



Arkansas Code Annotated §17-23-101. Definitions.

As used in this chapter:

- (1) (A) "Dealer" means a person, corporation, partnership, or other entity that engages in the business of purchasing precious metals or precious items, or both, for the purpose of reselling the items in any form.
- (B) "Dealer" does not include a person, corporation, partnership, or other entity engaged in a business that is exempted under § 17-23-102;
- (2) "Permanent place of business" means a fixed premises either owned by the dealer or leased by the dealer for a period of at least one (1) year;
- (3) "Person" means any individual, partnership, corporation, association, or other business entity; (4) "Precious items" means precious or semiprecious stones or pearls whether mounted or unmounted;
- (5) "Precious metals" means an article made, in whole or in part, of gold, silver, platinum, or a combination of gold, silver, or platinum;
- (6) "Purchase" means the acquisition of a precious metal or a precious item, or both, for a consideration of cash, goods, or other precious metals or precious items; and
- (7) "Silver" means sterling silver.

HISTORY: Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 2011, No. 1037, § 1.

17-23-102. Exemptions.

The provisions of this chapter shall not apply to the following:

- (1) Transactions involving the sale or transfer of precious metals by a wholesale jeweler to a retail jeweler or licensed dealer;
- (2) Transactions involving coins regardless of whether or not such coins contain precious metals;
- (3) Any financial institution, which is covered by federal or state deposit insurance;
- (4) Any person doing business under the laws of this state or the United States relating to any broker-dealer, or commodity futures commission merchant, or commodity trading advisor or agent duly registered and regulated by the State Securities Department or the United States Commodity Futures Trading Commission; or
- (5) Pawn brokers.

HISTORY: Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 1991, No. 729, § 1; 2011, No. 1037, § 2.

17-23-103. Penalties.

- (a) Every person who shall violate the provisions of this chapter and be found guilty shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than one (1) year, or both.

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(b) If the value of the property involved in a transaction which is in violation of this chapter exceeds five hundred dollars (\$500), a person convicted of a violation shall be fined not more than two thousand dollars (\$2,000) or imprisoned for not more than three (3) years, or both.

HISTORY: Acts 1981, No. 87, § 7; A.S.A. 1947, § 71-5407.

17-23-201. Registration required.

A person shall not engage in the business of purchasing precious metals or precious items from the general public for the purpose of reselling the precious metals or precious items in any condition without first registering with the local law enforcement agency in the jurisdiction in which the business or the seller is located.

HISTORY: Acts 1981, No. 87, § 1; 1981, No. 541, § 1; A.S.A. 1947, § 71-5401; Acts 1991, No. 729, § 2; 2011, No. 1037, § 3.

17-23-202. Registration.

(a) (1) A dealer shall register with local law enforcement in writing and on the form prescribed by the local law enforcement agency at least twenty-four (24) hours prior to conducting business in that jurisdiction.

(2) The registration shall include:

(A) (i) The name of the registrant.

(ii) If the registrant is a partnership or association, the name of each member of the partnership or association.

(iii) If the registrant is a corporation, the name of each officer and director and of the principal owner or owners of the issued and outstanding capital stock in the corporation;

(B) The residence and business address for each person listed under subdivision (a)(2)(A) of this section;

(C) The city or town with the street and number where the business is to be conducted;

(D) A statement that the registrant has:

(i) A bona fide established place of business used primarily for the purchase of precious metals and precious items; and

(ii) A telephone number listed in the name of the business; and

(E) The name, address, and telephone number of the person designated to receive legal process in the event of the commencement of any legal action in any court against the registrant.

(b) A nonresident applicant shall provide the principal place of business without the state and such further information as the department may require for the administration of its duties under this chapter.

HISTORY: Acts 1981, No. 87, § 2; 1983, No. 374, § 1; A.S.A. 1947, § 71-5402; Acts 2011, No. 1037, § 4.

17-23-203. Seller identification.

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(a) A dealer required to register under this chapter shall require the following from each seller of precious metals or precious items:

(1) Proof of identification in the form of a valid driver's license, identification card, armed services identification card, or other valid photo identification;

(2) A signed statement stating that the seller is the legal owner of the property or is the agent of the owner authorized to sell the property, and when and where or in what manner the property was obtained; and

(3) A legible print of his or her right thumb as an identifying mark on the form.

