

## Assembly Bill No. 1508

### CHAPTER 531

An act to amend Section 21608.5 of the Business and Professions Code, relating to business.

[Approved by Governor September 25, 2012. Filed with  
Secretary of State September 25, 2012.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 1508, 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.

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

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

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

(1) The payment for the material is made by cash or check. The check may be mailed to the seller at the address provided pursuant to paragraph

(3) or the cash or check may be collected by the seller from the junk dealer or recycler on or after the third business day after the date of sale.

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

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

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

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

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

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

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

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

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

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

(2) The business license number or tax identification number of the seller's business.

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

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

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

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

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

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

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

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

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

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

(3) (A) Except as provided in subparagraph (B), the junk dealer or recycler obtains a copy of the valid driver’s license of the seller containing a photograph and an address of the seller, a copy of a state or federal government-issued identification card containing a photograph and an address of the seller, a passport from any other country in addition to another item of identification bearing an address of the seller, or a Matricula Consular in addition to another item of identification bearing an address of the seller.

(B) If the seller prefers to have the check for the material mailed to an alternative address, other than a post office box, the junk dealer or recycler shall obtain a copy of a driver’s license or identification card described in subparagraph (A), and a gas or electric utility bill addressed to the seller at that alternative address with a payment due date no more than two months

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) For the purposes of this section, “nonferrous material” means copper, copper alloys, stainless steel, or aluminum, but does not include beverage containers, as defined in Section 14505 of the Public Resources Code, that

are subject to a redemption payment pursuant to Section 14560 of the Public Resources Code.

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

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 21608.5 of the Business and Professions Code proposed by both this bill and Assembly Bill 1583. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2013, (2) each bill amends Section 21608.5 of the Business and Professions Code, and (3) this bill is enacted after Assembly Bill 1583, in which case Section 1 of this bill shall not become operative.