



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2007 Wisconsin Act 64
[2007 Senate Bill 473]

**Scrap Metal:
Records of Purchases**

2007 Wisconsin Act 64 requires a scrap dealer to maintain specified records of purchases of scrap metal and other metal items.

Categories of Scrap Metal

The Act distinguishes the following categories of metal items:

“Scrap metal” is any of the following:

- A metal article.
- Metal removed from or obtained by cutting, demolishing, or disassembling a building, structure, or manufactured item.
- Other metal that is no longer used for its original purpose and that can be processed for reuse.

“Ferrous scrap” is scrap consisting primarily of iron or steel that is not nonferrous scrap, a metal article, or a proprietary article.

“Nonferrous scrap” is scrap metal consisting primarily of metal other than iron or steel, except that “nonferrous scrap” does not include aluminum beverage cans, used household items, and certain other materials.

A “metal article” is a manufactured item that consists of metal, is usable for its originally intended purpose without processing, repair, or alteration, and is offered for sale as scrap (rather than for reuse). The term does not include antique or collectible items, such as jewelry, coins, silverware, or watches.

“Proprietary article” is a heterogeneous category consisting of the following:

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

- Metal articles that are marked to identify the article as if the property of a governmental entity or any of several specified kinds of businesses.
- Specified materials used in the construction of certain facilities, such as electric utility transmission facilities and railroad track.
- Specified items, including metal beer kegs, manhole covers, and metal grave markers.

Recordkeeping Requirements

Ferrous Scrap and Aluminum Cans

The Act states that: “[a] scrap metal dealer may purchase scrap metal other than nonferrous scrap, a metal article, or a proprietary article from any person over the age of 18.”¹ It does not impose any recordkeeping requirements on the purchase of ferrous scrap. Note that, in addition to ferrous scrap, this provision applies to aluminum cans and any other scrap metal that is not included in the definition of nonferrous scrap, metal article, or proprietary article.

Nonferrous Scrap, Metal Articles, and Proprietary Articles; Commercial Accounts

A “commercial account” is a business with which a scrap metal dealer has an ongoing and documented business relationship. A scrap metal dealer must create and maintain records with regard to its purchases of nonferrous scrap, metal articles, and proprietary articles from a commercial account that identify the commercial account and its employees who deliver the scrap metals, and record the time, date, value, and general nature of each purchase from the commercial account.

Nonferrous Scrap, Metal Articles, and Proprietary Articles; Non-Commercial Accounts

The Act imposes substantially greater requirements with regard to the purchase of nonferrous scrap, metal articles, and proprietary articles from a non-commercial account than from a commercial account. It requires information of the same general nature, but in greater detail. It also requires verification of the information, for example through the inspection and recording of information from government-issued identification, and verification that the seller is the lawful owner of the materials or is authorized to sell the materials.²

Other Provisions

Records Retention

The Act requires a scrap metal dealer to retain most records regarding scrap metal purchases for not less than two years after recording it and certain information regarding commercial accounts for not less than two years after the dealer’s most recent transaction with the account.

¹ This wording appears to imply that a scrap metal dealer may not purchase ferrous scrap from a person under the age of 18.

² Again, the language of this provision appears to imply that a scrap metal dealer may not purchase these materials from a person under the age of 18.

Law Enforcement Requests for Records

The Act requires that a scrap metal dealer make its records regarding the purchase of scrap metal available to a law enforcement officer, upon request. It authorizes a law enforcement officer to request all scrap metal dealers to report all purchases of nonferrous scrap, metal articles, and proprietary articles. The Act provides that a law enforcement officer or agency may disclose this information only to another law enforcement officer or agency.

Penalties

A scrap metal dealer who knowingly violates the requirements created by the Act is subject to a fine of up to \$1,000, 90 days in prison, or both on the first offense and a fine of up to \$10,000, imprisonment for up to nine months, or both on the second offense. The third such offense is a Class I felony, which is punishable by a fine of up to \$10,000, imprisonment for up to three years and six months, or both. Each day that a scrap metal dealer knowingly violates the requirements created by the Act is a separate offense.

Ordinances

The Act authorizes a county, city, village, or town to enact an ordinance to regulate the purchase of scrap metal by scrap metal dealers. Except for 1st class cities (i.e., Milwaukee), such an ordinance may not be more stringent than the requirements of the Act.

The Act also authorizes a county, city, village, or town to enact an ordinance to require scrap metal dealers to submit records regarding scrap metal purchases to a law enforcement officer in an electronic format.

Private Cause of Action

The Act provides that a person who owns nonferrous scrap, a metal article, or a proprietary article and who incurs injury or loss due to a violation of the reporting requirements of the Act or of the general theft statute may bring a civil action against the person who committed the violation to recover damages. In addition, if the court finds that the violation was committed for the purpose of commercial advantage, it may award punitive damages to the victim.

Penalty Classification for Theft

The penalty classification for theft varies by the value of the property stolen. The Act provides that, for determination of the penalty for theft, the value of scrap metal includes any costs that would be incurred in repairing or replacing any property damaged in the theft or removal of the scrap metal.

Effective Date: 2007 Wisconsin Act 64 takes effect on March 26, 2008.

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