



BUSINESS AND PROFESSIONS CODE
SECTION 21600-21610

21600. As used in this article, "junk" means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof.

As used in this section, "scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

21601. As used in this article, "junk dealer" includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

21602. As used in this article, "junk yard" includes any yard, plot, space, inclosure, building or any other place where junk is collected, stored, gathered together and kept.

21603. This article shall not apply to any of the following:

- (a) Secondhand furniture merchants.
- (b) Pawnbrokers.
- (c) Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not carried on and conducted in conjunction with a junk yard.
- (d) Persons engaged in the business of selling new automobile tires or batteries or other equipment taking in part payment used articles of the same kind and thereafter selling or disposing of the same.
- (e) Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard.
- (f) Secondhand clothing merchants and ragpickers.

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21604. Except as otherwise provided in this article, this article does not apply to:

- (a) Any person who buys or sells junk acquired in the conduct of any business other than that of a junk dealer or recycler.
- (b) Except as provided in Section 21609.1, those purchases of scrap metal by a junk dealer or recycler when the payment for the scrap metal is by check issued to the company represented as being the owner of the scrap.
- (c) Scrap metal purchased or received from another junk dealer or recycler who has recorded, reported, and held the material as required. The purchase or receipt shall also be exempt from further holding or reporting provided that the selling party gives the buyer written assurance of this fact. The seller shall be held responsible for any failure to report or hold.

21605. (a) Every junk dealer and every recycler in this state is hereby required to keep a written record of all sales and purchases made in the course of his or her business.

- (b) For purposes of this article, "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code, who buys or sells scrap metal that constitutes junk, as defined in Section 21600.

21606. (a) Every junk dealer and every recycler shall set out in the written record required by this article all of the following:

- (1) The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.
- (2) One of the following methods of identification:
 - (A) The name, valid driver's license number and state of issue or California- or United States-issued identification card number.
 - (B) The name, identification number, and country of issue from a passport used for identification and the address from an additional item of identification that also bears the seller's name.
 - (C) The name and identification number from a Matricula Consular used for identification and the address from an additional item of identification that also bears the seller's name.
- (3) The vehicle license number, including the state of issue, of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.
- (4) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.
- (5) A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if

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visible.

(6) A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained the junk from, as shown on a signed transfer document.

(b) Any person who makes, or causes to be made, any false or fictitious statement regarding any information required by this section, is guilty of a misdemeanor.

(c) Every junk dealer and every recycler shall report the information required in subdivision (a) to the chief of police or to the sheriff in the same manner as described in Section 21628.

21606.5. Every junk dealer or recycler shall, during normal business hours, allow periodic inspection of any premises maintained and any junk thereon for the purpose of determining compliance with the recordkeeping requirements of this article, and shall during those hours produce his or her records of sales and purchases, except as provided in subparagraph (B) of paragraph (6) of subdivision (a) of Section 21608.5, and all property purchased incident to those transactions which is in the possession of the junk dealer or recycler for inspection by any of the following persons:

(a) An officer holding a warrant authorizing him or her to search for personal property.

(b) A person appointed by the sheriff of a county or appointed by the head of the police department of a city.

(c) An officer holding a court order directing him or her to examine the records or property.

(d) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

21607. Every junk dealer and recycler shall preserve the written record required by this article for at least two years after making the final entry of any purchase or sale of junk or scrap metals and alloys as defined in Section 21600.

21608. (a) A junk dealer or recycler who fails in any respect to keep the written record required by this article, or to set out in that written record any matter required by this article to be set out therein, is guilty of a misdemeanor.

Every junk dealer or recycler who refuses, upon demand pursuant to Section 21606.5, to exhibit the written record required by this article, or who destroys that record within two years after making the final entry of a purchase or sale of junk therein, is guilty of a misdemeanor.

(b) Any knowing and willful violation of subdivision (a) shall be punishable as follows:

(1) For a first offense, by a fine of not less than one thousand

dollars (\$1,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment.

(2) For a second offense, by a fine of not less than two thousand dollars (\$2,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court may order the defendant to stop engaging in business as a junk dealer or recycler for a period not to exceed 30 days.

(3) For a third or any subsequent offense, by a fine of not less than four thousand dollars (\$4,000), or by imprisonment in the county jail for not less than six months, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall order the defendant to stop engaging in business as a junk dealer or recycler for not less than one year.

