Article - Business Regulation

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§17–1011.

(a) (1) This section applies to all junk dealers and scrap metal processors doing business in the State, including nonresident junk dealers and nonresident scrap metal processors.

(2) This section applies to an automotive dismantler and recycler or scrap metal processor licensed under Title 15, Subtitle 5 of the Transportation Article if the automotive dismantler and recycler or scrap metal processor:

(i) conducts business as a licensed junk dealer or scrap metal processor;

(ii) acquires vehicle parts that qualify as junk or scrap metal as defined under § 17–1001(e) of this subtitle; or

(iii) acquires articles that are listed, or made of metals that are listed, in § 17–1001(e) of this subtitle.

(3) This section does not apply to:

(i) an automotive dismantler and recycler or scrap metal processor that only acquires whole vehicles for the purpose of dismantling, destroying, or scrapping them for the benefit of their parts or the materials in them; or

(ii) a person that buys scrap metal to use as raw material to produce 1,000,000 tons of steel or more in the State per calendar year.

(4) (i) Except as provided in subparagraph (ii) of this paragraph, this section preempts the right of a county or municipality to regulate the resale of junk or scrap metal.

(ii) This section does not limit the power of a county or municipality to license junk dealers and scrap metal processors.

(iii) This section supersedes any existing law of a county or municipality that regulates the resale of junk or scrap metal.

(b) (1) For each purchase of junk or scrap metal in the State, a junk dealer or scrap metal processor shall keep an accurate record in English.

(2) The record shall state:

(i) the date and time of purchase;

(ii) a description of the junk or scrap metal purchased, including:

1. the type and grade of the junk or scrap metal; and

2. if payment is based on weight, the weight of each type and grade of junk or scrap metal;

(iii) the amount paid or other consideration for the junk or scrap metal;

(iv) the registration plate number, make, and model of any vehicle used;

(v) the name and address of the individual from whom the junk or scrap metal is acquired;

(vi) the signature of:

1. the individual from whom the junk or scrap metal is acquired; and

2. the junk dealer, scrap metal processor, or employee who accepted the junk or scrap metal; and

(vii) for each individual from whom the junk dealer or scrap metal processor acquires junk or scrap metal:

1. the date of birth and driver's license number of the individual; or

2. identification information about the individual from a valid State–issued photo ID that provides a physical description of the individual, including the sex, race, any distinguishing features, and approximate age, height, and weight of the individual.

(3) The records required under this subsection shall be kept in electronic form.

(4) (i) Subject to subparagraph (iv) of this paragraph, the junk dealer or scrap metal processor shall submit a copy of each record required under this paragraph to the primary law enforcement unit in accordance with subparagraphs (ii) and (iii) of this paragraph.

(ii) A junk dealer or scrap metal processor shall submit a record by transmitting a copy of the records electronically, in a format acceptable to the receiving primary law enforcement unit, by the end of the first business day following the date of the transaction.

(iii) Each copy of a record submitted to the primary law enforcement unit shall include:

1. the date and time of purchase;

2. a description of the junk or scrap metal, including its weight if payment is based on weight;

3. whether the amount paid or other consideration for the junk or scrap metal exceeds $500;

4. the registration plate number of any vehicle used by the individual from whom the junk or scrap metal is acquired;

5. the name and address of the individual from whom the junk or scrap metal is acquired;

6. the date of birth and driver's license number of the individual from whom the junk or scrap metal is acquired;

7. identification information about the individual from a valid State–issued photo ID that provides a physical description of the individual, including the sex, race, age, height, and weight of the individual; and

8. an electronic scan or photocopy of the valid State–issued photo ID under item 7 of this subparagraph.

(iv) The provisions of subparagraphs (i), (ii), and (iii) of this paragraph may not be construed to require a junk dealer or scrap metal processor to incur a substantial financial burden to comply with the requirements of this paragraph.

(5) A copy of a record submitted under paragraph (4) of this subsection:

(i) shall be kept confidential;

(ii) is not a public record; and

(iii) is not subject to Title 4 of the General Provisions Article.

