SCRAP METAL

INTRODUCTION

In recent years, the occurrence of metal theft has increased across the U.S. as metal prices have risen. Various entities, from utility companies and state and local governments to home builders, agricultural companies and breweries, report being victims of metal theft.

Although metal theft includes various metals, a large percentage of that is theft of copper. According to the National Conference of State Legislatures (NCSL), worldwide copper demand, particularly due to economic growth in the U.S. and China, has fueled a used resale copper market and plays a significant role in the sudden increase of copper thefts. NCSL also reports that copper thefts are particularly prevalent in the energy sector because electric utilities are a major consumer of copper. As a result of copper theft, some areas experience decreased grid function and power outages. The Department of Energy estimates that a theft of $100 in copper wire can cost the utility more than $5,000 to repair.

The Institute of Scrap Recycling Industries (ISRI), which represents over 1,600 companies that are manufacturers, brokers and consumers of scrap commodities, created an online theft alert system that allows law enforcement to send descriptions of stolen items to scrap metal dealers and other law enforcement agencies. The website also allows dealers to alert law enforcement when offered suspicious materials. At least 35 states, including Arizona, have enacted legislation that places requirements on scrap metal dealers or establishes criminal penalties specific to metal theft.

METAL THEFT IN ARIZONA

Arizona has regulated the purchase of scrap metal since 1968, when the Legislature first required scrap metal dealers to maintain transaction records. Since then, the scrap metal dealer statutes have been amended several times.

Arizona has enacted legislation creating additional requirements for scrap metal dealers and sellers and expanding the aggravated criminal damage statute to address damage caused by metal theft.
Scrap Metal Dealers

A scrap metal dealer is a person or business entity, except an automotive recycler, that is engaged in the business of purchasing, trading, bartering or receiving secondhand material that is commonly known as scrap metal. Statute regulates scrap metal dealers and prohibits counties, cities and towns from enacting or enforcing ordinances, rules or regulations that conflict with the statutory provisions.

Registration

Dealers must register with the Department of Public Safety (DPS) in order to conduct business in Arizona. Every two years, dealers must submit the following information for registration: 1) the name and address of the dealer; 2) the name of any person who owns at least 10 percent of the business; 3) full personal identification information on the owners of the business, including a copy of their driver licenses; 4) the location of each principal and branch office in Arizona; and 5) the name and address of any wholly-owned subsidiary of the dealer. At each place of business, dealers must maintain and make available for law enforcement inspection proof of registration and statutory compliance information. A violation of these requirements could subject the dealer to a $500 or $1,000 penalty and suspension of business activity, depending on the circumstances of the infraction.

Recordkeeping

For any transaction involving the receipt of scrap metal, with specified exceptions, a dealer must keep a record that includes the following information: 1) the date, time and place of the transaction; 2) a photograph and an identifying description of the scrap metal received; 3) the dollar amount of the transaction; 4) the seller’s name, physical description, physical address, date of birth and signature; 5) a photocopy of the seller’s current government issued identification; 6) the seller’s transaction privilege tax number; 7) the number and state of issuance of the license plate on the seller’s vehicle; 8) a photograph, video record or digital record of the seller; and 9) a right index fingerprint of the seller. Dealers must retain these records and make them open for inspection during regular business hours for two years. Failure to comply with the recordkeeping requirements is a class 1 misdemeanor.

Payment for Scrap Metal

Scrap metal dealers cannot provide payment onsite, and must instead mail a check or money order to the seller’s physical address for transactions involving: industrial accounts; copper; aluminum wire with a diameter of at least 3/8 of an inch; air conditioner cooling coils, except that a check may be made payable to an industrial account; and payments of $300 or more. There are certain exceptions to this requirement, including if the transaction is with an industrial account that preregisters employees as authorized sellers. Scrap metal dealers must provide a receipt to each seller at the time of the transaction. Transactions between two scrap metal dealers and a metal product in its original manufactured form composed of no more than 20 percent by weight of nonferrous metal are also exempt from records, payment and receipt requirements.

Transaction Reports

Within 24 hours of a scrap metal transaction requiring a record, dealers must submit a report to DPS that includes: 1) the date, time and place of the transaction; 2) an identifying description of the scrap metal; 3) a description of the seller; 4) a photocopy of the seller’s current government issued identification; and 5) the number and state of issuance of the license plate of the seller’s vehicle. Failure to file a report is a class 1 misdemeanor.

Dealers must keep copper, aluminum wire of a certain size, and metal worth over $100 on its business premises and in the same size, shape and condition as received for seven days after filing the report. There are specified exceptions to this requirement, such as transactions between dealers.

Miscellaneous

Statute restricts the purchase or receipt of wire that has been burned or had the insulation removed, as well the removal of insulation by scrap metal dealers. Dealers are also prohibited...
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from purchasing certain types of scrap metal, such as municipal sewer or storm drain manhole covers; water meters; kegs; catalytic converters, except under specified circumstances; and metal municipal storm grates used for water drainage from municipal streets or alleys. Doing so is a class 1 misdemeanor. Finally, all dealers and law enforcement in Arizona must register on a free theft notification website that allows for information sharing.

Scrap Metal Sellers

Arizona regulates not only the purchase of scrap metal, but also its sale. A scrap metal seller must be at least 16 years of age. Furthermore, a scrap metal seller may not conduct a series of transactions for one vehicle load of scrap metal in order to avoid the recordkeeping and payment requirements and may not participate in more than one cash transaction per day.

Penalties for Metal Theft

Theft

In Arizona, the classification of theft depends on the value of the property, but varies from a class 1 misdemeanor for the theft of any property valued at less than $1,000 to a class 2 felony for the theft of property with a value of $25,000 or more. However, according to entities that have been the victims of metal theft, such as utility and agricultural companies, the value of the damage caused by metal theft, such as service interruption and necessary equipment repairs, is generally greater than the value of the stolen metals themselves.

Aggravated Criminal Damage

Damage to property that occurs when theft is committed is also addressed in statute. Aggravated criminal damage includes intentionally or recklessly, without the express permission of the owner, defacing, damaging or tampering with any utility or agricultural infrastructure or property, construction site or existing structure for the purpose of obtaining nonferrous metals. This form of aggravated criminal damage is: 1) a class 3 felony if the damage to the property is in amount of $10,000 or more; 2) a class 4 felony if the damage to the property is in the amount of $1,500 or more but less than $10,000; and 3) a class 5 felony in all other cases.

ADDITIONAL RESOURCES

• Scrap Metal Dealer Requirements: Arizona Revised Statutes, Title 44, Chapter 11, Article 3.1

• Criminal Damage to Property, Arizona Revised Statutes, Title 13, Chapter 16

• Arizona Department of Public Safety, Scrap Metal Reporting and Registration http://www.azdps.gov/Services/smtdb/

• Institute of Scrap Recycling Industries http://www.isri.org//AM/Template.cfm?Section=Home1

• Scrap Metal Theft Alert Website http://www.scraptheftalert.com/

• National Conference of State Legislatures Metal Theft Page http://www.ncsl.org/research/energy/metal-theft.aspx