(c) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

21608.3. (a) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any such disclosure shall render the violator liable for a civil fine of up to five thousand dollars (\$5,000).

(b) This section shall become operative on December 1, 2008.

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

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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.

21608.6. (a) A junk dealer or recycler, as defined in subdivision (f), in this state shall not provide payment for newspaper, as defined in Section 538c of the Penal Code, or for California Redemption Value (CRV) containers 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 newspaper or for the CRV containers is made by check or by other electronic transfer from the junk dealer or recycler to the seller. A recycler, if authorized by regulations adopted pursuant to Division 12.1 (commencing with Section 14500) of the Public Resources Code, may provide payment for CRV containers through a voucher that is immediately redeemable for cash.

(2) The junk dealer or recycler obtains and records a valid, documented address for the seller by obtaining 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, or other valid identification containing the seller's address, such as utility bills in the seller's name. The junk dealer or recycler shall preserve the photograph and the address or the copies obtained pursuant to this paragraph for a period of two years after the date of sale.

(b) The requirements of 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

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five or more separate transactions per month with the seller, and in order for the requirements of 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 or a copy of a state or federal government-issued identification card containing a photograph and an address of the person delivering newspaper or CRV containers on behalf of the seller to the junk dealer or the recycler.

(d) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any violation of this prohibition is subject to a civil fine not to exceed five thousand dollars (\$5,000).

(e) This section shall not apply to the payment for newspaper having a value of fifty dollars (\$50) or less in a single transaction or CRV containers having a value of one hundred dollars (\$100) or less in a single transaction.

(f) This section shall only apply in jurisdictions that offer curbside pickup of materials that include newspaper and CRV containers.

(g) Notwithstanding Section 21605, for purposes of this section, "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

21608.7. (a) A junk dealer or recycler shall request to receive theft alert notifications regarding the theft of commodity metals, including, but not limited to, ferrous metal, copper, brass, aluminum, nickel, stainless steel, and alloys, in the junk dealer's or recycler's geographic region from the theft alert system maintained by the Institute of Scrap Recycling Industries, Inc., or its successor.

(b) The requirement in subdivision (a) does not apply if the institute or its successor requires payment for use of the theft alert system.

21609. (a) Whenever a peace officer has probable cause to believe that property in the possession of a junk dealer or recycler is stolen, in lieu of seizing the property, the peace officer as defined

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in subdivision (b) of Section 21606.5, at his or her option, may place a hold on the property for a period not to exceed 90 days. When a peace officer places a hold on the property, the peace officer shall give the junk dealer or recycler a written notice at the time the hold is placed, describing the item or items to be held plus the case number. During that period the junk dealer or recycler shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by a peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. Except as specifically set forth in this section, a junk dealer or recycler shall not be subject to civil liability for compliance with this section.

(b) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is required by a peace officer in a criminal investigation, the junk dealer or recycler, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.

(c) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:

(1) With respect to the property being held, if the law enforcement agency has no knowledge of the property on hold being reported as stolen, the property shall be released upon written notice to the junk dealer or recycler. The notice shall be provided in a timely fashion.

(2) If the law enforcement agency has knowledge that the property has been reported stolen, the law enforcement agency shall notify the person who reported the stolen property of the name and address of the junk dealer or recycler holding the property and authorize the release of the property to that person.

The law enforcement agency that placed the property on hold shall release the hold after 60 days has elapsed following the delivery of the notice to the person who reported the property stolen.

(3) If a victim seeks to recover property that is subject to a hold, the junk dealer or recycler shall advise the victim of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution the hold shall be released.

(d) Upon conviction of a person for the theft of property placed

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on hold pursuant to this section, the court shall order the defendant to do both of the following:

- (1) Pay the junk dealer or recycler reasonable costs for the storage of the property.
 - (2) Pay the victim for both the value of the property stolen and any reasonable collateral damage caused in the commission of the theft.
- (e) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

21609.1. (a) No junk dealer or recycler shall possess any reasonably recognizable, disassembled, or inoperative fire hydrant or fire department connection, including, but not limited to, reasonably recognizable brass fittings and parts, or any manhole cover or lid or reasonably recognizable part of a manhole cover or lid, or any backflow device or connection to that device or reasonably recognizable part of that device, that was owned or previously owned by an agency, in the absence of a written certification on the letterhead of the agency owning or previously owning the material described in the certification that the agency has either sold the material described or is offering the material for sale, salvage, or recycling, and that the person possessing the certification and identified in the certification is authorized to negotiate the sale of that material.

