

AMENDED IN SENATE AUGUST 14, 2012
AMENDED IN SENATE JULY 2, 2012
AMENDED IN ASSEMBLY MAY 10, 2012
AMENDED IN ASSEMBLY APRIL 19, 2012
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 21608.5 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 1508, as amended, Carter. 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. Existing law prohibits a junk dealer or recycler from providing payment for nonferrous material, 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 material of a certain value when the primary

purpose of the transaction is the redemption of beverage containers, as specified.

This bill would modify that exemption to apply to the purchase of nonferrous material of a certain value when the majority of the transaction is for the redemption of beverage containers, as specified, and would exclude the purchase of materials made of copper or copper alloys from the exemption.

This bill would incorporate additional changes in Section 21608.5 of the Business and Professions Code proposed by AB 1583, that would become operative only if this bill and AB 1583 are both chaptered and this bill is chaptered last.

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

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

1 date of sale. For purposes of this paragraph, “alternative address”
2 means an address that is different from the address appearing on
3 the seller’s driver’s license or identification card.

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

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

9 (6) (A) The junk dealer or recycler obtains a thumbprint of the
10 seller, as prescribed by the Department of Justice. The junk dealer
11 or recycler shall keep this thumbprint with the information obtained
12 under this subdivision and shall preserve the thumbprint in either
13 hardcopy or electronic format for a period of two years after the
14 date of sale.

15 (B) Inspection or seizure of the thumbprint shall only be
16 performed by a peace officer acting within the scope of his or her
17 authority in response to a criminal search warrant signed by a
18 magistrate and served on the junk dealer or recycler by the peace
19 officer. Probable cause for the issuance of that warrant must be
20 based upon a theft specifically involving the transaction for which
21 the thumbprint was given.

22 (b) Paragraph (1) of subdivision (a) shall not apply if, during
23 any three-month period commencing on or after the effective date
24 of this section, the junk dealer or recycler completes five or more
25 separate transactions per month, on five or more separate days per
26 month, with the seller and, in order for paragraph (1) of subdivision
27 (a) to continue to be inapplicable, the seller must continue to
28 complete five or more separate transactions per month with the
29 junk dealer or recycler.

30 (c) This section shall not apply if, on the date of sale, the junk
31 dealer or recycler has on file or receives all of the following
32 information:

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

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

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

1 (d) (1) This section shall not apply to the purchase of nonferrous
2 material having a value of not more than twenty dollars (\$20) in
3 a single transaction, when the majority of the transaction is for the
4 redemption of beverage containers under the California Beverage
5 Container Recycling and Litter Reduction Act, as set forth in
6 Division 12.1 (commencing with Section 14500) of the Public
7 Resources Code.

8 (2) Materials made of copper or copper alloys shall not be
9 purchased under this subdivision.

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

12 (f) For the purposes of this section, “nonferrous material” means
13 copper, copper alloys, stainless steel, or aluminum, but does not
14 include beverage containers, as defined in Section 14505 of the
15 Public Resources Code, that are subject to a redemption payment
16 pursuant to Section 14560 of the Public Resources Code.

17 (g) This section is intended to occupy the entire field of law
18 related to junk dealer or recycler transactions involving nonferrous
19 material. However, a city or county ordinance, or a city and county
20 ordinance, relating to the subject matter of this section is not in
21 conflict with this section if the ordinance is passed by a two-thirds
22 vote and it can be demonstrated by clear and convincing evidence
23 that the ordinance is both necessary and addresses a unique problem
24 within and specific to the jurisdiction of the ordinance that cannot
25 effectively be addressed under this section.

26 *SEC. 1.5. Section 21608.5 of the Business and Professions*
27 *Code is amended to read:*

28 21608.5. (a) A junk dealer or recycler in this state shall not
29 provide payment for nonferrous material unless, in addition to
30 meeting the written record requirements of Sections 21605 and
31 21606, all of the following requirements are met:

32 (1) The payment for the material is made by cash or check. The
33 check may be mailed to the seller at the address provided pursuant
34 to paragraph (3) or the cash or check may be collected by the seller
35 from the junk dealer or recycler on or after the third business day
36 after the date of sale.

