

HOUSE BILL No. 1305

DIGEST OF INTRODUCED BILL

Citations Affected: IC 25-37.5-1; IC 34-30-2-101.9; IC 35-52-25-61.5.

Synopsis: Electronic reporting of valuable metal purchases. Transfers the authority to regulate valuable metal dealers from the state police department to the state department of homeland security (DHS). Requires a metals business (an automobile scrapyard, automotive salvage recycler, core buyer, recycling facility, or valuable metal dealer) to electronically submit daily reports to the DHS concerning its valuable metal purchases. Requires the DHS to maintain ownership and control of the computer software system used for the electronic reporting and to retain the information for at least two years. Declares the information submitted electronically to be confidential but requires that the information be made available to law enforcement agencies. Makes a metals business immune from civil liability arising from the disclosure of information concerning valuable metal purchases if the information is disclosed through a computer system breach and if the breach is caused by a person other than, and without the knowledge or consent of, the metals business. Makes it a Class A misdemeanor for a metals business to knowingly or intentionally fail to comply with record keeping or reporting requirements. Makes it a Class A misdemeanor for a person to recklessly sell or attempt to sell stolen valuable metal to a metals business. Requires the executive director of the DHS to adopt rules concerning the electronic reporting of valuable metal purchases. Precludes a unit of local government from adopting an ordinance to regulate metals businesses. Includes a statement by which the general assembly covenants not to repeal or amend the law on valuable metal purchases, except for technical corrections or increases in penalties for violations, before July 1, 2027.

Effective: July 1, 2017.

Gutwein

January 10, 2017, read first time and referred to Committee on Commerce, Small Business and Economic Development.



First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

HOUSE BILL No. 1305

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-37.5-1-0.1, AS ADDED BY P.L.224-2013,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2017]: Sec. 0.1. (a) As used in this chapter, "automotive
4 salvage rebuilder" has the meaning set forth in IC 9-13-2-9.

5 (b) As used in this chapter, "automotive salvage recycler"
6 means a person that:

7 (1) acquires damaged, inoperative, discarded, abandoned, or
8 salvage vehicles, or their remains, as stock-in-trade;

9 (2) dismantles, shreds, compacts, crushes, or otherwise
10 processes such vehicles or remains for the reclamation and
11 sale of reusable components and parts;

12 (3) disposes of recyclable materials to a scrap metal processor
13 or other appropriate facility; or

14 (4) performs any combination of these actions.

15 For purposes of this chapter, the term includes a used parts dealer
16 that buys scrap metal.

17 SECTION 2. IC 25-37.5-1-0.2, AS ADDED BY P.L.158-2009,



1 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2017]: Sec. 0.2. **(a) As used in this chapter, "business day"**
3 **means a day other than a Saturday, Sunday, or legal holiday (as**
4 **defined in IC 1-1-9-1).**

5 **(b)** As used in this chapter, "core buyer" means a person engaged in
6 the business of purchasing or acquiring small component motor vehicle
7 parts for resale, including catalytic converters, automobile radiators,
8 and batteries.

9 SECTION 3. IC 25-37.5-1-0.7 IS ADDED TO THE INDIANA
10 CODE AS A NEW SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2017]: Sec. 0.7. **As used in this chapter,**
12 **"metals business" means any of the following:**

- 13 **(1) An automobile scrapyard, as defined in IC 9-13-2-8.**
- 14 **(2) An automotive salvage recycler, as defined in IC 9-13-2-10.**
- 15 **(3) A core buyer, as defined in section 0.2 of this chapter.**
- 16 **(4) A recycling facility, as defined in IC 9-13-2-150.3.**
- 17 **(5) A valuable metal dealer, as defined in section 1(b) of this**
18 **chapter.**

19 SECTION 4. IC 25-37.5-1-0.8, AS ADDED BY P.L.224-2013,
20 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2017]: Sec. 0.8. **(a) As used in this chapter, "person"**
22 **means an individual, a corporation, a limited liability company, a**
23 **partnership, or another legal entity.**

24 **(b)** As used in this chapter, "used parts dealer" has the meaning set
25 forth in IC 9-13-2-195.