(b) (1) A dealer shall not purchase precious metals or precious items from a person under eighteen (18) years of age unless the person is accompanied by a parent or guardian who provides identification that establishes that relationship.

(2) Both the person under eighteen (18) years of age and the parent or guardian shall submit the identification required under subdivision

(a)(1) of this section, and records of the identification of both shall be maintained as provided under § 17-23-206.

HISTORY: Acts 1981, No. 87, § 3; 1983, No. 374, § 2; A.S.A. 1947, § 71-5403; Acts 2011, No. 1037, § 5.

17-23-204. Melt-down bullion.

When a proposed transaction involves the buying of precious metal bulk bullion which appears to have been the result of a melt-down of a former article containing a precious metal, the buyer must first inquire as to what was the source of the item before the melt-down and must notify the Department of Arkansas State Police or the office of the county sheriff or municipal police department and obtain permission from that law enforcement agency before consummating any agreement.

HISTORY: Acts 1981, No. 87, § 3; 1983, No. 374, § 2; A.S.A. 1947, § 71-5403.

17-23-205. Disclosures.

Every person required to be licensed under this chapter shall inform the prospective seller of the price per ounce currently being paid for the particular precious metal offered by the prospective seller, and the precious metals shall be weighed in full sight of the prospective seller.

HISTORY: Acts 1981, No. 87, § 3; 1983, No. 374, § 2; A.S.A. 1947, § 71-5403.

17-23-206. Records.

(a) Every person registered under this chapter shall keep a record book containing a comprehensive record of all transactions concerning precious metals or precious items.

(b) The record shall include:

(1) The name, address, and telephone number of the seller;

(2) The date of birth of the seller;

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(3) The signature of the seller;

(4) A description of the seller, including height, weight, race, complexion, and hair color;

(5) The driver's license, identification card, or other photo identification number provided under § 17-23-203(a)(1) and the jurisdiction of issuance; and

(6) A complete and accurate description of the property purchased, including any serial numbers or other identifying marks or symbols and the date and hour of the transaction.

(c) All persons registered under this chapter shall at least weekly deliver or mail to the chief law enforcement officer of the city or town or the sheriff of the county in which the business is located a written or electronic copy of all entries in the record required to be kept by subsections (a) and (b) of this section during the preceding seven-day period.

(d) All records and reports received by the chief law enforcement officer of the city or town or sheriff of the county shall be available for inspection only by law enforcement officers for law enforcement purposes.

HISTORY: Acts 1981, No. 87, §§ 4, 5; 1981, No. 541, §§ 2, 3; 1983, No. 374, § 3; A.S.A. 1947, §§ 71-5404, 71-5405; Acts 2011, No. 1037, § 6.

17-23-207. Holding periods.

(a) All persons registered under this chapter shall retain possession of precious metals or precious items in an unaltered condition for fifteen (15) business days after delivering the list to the chief law enforcement officer of the city or town or sheriff of the county as required under § 17-23-206. (b) If the chief law enforcement officer of the city or town or sheriff of the county or the prosecuting attorney has probable cause to believe that precious metals or precious items have been stolen, he or she may give notice to the registrant to retain the precious metal or precious item for a specific period of time.

HISTORY: Acts 1981, No. 87, § 5; 1981, No. 541, § 3; A.S.A. 1947, § 71-5405; Acts 2011, No. 1037, § 7.

17-23-208. Disposition of funds.

All fees collected under the provisions of this chapter shall be classified as special revenues and shall be deposited in the Department of Arkansas State Police Fund.

HISTORY: Acts 1981, No. 87, § 8; A.S.A. 1947, § 71-5408

Stricken language would be deleted from and underlined language would be added to present law.

Act 1193 of the Regular Session
State of Arkansas As Engrossed:

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H3/30/11 2 88th

General Assembly

A Bill

Regular Session, 2011

HOUSE BILL 2119

By: Representatives Hammer, Williams

For An Act To Be Entitled

AN ACT REGARDING SCRAP METAL DEALERS AND SALES; AND FOR OTHER PURPOSES.

Subtitle

REGARDING SCRAP METAL DEALERS AND SALES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Title 5, Chapter 36, Subchapter 1 is amended to add a new section to read as follows:

"5-36-124. Theft by receiving of scrap metal.

