

1 AN ACT

2 RELATING TO THE SALE OF RECYCLED METALS; REQUIRING SECONDHAND
3 METAL DEALERS TO BE REGISTERED WITH THE REGULATION AND
4 LICENSING DEPARTMENT; PRESCRIBING DUTIES FOR SECONDHAND METAL
5 DEALERS; PROVIDING FOR THE SUSPENSION OR REVOCATION OF
6 REGISTRATION; REDUCING THE WAITING PERIOD FOR RESALE OF
7 REGULATED MATERIAL; ALLOWING HOLDS IN CERTAIN CIRCUMSTANCES;
8 REDUCING THE TIME FOR PRESERVATION OF RECORDS; EXPANDING THE
9 SCOPE OF REGULATED MATERIAL; REQUIRING UPLOADS TO AN
10 ELECTRONIC DATABASE; REQUIRING ADDITIONAL DOCUMENTATION FOR
11 CERTAIN TRANSACTIONS; AMENDING AND ENACTING SECTIONS OF THE
12 SALE OF RECYCLED METALS ACT.

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

15 SECTION 1. Section 57-30-1 NMSA 1978 (being Laws 2008,
16 Chapter 29, Section 1) is amended to read:

17 "57-30-1. SHORT TITLE.--Chapter 57, Article 30 NMSA
18 1978 may be cited as the "Sale of Recycled Metals Act"."

19 SECTION 2. Section 57-30-2 NMSA 1978 (being Laws 2008,
20 Chapter 29, Section 2) is amended to read:

21 "57-30-2. DEFINITIONS.--As used in the Sale of Recycled
22 Metals Act:

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

25 "Aluminum material" includes an aluminum beer keg but does

1 not include other types of aluminum cans used to contain a
2 food or beverage;

3 B. "bronze material" means:

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

6 (2) bronze statuary; or

7 (3) material readily identifiable as bronze;

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

15 D. "copper or brass material" means:

16 (1) insulated or noninsulated copper wire,
17 hardware or cable of the type used by a public utility,
18 commercial mobile radio service carrier or common carrier
19 that consists of at least twenty-five percent copper; or

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

23 E. "department" means the regulation and licensing
24 department;

25 F. "peace officer" means any full-time salaried

1 and commissioned or certified law enforcement officer of a
2 police or sheriff's department that is part of or
3 administered by the state or a political subdivision of the
4 state;

5 G. "personal identification document" means:

- 6 (1) a driver's license;
- 7 (2) a military identification card; or
- 8 (3) a passport issued by the United States
9 or by another country and recognized by the United States;

10 H. "regulated material" means:

- 11 (1) aluminum material;
- 12 (2) bronze material;
- 13 (3) copper or brass material;
- 14 (4) steel material;
- 15 (5) a utility access cover;
- 16 (6) a water meter cover;
- 17 (7) a road or bridge guard rail;
- 18 (8) a highway or street sign;
- 19 (9) a traffic directional or control sign or
20 signal; or
- 21 (10) a catalytic converter that is not part
22 of an entire motor vehicle;

23 I. "secondhand metal dealer" means a scrap metal
24 processor in the business of operating or maintaining a scrap
25 metal yard in a physical location in which scrap metal or

1 cast-off regulated material is purchased for shipment, sale
2 or transfer;

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

6 K. "superintendent" means the superintendent of
7 regulation and licensing."

8 SECTION 3. Section 57-30-4 NMSA 1978 (being Laws 2008,
9 Chapter 29, Section 4) is amended to read:

10 "57-30-4. INFORMATION PROVIDED BY SELLER.--

11 A. A person attempting to sell regulated material
12 to a secondhand metal dealer shall:

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

15 (2) sign a written statement provided by the
16 secondhand metal dealer that the person is the legal owner of
17 or is lawfully entitled to sell the regulated material
18 offered for sale;

19 (3) provide to the secondhand metal dealer
20 the year, make, model and license plate number of the motor
21 vehicle used to transport the regulated material; and

22 (4) allow the secondhand metal dealer to
23 take a photograph of the seller and the regulated material.

24 B. The secondhand metal dealer or the dealer's
25 agent shall visually verify the accuracy of the personal

1 identification document and vehicle identification presented
2 by the seller at the time of the dealer's purchase of
3 regulated material."

4 SECTION 4. Section 57-30-5 NMSA 1978 (being Laws 2008,
5 Chapter 29, Section 5) is amended to read:

6 "57-30-5. RECORD OF PURCHASE.--

7 A. A secondhand metal dealer in this state shall
8 keep an accurate and legible written record, in a form
9 approved by the department, of each purchase made in the
10 course of the dealer's business of:

11 (1) copper or brass material;

12 (2) bronze material;

13 (3) aluminum material in excess of ten
14 pounds; or

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

18 B. The record shall be in English and shall
19 include:

20 (1) the place and date of the purchase;

21 (2) the name and address of each person from
22 whom the regulated material is purchased or obtained;

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

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

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

7 (6) the statement required by Paragraph (2)
8 of Subsection A of Section 57-30-4 NMSA 1978; and

9 (7) the written documentation required for
10 certain transactions pursuant to Section 16 of this 2012 act,
11 if applicable.

