

AMENDED IN ASSEMBLY MAY 3, 2016
AMENDED IN ASSEMBLY MARCH 14, 2016
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2059

Introduced by Assembly Member Eduardo Garcia

February 17, 2016

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2059, as amended, 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~~ *would, until January 1, 2020*, 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 cost of 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 recoverable cost of loss to the verifiable owner of the scrap metal to be specified damages. *The bill would also require the California Research Bureau to provide a report to the Legislature on or before June 1, 2019, on the impact of these provisions on efforts to reduce and eliminate metal theft.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. 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

1 with a payment due date no more than two months prior to the
2 date of sale. For purposes of this paragraph, “alternative address”
3 means an address that is different from the address appearing on
4 the seller’s driver’s license or identification card.

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

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

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

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

23 (b) Paragraph (1) of subdivision (a) shall not apply if any of the
24 following conditions are met:

25 (1) During any three-month period commencing on or after the
26 effective date of this section, the junk dealer or recycler completes
27 five or more separate transactions per month, on five or more
28 separate days per month, with the seller and, in order for paragraph
29 (1) of subdivision (a) to continue to be inapplicable, the seller must
30 continue to complete five or more separate transactions per month
31 with the junk dealer or recycler.

32 (2) The junk dealer or recycler carries a surety bond in the
33 minimum amount of one hundred thousand dollars (\$100,000),
34 covering the business entity at large, including all locations, which
35 shall be maintained exclusively to cover the cost of loss to the
36 verifiable owner of stolen scrap metal proved to be purchased by
37 the junk dealer or recycler, as well as to cover the cost to local law
38 enforcement relating to its investigation of the alleged theft of the
39 specific material in question. The recoverable cost of loss to the
40 verifiable owner of the stolen scrap metal shall be the damages as

1 prescribed by Sections 3333, 3336, and 3336.5 of the Civil Code.
2 The reimbursement for the value of stolen scrap metal hereunder
3 shall in no way be treated under law as an admission of culpability
4 by the junk dealer or recycler to any criminal activity involved in
5 the alleged theft of the scrap metal.

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

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

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

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

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

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

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

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

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

1 (h) (1) On or before June 1, 2019, the California Research
2 Bureau shall provide a report to the Legislature on the impact of
3 paragraph (2) of subdivision (b) on efforts to reduce and eliminate
4 metal theft.

5 (2) The report to be submitted pursuant to paragraph (1) shall
6 be submitted in compliance with Section 9795 of the Government
7 Code.

8 (i) This section shall remain in effect only until January 1, 2020,
9 and as of that date is repealed.

10 SEC. 2. Section 21608.5 is added to the Business and
11 Professions Code, to read:

12 21608.5. (a) A junk dealer or recycler in this state shall not
13 provide payment for nonferrous material unless, in addition to
14 meeting the written record requirements of Sections 21605 and
15 21606, all of the following requirements are met:

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

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

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

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

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

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

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

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

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

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

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

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

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

37 (d) (1) *This section shall not apply to the purchase of nonferrous*
38 *material having a value of not more than twenty dollars (\$20) in*
39 *a single transaction, when the majority of the transaction is for*
40 *the redemption of beverage containers under the California*

1 *Beverage Container Recycling and Litter Reduction Act, as set*
2 *forth in Division 12.1 (commencing with Section 14500) of the*
3 *Public Resources Code.*

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

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

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

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

22 *(h) This section shall become operative on January 1, 2020.*