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

39 (3) (A) Except as provided in subparagraph (B), the junk dealer
40 or recycler obtains a copy of the valid driver’s license of the seller

1 containing a photograph and an address of the ~~seller or~~ *seller*; a
2 copy of a state or federal government-issued identification card
3 containing a photograph and an address of the seller, *a passport*
4 *from any other country in addition to another item of identification*
5 *bearing an address of the seller, or a Matricula Consular in*
6 *addition to another item of identification bearing an address of*
7 *the seller.*

8 (B) If the seller prefers to have the check for the material mailed
9 to an alternative address, other than a post office box, the junk
10 dealer or recycler shall obtain a copy of a driver's license or
11 identification card described in subparagraph (A), and a gas or
12 electric utility bill addressed to the seller at that alternative address
13 with a payment due date no more than two months prior to the
14 date of sale. For purposes of this paragraph, "alternative address"
15 means an address that is different from the address appearing on
16 the seller's driver's license or identification card.

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

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

22 (6) (A) The junk dealer or recycler obtains a thumbprint of the
23 seller, as prescribed by the Department of Justice. The junk dealer
24 or recycler shall keep this thumbprint with the information obtained
25 under this subdivision and shall preserve the thumbprint in either
26 hardcopy or electronic format for a period of two years after the
27 date of sale.

28 (B) Inspection or seizure of the thumbprint shall only be
29 performed by a peace officer acting within the scope of his or her
30 authority in response to a criminal search warrant signed by a
31 magistrate and served on the junk dealer or recycler by the peace
32 officer. Probable cause for the issuance of that warrant must be
33 based upon a theft specifically involving the transaction for which
34 the thumbprint was given.

35 (b) Paragraph (1) of subdivision (a) shall not apply if, during
36 any three-month period commencing on or after the effective date
37 of this section, the junk dealer or recycler completes five or more
38 separate transactions per month, on five or more separate days per
39 month, with the seller and, in order for paragraph (1) of subdivision
40 (a) to continue to be inapplicable, the seller must continue to

1 complete five or more separate transactions per month with the
 2 junk dealer or recycler.

3 (c) This section shall not apply if, on the date of sale, the junk
 4 dealer or recycler has on file or receives all of the following
 5 information:

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

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

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

13 (d) *(1)* This section shall not apply to the ~~redemption purchase~~
 14 of nonferrous material having a value of not more than twenty
 15 dollars (\$20) in a single transaction, when the ~~primary purpose~~
 16 *majority* of the transaction is *for* the redemption of beverage
 17 containers under the California Beverage Container Recycling and
 18 Litter Reduction Act, as set forth in Division 12.1 (commencing
 19 with Section 14500) of the Public Resources Code.

20 *(2) Materials made of copper or copper alloys shall not be*
 21 *purchased under this subdivision.*

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

24 (f) For the purposes of this section, “nonferrous material” means
 25 copper, copper alloys, stainless steel, or aluminum, but does not
 26 include beverage containers, as defined in Section 14505 of the
 27 Public Resources Code, that are subject to a redemption payment
 28 pursuant to Section 14560 of the Public Resources Code.

29 (g) This section is intended to occupy the entire field of law
 30 related to junk dealer or recycler transactions involving nonferrous
 31 material. However, a city or county ordinance, or a city and county
 32 ordinance, relating to the subject matter of this section is not in
 33 conflict with this section if the ordinance is passed by a two-thirds
 34 vote and it can be demonstrated by clear and convincing evidence
 35 that the ordinance is both necessary and addresses a unique problem
 36 within and specific to the jurisdiction of the ordinance that cannot
 37 effectively be addressed under this section.

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

39 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
 40 *Section 21608.5 of the Business and Professions Code proposed*

1 *by both this bill and Assembly Bill 1583. It shall only become*
2 *operative if (1) both bills are enacted and become effective on or*
3 *before January 1, 2013, (2) each bill amends Section 21608.5 of*
4 *the Business and Professions Code, and (3) this bill is enacted*
5 *after Assembly Bill 1583, in which case Section 1 of this bill shall*
6 *not become operative.*

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