

325E.21 DEALERS IN SCRAP METAL; RECORDS, REPORTS, AND REGISTRATION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Law enforcement agency" or "agency" means a duly authorized municipal, county, state, or federal law enforcement agency.

(c) "Person" means an individual, partnership, limited partnership, limited liability company, corporation, or other entity.

(d) "Scrap metal" means:

(1) wire and cable commonly and customarily used by communication and electric utilities; and

(2) copper, aluminum, or any other metal purchased primarily for its reuse or recycling value as raw metal, including metal that is combined with other materials at the time of purchase, but does not include a scrap vehicle as defined in section 168A.1501, subdivision 1.

(e) "Scrap metal dealer" or "dealer" means a person engaged in the business of buying or selling scrap metal, or both.

The terms do not include a person engaged exclusively in the business of buying or selling new or used motor vehicles, paper or wood products, rags or furniture, or secondhand machinery.

(f) "Interchange file specification format" means the most recent version of the Minneapolis automated property system interchange file specification format.

(g) "Seller" means any seller, prospective seller, or agent of the seller.

(h) "Proof of identification" means a driver's license, Minnesota identification card number, or other identification document issued for identification purposes by any state, federal, or foreign government if the document includes the person's photograph, full name, birth date, and signature.

Subd. 1a. **Purchase or acquisition record required.** (a) Every scrap metal dealer, including an agent, employee, or representative of the dealer, shall keep a written record at the time of each purchase or acquisition of scrap metal. The record must include:

(1) an accurate account or description, including the weight if customarily purchased by weight, of the scrap metal purchased or acquired;

(2) the date, time, and place of the receipt of the scrap metal purchased or acquired;

(3) the name and address of the person selling or delivering the scrap metal;

(4) the number of the check or electronic transfer used to purchase the scrap metal;

(5) the number of the seller's or deliverer's driver's license, Minnesota identification card number, or other identification document number of an identification document issued for identification purposes by any state, federal, or foreign government if the document includes the person's photograph, full name, birth date, and signature;

(6) the license plate number and description of the vehicle used by the person when delivering the scrap metal, and any identifying marks on the vehicle, such as a business name, decals, or markings, if applicable; and

(7) a statement signed by the seller, under penalty of perjury as provided in section 609.48, attesting that the scrap metal is not stolen and is free of any liens or encumbrances and the seller has the right to sell it.

(b) The record, as well as the scrap metal purchased or received, shall at all reasonable times be open to the inspection of any law enforcement agency.

(c) No record is required for property purchased from merchants, manufacturers or wholesale dealers, having an established place of business, or of any goods purchased at open sale from any bankrupt stock, but a bill of sale or other evidence of open or legitimate purchase of the property shall be obtained and kept by the person, which must be shown upon demand to any law enforcement agency.

(d) Except as otherwise provided in this section, a scrap metal dealer or the dealer's agent, employee, or representative may not disclose personal information concerning a customer without the customer's consent unless the disclosure is made in response to a request from a law enforcement agency. A scrap metal dealer must implement reasonable safeguards to protect the security of the personal information and prevent unauthorized access to or disclosure of the information. For purposes of this paragraph, "personal information" is any individually identifiable information gathered in connection with a record under paragraph (a).

(e) This subdivision expires January 1, 2015.

Subd. 1b. Purchase or acquisition record required. (a) Every scrap metal dealer, including an agent, employee, or representative of the dealer, shall create a permanent record written in English, using an electronic record program at the time of each purchase or acquisition of scrap metal. The record must include:

(1) a complete and accurate account or description, including the weight if customarily purchased by weight, of the scrap metal purchased or acquired;

(2) the date, time, and place of the receipt of the scrap metal purchased or acquired and a unique transaction identifier;

(3) a photocopy or electronic scan of the seller's proof of identification including the identification number;

(4) the amount paid and the number of the check or electronic transfer used to purchase the scrap metal;

(5) the license plate number and description of the vehicle used by the person when delivering the scrap metal, including the vehicle make and model, and any identifying marks on the vehicle, such as a business name, decals, or markings, if applicable;

(6) a statement signed by the seller, under penalty of perjury as provided in section 609.48, attesting that the scrap metal is not stolen and is free of any liens or encumbrances and the seller has the right to sell it; and

(7) a copy of the receipt, which must include at least the following information: the name and address of the dealer, the date and time the scrap metal was received by the dealer, an accurate description of the scrap metal, and the amount paid for the scrap metal.