12 C. A secondhand metal dealer may take a digital
13 photograph, with a date and time stamp, of:

14 (1) the seller of the regulated material;
15 and

16 (2) the regulated material in the form in
17 which it was purchased or obtained by the secondhand metal
18 dealer."

19 SECTION 5. Section 57-30-6 NMSA 1978 (being Laws 2008,
20 Chapter 29, Section 6) is amended to read:

21 "57-30-6. PRESERVATION OF RECORDS.--A secondhand metal
22 dealer shall preserve each record required by Section 57-30-5
23 NMSA 1978 until the first anniversary of the date the record
24 was made."

25 SECTION 6. Section 57-30-7 NMSA 1978 (being Laws 2008,

1 Chapter 29, Section 7) is amended to read:

2 "57-30-7. INSPECTION OF RECORDS BY PEACE OFFICERS--
3 HOLDS ON PROPERTY.--

4 A. Upon request, a secondhand metal dealer shall
5 produce to a peace officer during the dealer's usual business
6 hours the requested record of purchase as required by Section
7 57-30-5 NMSA 1978.

8 B. If a peace officer determines, through an
9 investigation or examination of the records kept by the
10 secondhand metal dealer, that the dealer may be in possession
11 of stolen property or property that constitutes evidence in a
12 criminal investigation, the peace officer may place a hold on
13 the property prohibiting the sale or removal of the property
14 from the premises. The hold may remain in effect for up to
15 five days or until the hold is lifted or the property is
16 seized, whichever occurs earlier.

17 C. The inspecting peace officer shall inform the
18 secondhand metal dealer of the person's status as a peace
19 officer."

20 SECTION 7. Section 57-30-8 NMSA 1978 (being Laws 2008,
21 Chapter 29, Section 8) is amended to read:

22 "57-30-8. FURNISHING OF REPORT TO DEPARTMENT.--

23 A. As of January 1, 2014, a secondhand metal
24 dealer shall, not later than the second business day after
25 the date of the purchase or other acquisition of regulated

1 material for which a record is required pursuant to Section
2 57-30-5 NMSA 1978, upload to the database maintained by the
3 department a report containing the information required to be
4 recorded pursuant to that section.

5 B. A local governmental entity shall not impose
6 any reporting requirements on secondhand metal dealers
7 regarding the purchase or acquisition of regulated material."

8 SECTION 8. Section 57-30-9 NMSA 1978 (being Laws 2008,
9 Chapter 29, Section 9) is amended to read:

10 "57-30-9. DATABASE.--The department shall establish and
11 maintain an electronic database containing the records
12 required to be preserved pursuant to Section 57-30-6 NMSA
13 1978, which database shall be accessible to law enforcement
14 agencies and the department. Records received by the
15 department pursuant to Section 57-30-8 NMSA 1978 shall be
16 available in the database by the end of the second business
17 day following receipt by the department."

18 SECTION 9. Section 57-30-10 NMSA 1978 (being Laws 2008,
19 Chapter 29, Section 10) is amended to read:

20 "57-30-10. POWERS AND DUTIES OF SUPERINTENDENT.--The
21 superintendent has authority to promulgate reasonable
22 regulations for the administration and enforcement of the
23 Sale of Recycled Metals Act and is expressly authorized to
24 make regulations regarding records of purchase of regulated
25 material and the database required pursuant to that act."

1 SECTION 10. Section 57-30-11 NMSA 1978 (being Laws
2 2008, Chapter 29, Section 11) is amended to read:

3 "57-30-11. WAITING PERIOD FOR DISPOSAL OF REGULATED
4 MATERIAL.--A secondhand metal dealer shall not process or
5 permit to be removed from the dealer's premises regulated
6 material until at least twenty-four hours have elapsed since
7 the dealer acquired the regulated material."

8 SECTION 11. Section 57-30-12 NMSA 1978 (being Laws
9 2008, Chapter 29, Section 12) is amended to read:

10 "57-30-12. PROHIBITED ACTS.--A person shall not, with
11 the intent to deceive:

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

15 B. make a false material statement or
16 representation to a secondhand metal dealer in connection
17 with:

18 (1) that person's execution of a written
19 statement required by Subsection A of Section 57-30-4 NMSA
20 1978;

21 (2) the dealer's efforts to obtain the
22 information required pursuant to Subsection B of Section
23 57-30-5 NMSA 1978; or

24 (3) the written documentation required for
25 certain transactions pursuant to Section 16 of this 2012 act;

1 or

2 C. deliberately remove or alter a manufacturer's
3 make, model, serial or personal identification number or
4 other identifying marks engraved or etched upon property that
5 is regulated material."

