

ASSEMBLY BILL

No. 2059

Introduced by Assembly Member Eduardo Garcia

February 17, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2059, as introduced, Eduardo Garcia. Junk dealers and recyclers: nonferrous materials.

Existing law requires junk dealers and recyclers, as defined, to maintain written records of all sales and purchases made in the course of their business, and makes a violation of the recordkeeping requirements a misdemeanor. 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 is to be retained by the dealer or recycler, as part of the written record of purchases, for a specified period of time. Existing law exempts from the payment by 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 exempt from the payment by cash or check requirement those sellers of junk or recycling materials who carry a surety bond of at least \$100,000, covering the business entity at large, including all locations, which exclusively covers the costs of any loss to the verifiable owner of stolen scrap metal purchased by the junk

dealer or recycler and the cost to local law enforcement of investigating the theft. The bill would define the reimbursable value of the scrap metal to be its replacement value.

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, a copy of a
17 state or federal government-issued identification card containing
18 a photograph and an address of the seller, a passport from any
19 other country in addition to another item of identification bearing
20 an address of the seller, or a Matricula Consular in addition to
21 another item of identification bearing an address of the seller.

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

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

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

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

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

17 (b) Paragraph (1) of subdivision (a) shall not apply ~~if, during~~ *if*
18 *any of the following conditions are met:*

19 (1) *During* any three-month period commencing on or after the
20 effective date of this section, the junk dealer or recycler completes
21 five or more separate transactions per month, on five or more
22 separate days per month, with the seller and, in order for paragraph
23 (1) of subdivision (a) to continue to be inapplicable, the seller must
24 continue to complete five or more separate transactions per month
25 with the junk dealer or recycler.

26 (2) *The junk dealer or recycler carries a surety bond in the*
27 *minimum amount of one hundred thousand dollars (\$100,000),*
28 *covering the business entity at large, including all locations, which*
29 *shall be maintained exclusively to cover the costs of any loss to*
30 *the verifiable owner of stolen scrap metal proved to be purchased*
31 *by the junk dealer or recycler, as well as to cover the cost to local*
32 *law enforcement relating to its investigation of the alleged theft*
33 *of the specific material in question. The reimbursable value of the*
34 *scrap metal shall be the replacement value of the stolen property.*
35 *The reimbursement for the value of stolen scrap metal pursuant*
36 *to this paragraph shall in no way be treated under law as an*
37 *admission of culpability by the junk dealer or recycler to any*
38 *criminal activity involved in the alleged theft of the scrap metal.*

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

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

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

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

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

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

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

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

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