

State of Wisconsin



2011 Senate Bill 274

Date of enactment: **April 2, 2012**
Date of publication*: **April 16, 2012**

2011 WISCONSIN ACT 194

AN ACT *to amend* 134.405 (title), 134.405 (1) (a), 134.405 (1) (b), 134.405 (3) (a) (intro.), 134.405 (3) (a) 1., 134.405 (3) (a) 2. (intro.), 134.405 (3) (a) 2. b., 134.405 (3) (a) 4., 134.405 (3) (a) 5. a., 134.405 (3) (a) 5. b., 134.405 (3) (b) (intro.), 134.405 (3) (b) 3., 134.405 (3) (b) 4., 134.405 (3) (b) 5., 134.405 (3) (c), 134.405 (4) (a), 134.405 (4) (b), 134.405 (4) (c), 134.405 (5) (a) 1., 134.405 (5) (a) 2., 134.405 (5) (a) 3., 134.405 (5) (b), 134.405 (6) (a), 134.405 (6) (b), 895.09 (title) and 943.20 (2) (d); and *to create* 134.405 (1) (em), 134.405 (1) (f) 8., 134.405 (1) (fm) and 134.405 (1) (j) of the statutes; **relating to:** regulating sales of plastic bulk merchandise containers to scrap plastic dealers and providing penalties.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 134.405 (title) of the statutes is amended to read:

134.405 (title) Purchase and sale of certain scrap metal material.

SECTION 2. 134.405 (1) (a) of the statutes is amended to read:

134.405 (1) (a) "Commercial account" means a commercial enterprise with which a scrap metal dealer maintains an ongoing and documented business relationship.

SECTION 3. 134.405 (1) (b) of the statutes is amended to read:

134.405 (1) (b) "Commercial enterprise" means a corporation, partnership, limited liability company, business operated by an individual, association, state agency, political subdivision, or other government or business entity, including a scrap metal dealer.

SECTION 4. 134.405 (1) (em) of the statutes is created to read:

134.405 (1) (em) "Plastic bulk merchandise container" means a plastic crate, pallet, or shell used by a

product producer, distributor, or retailer for the bulk transport or storage of retail containers of bottled beverages.

SECTION 5. 134.405 (1) (f) 8. of the statutes is created to read:

134.405 (1) (f) 8. A plastic bulk merchandise container.

SECTION 6. 134.405 (1) (fm) of the statutes is created to read:

134.405 (1) (fm) "Scrap dealer" means a scrap plastic dealer or scrap metal dealer.

SECTION 7. 134.405 (1) (j) of the statutes is created to read:

134.405 (1) (j) "Scrap plastic dealer" means a person in engaged in the business of buying or selling plastic to be processed for reuse in a mill or other manufacturing facility.

SECTION 8. 134.405 (3) (a) (intro.) of the statutes is amended to read:

134.405 (3) (a) (intro.) Subject to par. (b), a scrap metal dealer may purchase nonferrous scrap, metal articles, or proprietary articles from any person who is over the age of 18 if all of the following apply:

* Section 991.11, WISCONSIN STATUTES 2009-10: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 9. 134.405 (3) (a) 1. of the statutes is amended to read:

134.405 (3) (a) 1. If the seller of nonferrous scrap, metal articles, or proprietary articles is an individual, at the time of the sale, the seller provides to the scrap metal dealer the seller's motor vehicle operator's license or other government-issued, current photographic identification that includes the seller's full name, current address, date of birth, and recognized identification number. If the seller is not an individual, at the time of the sale, the individual who delivers the seller's nonferrous scrap, metal articles, or ~~property~~ proprietary articles provides to the dealer the deliverer's motor vehicle operator's license or other government-issued, current photographic identification that includes the deliverer's full name, current address, date of birth, and recognized identification number.

SECTION 10. 134.405 (3) (a) 2. (intro.) of the statutes is amended to read:

134.405 (3) (a) 2. (intro.) The scrap metal dealer records and maintains at the scrap metal dealer's place of business the seller's or deliverer's identification information described in subd. 1., the time and date of the purchase, the number and state of issuance of the license plate on the seller's or deliverer's vehicle, and a description of the items received, including all of the following:

SECTION 11. 134.405 (3) (a) 2. b. of the statutes is amended to read:

134.405 (3) (a) 2. b. A description of the scrap or articles that is consistent with guidelines promulgated by a national recycling industry trade organization. This subd. 2. b. does not apply to plastic bulk merchandise containers.

SECTION 12. 134.405 (3) (a) 4. of the statutes is amended to read:

134.405 (3) (a) 4. With respect to a purchase of nonferrous scrap or a metal article the scrap metal dealer obtains the seller's signed declaration that the seller is the owner of the items being sold.

SECTION 13. 134.405 (3) (a) 5. a. of the statutes is amended to read:

134.405 (3) (a) 5. a. The scrap metal dealer receives from the seller documentation, such as a bill of sale, receipt, letter of authorization, or similar evidence, that establishes that the seller lawfully possesses the proprietary article.

SECTION 14. 134.405 (3) (a) 5. b. of the statutes is amended to read:

134.405 (3) (a) 5. b. The scrap metal dealer documents that the scrap metal dealer has made a diligent inquiry into whether the person selling the proprietary article has a legal right to do so, and, not later than one business day after purchasing the proprietary article, submits a report to a local law enforcement department describing the proprietary article and submits a copy of

the seller's or deliverer's identifying information under subd. 1.

