

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 844

Introduced by Assembly Member Berryhill
(Principal coauthors: Assembly Members Galgiani and Maze)
(Principal coauthors: Senators Cogdill and Maldonado)
~~*(Coauthor: Senator Cogdill)*~~

February 22, 2007

An act to amend ~~Section 22755 of~~ Sections 21601, 21604, 21605, and 21606 of, and to add Section 21609.5 to, the Business and Professions Code, relating to ~~recycling businesses~~ junk dealers.

LEGISLATIVE COUNSEL'S DIGEST

AB 844, as amended, Berryhill. ~~Recycling businesses. Junk dealers and recyclers: scrap metals and alloys.~~

Existing law requires junk dealers and recyclers, as defined, to keep written records of all sales and purchases made in the course of their business. Existing law requires these records to include specified information, including, among other things, the place and date of each sale or purchase of junk, a description of the item of junk, and the personal and vehicle information of the person purchasing or transporting the junk. Existing law exempts certain purchases of scrap metals by a junk dealer or recycler from these provisions. A violation of these provisions regulating junk dealers and recyclers is a crime.

This bill would revise the definition of a junk dealer and delete the provisions exempting certain purchases of scrap metals from the provision regulating junk dealers. The bill would require the written records of junk dealers and recyclers to include a physical description, or photograph or video, of a person from whom junk is purchased. The

bill would require the records to include a description of the material, type, quantity, weight, and size of junk purchased or sold. The bill would prohibit a junk dealer or recycler from providing payment for scrap metals and alloys unless the payment is made by check and is provided 10 days from the date of sale. The bill would require a junk dealer or recycler to hold all scrap metals and alloys in the same condition in which they were received for a minimum of 15 days before they could be released or disposed of, unless specified photograph or video records are maintained.

Because a violation of the bill’s provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law requires any person or entity who is in the business of recycling, shredding, or destruction of plastic bulk merchandise containers, as defined, to obtain a proof of ownership record and other identifying information from a person selling 5 or more containers, and to retain the required record for a specified time.~~

~~This bill would make a technical, nonsubstantive change to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21601 of the Business and Professions
- 2 Code is amended to read:
- 3 21601. As used in this article, “junk dealer” includes any person
- 4 engaged in the business of buying, selling and dealing in junk, any
- 5 person purchasing, gathering, collecting, soliciting or traveling
- 6 about from place to place procuring junk, ~~and~~ any person operating,
- 7 carrying on, conducting or maintaining a junk yard or place where
- 8 junk is gathered together and stored or kept for shipment, sale or
- 9 transfer, *and any agents and employees of any of those persons.*
- 10 SEC. 2. Section 21604 of the Business and Professions Code
- 11 is amended to read:

1 21604. Except as otherwise provided in this article, this article
2 does not apply to:

3 ~~(a) Any any person who buys or sells junk acquired in the~~
4 ~~conduct of any business other than that of a junk dealer.~~

5 ~~(b) Those purchases of scrap metal by a junk dealer when the~~
6 ~~payment for the scrap metal is by check issued to the company~~
7 ~~represented as being the owner of the scrap.~~

8 ~~(c) Scrap metal purchased or received from another junk dealer~~
9 ~~or recycler who has recorded, reported, and held the material as~~
10 ~~required. The purchase or receipt shall also be exempt from further~~
11 ~~holding or reporting provided that the selling party gives the buyer~~
12 ~~written assurance of this fact. The seller shall be held responsible~~
13 ~~for any failure to report or hold.~~

14 *SEC. 3. Section 21605 of the Business and Professions Code*
15 *is amended to read:*

16 21605. (a) Every junk dealer and every recycler in this state
17 is hereby required to keep a written record of all sales and
18 purchases made in the course of his or her business.

19 (b) For purposes of this article, “recycler” means any processor,
20 recycling center, or noncertified recycler, as those terms are defined
21 in Chapter 2 (commencing with Section 14502) of Division 12.1
22 of the Public Resources Code, who buys or sells scrap metal that
23 constitutes junk, as defined in Section 21600 metals and alloys
24 that constitute junk.

25 *SEC. 4. Section 21606 of the Business and Professions Code*
26 *is amended to read:*

27 21606. (a) Every junk dealer and every recycler shall set out
28 in the written record required by this article all of the following:

29 (1) The place and date of each sale or purchase of junk made
30 in the conduct of his or her business as a junk dealer or recycler.