(b) A junk dealer or recycler who unknowingly takes possession of one or more of the items listed in subdivision (a) as part of a load of otherwise nonprohibited materials without a written certification has a duty to notify the appropriate law enforcement agency by the end of the next business day upon discovery of the prohibited material. Written certification shall relieve the junk dealer or recycler from any civil or criminal penalty for possession of the prohibited material. The prohibited material shall be set aside and not sold pending a determination made by a law enforcement agency pursuant to Section 21609.

(c) For purposes of this section, the following definitions apply:

(1) "Agency" means a public agency, city, county, city and county, special district, or private utility regulated by the Public Utilities Commission.

(2) "Appropriate law enforcement agency" means either of the following:

(A) The police chief of the city, or his or her designee, if the item or items listed in subdivision (a) are located within the territorial limits of an incorporated city.

(B) The sheriff of the county or his or her designee if the item or items listed are located within the county but outside the territorial limits of an incorporated city.

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(3) "Written certification" means a certification in written form by the junk dealer or recycler to a law enforcement agency, including electronic mail, facsimile, or a letter delivered in person or by certified mail.

21609.5. (a) Except as provided in subdivision (b), no junk dealer or recycler may purchase or receive refillable stainless steel or aluminum alloy beer kegs marked with an indicia of ownership from any person or entity other than the indicated owner. For purposes of this section, "indicia of ownership" means words, symbols, or registered trademarks printed, stamped, etched, attached, or otherwise displayed on the exterior surface of the beer keg that reasonably identifies the owner.

(b) If the seller is not the indicated owner, a junk dealer or recycler may purchase or receive refillable stainless steel or aluminum alloy beer kegs only if the seller or transferor provides a receipt from the indicated owner verifying the seller's current ownership or a document indicating that the seller or transferor is authorized by the indicated owner to sell or transfer the beer kegs. Copies of these documents shall be maintained by the junk dealer or recycler as part of the written record of the transaction.

21609.7. (a) Except as provided in subdivision (b), no junk dealer or recycler may purchase or receive bulk merchandise pallets marked with an indicia of ownership from any person or entity other than the indicated owner. For purposes of this section, "indicia of ownership" means words, symbols, or registered trademarks printed, stamped, etched, attached, or otherwise displayed on the exterior surface of the merchandise pallet that reasonably identifies the owner.

(b) If the seller is not the indicated owner, a junk dealer or recycler may purchase or receive bulk merchandise pallets only if the seller or transferor provides a receipt from the indicated owner verifying the seller's current ownership or a document indicating that the seller or transferor is authorized by the indicated owner to sell or transfer the merchandise pallets. Copies of these documents shall be maintained by the junk dealer or recycler as part of the written record of the transaction.

(c) For a single transaction involving five or more bulk merchandise pallets marked with indicia of ownership where the seller is not the indicated owner, the junk dealer or recycler shall make payment only by a check mailed to the address shown on the driver's license or other government-issued photo identification provided by the seller or by cash or check collected by the seller on or after the third business day following the date of the transaction.

(d) For purposes of this section, "bulk merchandise pallets" means plastic or wood containers, carriers, or holders used by a

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manufacturer or distributor for bulk transport of merchandise to wholesale or retail outlets.

21610. (a) For the purposes of this section, the term "core recycler" means a person or business, including a recycler or junk dealer, that buys used individual catalytic converters, transmissions, or other parts previously removed from a vehicle. A person or business that buys a vehicle that may contain these parts is not a core recycler.

(b) A core recycler who accepts a catalytic converter for recycling shall maintain a written record that contains all of the following:

(1) The place and date of each sale or purchase of a catalytic converter made in the conduct of his or her business as a core recycler.

(2) The name, valid driver's license number, and state of issue, or California-issued identification number, of the seller of the catalytic converter and the vehicle license number, including state of issue of a motor vehicle used in transporting the catalytic converter to the core recycler's place of business. If the seller is a business, the written record shall include the name, address, and telephone number of the business.