(6) The primary law enforcement unit may destroy the copy of a record submitted under paragraph (4) of this subsection after 1 year from the date that the primary law enforcement unit receives the copy.

(7) (i) The primary law enforcement unit may waive the holding of electronic records under paragraph (3) of this subsection or the submission of electronic records under paragraph (4) of this subsection by a junk dealer or scrap metal processor.

(ii) Any waivers granted under subparagraph (i) of this paragraph shall be limited to authorizing a junk dealer or scrap metal processor to:

1. extend the reporting deadline under paragraph (4) of this subsection for an extra day;

2. hold written records; or

3. submit records by facsimile or by mail.

(c) (1) This subsection applies to junk dealers and scrap metal processors who are residents of the State.

(2) Each junk dealer or scrap metal processor shall keep the records required by subsection (b) of this section for 1 year after the date of the transaction.

(3) The records kept in accordance with this subsection shall be open to inspection during business hours by State or local law enforcement personnel for an investigation of a specific crime involving the materials listed under § 17–1001(e) of this subtitle.

(d) (1) A junk dealer or scrap metal processor may not barter, buy, exchange, or accept from a person any junk or scrap metal unless the junk dealer or scrap metal processor keeps records and makes entries in them in accordance with Part II of this subtitle.

(2) A junk dealer or scrap metal processor may not purchase a catalytic converter from an individual unless the individual, at the time of purchase, provides identification as:

(i) a licensed automotive dismantler and recycler or scrap metal processor; or

(ii) an agent or employee of a licensed commercial enterprise.

(3) A junk dealer or scrap metal processor may not purchase a cemetery urn, grave marker, or any other item listed under § 17–1001(e)(1)(ii) of this subtitle from an individual unless the individual, at the time of purchase, provides appropriate authorization from a relevant business or unit of federal, State, or local government specifically authorizing the individual to conduct the transaction.

(e) State or local law enforcement personnel may request information from the records required under subsection (b) of this section pursuant to an investigation of a specific crime involving the materials listed under § 17–1001(e) of this subtitle.

(f) (1) The record and reporting requirements of subsection (b) of this section do not apply to an item that is acquired from:

(i) a licensed junk dealer or scrap metal processor;

(ii) a unit of federal, State, or local government; or

(iii) a commercial enterprise with a valid business license that has entered into a written contract with a junk dealer or scrap metal processor who has provided to the primary law enforcement unit:

1. the name and business address of the commercial enterprise; and

2. the type of junk or scrap metal subject to the contract.

(2) (i) Subject to subparagraph (ii) of this paragraph, a contract under paragraph (1)(iii) of this subsection shall be open to inspection by a local law enforcement agency on the premises of the junk dealer or scrap metal processor during business hours.

(ii) Notwithstanding any other law, a contract open to inspection by a local law enforcement agency under subparagraph (i) of this paragraph may not be open for public inspection without the consent of the junk dealer or scrap metal processor.

(g) (1) If a State or local law enforcement agency has reasonable cause to believe that junk or scrap metal that is in the possession of a junk dealer or scrap metal processor is stolen, the law enforcement agency may issue a written hold notice.

(2) The written hold notice shall:

(i) identify the items of junk or scrap metal alleged to be stolen and subject to hold;

(ii) inform the junk dealer or scrap metal processor of the hold imposed on the items of junk or scrap metal; and

(iii) specify the time period for the hold, not to exceed 15 days.

(3) On receipt of a written hold notice from a law enforcement agency, a junk dealer or scrap metal processor may not process or remove from the junk dealer's or scrap metal processor's place of business before the end of the hold period any items of junk or scrap metal identified in the hold notice, unless the item is released by the law enforcement agency or by court order.

(h) Local law enforcement personnel of the county where the place of business of the junk dealer or scrap metal processor is located or where the junk or scrap metal was purchased may enforce this section.

(i) A person who violates this section is guilty of a misdemeanor and on conviction is subject to:

(1) a fine not exceeding $500 for a first offense; and

(2) a fine not exceeding $5,000 or imprisonment not exceeding 1 year or both for a subsequent offense.

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