31 (2) The name, *physical description, unless a photograph or*
32 *video is available, and valid driver’s license number and state of*
33 *issue or California-issued identification card number of the person*
34 *from whom the junk is purchased, and the vehicle identification*
35 *number and license number including the state of issue of any*
36 *motor vehicle used in transporting the junk to the junk dealer’s or*
37 *recycler’s place of business.*

38 (3) The name and address of each person to whom junk is sold
39 or disposed of, and the license number of any motor vehicle used

1 in transporting the junk from the junk dealer’s or recycler’s place
2 of business.

3 (4) A description of the ~~item or items~~ of junk purchased or sold,
4 including the ~~item type and quantity~~ *its material, type, quantity,*
5 *weight, size,* and identification number, if visible.

6 (5) A statement indicating either that the seller of the junk is
7 the owner of it, or the name of the person he or she obtained it
8 from, as shown on a signed transfer document.

9 (b) Any person who makes, or causes to be made, any false or
10 fictitious statement regarding any information required by this
11 section, is guilty of a misdemeanor.

12 *SEC. 5. Section 21609.5 is added to the Business and*
13 *Professions Code, to read:*

14 *21609.5. (a) A junk dealer or recycler in this state shall not*
15 *provide payment for scrap metals and alloys unless the payment*
16 *is made by check and the payment is provided 10 days from the*
17 *date of sale.*

18 *(b) A junk dealer or recycler in this state shall hold all scrap*
19 *metals and alloys in its custody in the same condition in which*
20 *they were received for a minimum of 15 days before the scrap*
21 *metals and alloys may be released or disposed of.*

22 *(c) The requirements of subdivision (b) shall not apply to junk*
23 *dealers and recyclers that keep on record a photograph or video*
24 *of an individual selling scrap metals and alloys and a photograph*
25 *or video of the scrap metals and alloys sold. These photographs*
26 *and videos shall include the date and time the scrap metals or*
27 *alloys were purchased and shall be preserved for at least two years*
28 *after any purchase or sale of junk, scrap metals, or alloys pursuant*
29 *to Section 21607.*

30 *SEC. 6. No reimbursement is required by this act pursuant to*
31 *Section 6 of Article XIII B of the California Constitution because*
32 *the only costs that may be incurred by a local agency or school*
33 *district will be incurred because this act creates a new crime or*
34 *infraction, eliminates a crime or infraction, or changes the penalty*
35 *for a crime or infraction, within the meaning of Section 17556 of*
36 *the Government Code, or changes the definition of a crime within*
37 *the meaning of Section 6 of Article XIII B of the California*
38 *Constitution.*

39 ~~SECTION 1. Section 22755 of the Business and Professions~~
40 ~~Code is amended to read:~~

1 ~~22755. (a) For purposes of this section, a plastic bulk~~
 2 ~~merchandise container means a plastic crate or shell used by a~~
 3 ~~product producer, distributor, or retailer, or an agent of the product~~
 4 ~~producer, distributor, or retailer as a means for the bulk~~
 5 ~~transportation, storage, or carrying of retail containers of milk,~~
 6 ~~eggs, or bottled beverage products.~~

7 ~~(b) Any person or entity purchasing plastic bulk merchandise~~
 8 ~~containers, who is in the business of recycling, shredding, or~~
 9 ~~destruction of plastic bulk merchandise containers, shall obtain a~~
 10 ~~proof of ownership record from a person selling five or more plastic~~
 11 ~~bulk merchandise containers showing that the person selling the~~
 12 ~~containers has lawful possession or ownership of the containers,~~
 13 ~~and shall also verify the seller's identity by a driver's license or~~
 14 ~~other government-issued photo identification. The proof of~~
 15 ~~ownership record shall include all of the following information:~~

16 ~~(1) The name, address, telephone number, and signature of the~~
 17 ~~seller or the seller's authorized representative.~~

18 ~~(2) The name and address of the buyer or consignee if not sold.~~

19 ~~(3) A description of the product including number of units.~~

20 ~~(4) The date of transaction.~~

21 ~~(c) The information required to be collected by this section shall~~
 22 ~~be kept for one year from the date of purchase or delivery,~~
 23 ~~whichever is later.~~

24 ~~(d) Any person who violates the provisions of this section is~~
 25 ~~guilty of a misdemeanor.~~

26
 27
 28 **CORRECTIONS:**

29 **Title—Lines 1 and 2.**

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