



2007 SENATE BILL 473

1 **AN ACT** *to amend* 943.20 (2) (d); and *to create* 134.405 and 895.09 of the
2 statutes; **relating to:** regulating the purchase and sale of scrap metal and other
3 metal items, the determination of property value of scrap metal for a theft
4 conviction, creating a civil cause of action regarding scrap metal, and providing
5 a penalty.

Analysis by the Legislative Reference Bureau

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

6 **SECTION 1.** 134.405 of the statutes is created to read:
7 **134.405 Purchase and sale of scrap metal. (1) DEFINITIONS.** In this section:
8 (a) “Commercial account” means a commercial enterprise with which a scrap
9 metal dealer maintains an ongoing and documented business relationship.

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

4 (c) “Ferrous scrap” means scrap metal, other than scrap metal described in
5 pars. (d) to (f), consisting primarily of iron or steel, including large manufactured
6 articles that may contain other substances to be removed and sorted during normal
7 operations of scrap metal dealers.

8 (d) “Metal article” means a manufactured item that consists of metal, is usable
9 for its original intended purpose without processing, repair, or alteration, and is
10 offered for sale for the value of the metal it contains, except that “metal article” does
11 not include antique or collectible articles, including jewelry, coins, silverware, and
12 watches.

13 (e) “Nonferrous scrap” means scrap metal consisting primarily of metal other
14 than iron or steel, but does not include any of the following:

- 15 1. Aluminum beverage cans.
- 16 2. Used household items.
- 17 3. Items removed from a structure during renovation or demolition.
- 18 4. Small quantities of nonferrous metals contained in large manufactured
19 items.

20 (f) “Proprietary article” means any of the following:

- 21 1. A metal article stamped, engraved, stenciled, or otherwise marked to
22 identify the article as the property of a governmental entity, telecommunications
23 provider, public utility, cable operator, as defined in s. 66.0419 (2) (b), or an entity that
24 produces, transmits, delivers, or furnishes electricity, or transportation,
25 shipbuilding, ship repair, mining, or manufacturing company.

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- 1 2. A copper conductor, bus bar, cable, or wire, whether stranded or solid.
- 2 3. An aluminum conductor, cable, or wire, whether stranded or solid.
- 3 4. A metal beer keg.
- 4 5. A manhole cover.
- 5 6. A metal grave marker, sculpture, plaque, or vase, if the item's appearance
- 6 suggests the item has been obtained from a cemetery.
- 7 7. A rail, switch component, spike, angle bar, tie plate, or bolt used to construct
- 8 railroad track.
- 9 (g) "Scrap metal" means a metal article; metal removed from or obtained by
- 10 cutting, demolishing, or disassembling a building, structure, or manufactured item;
- 11 or other metal that is no longer used for its original intended purpose and that can
- 12 be processed for reuse in a mill, foundry, or other manufacturing facility.
- 13 (h) "Scrap metal dealer" means a person engaged in the business of buying or
- 14 selling scrap metal.
- 15 **(2) PURCHASES OF FERROUS SCRAP.** A scrap metal dealer may purchase scrap
- 16 metal other than nonferrous scrap, a metal article, or a proprietary article from any
- 17 person over the age of 18.
- 18 **(3) PURCHASES OF NONFERROUS SCRAP, METAL ARTICLES, PROPRIETARY ARTICLES.** (a)
- 19 Subject to par. (b), a scrap metal dealer may purchase nonferrous scrap, metal
- 20 articles, or proprietary articles from any person who is over the age of 18 if all of the
- 21 following apply:
- 22 1. If the seller of nonferrous scrap, metal articles, or proprietary articles is an
- 23 individual, at the time of the sale, the seller provides to the scrap metal dealer the
- 24 seller's motor vehicle operator's license or other government-issued, current
- 25 photographic identification that includes the seller's full name, current address, date

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

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

12 a. The weight of the scrap or articles.

13 b. A description of the scrap or articles that is consistent with guidelines
14 promulgated by a national recycling industry trade organization.

15 4. With respect to a purchase of nonferrous scrap or a metal article the scrap
16 metal dealer obtains the seller's signed declaration that the seller is the owner of the
17 items being sold.

18 5. With respect to a purchase of a proprietary article, one of the following
19 applies:

20 a. The scrap metal dealer receives from the seller documentation, such as a bill
21 of sale, receipt, letter of authorization, or similar evidence, that establishes that the
22 seller lawfully possesses the proprietary article.

23 b. The scrap metal dealer documents that the scrap metal dealer has made a
24 diligent inquiry into whether the person selling the proprietary article has a legal
25 right to do so, and, not later than one business day after purchasing the proprietary

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1 article, submits a report to a local law enforcement department describing the
2 proprietary article and submits a copy of the seller's or deliverer's identifying
3 information under subd. 1.

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

8 1. The full name of the commercial account.

9 2. The business address and telephone number of the commercial account.

10 3. The name of a contact person at the commercial account who is responsible
11 for the sale of nonferrous scrap, metal articles, or proprietary articles to the scrap
12 metal dealer.

13 4. The time, date, and value of each of the scrap metal dealer's purchases from
14 the commercial account.

15 5. A description of the predominant types of nonferrous scrap, metal articles,
16 or proprietary articles the scrap metal dealer has purchased from the commercial
17 account.

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

23 **(4) OTHER PROVISIONS.** (a) A scrap metal dealer shall make the records required
24 under sub. (3) (a) 2. to 5. and (b) available to a law enforcement officer who presents

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1 the agent's credentials at the scrap metal dealer's place of business during business
2 hours.

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

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

17 (d) Notwithstanding s. 19.35 (1), a law enforcement officer or agency that
18 receives a record under par. (a) or a report under par. (c) may disclose it only to
19 another law enforcement officer or agency.

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

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

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

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

6 **(6) ORDINANCE.** (a) A county, town, city, or village may enact an ordinance
7 governing the sale and purchase of scrap metal if the ordinance is not more stringent
8 than this section, except that a 1st class city may enact an ordinance that is more
9 stringent than this section.

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

13 **SECTION 2.** 895.09 of the statutes is created to read:

14 **895.09 Scrap metal theft; civil liability. (1)** Any owner of nonferrous scrap,
15 a metal article, or a proprietary article, as those terms are defined in s. 134.405 (1),
16 who incurs injury or loss as a result of a violation of s. 134.405 or s. 943.20 may bring
17 a civil action against the person who committed the violation.

18 **(2)** If the person who incurs the loss prevails against a person who committed
19 the violation, the court shall grant the prevailing party all of the following:

20 (a) Actual damages.

21 (b) Any lost profits that are attributable to the violation and that were not taken
22 into account in determining the amount of actual damages under par. (a).

23 (c) Notwithstanding the limitations under s. 799.25 or 814.04, costs,
24 disbursements, and reasonable attorney fees.