26 SECTION 5. IC 25-37.5-1-1.5 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2017]: Sec. 1.5. **(a) The reporting**
29 **requirement set forth in section 2.5 of this chapter is imposed:**

- 30 **(1) beginning July 1, 2018; or**
- 31 **(2) if the executive director of the department of homeland**
32 **security, before July 1, 2018:**
 - 33 **(A) determines that:**
 - 34 **(i) the electronic system through which reports will be**
35 **made under section 2.5 of this chapter will not be ready**
36 **by July 1, 2018; or**
 - 37 **(ii) the rules to be adopted under section 3(b) of this**
38 **chapter concerning the reports to be made through an**
39 **electronic system under section 2.5 of this chapter will**
40 **not be in effect by July 1, 2018; and**
 - 41 **(B) adopts an emergency rule under IC 4-22-2-37.1:**
 - 42 **(i) stating the determination made under clause (A); and**



1 (ii) setting forth a date by which the electronic system
2 will be ready or the rules will be in effect;
3 beginning on the date set forth in the emergency rule under
4 clause (B)(ii).

5 **(b) This section expires July 1, 2020.**

6 SECTION 6. IC 25-37.5-1-2, AS AMENDED BY P.L.224-2013,
7 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2017]: Sec. 2. (a) Except as provided in section 5 of this
9 chapter, every valuable metal dealer in this state shall enter on forms
10 provided under section 6 of this chapter by the ~~state police~~ department
11 **of homeland security** for each purchase of valuable metal the
12 following information:

- 13 (1) The name and address of the valuable metal dealer.
14 (2) The **time**, date, and place of each purchase.
15 (3) The name, address, age, and driver's license number,
16 **government issued identification card number**, or Social
17 Security number of the person or persons from whom the valuable
18 metal was purchased.
19 (4) The valuable metal dealer shall verify the identity of the
20 person from whom the valuable metal was purchased by use of a
21 government issued photographic identification. The valuable
22 metal dealer shall enter on the form the type of government issued
23 photographic identification used to verify the identity of the
24 person from whom the valuable metal was purchased, together
25 with the:
26 (A) name of the government agency that issued the
27 photographic identification; and
28 (B) identification number present on the government issued
29 photographic identification.
30 (5) The motor vehicle license number of the vehicle or
31 conveyance on which the valuable metal was delivered to the
32 valuable metal dealer.
33 (6) The price paid for the metal.
34 (7) A description and weight of the valuable metal purchased.
35 (8) The source of the valuable metal.
36 (9) The photograph described in subsection (b).

37 After entering the information required in this subsection, the valuable
38 metal dealer shall require the person or persons from whom the
39 valuable metal is purchased to sign the form and verify its accuracy.

40 (b) In addition to collecting the information described in subsection
41 (a), a valuable metal dealer shall take a photograph of:

- 42 (1) the person from whom the valuable metal is being purchased;



- 1 and
 2 (2) the valuable metal.
- 3 (c) In addition to the requirements of subsections (a) and (b), a
 4 valuable metal dealer shall keep a copy of the:
- 5 (1) bill of sale or other written documentation submitted by a
 6 person attempting to sell an air conditioner evaporator coil or
 7 condenser under section 8(c) of this chapter; and
 8 (2) written documentation produced by a person attempting to sell
 9 a catalytic converter required by section 9(b) of this chapter.
- 10 (d) A valuable metal dealer shall make and retain a copy of the
 11 government issued photographic identification described under
 12 subsection (a)(4) used to verify the identity of the person from whom
 13 valuable metal was purchased and the photograph described in
 14 subsection (b). However, a valuable metal dealer is not required to
 15 make a copy of a government issued photographic identification used
 16 under subsection (a)(4) to verify the identity of the person from whom
 17 valuable metal is purchased if the valuable metal dealer has retained a
 18 copy of a person's government issued photographic identification from
 19 a prior purchase from the person by the valuable metal dealer.
- 20 (e) The completed form, the photograph described in subsection (b),
 21 the copy of the bill of sale or other written documentation required by
 22 subsection (c), and the copy of the government issued photographic
 23 identification described in subsection (d) shall be kept in a separate
 24 book or register by the valuable metal dealer and shall be retained for
 25 a period of two (2) years. This book or register shall be made available
 26 for inspection by any law enforcement official at any time.
- 27 (f) A valuable metal dealer may not accept a damaged or an
 28 undamaged metal beer keg if either of the following applies:
- 29 (1) The keg is clearly marked as the property of a brewery
 30 manufacturer.
- 31 (2) The keg's identification markings have been made illegible.
- 32 SECTION 7. IC 25-37.5-1-2.5 IS ADDED TO THE INDIANA
 33 CODE AS A NEW SECTION TO READ AS FOLLOWS
 34 [EFFECTIVE JULY 1, 2017]: **Sec. 2.5. (a) The reporting**
 35 **requirement set forth in this section is imposed beginning on the**
 36 **date indicated in section 1.5 of this chapter.**
- 37 **(b) For each day on which a metals business purchases valuable**
 38 **metal, the metals business shall report electronically to the**
 39 **department of homeland security established by IC 10-19-2-1. A**
 40 **metals business is required to submit only one (1) electronic report**
 41 **under this section for each day on which the metals business**
 42 **purchases valuable metal. An electronic report submitted under**



