

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 281

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

AN ACT

RELATING TO THE SALE OF RECYCLED METALS; ENACTING THE SALE OF
RECYCLED METALS ACT; REGULATING THE SALE OF CERTAIN RECYCLED
METALS; PROVIDING FOR PENALTIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Sale of Recycled Metals Act".

Section 2. DEFINITIONS.--As used in the Sale of Recycled
Metals Act:

A. "aluminum material" means a product made from
aluminum, an aluminum alloy or an aluminum byproduct.

"Aluminum material" includes an aluminum beer keg but does not
include other types of aluminum cans used to contain a food or
beverage;

B. "bronze material" means:

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underscored material = new
[bracketed material] = delete

1 (1) a cemetery vase, receptacle or memorial
2 made from bronze;

3 (2) bronze statuary; and

4 (3) material readily identifiable as bronze;

5 C. "business day" means any calendar day except
6 Sunday or the following business holidays: New Year's day,
7 Washington's birthday, Memorial day, Independence day, Labor
8 day, Columbus day, Veterans' day, Thanksgiving day, Christmas
9 day, Martin Luther King, Jr.'s birthday and any other legal
10 public holiday of the state of New Mexico or the United States;

11 D. "copper or brass material" means:

12 (1) insulated or noninsulated copper wire,
13 hardware or cable of the type used by a public utility,
14 commercial mobile radio service carrier or common carrier that
15 consists of at least twenty-five percent copper; and

16 (2) a copper or brass item of a type commonly
17 used in construction or by a public utility, commercial mobile
18 radio service carrier or common carrier;

19 E. "department" means the regulation and licensing
20 department;

21 F. "peace officer" means any full-time salaried and
22 commissioned or certified law enforcement officer of a police
23 or sheriff's department that is part of or administered by the
24 state or any political subdivision of the state;

25 G. "personal identification document" means:

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- 1 (1) a driver's license;
2 (2) a military identification card;
3 (3) a passport issued by the United States or
4 by another country and recognized by the United States; and
5 (4) a personal identification certificate
6 issued by the department, or a corresponding card or
7 certificate issued by another state;

8 H. "regulated material" means:

- 9 (1) aluminum material;
10 (2) bronze material;
11 (3) copper or brass material; and
12 (4) steel material;

13 I. "secondhand metal dealer" means:

- 14 (1) an auto wrecker, a scrap metal processor
15 or other person that purchases, collects or solicits regulated
16 material; and
17 (2) a person who operates or maintains a scrap
18 metal yard or other place in which scrap metal or cast-off
19 regulated material is collected or kept for shipment, sale or
20 transfer;

21 J. "steel material" means a product made from an
22 alloy of iron, chromium, nickel or manganese, including
23 stainless steel beer kegs; and

24 K. "superintendent" means the superintendent of
25 regulation and licensing.

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1 Section 3. NOTICE TO SELLERS.--

2 A. A secondhand metal dealer shall at all times
3 maintain in a prominent place in the dealer's place of
4 business, in open view to a seller of regulated material, a
5 notice in two-inch lettering that:

6 (1) includes the following language:

7 "A PERSON ATTEMPTING TO SELL REGULATED MATERIAL MUST
8 PRESENT SUFFICIENT IDENTIFICATION AS REQUIRED BY STATE LAW.

9 WARNING: STATE LAW PROVIDES A CIVIL FINE FOR A PERSON WHO
10 INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR
11 OTHER FALSE INFORMATION TO A SECONDHAND METAL DEALER WHILE
12 ATTEMPTING TO SELL REGULATED MATERIAL."; and

13 (2) states the secondhand metal dealer's usual
14 business hours.

15 B. The notice required by this section may be
16 contained on a sign that contains another notice if the
17 secondhand metal dealer is required to display another notice
18 pursuant to applicable law.

19 Section 4. INFORMATION PROVIDED BY SELLER.--

20 A. A person attempting to sell regulated material
21 to a secondhand metal dealer shall:

22 (1) display to the secondhand metal dealer the
23 person's personal identification document;

24 (2) sign a written statement provided by the
25 secondhand metal dealer that the person is the legal owner of

1 or is lawfully entitled to sell the regulated material offered
2 for sale; and

3 (3) provide to the secondhand metal dealer the
4 year, make, model and license plate number of the motor vehicle
5 used to transport the regulated material.

6 B. The secondhand metal dealer or the dealer's agent
7 shall visually verify the accuracy of the personal
8 identification document and vehicle identification presented by
9 the seller at the time of the dealer's purchase of regulated
10 material.