(3) A description of the catalytic converters purchased or sold, including the item type and quantity, amount paid for the catalytic converter, and identification number, if any, and the vehicle identification number.

(4) A statement indicating either that the seller of the catalytic converter is the owner of the catalytic converter, or the name of the person from whom he or she has obtained the catalytic converter, including the business, if applicable, as shown on a signed transfer document.

(c) A core recycler engaged in the selling or shipping of used catalytic converters to other recyclers or smelters shall retain information on the sale that includes all of the following:

(1) The name and address of each person to whom the catalytic converter is sold or disposed of.

(2) The quantity of catalytic converters being sold or shipped.

(3) The amount that was paid for the catalytic converters sold in the transaction.

(4) The date of the transaction.

(d) A core recycler shall not provide payment for a catalytic converter unless all of the following requirements are met:

(1) The payment is made by check and provided to the seller by either of the following:

(A) (i) Except as provided in clause (ii), mailed to the seller at the address provided pursuant to paragraph (3).

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(ii) For a seller that is a business, mailed to the seller's business address.

(B) (i) Except as provided in clause (ii), collected by the seller from the recycler on the third business day after the date of sale.

(ii) A seller that is a business may receive immediate payment. A seller that is a business that has a contract with a core recycler or a seller that is a licensed auto dismantler may receive immediate payment by check or by debit card or credit card.

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

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

(B) If the seller prefers to have the check for the catalytic converter mailed to an alternative address, other than a post office box, the core 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 the alternative address with a payment due date no more than two months prior to the date of sale. For the purpose of this subparagraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.

(4) The core recycler obtains a clear photograph or video of the catalytic converter being sold.

(5) At the time of sale, the core recycler obtains a written statement from the seller indicating how the seller obtained the catalytic converter.

(e) The requirements of subdivision (d) shall not apply to a core recycler that buys used catalytic converters, transmissions, or other parts removed from a vehicle if the core recycler and the seller have a written agreement for the transaction.

(f) Core recyclers accepting catalytic converters from licensed auto dismantlers or from recyclers who hold a written agreement with a business that sells catalytic converters for recycling purposes are required to collect only the following information:

(1) Name of seller or agent acting on behalf of the seller.

(2) Date of transaction.

(3) Number of catalytic converters received in the course of the transaction.

(4) Amount of money that was paid for catalytic converters in the course of the transaction.

(g) A core recycler shall keep and maintain the information required pursuant to this section for not less than two years.

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(h) A core recycler shall make the information required pursuant to this section available for inspection by local law enforcement upon demand.

(i) A person who makes, or causes to be made, a false or fictitious statement regarding any information required pursuant to this section is guilty of a misdemeanor.

(j) A person who violates the requirements of this section is guilty of a misdemeanor.

(k) Upon conviction, a person who knowingly and willfully violates the requirements of this section shall be punished as follows:

(1) For a first conviction, by a fine of one thousand dollars (\$1,000).

(2) (A) For a second conviction, by a fine of not less than two thousand dollars (\$2,000).

(B) In addition to the fine imposed pursuant to subparagraph (A), the court may order the defendant to cease engaging in the business of a core recycler for a period not to exceed 30 days.

(3) (A) For a third and subsequent conviction, by a fine of not less than four thousand dollars (\$4,000).

(B) In addition to the fine imposed pursuant to subparagraph (A), the court shall order the defendant to cease engaging in the business of a core recycler for a period not less than one year.

(l) The provisions of this section apply to core recyclers and do not apply to a subsequent purchaser of a catalytic converter who is not a core recycler. Other than subdivision (f), the provisions of this section do not apply to a core recycler who holds a written agreement with a business or recycler regarding the transactions.

Chapter 5.44

JUNK DEALERS AND SCRAP METAL RECYCLERS

Sections:

- 5.44.010 Authority.
- 5.44.020 Definitions.
- 5.44.030 Exemptions.
- 5.44.040 Reporting.
- 5.44.050 Sellers age limit.
- 5.44.060 Hours.
- 5.44.070 Payment.
- 5.44.080 Immediate notice of certain transactions.
- 5.44.090 License.
- 5.44.100 Penalty.