(a) As used in this section:

(1) "Receiving" means acquiring possession, control, or title or lending on the security of the scrap metal; and

(2) "Scrap metal" means copper, copper alloy, copper utility wire, any bronze, or any aluminum as described in § 17-44-101 et seq.

(b) A person commits the offense of theft by receiving of scrap metal if he or she receives, retains, or disposes of scrap metal of another person knowing that the scrap metal was stolen.

(c)(1) Theft by receiving of scrap metal is a:

(A) Class D felony if the value of the scrap metal is more than one thousand dollars (\$1,000); or

(B) Class A misdemeanor.

(2) A person who is found guilty of or pleads guilty or nolo contendere to a second or subsequent violation of this section is guilty of a Class D felony.

SECTION 2. Arkansas Code § 17-44-102 is amended as follows: 17-44-102. Records required.

(a) As used in this section, "reasonable, written documentation" means a written document that includes the following information provided by the seller of the scrap metal to the scrap metal recycler:

(1) The name of the entity or individual from whom the seller acquired the scrap metal;

(2) The date the seller acquired the scrap metal;

(3) The physical address from where the seller acquired the scrap metal;

(4) An affirmation or certification from the seller in the written document that he or she is the owner of the scrap metal or is the employer, agent, licensed contractor, licensed HVACR, plumber, electrician, or other person authorized to sell the scrap metal on behalf of the owner; and

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(5) An affirmation or certification from the seller in the written document that he or she has not pleaded guilty or nolo contendere to or been found guilty of theft, burglary, or vandalism when the offense involved scrap metal.

(b) A seller shall not sell and a scrap metal recycler shall not purchase scrap metal unless reasonable, written documentation is provided that the seller is the owner of the scrap metal or is an employee, agent, or other person authorized to sell the scrap metal on behalf of the owner.

(a)(1)(c)(1) Each scrap metal recycler doing business in the State of Arkansas shall maintain an accurate and legible record of each scrap metal purchase transaction.

(2) Individual records shall not be required for a series of scrap metal purchase transactions made under a contract.

(3) The data required under subdivision (b)(1)(d)(1) of this section may be maintained for repeat sellers in a relational database allowing the scrap metal recycler to record the information one (1) time and relate future purchase records to that information.

(4) A municipality or county may require by ordinance electronic or digital records and reporting methods.

(b)(d) The record of each scrap metal purchase transaction shall contain the following information taken at the time of sale and kept on record:

(1) The name, address, gender, birth date, and identifying number from the seller's driver's license, military identification card, passport, or other form of government-issued photo identification;

(2) A photocopy of the government-issued photo identification provided under subdivision (b)(1)(d)(1) of this section;

(3) The date of the scrap metal purchase transaction;

(4) The digital thumbprints of the seller;

(5)(A) A general description of the predominant types of scrap metal purchased.

(B) The general description shall be made in accordance with the custom of the trade;

(6) A general description of the configuration of the scrap metal and whether the material is insulated;

(7) The weight, quantity, or volume, recorded in accordance with the custom of the trade, of the scrap metal purchased;

(8) The consideration paid;

(9) The license plate number of the vehicle used in transporting the materials to the scrap metal recycler's place of business; and

(10)(A) A clearly identifiable date-and-time-stamped digital photograph of the:

(A)(i) Seller; and

(B)(ii) Scrap metal in the form in which it was purchased.

(C)(B) The name of the person taking the photographs under this subdivision (b)(10)(A) of this section shall be recorded and provided with the photographs.

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(c)(e) The photocopy required under subdivision (b)(2)(d)(2) of this section, the digital thumbprints required under subdivision (b)(4)(d)(4) of this section, and the digital photographs taken required under subdivision (b)(10)(A)(d)(10)(A) of this section shall be reasonably clear.

(d)(1)(f)(1) For records required under subsection (b) subsections (a) and (d) of this section, a scrap metal recycler shall file a daily electronic record of scrap metal purchases made for that day.

(2) The report shall be made daily by entering the information 36 into an automated database which may be interfaced by law enforcement statewide.

(e) A seller shall provide the following to a purchaser:

(1) A copy of a valid driver's license, military identification card, passport, or other form of government-issued photo identification;

(2) A signed statement that the seller is the owner or is otherwise authorized to sell the scrap metal; and

(3) A general description of where and how the seller acquired the scrap metal.