11 Section 5. RECORD OF PURCHASE.--

12 A. A secondhand metal dealer in this state shall
13 keep an accurate and legible written record of each purchase
14 made in the course of the dealer's business from a person of:

- 15 (1) copper or brass material;
16 (2) bronze material;
17 (3) aluminum material in excess of ten pounds;

18 or

19 (4) steel material in excess of one ton,
20 except that a written record shall be kept of each purchase of a
21 stainless steel beer keg.

22 B. The record shall be in English and shall include:

- 23 (1) the place and date of the purchase;
24 (2) the name and address of each person from
25 whom the regulated material is purchased or obtained;

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1 (3) the identifying number of the personal
2 identification document of each person from whom the regulated
3 material is purchased or obtained;

4 (4) the year, make, model and license plate
5 number of the motor vehicle used to transport the regulated
6 material;

7 (5) a description made in accordance with the
8 custom of the trade of the type and quantity of regulated
9 material purchased; and

10 (6) the statement required by Paragraph (2) of
11 Subsection A of Section 4 of the Sale of Recycled Metals Act.

12 Section 6. PRESERVATION OF RECORDS.--A secondhand metal
13 dealer shall preserve each record required by Section 5 of the
14 Sale of Recycled Metals Act until the third anniversary of the
15 date the record was made.

16 Section 7. INSPECTION OF RECORDS BY PEACE OFFICERS AND
17 DEPARTMENT.--

18 A. Upon request, a secondhand metal dealer shall
19 permit a peace officer of this state or a local government
20 subdivision or an authorized employee of the department to
21 inspect during the dealer's usual business hours:

22 (1) records required by Section 5 of the Sale
23 of Recycled Metals Act; and

24 (2) regulated material in the dealer's
25 possession.

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1 B. The inspecting peace officer or authorized
2 employee of the department shall inform the secondhand metal
3 dealer of the person's status as a peace officer or authorized
4 employee of the department.

5 Section 8. FURNISHING OF REPORT TO DEPARTMENT.--Not later
6 than the second business day after the date of the purchase or
7 other acquisition of regulated material for which a record is
8 required pursuant to Section 5 of the Sale of Recycled Metals
9 Act, a secondhand metal dealer shall mail to or file with the
10 department a report containing the information required to be
11 recorded pursuant to that section.

12 Section 9. PUBLIC DATABASE.--The department shall
13 establish and maintain an electronic database containing the
14 records required to be preserved pursuant to Section 6 of the
15 Sale of Recycled Metals Act, which database shall be accessible
16 to the public. Records received by the department pursuant to
17 Section 8 of the Sale of Recycled Metals Act shall be available
18 in the database by the end of the second business day following
19 receipt by the department.

20 Section 10. POWERS AND DUTIES OF SUPERINTENDENT.--The
21 superintendent has authority to promulgate reasonable
22 regulations for the administration and enforcement of the Sale
23 of Recycled Metals Act and is expressly authorized to make
24 regulations regarding records of purchase of regulated material
25 and the public database required pursuant to that act.

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1 Section 11. WAITING PERIOD FOR DISPOSAL OF REGULATED
2 MATERIAL.--A secondhand metal dealer shall not process or permit
3 to be removed from the dealer's premises regulated material
4 until the fifth business day after the date on which the dealer
5 acquired the regulated material.

6 Section 12. PROHIBITED ACTS.--A person shall not, with
7 the intent to deceive:

8 A. display to a secondhand metal dealer a false or
9 invalid personal identification document in connection with the
10 person's attempted sale of regulated material; or

11 B. make a false material statement or representation
12 to a secondhand metal dealer in connection with:

13 (1) that person's execution of a written
14 statement required by Subsection A of Section 4 of the Sale of
15 Recycled Metals Act; or

16 (2) the dealer's efforts to obtain the
17 information required pursuant to Subsection B of Section 5 of
18 the Sale of Recycled Metals Act.

19 Section 13. CIVIL PENALTY.--

20 A. A person who violates any provision of the Sale
21 of Recycled Metals Act may be assessed a civil penalty by the
22 superintendent not to exceed one thousand dollars (\$1,000) per
23 violation.

24 B. Prior to the imposition of a civil penalty, the
25 person being penalized shall be afforded notice and an

1 opportunity to be heard by the superintendent pursuant to the
2 pertinent notice and hearing provisions of the Uniform Licensing
3 Act.

4 Section 14. SEVERABILITY.--If any part or application of
5 the Sale of Recycled Metals Act is held invalid, the remainder
6 or its application to other situations or persons shall not be
7 affected.

8 Section 15. APPLICABILITY.--The provisions of the Sale of
9 Recycled Metals Act shall not apply to a purchase of regulated
10 material from a manufacturing, industrial or other commercial
11 vendor that sells regulated material in the ordinary course of
12 the vendor's business.

13 Section 16. EFFECTIVE DATE.--The effective date of the
14 provisions of this act is January 1, 2009.