 METAL DEALERS IS A MATTER OF STATEWIDE CONCERN. THE POWER TO REGISTER SCRAP
12 METAL DEALERS IS PREEMPTED BY THIS STATE.

13 B. THIS ARTICLE DOES NOT AFFECT A CITY, TOWN OR COUNTY'S POWER TO
14 ENFORCE LAWS RELATING TO BUSINESS LICENSING.

15 44-1649. Joint legislative committee on metal theft

16 THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
17 REPRESENTATIVES FOR THE FIFTY-SIXTH LEGISLATURE, FIRST REGULAR SESSION MAY
18 APPOINT A JOINT LEGISLATIVE COMMITTEE ON METAL THEFT THAT IS COMPOSED OF
19 LEGISLATORS TO REVIEW THE EFFECTIVENESS OF THIS ARTICLE IN DETERRING CRIME
20 AND THE COSTS OF COMPLIANCE TO INDUSTRIES AFFECTED BY THIS ARTICLE. THE
21 COMMITTEE MAY REPORT ON ITS FINDINGS TO THE PRESIDENT OF THE SENATE AND THE
22 SPEAKER OF THE HOUSE OF REPRESENTATIVES BY DECEMBER 1, 2023.

23 Sec. 7. Delayed repeal

24 Section 44-1649, Arizona Revised Statutes, as added by this act, is
25 repealed from and after December 31, 2023.

APPROVED BY THE GOVERNOR APRIL 29, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 30, 2013.

Passed the House February 28, 2013

Passed the Senate April 22, 2013

by the following vote: 51 Ayes,

by the following vote: 95 Ayes,

6 Nays, 3 Not Voting

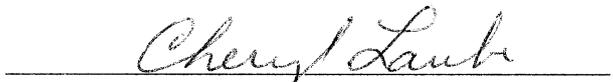
2 Nays, 3 Not Voting



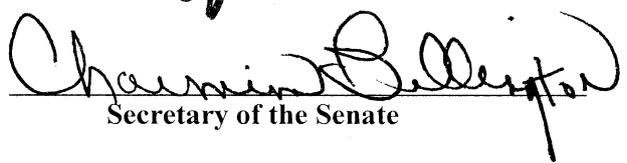
Speaker of the House



President of the Senate



Chief Clerk of the House



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

~~_____ day of _____, 20_____~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

~~this _____ day of _____, 20_____~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

H.B. 2262

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 24, 2013,

by the following vote: 50 Ayes,

6 Nays, 4 Not Voting



Speaker of the House



Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

25 day of April, 2013,

at 3:30 o'clock P M.

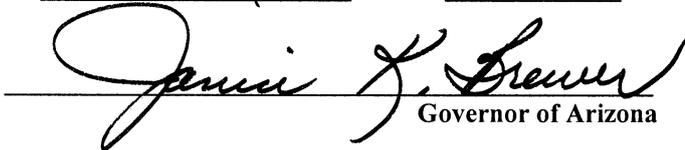


Secretary to the Governor

Approved this 29th day of

April, 2013

at 4:54 o'clock P M.



Governor of Arizona

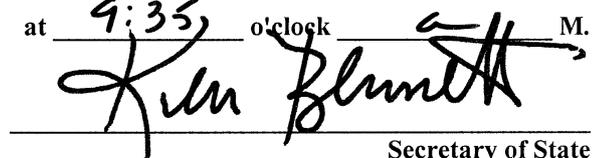
H.B. 2262

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 30th day of April, 2013,

at 9:35 o'clock A M.



Secretary of State