(b) The record, as well as the scrap metal purchased or received, shall at all reasonable times be open to the inspection of any properly identified law enforcement officer.

(c) No record is required for property purchased from merchants, manufacturers, salvage pools, insurance companies, rental car companies, financial institutions, charities, dealers licensed under section 168.27, or wholesale dealers, having an established place of business, or of any goods purchased at open sale from any bankrupt stock, but a receipt as required under paragraph (a), clause (7), shall be obtained and kept by the person, which must be shown upon demand to any properly identified law enforcement officer.

(d) The dealer must provide a copy of the receipt required under paragraph (a), clause (7), to the seller in every transaction.

(e) Law enforcement agencies in the jurisdiction where a dealer is located may conduct regular and routine inspections to ensure compliance, refer violations to the city or county attorney for criminal prosecution, and notify the registrar of motor vehicles.

(f) Except as otherwise provided in this section, a scrap metal dealer or the dealer's agent, employee, or representative may not disclose personal information concerning a customer without the customer's consent unless the disclosure is required by law or made in response to a request from a law enforcement agency. A scrap metal dealer must implement reasonable safeguards to protect the security of the personal information and prevent unauthorized access to or disclosure of the information. For purposes of this paragraph, "personal information" is any individually identifiable information gathered in connection with a record under paragraph (a).

[See Note.]

Subd. 1c. **Automated property system.** (a) Dealers must completely and accurately provide all the record information required in subdivision 1b by transferring it from their computer to the automated property system, by the close of business each day, using the interchange file specification format.

(b) A dealer who does not have an electronic point-of-sale program may request to be provided software by the automated property system to record the required information. If the dealer uses a commercially available electronic point-of-sale program to record the information required in this section, it must submit the information using the interchange file specification format. Any record submitted by a dealer that does not conform to the interchange file specification format must be corrected and resubmitted the next business day. No fees may be charged to a dealer for use of the automated property system until such time as the legislature enacts a fee schedule.

(c) A dealer must display a sign of sufficient size, in a conspicuous place in the premises, which informs all patrons that transactions are reported to law enforcement daily.

(d) Every local law enforcement agency shall participate in the automated property system as an individual agency or in conjunction with another agency or agencies to provide the service.

[See Note.]

Subd. 2. **Retention required.** Records required to be maintained by subdivision 1a shall be retained by the scrap metal dealer for a period of three years.

Subd. 2a. **Purchase or receipt of beer kegs.** A scrap metal dealer, or the dealer's agent, employer, or representative, shall not purchase or receive a refillable metal beer keg from anyone except the manufacturer of the beer keg, the brewer of the beer that was sold or provided in the keg, or an authorized representative of the manufacturer or brewer.

Subd. 3. **Payment by check or electronic transfer required.** A scrap metal dealer or the dealer's agent, employee, or representative shall pay for all scrap metal purchases only by check or electronic transfer.

Subd. 4. **Registration required.** (a) Every scrap metal dealer shall register with and participate in the criminal alert network described in section 299A.61. The dealer shall ensure that the dealer's system for receiving incoming notices from the network is in proper working order and ready to receive incoming notices. The dealer shall check the system for incoming notices twice each day the business is open, once upon opening and then again before closing. The dealer shall inform all employees involved in the purchasing or receiving of scrap metal of alerts received relating to scrap metal of the type that might be conceivably sold to the dealer. In addition, the dealer shall post copies of the alerts in a conspicuous location.

(b) The scrap metal dealer shall pay to the commissioner of public safety a \$50 annual fee to participate in the criminal alert network and for the educational materials described in section 299C.25.

(c) The commissioner shall notify the scrap metal dealer if a message sent to the dealer is returned as undeliverable or is otherwise not accepted for delivery by the dealer's system. The dealer shall take action necessary to ensure that future messages are received.

(d) This subdivision expires January 1, 2015.