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5.44.010 Authority.

This chapter is adopted pursuant to the police power of the city and county under Article XI, Section 7 of the California Constitution and in supplementation of Business and Professions Code Sections 21600 through 21609. This chapter is not intended to supersede the provisions of these statutes. Any conflict that may exist between this chapter and state law shall be resolved in favor of the latter. Nothing contained herein shall relieve any person or legal entity of obligations contained in the business and provisions code or other provisions of state or local law. (Ord. 688 (part), 2007).

5.44.020 Definitions.

As used in this chapter:

“Junk” means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, but does not include secondhand and used furniture or pallets.

“Junk dealer” means and includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

“Junk yard” means and includes any yard, plot, space, enclosure, building or any other place where junk is collected, stored, gathered together and kept.

“Recycler” means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code, who buys or sells scrap metal that constitutes junk as defined herein.

“Scrap metals and alloys” means and includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rings, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code. (Ord. 688 (part), 2007).

5.44.030 Exemptions.

A. This chapter shall not apply to any of the following:

1. Secondhand furniture merchants;
2. Pawnbrokers;
3. Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not carried on and conducted in conjunction with a junk yard;
4. Persons engaged in the business of selling new automobile tires batteries or other equipment taking in part payment used articles of the same kind and thereafter selling or depositing of the same;
5. Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard;
6. Secondhand clothing merchants and ragpickers.

(Ord. 688 (part), 2007).

5.44.040 Reporting.

A. Junk dealers or recyclers shall report to Patterson police services, every day before twelve o'clock noon, on a form provided by the police department, a record of all sales and purchases of the previous twenty-four hours. The report shall contain the information required by this chapter and any additional information required by the police department as shown on the forms.

B. The report shall at a minimum contain the following information:

1. The name, business name, business address, telephone number, facsimile number, and electronic mail address;

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2. The place and date of each sale or purchase of junk made in the conduct of his or her business as junk dealer or recycler;
3. The name, valid driver's license number and state of issue or California-issued identification card number, and vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealers or recycler's place of business;
4. The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business;
5. A full and complete description of the item or items of junk purchased or sold, including the item type, quantity, length, diameter, size, brand, model, manufacturer, and identification number;
6. A statement indicating either that the seller of the junk is the owner of it, or the name of the person her or she obtained it from, as shown on a signed transfer document;
7. The fingerprint of the right hand index finger, unless such finger is missing, in which event the print of the next finger in existence on the right hand shall be obtained with a notation as to the exact finger printed of the person from whom junk is received. (Ord. 688 (part), 2007).

5.44.050 Sellers age limit.

A. It is unlawful for any junk dealer or recycler to purchase, or otherwise acquire, any junk from any person known, or reasonably should be known by the junk dealer or recycler, to be under age of eighteen years. (Ord. 688 (part), 2007).

5.44.060 Hours.

A. It is unlawful for any junk dealer or recycler to conduct his or her business as a junk dealer within this county between the hours of seven p.m. of one day and seven a.m. of the next day. (Ord. 688 (part), 2007).

5.44.070 Payment.

A. It is unlawful for any junk dealer or recycler to make payment for the purchase of junk in excess of ten dollars to any person except by paper draft or check. (Ord. 688 (part), 2007).

5.44.080 Immediate notice of certain transactions.

A. Every junk dealer or recycler shall immediately notify the police department by telephone, or other means likely to reach the police department without delay, of the following:

1. The sale or purchase, or attempted sale or purchase, of any junk which reasonably appear to be used only by government, utilities railroads, or for specific purposes, such as guardrails, manhole covers, high voltage transmission lines, historical markers, cemetery plaques, light poles, and bleachers. (Ord. 688 (part), 2007).

5.44.090 License.

License—Required.

A. It is unlawful for any person to act as a junk dealer or recycler without first making an application for and receiving from the city a license to act as such junk dealer or recycler in the city of Patterson.

License—Application—Contents.

B. Any person desiring a license, or to renew a license, hereunder shall make application to the city upon blanks furnished therefor. If the application is made by an individual, he shall affirm under penalty of perjury that the contents of the application are true, and the contents of the application shall include the name and age of applicant, his present address or addresses, and the name under which, and the place where, the applicant has conducted a similar business within twelve months immediately preceding the date of the application. If the business is to be engaged in by a partnership, association or corporation, the application for a license shall be made by the general manager thereof, or by one having the authority of a general manager. In such case, the application shall state the true name of the organization, the date of its organization, its type, the location of its principal place of business, the names and addresses of its officers, or, in the case of a copartnership, the names and addresses of all the partners.

