

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 241

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO SCRAP DEALERS; AMENDING SECTION 54-2701, IDAHO CODE, TO REVISE  
2 THE DEFINITION OF NONFERROUS METAL PROPERTY; AMENDING SECTION 54-2702,  
3 IDAHO CODE, TO REVISE PROVISIONS OF RECORDS REQUIRED FOR PURCHASING  
4 NONFERROUS OR STAINLESS STEEL METAL PROPERTY FROM THE GENERAL PUBLIC  
5 TO INCLUDE CERTAIN PHOTOGRAPHS OR DIGITAL RECORDINGS; AMENDING SECTION  
6 54-2707, IDAHO CODE, TO PROVIDE THAT CERTAIN METAL THEFTS ARE FELONIES  
7 AND TO PROVIDE LIABILITY PROTECTIONS FOR OWNERS OF METAL PROPERTY.  
8

9 Be It Enacted by the Legislature of the State of Idaho:

10 SECTION 1. That Section 54-2701, Idaho Code, be, and the same is hereby  
11 amended to read as follows:

12 54-2701. DEFINITIONS. The definitions in this section apply through-  
13 out this chapter unless the context clearly requires otherwise.

14 (1) "Commercial account" means a relationship between a scrap metal  
15 business and a commercial enterprise that is ongoing and properly documented  
16 under this chapter.

17 (2) "Commercial enterprise" means a corporation, partnership, limited  
18 liability company, association, state agency, political subdivision of the  
19 state, public corporation, or any other legal or commercial entity.

20 (3) "Commercial metal property" means: Utility access covers; street  
21 light poles and fixtures; road and bridge guardrails; highway or street  
22 signs; water meter covers; traffic directional and control signs; traffic  
23 light signals; any metal property marked with the name of a commercial enter-  
24 prise, including, but not limited to, a telephone, cable, electric, water,  
25 natural gas, or other utility, or railroad; building construction materi-  
26 als consisting of copper pipe, tubing, or wiring, or aluminum wire, siding,  
27 downspouts, or gutters; aluminum or stainless steel fence panels; aluminum  
28 decking, bleachers, or risers; historical markers; statue plaques; grave  
29 markers and funeral vases; or agricultural irrigation wheels, sprinkler  
30 heads, and pipes; or stainless steel designed to be used in agricultural or  
31 commercial businesses.

32 (4) "Nonferrous metal property" means metal property for which the  
33 value of the metal property is derived from the property's content of copper,  
34 brass, aluminum, bronze, lead, zinc, nickel, gold, silver, platinum and  
35 their alloys, but shall not include aluminum beverage containers, used bev-  
36 erage containers or similar beverage containers; however, the term includes  
37 stainless steel beer kegs.

38 (5) "Record" means a paper, electronic, or other method of storing in-  
39 formation.

40 (6) "Scrap metal business" means a scrap metal supplier, scrap metal  
41 recycling center, and scrap metal processor.

1 (7) "Scrap metal processor" means a person with a current business li-  
 2 cense that conducts business from a permanent location, that is engaged in  
 3 the business of purchasing or receiving metal property for the purpose of al-  
 4 tering the metal in preparation for its use as feedstock in the manufacture  
 5 of new products, and that maintains a hydraulic bailer, shearing device, or  
 6 shredding device for recycling.

7 (8) "Scrap metal recycling center" means a person with a current busi-  
 8 ness license that is engaged in the business of purchasing or receiving non-  
 9 ferrous metal property for the purpose of aggregation and sale to another  
 10 scrap metal business and that maintains a fixed place of business within the  
 11 state.

12 (9) "Scrap metal supplier" means a person that is engaged in the busi-  
 13 ness of purchasing or receiving nonferrous metal property for the purpose of  
 14 aggregation and sale to a scrap metal recycling center or scrap metal proces-  
 15 sor and that does not maintain a fixed business location in the state.

16 (10) "Transaction" means a pledge, or the purchase of, or the trade of  
 17 any item of nonferrous metal property by a scrap metal business from a member  
 18 of the general public. "Transaction" does not include donations or the pur-  
 19 chase or receipt of nonferrous metal property by a scrap metal business from  
 20 a commercial enterprise, from another scrap metal business, or from a duly  
 21 authorized employee or agent of the commercial enterprise or scrap metal  
 22 business.