6 SECTION 12. Section 57-30-13 NMSA 1978 (being Laws
7 2008, Chapter 29, Section 13) is amended to read:

8 "57-30-13. CIVIL PENALTY--SUSPENSION OR REVOCATION OF
9 REGISTRATION.--

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

14 B. The superintendent may suspend or revoke the
15 registration of a secondhand metal dealer when the
16 superintendent finds that the dealer has intentionally
17 violated a provision of the Sale of Recycled Metals Act.

18 C. Prior to the imposition of a civil penalty or
19 the suspension or revocation of a registration, the
20 superintendent shall provide notice and an opportunity to be
21 heard pursuant to the pertinent notice and hearing provisions
22 of the Uniform Licensing Act."

23 SECTION 13. A new section of the Sale of Recycled
24 Metals Act is enacted to read:

25 "ISSUANCE OF REGISTRATION--PERIOD OF REGISTRATION.--The

1 department is authorized to issue registrations to secondhand
2 metal dealers that buy or sell regulated material. Original
3 and renewed registrations shall be valid for a period of
4 three years from the date of issuance, unless the
5 registration is suspended or revoked."

6 SECTION 14. A new section of the Sale of Recycled
7 Metals Act is enacted to read:

8 "SECONDHAND METAL DEALERS--REGISTRATION REQUIRED--
9 APPLICATION--FEE.--

10 A. A secondhand metal dealer shall not buy or sell
11 regulated material without a valid registration issued by the
12 department.

13 B. An application for registration shall be
14 completed, under penalty of perjury, on a form designed and
15 provided by the department and shall include:

16 (1) the full name and business address of
17 the applicant;

18 (2) a list of all locations at which the
19 applicant engages or will engage in the business of buying or
20 selling regulated material; and

21 (3) any other information the department may
22 require by rule.

23 C. An application for registration or for renewal
24 of a registration shall be accompanied by a nonrefundable
25 application fee in an amount not to exceed twenty-five

1 dollars (\$25.00)."

2 SECTION 15. A new section of the Sale of Recycled
3 Metals Act is enacted to read:

4 "DUTIES OF SECONDHAND METAL DEALERS.--

5 A. A secondhand metal dealer shall:

6 (1) maintain a valid registration, issued by
7 the department, and comply with the requirements of the Sale
8 of Recycled Metals Act and rules promulgated pursuant to that
9 act;

10 (2) comply with all federal requirements for
11 scrap metal dealers, including maintaining storm water
12 permits;

13 (3) register for the metal theft alert
14 system, maintained by the institute of scrap recycling
15 industries or its successor organization; and

16 (4) keep all employees who are involved in
17 the purchasing or receiving of regulated material apprised of
18 alerts received on theft of regulated material in the
19 geographic area.

20 B. A secondhand metal dealer who becomes aware
21 that the dealer is in possession of regulated material that
22 was stolen or unlawfully obtained shall not remove the
23 material from the dealer's premises and shall report the same
24 to a local law enforcement agency within twenty-four hours."

25 SECTION 16. A new section of the Sale of Recycled

1 Metals Act is enacted to read:

2 "RESTRICTED TRANSACTIONS--ADDITIONAL DOCUMENTATION
3 REQUIRED.--

4 A. A secondhand metal dealer shall not purchase
5 any of the following without written documentation indicating
6 that the seller is the rightful owner or has permission from
7 the rightful owner or that the material was otherwise
8 lawfully obtained:

9 (1) infrastructure grade regulated material
10 that has been burned to remove insulation, unless the seller
11 can produce written proof that the regulated material was
12 lawfully burned;

13 (2) regulated material where the
14 manufacturer's make, model, serial or personal identification
15 number or other identifying marks engraved or etched upon the
16 material have been conspicuously removed or altered;

17 (3) regulated material marked with the name,
18 initials or otherwise identified as the property of an
19 electrical company, a telephone company, a cable company, a
20 water company or other utility company, a railroad or a
21 governmental entity;

22 (4) a utility access cover;

23 (5) a water meter cover;

24 (6) a road or bridge guard rail;

25 (7) a highway or street sign;

1 (8) a traffic directional or control sign or
2 signal;

3 (9) a metal beer keg that is clearly marked
4 as being the property of the beer manufacturer; or

5 (10) a catalytic converter that is not part
6 of an entire motor vehicle.

7 B. The department shall promulgate rules that more
8 specifically describe the type of documentation required
9 before a secondhand metal dealer may engage in a transaction
10 described in this section."

11 SECTION 17. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2012. _____

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