Subd. 5. **Training.** Each scrap metal dealer shall review the educational materials provided by the superintendent of the Bureau of Criminal Apprehension under section 299C.25 and ensure that all employees do so as well.

Subd. 6. **Criminal penalty.** A scrap metal dealer, or the agent, employee, or representative of the dealer, who intentionally violates a provision of this section, is guilty of a misdemeanor.

Subd. 7. **Exemption.** A scrap metal dealer may purchase aluminum cans without complying with this section.

Subd. 8. **Investigative holds; confiscation of property.** (a) Whenever a law enforcement official from any agency has probable cause to believe that property in the possession of a scrap metal dealer is stolen or is evidence of a crime and notifies the dealer not to sell the item, the scrap metal dealer shall not (1) process or sell the item, or (2) remove or allow its removal from the premises. This investigative hold must be confirmed in writing by the originating agency within 72 hours and will remain in effect for 30 days from the date of initial notification, or until the investigative hold is canceled or renewed, or until a law enforcement notification to confiscate or directive to release is issued, whichever comes first.

(b) If an item is identified as stolen or evidence in a criminal case, a law enforcement official may:

(1) physically confiscate and remove it from the scrap metal dealer, pursuant to a written notification;

(2) place the item on hold or extend the hold under paragraph (a) and leave it in the licensed premise; or

(3) direct its release to a registered owner or owner's agent.

When an item is confiscated, the person doing so shall provide identification upon request of the scrap metal dealer, and shall provide the name and telephone number of the confiscating agency and investigator, and the case number related to the confiscation.

(c) A dealer may request seized property be returned in accordance with section 626.04.

(d) When an investigative hold or notification to confiscate is no longer necessary, the law enforcement official or designee shall so notify the licensee.

(e) A scrap metal dealer may process or otherwise dispose of the scrap metal if:

(1) a notification to confiscate is not issued during the investigative hold; or

(2) a law enforcement official does not physically remove the motor vehicle from the premises within 15 calendar days from issuance of a notification to confiscate.

(f) If a scrap metal dealer is required to hold the metal at the direction of law enforcement for purposes of investigation or prosecution or it is seized by law enforcement, the scrap metal dealer, and any other victim, shall be entitled to seek restitution against the person who delivered the metal to the scrap metal dealer in any criminal case that may arise from the investigation, including any out-of-pocket expenses for storage and lost profit.

Subd. 9. Video security cameras required. (a) Each scrap metal dealer shall install and maintain at each location video surveillance cameras, still digital cameras, or similar devices positioned to record or photograph a frontal view showing a readily identifiable image of the face of each seller of scrap metal who enters the location. The scrap metal dealer shall also photograph the seller's vehicle, including license plate, either by video camera or still digital camera, so that an accurate and complete description of it may be obtained from the recordings made by the cameras. Photographs and recordings must be clearly and accurately associated with their respective records.

(b) The video camera or still digital camera must be kept in operating condition and must be shown upon request to a properly identified law enforcement officer for inspection. The camera must record and display the accurate date and time. The video camera must be turned on at all times when the location is open for business and at any other time when scrap metal is purchased.

(c) Recordings and images required by paragraph (a) shall be retained by the scrap metal dealer for a minimum period of 60 days and shall at all reasonable times be open to the inspection of any properly identified law enforcement officer.

(d) If the scrap metal dealer does not purchase some or any scrap metal at a specific business location, the dealer need not comply with this subdivision with respect to those purchases.

Subd. 10. Preemption of local ordinances. This section preempts and supersedes any local ordinance or rule concerning the same subject matter.

History: (10225) 1907 c 228 s 1; 1957 c 960 s 1; 1973 c 123 art 5 s 7; 1986 c 444; 2005 c 10 art 2 s 4; 2007 c 54 art 7 s 21; 2008 c 259 s 1; 2013 c 126 s 8-15

NOTE: Subdivision 1b, as added by Laws 2013, chapter 126, section 10, is effective January 1, 2015. Laws 2013, chapter 126, section 10, the effective date.

NOTE: Subdivision 1c, as added by Laws 2013, chapter 126, section 11, is effective January 1, 2015. Laws 2013, chapter 126, section 11, the effective date.