

REFERENCE TITLE: **scrap metal dealers; registration**

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

HB 2262

Introduced by
Representative Forese

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 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. Powers and duties of department
34 THE DEPARTMENT SHALL:
35 1. ADOPT RULES THAT ARE NECESSARY FOR THE ADMINISTRATION OF THIS
36 ARTICLE.
37 2. ADMINISTER AND ENFORCE THIS ARTICLE AND RULES ADOPTED PURSUANT TO
38 THIS ARTICLE.
39 3. SUBMIT A REPORT ANNUALLY TO THE PRESIDENT OF THE SENATE AND THE
40 SPEAKER OF THE HOUSE OF REPRESENTATIVES ABOUT SCRAP METAL DEALERS. THE
41 REPORT SHALL INCLUDE:
42 (a) THE NUMBER OF SCRAP METAL DEALERS REGISTERED IN THIS STATE.
43 (b) THE NUMBER OF SCRAP METAL DEALERS WHO ARE REGISTERED IN THIS STATE
44 AND WHO ARE IN VIOLATION OF PROVISIONS OF THIS ARTICLE.

1 (c) THE NUMBER OF PERSONS WHO ARE ACTING AS SCRAP METAL DEALERS
2 WITHOUT BEING REGISTERED IN VIOLATION OF THIS ARTICLE.

3 44-1641.02. Law enforcement; theft notification website

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

10 44-1641.03. Registration; application

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

13 B. A PERSON SHALL SUBMIT AN APPLICATION FOR REGISTRATION TO THE
14 DEPARTMENT IN A FORM PRESCRIBED BY THE DEPARTMENT. THE FORM SHALL INCLUDE
15 ALL OF THE FOLLOWING:

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

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

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

21 4. A STATEMENT INDICATING THAT THE APPLICANT HAS REGISTERED ON A FREE
22 THEFT NOTIFICATION WEBSITE THAT ALLOWS LAW ENFORCEMENT TO SEND DETAILED
23 DESCRIPTIONS OF STOLEN ITEMS TO RECYCLING OPERATIONS AND OTHER LAW
24 ENFORCEMENT WITHIN AT LEAST A ONE HUNDRED MILE RADIUS OF A THEFT. THE
25 WEBSITE MUST ALLOW SCRAP METAL DEALERS TO ALERT LAW ENFORCEMENT WHEN THE
26 DEALERS ARE OFFERED SUSPICIOUS MATERIALS.

27 5. AN AFFIDAVIT SIGNED BY THE APPLICANT THAT STATES THAT THE PERSON IS
28 IN COMPLIANCE WITH THIS ARTICLE.

29 6. THE LOCATION OF EACH PRINCIPAL OFFICE AND BRANCH OFFICE AT WHICH
30 THE SCRAP METAL DEALER WILL CONDUCT BUSINESS IN THIS STATE.

31 7. THE NAME AND ADDRESS OF ANY WHOLLY-OWNED SUBSIDIARY OF THE SCRAP
32 METAL DEALER.

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

35 1. ANY OF ITS BRANCH OFFICES. THE REGISTRANT SHALL MAKE COPIES OF THE
36 REGISTRATION CERTIFICATE AVAILABLE AT EACH BRANCH OFFICE LOCATION.

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

38 44-1641.04. Registration expiration and renewal; fees

39 A. A SCRAP METAL DEALER REGISTRATION CERTIFICATE EXPIRES EVERY TWO
40 YEARS UNLESS RENEWED.

41 B. THE DEPARTMENT SHALL CHARGE AND COLLECT FEES AS DETERMINED BY THE
42 DIRECTOR TO COVER THE COSTS OF REGISTERING THE SCRAP METAL DEALERS PURSUANT
43 TO SECTION 44-1641.03 AND THIS SECTION.

44 C. THE DIRECTOR MAY RENEW A REGISTRATION CERTIFICATE GRANTED UNDER
45 THIS ARTICLE AFTER RECEIVING AN APPLICATION ON SUCH FORMS AS THE DEPARTMENT

1 PRESCRIBES AND RECEIPT OF THE FEES PRESCRIBED PURSUANT TO SUBSECTION B OF
2 THIS SECTION.

3 D. THE RENEWAL FORM MUST INCLUDE A QUESTIONNAIRE THAT THE SCRAP METAL
4 DEALER MUST PREPARE EVERY TWO YEARS TO SHOW COMPLIANCE WITH THIS ARTICLE.
5 THE SCRAP METAL DEALER MUST MAINTAIN AND MAKE AVAILABLE THE QUESTIONNAIRE FOR
6 INSPECTION BY THE DEPARTMENT.

7 E. THE DEPARTMENT SHALL RENEW A SUSPENDED REGISTRATION CERTIFICATE AS
8 PROVIDED IN THIS ARTICLE. RENEWAL OF THE REGISTRATION DOES NOT ENTITLE THE
9 REGISTRANT, WHILE THE REGISTRATION REMAINS SUSPENDED AND UNTIL IT IS
10 REINSTATED, TO ENGAGE IN ANY ACTIVITY REGULATED BY THIS ARTICLE, OR IN ANY
11 OTHER ACTIVITY OR CONDUCT IN VIOLATION OF THE ORDER OR JUDGMENT BY WHICH THE
12 REGISTRATION WAS SUSPENDED.

13 F. THE DIRECTOR SHALL NOT REINSTATE A REVOKED REGISTRATION. THE
14 DIRECTOR SHALL NOT ACCEPT AN APPLICATION FOR REGISTRATION FROM A PERSON WHOSE
15 REGISTRATION HAS BEEN REVOKED UNTIL AT LEAST ONE YEAR AFTER THE DATE OF
16 REVOCATION.