SECTION 15. 134.405 (3) (b) (intro.) of the statutes is amended to read:

134.405 (3) (b) (intro.) This subsection does not apply to purchases of nonferrous scrap, metal articles, or proprietary articles by a scrap metal dealer from a commercial account, if the scrap metal dealer creates and maintains a record of its purchases from the commercial account that includes all of the following:

SECTION 16. 134.405 (3) (b) 3. of the statutes is amended to read:

134.405 (3) (b) 3. The name of a contact person at the commercial account who is responsible for the sale of nonferrous scrap, metal articles, or proprietary articles to the scrap metal dealer.

SECTION 17. 134.405 (3) (b) 4. of the statutes is amended to read:

134.405 (3) (b) 4. The time, date, and value of each of the scrap metal dealer's purchases from the commercial account.

SECTION 18. 134.405 (3) (b) 5. of the statutes is amended to read:

134.405 (3) (b) 5. A description of the predominant types of nonferrous scrap, metal articles, or proprietary articles the scrap metal dealer has purchased from the commercial account.

SECTION 19. 134.405 (3) (c) of the statutes is amended to read:

134.405 (3) (c) Except as provided under sub. (4), a scrap metal dealer may disclose personally identifiable information recorded or maintained under this subsection only to a successor in interest to the scrap metal dealer, including a successor in interest that arises as a result of a merger, sale, assignment, restructuring, or change of control.

SECTION 20. 134.405 (4) (a) of the statutes is amended to read:

134.405 (4) (a) A scrap metal dealer shall make the records required under sub. (3) (a) 2. to 5. and (b) available to a law enforcement officer who presents the agent's credentials at the scrap metal dealer's place of business during business hours.

SECTION 21. 134.405 (4) (b) of the statutes is amended to read:

134.405 (4) (b) A scrap metal dealer shall maintain the records required under sub. (3) (a) 2., 4., and 5. and (b) 4. and 5. for not less than 2 years after recording it. A scrap metal dealer shall maintain the records required under sub. (3) (b) 1. to 3. regarding a commercial account for not less than 2 years after the dealer's most recent transaction with the commercial account.

SECTION 22. 134.405 (4) (c) of the statutes is amended to read:

134.405 (4) (c) A law enforcement officer of a city, village, town, or county in which a scrap metal dealer conducts business may request that all scrap metal dealers in the city, village, town, or county furnish reports of all purchases of nonferrous scrap, metal articles, and proprietary articles. A scrap metal dealer shall comply with a request under this paragraph by submitting to the requesting law enforcement officer a report of each purchase of nonferrous scrap, metal articles, and proprietary articles not later than the business day following the purchase, including each seller's or deliverer's name, date of birth, identification number, and address, and the number and state of issuance of the license plate on each seller's or deliverer's vehicle.

SECTION 23. 134.405 (5) (a) 1. of the statutes is amended to read:

134.405 (5) (a) 1. A scrap metal dealer who knowingly violates this section and who has not knowingly committed a previous violation of this section is subject to a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both.

SECTION 24. 134.405 (5) (a) 2. of the statutes is amended to read:

134.405 (5) (a) 2. A scrap metal dealer who knowingly violates this section and who has knowingly committed one previous violation of this section is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both.

SECTION 25. 134.405 (5) (a) 3. of the statutes is amended to read:

134.405 (5) (a) 3. A scrap metal dealer who knowingly violates this section and who has knowingly committed more than one previous violation of this section is guilty of a Class I felony.

SECTION 26. 134.405 (5) (b) of the statutes is amended to read:

134.405 (5) (b) Each day on which a scrap metal dealer knowingly violates this section constitutes a separate violation.

SECTION 27. 134.405 (6) (a) of the statutes is amended to read:

134.405 (6) (a) A county, town, city, or village may enact an ordinance governing the sale and purchase of scrap metal or the sale of bulk plastic merchandise containers to scrap plastic dealers if the ordinance is not more stringent than this section, except that a 1st class city may enact an ordinance that is more stringent than this section.

SECTION 28. 134.405 (6) (b) of the statutes is amended to read:

134.405 (6) (b) Notwithstanding par. (a), a city, village, town, or county may enact an ordinance that requires scrap metal dealers to submit reports to a law enforcement officer under sub. (4) (c) in an electronic format.

SECTION 29. 895.09 (title) of the statutes is amended to read:

895.09 (title) Scrap metal or plastic bulk merchandise container theft; civil liability.

SECTION 30. 943.20 (2) (d) of the statutes is amended to read:

943.20 (2) (d) Except as otherwise provided in this paragraph, "value" means the market value at the time of the theft or the cost to the victim of replacing the property within a reasonable time after the theft, whichever is less. If the property stolen is a document evidencing a chose in action or other intangible right, "value" means either the market value of the chose in action or other right or the intrinsic value of the document, whichever is greater. If the property stolen is scrap metal, as defined in s. 134.405 (1) (f), or "plastic bulk merchandise container" as defined in s. 134.405 (1) (em), "value" also includes any costs that would be incurred in repairing or replacing any property damaged in the theft or removal of the scrap metal or plastic bulk merchandise container. If the thief gave consideration for, or had a legal interest in, the stolen property, the amount of such consideration or value of such interest shall be deducted from the total value of the property.

SECTION 31. Effective date.

(1) This act takes effect on the first day of the 4th month beginning after publication.