(f)(g) The records required under this section shall be:

(1) Kept for a period of one (1) year;

(2) Made available to any law enforcement office of the State of Arkansas and any Arkansas municipality or county; and

(3) Available for use in any legal proceeding.

(g)(h) This section shall does not apply to transactions:

(1) In which a scrap metal processor purchases, transfers, or otherwise conveys scrap metal to another scrap metal processor if the purchaser or transferee obtained a bill of sale or similar document at the time of transfer;

(2) Involving only beverage or food containers; or

(3) Involving only ferrous metals.

SECTION 3. Arkansas Code § 17-44-103, as amended by Act 348 of 2011, is repealed.

17-44-103. Restrictions on the purchase of certain items.

(a) A seller shall not sell and a scrap metal recycler shall not purchase the following scrap metal unless reasonable, written documentation is provided that the seller is the owner of the scrap metal or is an employee, agent, or other person authorized to sell the scrap metal on behalf of the owner:

(1) Scrap metal marked with the initials of an electrical company, a telephone company, a cable company, another public utility, or a brewer;

(2) Utility access covers;

(3) Street light poles and fixtures;

(4) Road and bridge guard rails;

(5) Highway or street signs;

(6) Water meter covers;

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- (7) Metal beer kegs including those made of stainless steel that are clearly marked as being the property of the beer manufacturer;
- (8) Traffic directional and control signs;
- (9) Traffic light signals;
- (10) Any scrap metal marked with the name of a government entity;

- (11) Property owned by a telephone company, a cable company, an electric company, a water company, or another utility or by a railroad and marked or otherwise identified as such;
- (12) Unused and undamaged building construction or utility materials consisting of copper, pipe, tubing or wiring, or aluminum wire, historical markers, or grave markers and vases;
- (13) Catalytic converters that are not part of an entire motor vehicle;
- (14) Scrap metal that has been smelted, burned, or melted;
- (15) Air conditioning parts unless:
 - (A)(i) The parts are being sold by a contractor, plumber, or electrician;
 - (ii) A current and valid HVAC license is provided at the time of the sale; and
 - (iii) A copy of the HVAC license number is recorded by the purchaser of the scrap metal; or
 - (B) The parts are being sold by an individual who provides evidence:
 - (i) Of ownership of the parts by providing an:
 - (a) Invoice for the purchase of the unit from which the parts were removed;
 - (b) Invoice for the purchase of a unit which replaced the unit from which the parts were removed; (c) Affidavit from the dealer who sold the unit from which the parts were removed; or
 - (d) Affidavit from the dealer who sold and installed a unit which replaced the unit from which the parts were removed; and
 - (ii) That the parts were removed by an individual with a current and valid HVAC license;
- (16) Any scrap metal that has been brightly painted or marked to deter theft of the scrap metal.
 - (b)(1) A scrap metal recycler shall not make a cash payment to a seller known by the recycler to have pleaded guilty or nolo contendere to or to have been found guilty of theft, burglary, or vandalism when the offense involved scrap metal.
 - (2) Payments to a seller who has pleaded guilty or nolo contendere to or has been found guilty of theft, burglary, or vandalism where the offense involved scrap metal shall be made in the following manner:
 - (A) A check mailed to the seller; or
 - (B) An electronic funds transfer initiated no earlier than three (3) days after the date of the transaction.
 - (3) A scrap metal recycler shall request a list of persons who have pleaded guilty or nolo contendere to or have been found guilty of theft, burglary, or vandalism when the offense involved scrap metal from the appropriate law enforcement agency.
 - (c) This section does not apply to transactions in which a scrap metal processor purchases, transfers, or otherwise conveys scrap metal to another scrap metal processor.

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SECTION 4. Arkansas Code § 17-44-106 is amended to read as follows: 23 17-44-106.
Penalties.

(a) Any person that fails to comply with this chapter is guilty of a 25 Class A misdemeanor A person who violates this chapter may be assessed a 26 civil penalty of no more than five hundred dollars (\$500) per violation.

(b) Any person that knowingly gives false information with respect to the matters required to be maintained in the records provided for in this 29 chapter is guilty of a Class A misdemeanor.

http://static.ark.org/eeuploads/asp/pm_lic_statute.pdf

<http://www.arkleg.state.ar.us/assembly/2011/2011R/Acts/Act1193.pdf>

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