23 SECTION 2. That Section 54-2702, Idaho Code, be, and the same is hereby  
 24 amended to read as follows:

25 54-2702. RECORDS REQUIRED FOR PURCHASING NONFERROUS OR STAINLESS  
 26 STEEL METAL PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a transac-  
 27 tion, every scrap metal business doing business in this state shall produce,  
 28 wherever that business is conducted, an accurate and legible record of each  
 29 transaction involving nonferrous metal property or stainless steel metal  
 30 property and the photographs required in subsection (3) of this section.  
 31 This record must be written in the English language, documented on a stan-  
 32 dardized form or in electronic form, and contain the following information:

33 (a) The signature of the person with whom the transaction is made;

34 (b) The date, location and value of the transaction;

35 (c) The name of the employee representing the scrap metal business in  
 36 the transaction;

37 (d) The name and street address of the person with whom the transaction  
 38 is made;

39 (e) A photocopy or digital image of a current driver's license that is  
 40 valid to operate a motor vehicle in the state of Idaho or a United States  
 41 or Idaho government-issued picture identification of the seller; and

42 (f) The license plate number of any vehicle required to have such a  
 43 plate, if any, used by the person with whom the transaction is made.

44 (2) For every transaction that involves nonferrous or stainless steel  
 45 metal property, every scrap metal business doing business in the state shall  
 46 require the person with whom a transaction is being made to sign a declara-  
 47 tion.

48 The declaration may be included as part of the transactional record re-  
 49 quired under subsection (1) of this section, or on a receipt for the transac-

1 tion. The declaration must state substantially the following: "I, the un-  
 2 dersigned, affirm under penalty of law that the property that is subject to  
 3 this transaction is not to the best of my knowledge stolen property."

4 The declaration must be signed and dated and the time of day noted by  
 5 the person with whom the transaction is being made. An employee of the scrap  
 6 metal business must witness the signing and dating of the declaration and  
 7 sign the declaration accordingly before any transaction may be consummated.

8 (3) For every transaction that involves nonferrous or stainless steel  
 9 metal property purchased from the general public, every scrap metal business  
 10 doing business in the state shall create a photographic or digital image of  
 11 the following, or may create a digital video record of no less than thirty  
 12 (30) seconds in total length of the following:

13 (a) Each of the individuals with whom the transaction is being made, to  
 14 include the face, head and shoulders;

15 (b) The vehicle used by the person (s) with whom the transaction is being  
 16 made with the property involved in the transaction clearly visible;

17 (c) The vehicle used by the person (s) with whom the transaction is being  
 18 made with the license plate number clearly visible;

19 (d) The property involved in the transaction that allows for the prop-  
 20 erty to be identified; and

21 (e) The provisions of this subsection shall not apply upon and after the  
 22 fourth purchase from the same member of the general public to the same  
 23 scrap metal business within one (1) year.

24 SECTION 3. That Section 54-2707, Idaho Code, be, and the same is hereby  
 25 amended to read as follows:

26 54-2707. UNLAWFUL VIOLATIONS AND LIABILITY. (1) It is a misdemeanor  
 27 for:

28 (1a) Any person to deliberately remove, alter, or obliterate any manu-  
 29 facturer's make, model, or serial number, personal identification num-  
 30 ber, or identifying marks engraved or etched upon an item of nonferrous  
 31 metal property or commercial metal property in order to deceive a scrap  
 32 metal business;

33 (2b) Any person to knowingly make, cause, or allow to be made any false  
 34 entry or misstatement of any material matter in any book, record, or  
 35 writing required to be kept under this chapter;

36 (3c) Any person to sign the declaration required under this chapter  
 37 knowing that the nonferrous metal property subject to the transaction  
 38 is stolen;

39 (4d) Any scrap metal business to possess commercial metal property that  
 40 was not lawfully purchased or received under the requirements of this  
 41 chapter;

42 (5e) Any scrap metal business to engage in a series of transactions val-  
 43 ued at less than twenty dollars (\$20.00) with the same seller for the  
 44 purposes of avoiding the requirements of this chapter; or

45 (6f) Any person to intentionally violate the provisions of section  
 46 54-2703, Idaho Code.

47 (72) Any person who has pled guilty to or been found guilty of violat-  
 48 ing the provisions of this section for a second time within five (5) years is  
 49 guilty of a felony.

1       (3) A person who knowingly and intentionally takes copper or other non-  
2 ferrous metals from an electrical substation without authorization of the  
3 utility, or who knowingly and intentionally takes copper or other nonferrous  
4 metals from a utility or communications services provider, thereby causing  
5 damage to the facilities of a utility or communications services provider,  
6 or interfering with the ability of a utility or communications services  
7 provider to provide service, is guilty of a felony.

8       (4) (a) A public or private owner of metal property is not civilly li-  
9 able to a person who is injured during the theft or attempted theft of  
10 metal property.

11       (b) A public or private owner of metal property is not civilly liable to  
12 a person for injuries caused by a dangerous condition created as a re-  
13 sult of the theft or attempted theft of the owner's metal property when  
14 the owner did not know, and could not have reasonably known, of the dan-  
15 gerous condition.

16 This section does not create or impose a duty of care upon an owner of metal  
17 property that would not otherwise exist under common law.