17 44-1641.05. Enforcement

18 A. THE DEPARTMENT MAY SUSPEND, REVOKE OR REFUSE TO ISSUE OR RENEW A
19 REGISTRATION CERTIFICATE IF THE APPLICANT OR REGISTRANT:

20 1. COMMITS A THIRD OR SUBSEQUENT VIOLATION OF THIS ARTICLE OR ANY RULE
21 ADOPTED PURSUANT TO THIS ARTICLE WITHIN A THIRTY-SIX MONTH PERIOD.

22 2. KNOWINGLY MAKES OR CAUSES TO BE MADE TO THE DEPARTMENT ANY FALSE
23 REPRESENTATION OF A MATERIAL FACT.

24 B. THE DENIAL OF THE ISSUANCE OR RENEWAL OF A REGISTRATION CERTIFICATE
25 UNDER THIS ARTICLE SHALL BE IN WRITING AND SHALL DESCRIBE THE BASIS FOR THE
26 DENIAL. A HEARING TO CONTEST A DENIAL SHALL BE HELD IN ACCORDANCE WITH TITLE
27 41, CHAPTER 6, ARTICLE 10.

28 C. EXCEPT AS PROVIDED IN SECTION 41-1092.08, SUBSECTION H, FINAL
29 DECISIONS OF THE DIRECTOR ARE SUBJECT TO JUDICIAL REVIEW PURSUANT TO TITLE
30 12, CHAPTER 7, ARTICLE 6.

31 Sec. 3. Section 44-1642, Arizona Revised Statutes, is amended to read:

32 44-1642. Records of purchase; transaction limitations; age
33 requirement for scrap metal seller; exception

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

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

40 2. A photograph and an identifying description and weight of the
41 specific scrap metal received.

42 3. The dollar amount of the transaction.

43 4. EXCEPT AS OTHERWISE PROVIDED IN THIS PARAGRAPH, the seller's name,
44 physical description including gender, height, weight, race and eye and hair
45 color, physical address, date of birth, ~~AND~~ signature and a photocopy of a

1 current driver license, nonoperating identification license issued pursuant
2 to section 28-3165 or photo identification card issued by a tribal government
3 or the United States military. The scrap metal dealer must validate the
4 recorded information by using the seller's current driver license,
5 nonoperating identification license issued pursuant to section 28-3165 or
6 photo identification card issued by a tribal government or the United States
7 military. THIS PARAGRAPH DOES NOT APPLY TO A SELLER WHO IS EXCLUSIVELY
8 SELLING ALUMINUM BEVERAGE CONTAINERS.

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

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

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

14 8. A right index fingerprint of the seller.

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

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

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

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

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

4 4. APPLIES TO ALL TRANSACTIONS INVOLVING AIR CONDITIONER COOLING
5 COILS.

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

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

10 2. An identifying description and weight of the specific scrap metal
11 received.

12 3. The dollar amount of the transaction.

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

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

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

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

22 Sec. 4. Section 44-1644, Arizona Revised Statutes, is amended to read:

23 44-1644. Report; exemption; violation; classification

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

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

30 2. An identifying description of the specific scrap metal received
31 including the weight and amount of the transaction or other consideration
32 given.

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

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

41 B. The department ~~of public safety~~ shall establish by rule electronic
42 submission standards. The submission standards shall allow the submission of
43 the information in an electronic format that is compatible with the output
44 format of not less than four of the record keeping software programs
45 currently in use in the scrap metal industry in this state in a manner that

1 will allow the information to be electronically merged with the ~~department of~~
2 ~~public safety's~~ DEPARTMENT'S database. A scrap metal dealer that submits
3 information to the department ~~of public safety~~ pursuant to this section shall
4 not be required to submit the same information to a local law enforcement
5 agency.

6 C. The department ~~of public safety~~ shall make the information
7 submitted pursuant to this section available to local law enforcement
8 agencies over the internet and shall provide for training and procedures to
9 allow law enforcement personnel to access the information provided
10 electronically for law enforcement purposes.

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

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

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

23 Sec. 5. Title 44, chapter 11, article 3.1, Arizona Revised Statutes,
24 is amended by adding sections 44-1648 and 44-1649, to read:

25 44-1648. Preemption; power of local authorities

26 A. THE STATE LEGISLATURE DETERMINES THAT THE REGISTRATION OF SCRAP
27 METAL DEALERS IS A MATTER OF STATEWIDE CONCERN. THE POWER TO REGISTER SCRAP
28 METAL DEALERS IS PREEMPTED BY THIS STATE.

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

31 44-1649. Joint legislative committee on metal theft

32 THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
33 REPRESENTATIVES FOR THE FIFTY-SIXTH LEGISLATURE, FIRST REGULAR SESSION SHALL
34 APPOINT A JOINT LEGISLATIVE COMMITTEE ON METAL THEFT THAT IS COMPOSED OF
35 LEGISLATORS TO REVIEW THE EFFECTIVENESS OF SECTIONS 13-1820 AND 28-3511 AND
36 THIS ARTICLE IN DETERRING CRIME AND THE COSTS OF COMPLIANCE TO INDUSTRIES
37 AFFECTED BY THIS ARTICLE. THE COMMITTEE SHALL REPORT ON ITS FINDINGS TO THE
38 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES BY
39 DECEMBER 1, 2023.

40 Sec. 6. Delayed repeal

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