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C. In accordance with California Business and Professions Code Sections 12703 and 12733, the applicant shall attach to the application documentation to the satisfaction of the city that the applicant holds a current and active California Weighmaster License. A copy of the applicant's current weighmaster license shall be displayed in a prominent location at each location where the applicant conducts business.

D. The applicant shall acknowledge having read Penal Code Section 496a, which shall be promptly set forth within the application in bold type.

License—Application—Employee Identification.

E. The applicant, at the request of the police department, shall accompany the application with photographs and fingerprints of all the individuals who are to be actually engaged in the management of the business or in buying or otherwise acquiring junk for the business for which the license is requested. In the event any other person, after the license has been granted, is engaged in the management of the business or in buying or otherwise acquiring such junk, the such person, until any such demand has been complied with, and any license that has been issued shall be suspended or revoked if the license does not, within a reasonable time, comply with the provisions of this section.

License—Application—Investigation.

F. Upon submission of a complete application for license under this chapter, the application shall be immediately referred to the department of planning/building and community development, and to the police department for investigation concerning the applicants business and character of the applicant. These departments shall, after investigation, file a report upon the application designating whether or not the applicant shall be reported as proper person to be granted a license under this chapter unless and until it appears that the applicant conduct or proposed conduct of the business does and will comply with all applicable laws and ordinances, including but not limited to those relating to the public health and to zoning. The departments shall be allowed sixty days from the date of receiving a completed application within which to file the report.

License—Fees.

G. Application fee for a junk dealer or recycler's business license shall be two hundred fifty dollars, the annual renewal fee shall be one hundred fifty dollars, and the fee to appeal denial of the license application shall be fifty dollars.

License—Term.

H. The licenses provided for in this section shall be issued for a period of one year from the date of issuance.

License—Denial Appeal.

I. In the event of the denial of an application for license under this chapter, the applicant may, within ten days after the date written notice of such adverse report is mailed, file with the city clerk a notice of intention to appear before the city council to appeal the denial of the application. Upon failure to file such notice within the ten-day period, the denial of the application shall be final and conclusive. The notice of appeal shall be accompanied by the fee amount stated in subsection G of this section.

License—Suspension, Revocation or Conditioning of License.

J. The city council may, upon motion or upon the verified complaint in writing of any person, investigate the actions of any licensee and may, after ten days written notice to the licensee and after a hearing before the council, suspend, revoke, or condition the license of any licensee who commits any one or more of the acts or omissions constituting grounds for disciplinary action under this section. The grounds for such action shall be summarized in the notice. The notice provided for herein shall be given by registered or certified mail, postage prepaid, or in the manner required for the service of summons in civil actions. Pending the council's final decision regarding the license, a licensee may continue to engage in the business for the period of his license.

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License—Disciplinary Action Grounds.

K. It shall be ground for disciplinary action any licensee, his agent or employee or any person connected or associated with the licensee as partner, director, officer, stockholder, general manager, or person who is exercising managerial authority of or on behalf of the licensee has:

1. Knowingly made any false, misleading or fraudulent a statement of a material fact in an application for a license, or in any report or relating to be filed; or
2. Violated any provision of this chapter or any statute relating to his licensed activity; or
3. Been convicted of a felony or crime involving theft, embezzlement or moral turpitude; or
4. Committed any act constituting dishonesty or fraud; or
5. Committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting a licensed business; or
6. Published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of a licenses business; or
7. Violated any rule or regulation adopted by the city council relating to the licensee's business; or
8. Conducted the licensed business in a manner contrary to the peace, health, safety, and general welfare or the public; or
9. Demonstrated that he is unfit to be trusted with the privilege granted by such license; or
10. Failed to comply with the regulations of the city of Patterson.

License—Revocation Without Hearing Upon Conviction.

L. If any person holding a license under this chapter is convicted in any court of the violation of any law relative to his operation of licensed business, the city council may revoke the license forthwith without any further action thereon other than giving written notice of revocation to the licensee. (Ord. 688 (part), 2007).
5.44.100 Penalty.

A. Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars or imprisonment in the county jail for not more than six months, or both such fine and imprisonment. (Ord. 688 (part), 2007).

BILL NUMBER: SB 485 CHAPTERED

BILL TEXT

CHAPTER 518

FILED WITH SECRETARY OF STATE OCTOBER 3, 2013

APPROVED BY GOVERNOR OCTOBER 3, 2013

PASSED THE SENATE SEPTEMBER 10, 2013

PASSED THE ASSEMBLY SEPTEMBER 9, 2013

AMENDED IN ASSEMBLY AUGUST 5, 2013

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 14, 2013

AMENDED IN SENATE APRIL 8, 2013

INTRODUCED BY Senator Calderon

(Coauthors: Senators Berryhill and Galgiani)

FEBRUARY 21, 2013

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An act to amend, repeal, and add Sections 12704 and 12709 of, and to add and repeal Section 12703.1 of, the Business and Professions Code, relating to weighmasters.

LEGISLATIVE COUNSEL'S DIGEST

SB 485, Calderon. Weighmasters: junk dealers and recyclers.

Existing law vests the Department of Food and Agriculture with general supervision of weights and measures and weighing and measuring devices sold or used in the state, and authorizes the Secretary of Food and Agriculture to exercise any power conferred upon the department or upon the State Sealer, who is the chief of the division of the department charged with the enforcement of the provisions relating to weights and measures. Existing law defines a weighmaster as any person, who, for hire or otherwise, weighs, measures, or counts any commodity and issues a statement or memorandum of the weight, measure, or count which is used as the basis for either the purchase or sale of that commodity or charge for service. Existing law requires a weighmaster to obtain a license and to pay a license fee, as prescribed. Existing law authorizes the secretary to refuse to grant a license, to refuse to renew a license, or to revoke or suspend a license if, after a specified hearing, the secretary is satisfied that the applicant or licensee is not qualified to capably or reliably perform the duties of a weighmaster or has been found guilty of a misdemeanor relating to the regulation of weighmasters.

This bill would require the department to require a recycler or junk dealer, as defined, who is an applicant for a new weighmaster license or a renewal of a weighmaster license to furnish specified additional information on the application. The bill would require the department to issue a weighmaster license to a junk dealer or recycler upon receipt of an application for a new license or the renewal of a license that contains the appropriate information and fee. Upon issuance of a weighmaster license to a junk dealer or recycler, the bill would require the department to make a thorough investigation of all of the information contained in the application within specified time periods. If the department determines that information submitted in the application is materially inaccurate, the bill would require the department to revoke the license issued to the junk dealer or recycler unless the junk dealer or recycler complies with these information requirements within 14 days of notice, as specified. The bill would provide that a junk dealer or recycler whose weighmaster license has been revoked is entitled to a

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hearing. The bill would require a weighmaster who is a junk dealer or recycler to pay an additional annual fee of \$500 to the department for each location at which the weighmaster operates, as specified, for the administration and enforcement of these provisions. The bill would authorize the secretary to enter into a cooperative agreement with any county sealer to carry out certain of these provisions. This bill would repeal these new provisions on January 1, 2019.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) According to the Division of Measurement Standards, the agency responsible for enforcement of weights and measures laws and regulations, the primary functions carried out by the division are to ensure fair and honest competition for industry and accurate value comparison for consumers.

(b) Because the division and county sealers are responsible for periodically inspecting and regulating all weighing and measuring devices utilized by all scrap metal recyclers doing business within the state, they are perfectly suited to review and verify the accuracy of the required information provided by the recycler or junk dealer on the weighmaster license application.

SEC. 2. Section 12703.1 is added to the Business and Professions Code, to read:

12703.1. (a) In addition to any other requirements for issuance of a license pursuant to this chapter, if the applicant is a recycler or junk dealer as defined in Section 21601, the department shall require the applicant to furnish all of the following information accurately on any application for a new license or the renewal of a license issued pursuant to this chapter:

(1) A copy of the applicant's current business license.

(2) A statement indicating that the applicant has either filed an application for a stormwater permit or is not required to obtain a stormwater permit.

