

AMENDED IN ASSEMBLY FEBRUARY 28, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1508

Introduced by Assembly Member Carter

January 12, 2012

An act to amend Section ~~2810~~ 21608.5 of the ~~Vehicle Business and Professions Code~~, relating to ~~vehicles junk dealers and recyclers~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 1508, as amended, Carter. ~~Vehicles: inspection of loads. Junk dealers and recyclers: nonferrous materials.~~

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, and makes a violation of the recordkeeping requirements a crime. Existing law prohibits a junk dealer or recycler from providing payment for nonferrous materials, as defined, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and the dealer or recycler obtains a photograph or video of the seller and certain other identifying information, as specified, which information is to be retained by the dealer or recycler for a specified period of time. Existing law exempts from the payment by cash or check requirement, among others, the redemption of nonferrous materials of a certain value in connection with the redemption of beverage containers, as specified. Existing law also exempts from the cash or check requirement those sellers of junk or recycling materials who conduct 5 or more separate transactions per month with the junk dealer or recycler, as specified.

This bill would eliminate these exemptions. Because the bill would expand the definition of a crime by increasing the recordkeeping duties

of junk dealers and recyclers, the 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.

~~(1) Existing law authorizes the Department of the California Highway Patrol to stop a vehicle transporting timber products, livestock, poultry, farm produce, crude oil, petroleum products, or inedible kitchen grease and inspect certain documents to determine whether the driver is in legal possession of the load, and, upon reasonable belief that the driver of the vehicle is not in legal possession, to take custody of the vehicle and load, as prescribed, and imposes duties on the sheriff with respect to the care and safekeeping of those products.~~

~~This bill would additionally authorize a member of a city police department or a member of a county sheriff's office, whose primary responsibility is to conduct theft investigations, to stop any vehicle, and would make those provisions applicable with regard to a vehicle that is transporting metal products or metal alloy products. By imposing additional duties on a sheriff regarding the care and safekeeping of metal products and metal alloy products, this bill would impose a state-mandated local program.~~

~~The bill additionally would authorize a member of a city police department and a member of the county sheriff's office, whose primary responsibility is to conduct theft investigations, to stop and inspect vehicles transporting any of those loads.~~

~~(2) 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, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions:~~

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

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

1 **SECTION 1.** *Section 21608.5 of the Business and Professions*
2 *Code is amended to read:*

3 21608.5. (a) A junk dealer or recycler in this state shall not
4 provide payment for nonferrous material unless, in addition to
5 meeting the written record requirements of Sections 21605 and
6 21606, all of the following requirements are met:

7 (1) The payment for the material is made by cash or check. The
8 check may be mailed to the seller at the address provided pursuant
9 to paragraph (3) or the cash or check may be collected by the seller
10 from the junk dealer or recycler on or after the third business day
11 after the date of sale.

12 (2) At the time of sale, the junk dealer or recycler obtains a clear
13 photograph or video of the seller.

14 (3) (A) Except as provided in subparagraph (B), the junk dealer
15 or recycler obtains a copy of the valid driver's license of the seller
16 containing a photograph and an address of the seller or a copy of
17 a state or federal government-issued identification card containing
18 a photograph and an address of the seller.

19 (B) If the seller prefers to have the check for the material mailed
20 to an alternative address, other than a post office box, the junk
21 dealer or recycler shall obtain a copy of a driver's license or
22 identification card described in subparagraph (A), and a gas or
23 electric utility bill addressed to the seller at that alternative address
24 with a payment due date no more than two months prior to the
25 date of sale. For purposes of this paragraph, "alternative address"
26 means an address that is different from the address appearing on
27 the seller's driver's license or identification card.

28 (4) The junk dealer or recycler obtains a clear photograph or
29 video of the nonferrous material being purchased.

30 (5) The junk dealer or recycler shall preserve the information
31 obtained pursuant to this subdivision for a period of two years after
32 the date of sale.

33 (6) (A) The junk dealer or recycler obtains a thumbprint of the
34 seller, as prescribed by the Department of Justice. The junk dealer
35 or recycler shall keep this thumbprint with the information obtained
36 under this subdivision and shall preserve the thumbprint in either
37 hardcopy or electronic format for a period of two years after the
38 date of sale.

1 (B) Inspection or seizure of the thumbprint shall only be
2 performed by a peace officer acting within the scope of his or her
3 authority in response to a criminal search warrant signed by a
4 magistrate and served on the junk dealer or recycler by the peace
5 officer. Probable cause for the issuance of that warrant must be
6 based upon a theft specifically involving the transaction for which
7 the thumbprint was given.