(3) A statement indicating that the applicant has the equipment necessary to comply with the photographic and thumbprinting requirements for the purchase and sale of nonferrous materials pursuant to Section 21608.5 or a statement indicating that the applicant will not be purchasing or selling nonferrous materials and is not required to comply with Section 21608.5.

(4) The name or names of any deputy weighmasters.

(b) The department shall issue a license to a junk dealer or recycler upon receipt of an application for a new license or renewal of a license that contains the information required by subdivision

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(a) and that is accompanied by the appropriate fee.

(c) (1) On or before December 31, 2014, upon issuance of a license to a junk dealer or recycler, or renewal of such a license, the department shall make a thorough investigation of all of the information contained in the application within 90 days. If the license is issued or renewed on or after January 1, 2015, the department shall make a thorough investigation of all the information contained in the application within 90 days for a new license, and within one calendar year for a renewal of a license.

(2) Notwithstanding Section 12708, if the department determines that the information submitted pursuant to subdivision (a) is materially inaccurate, the department shall revoke the license issued to a junk dealer or recycler unless the junk dealer or recycler complies with the requirements of subdivision (a) within 14 days of notice from the department of a proposed revocation pursuant to this subdivision.

(3) A junk dealer or recycler whose license has been revoked pursuant to this subdivision is entitled to a hearing conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(d) The secretary may enter into a cooperative agreement with any county sealer to carry out the provisions of this section.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 3. Section 12704 of the Business and Professions Code is amended to read:

12704. (a) A weighmaster shall pay to the department the following license fee for each license year as applicable to the operation:

(1) Seventy-five dollars (\$75) if the weighmaster is operating at a fixed location.

(2) Thirty dollars (\$30) for each additional fixed location at which the weighmaster is operating.

(3) Two hundred dollars (\$200) if the weighmaster is operating at other than a fixed location.

(4) Twenty dollars (\$20) for each deputy weighmaster.

(b) In addition to the license fees set forth in subdivision (a), a weighmaster who is a recycler or a junk dealer as defined in Section 21601 or is performing services on behalf of a recycler or junk dealer shall also pay to the department the following license fee for each license year as applicable to the operation:

(1) Five hundred dollars (\$500) if the weighmaster is operating at a fixed location.

(2) Five hundred dollars (\$500) for each additional fixed location

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at which the weighmaster is operating.

(3) Five hundred dollars (\$500) if the weighmaster is operating at other than a fixed location.

(c) "License year" means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date designated by the secretary for expiration of the license, or yearly intervals after the first renewal.

(d) "Location" means a premise on which weighing, measuring, or counting devices are used.

(e) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 4. Section 12704 is added to the Business and Professions Code, to read:

12704. (a) A weighmaster shall pay to the department the following license fee for each license year as applicable to the operation:

(1) Seventy-five dollars (\$75) if the weighmaster is operating at a fixed location.

(2) Thirty dollars (\$30) for each additional fixed location at which the weighmaster is operating.

(3) Two hundred dollars (\$200) if the weighmaster is operating at other than a fixed location.

(4) Twenty dollars (\$20) for each deputy weighmaster.

(b) "License year" means the period of time beginning with the first day of the month the weighmaster is required to be licensed in this state, and ending on the date designated by the secretary for expiration of the license, or yearly intervals after the first renewal.

(c) "Location" means a premise on which weighing, measuring, or counting devices are used.

(d) This section shall become operative on January 1, 2019.

SEC. 5. Section 12709 of the Business and Professions Code is amended to read:

12709. (a) All license fees collected pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of this chapter, except as provided in subdivision (b).

(b) License fees collected pursuant to subdivision (b) of Section 12704 shall be deposited in a special account in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of Section 12703.1.

(c) This section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted

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statute, that is enacted before January 1, 2019, deletes or extends that date.

SEC. 6. Section 12709 is added to the Business and Professions Code, to read:

12709. (a) All license fees collected pursuant to this chapter shall be deposited in the Department of Food and Agriculture Fund to be expended by the department for the administration and enforcement of this chapter.

(b) This section shall become operative on January 1, 2019.

<http://www.leginfo.ca.gov/cgi-bin/displaycode?section=bpc&group=21001-22000&file=21600-21610>
http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0451-0500/sb_485_bill_20131003_chaptered.html

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