8 ~~(b) Paragraph (1) of subdivision (a) shall not apply if, during~~
9 ~~any three-month period commencing on or after the effective date~~
10 ~~of this section, the junk dealer or recycler completes five or more~~
11 ~~separate transactions per month, on five or more separate days per~~
12 ~~month, with the seller and, in order for paragraph (1) of subdivision~~
13 ~~(a) to continue to be inapplicable, the seller must continue to~~
14 ~~complete five or more separate transactions per month with the~~
15 ~~junk dealer or recycler.~~

16 (e)

17 (b) This section shall not apply if, on the date of sale, the junk
18 dealer or recycler has on file or receives all of the following
19 information:

20 (1) The name, physical business address, and business telephone
21 number of the seller’s business.

22 (2) The business license number or tax identification number
23 of the seller’s business.

24 (3) A copy of the valid driver’s license of the person delivering
25 the nonferrous material on behalf of the seller to the junk dealer
26 or the recycler.

27 ~~(d) This section shall not apply to the redemption of nonferrous~~
28 ~~material having a value of not more than twenty dollars (\$20) in~~
29 ~~a single transaction, when the primary purpose of the transaction~~
30 ~~is the redemption of beverage containers under the California~~
31 ~~Beverage Container Recycling and Litter Reduction Act, as set~~
32 ~~forth in Division 12.1 (commencing with Section 14500) of the~~
33 ~~Public Resources Code.~~

34 (e)

35 (c) This section shall not apply to coin dealers or to automobile
36 dismantlers, as defined in Section 220 of the Vehicle Code.

37 (f)

38 (d) For the purposes of this section, “nonferrous material” means
39 copper, copper alloys, stainless steel, or aluminum, but does not
40 include beverage containers, as defined in Section 14505 of the

1 Public Resources Code, that are subject to a redemption payment
2 pursuant to Section 14560 of the Public Resources Code.

3 ~~(g)~~

4 (e) This section is intended to occupy the entire field of law
5 related to junk dealer or recycler transactions involving nonferrous
6 material. However, a city or county ordinance, or a city and county
7 ordinance, relating to the subject matter of this section is not in
8 conflict with this section if the ordinance is passed by a two-thirds
9 vote and it can be demonstrated by clear and convincing evidence
10 that the ordinance is both necessary and addresses a unique problem
11 within and specific to the jurisdiction of the ordinance that cannot
12 effectively be addressed under this section.

13 ~~(h) This section shall become operative on December 1, 2008.~~

14 *SEC. 2. No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution because*
16 *the only costs that may be incurred by a local agency or school*
17 *district will be incurred because this act creates a new crime or*
18 *infraction, eliminates a crime or infraction, or changes the penalty*
19 *for a crime or infraction, within the meaning of Section 17556 of*
20 *the Government Code, or changes the definition of a crime within*
21 *the meaning of Section 6 of Article XIII B of the California*
22 *Constitution.*

23 ~~SECTION 1. Section 2810 of the Vehicle Code is amended to~~
24 ~~read:~~

25 ~~2810. (a) A member of the Department of the California~~
26 ~~Highway Patrol, a member of a city police department whose~~
27 ~~primary responsibility is to conduct theft investigations, or a~~
28 ~~member of a county sheriff's office whose primary responsibility~~
29 ~~is to conduct theft investigations may stop any vehicle transporting~~
30 ~~any timber products, livestock, poultry, farm produce, crude oil,~~
31 ~~petroleum products, metal products, metal alloy products, or~~
32 ~~inedible kitchen grease, and inspect the bills of lading, shipping~~
33 ~~or delivery papers, or other evidence to determine whether the~~
34 ~~driver is in legal possession of the load, and, upon reasonable belief~~
35 ~~that the driver of the vehicle is not in legal possession, shall take~~
36 ~~custody of the vehicle and load and turn them over to the custody~~
37 ~~of the sheriff of the county in which the timber products, livestock,~~
38 ~~poultry, farm produce, crude oil, petroleum products, metal~~
39 ~~products, metal alloy products, or inedible kitchen grease, or any~~
40 ~~part of those loads, is apprehended.~~

1 ~~(b) The sheriff shall receive and provide for the care and~~
2 ~~safekeeping of the apprehended timber products, livestock, poultry,~~
3 ~~farm produce, crude oil, petroleum products, metal products, metal~~
4 ~~alloy products, or inedible kitchen grease, or any part of those~~
5 ~~loads, and immediately, in cooperation with the department,~~
6 ~~proceed with an investigation and its legal disposition.~~

7 ~~(c) Any expense incurred by the sheriff in the performance of~~
8 ~~his or her duties under this section shall be a legal charge against~~
9 ~~the county.~~

10 ~~SEC. 2. If the Commission on State Mandates determines that~~
11 ~~this act contains costs mandated by the state, reimbursement to~~
12 ~~local agencies and school districts for those costs shall be made~~
13 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
14 ~~4 of Title 2 of the Government Code.~~