- 1 **this section:**
2 **(1) must report all valuable metal purchases made by the**
3 **metals business during the day to which the report relates;**
4 **and**
5 **(2) must be submitted electronically to the department of**
6 **homeland security by noon of the business day immediately**
7 **following the day to which the report relates.**
8 **(c) A report made under this section must be submitted in**
9 **English through use of the Internet web site of the department of**
10 **homeland security by:**
11 **(1) manually entering the information about the valuable**
12 **metal purchases of the day;**
13 **(2) manually uploading previously prepared transaction**
14 **reports about the valuable metal purchases of the day; or**
15 **(3) using computer software identified and described in the**
16 **rules adopted under section 3(b) of this chapter to transmit**
17 **information about the valuable metal purchases of the day;**
18 **in accordance with the rules adopted under section 3(b) of this**
19 **chapter.**
20 **(d) A report submitted under this section must include the**
21 **information described in section 2(a)(1) through 2(a)(5) of this**
22 **chapter and section 2(a)(7) of this chapter for each valuable metal**
23 **purchase of the day.**
24 **(e) The department of homeland security shall retain**
25 **information submitted electronically under this section for a period**
26 **of at least two (2) years.**
27 **(f) A computer software system used by the department of**
28 **homeland security to allow electronic reporting under this section**
29 **must remain under the ownership and control of the department**
30 **of homeland security and may not be owned or operated by a**
31 **private vendor.**
32 **(g) No substantive conditions or requirements may be imposed**
33 **by the department of homeland security in regard to electronic**
34 **reporting under this section other than the conditions and**
35 **requirements set forth in this chapter.**
36 **(h) Information reported electronically to the department of**
37 **homeland security under this section:**
38 **(1) is declared confidential for purposes of IC 5-14-3-4(a)(1);**
39 **and**
40 **(2) may not be disclosed by the department of homeland**
41 **security unless access to the information is ordered by a court**
42 **under the rules of discovery;**



1 except as provided in subsection (i).

2 (i) Information reported electronically to the department of
3 homeland security under this section shall be made available to the
4 state police department and other state, local, and federal law
5 enforcement agencies for law enforcement purposes.

6 SECTION 8. IC 25-37.5-1-2.7 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2017]: **Sec. 2.7. (a) A person that records or**
9 **reports information under this chapter is immune from civil**
10 **liability arising from the disclosure of any of the information**
11 **through a breach of the security of the computer system on which**
12 **the information is stored if the breach is caused:**

13 (1) by a person other than; and

14 (2) without the knowledge or consent of;

15 the person that recorded or reported the information.

16 (b) If subsection (a) applies to a person, that person is immune
17 from civil liability under subsection (a) regardless of whether the
18 person makes a disclosure or provides notice as provided in
19 IC 24-4.9-3.

20 SECTION 9. IC 25-37.5-1-3, AS AMENDED BY P.L.134-2012,
21 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2017]: **Sec. 3. The superintendent of the state police**
23 **department may adopt rules under IC 4-22-2 as may be necessary to**
24 **administer and enforce the provisions and intent of this chapter. The**
25 **executive director of the department of homeland security**
26 **appointed under IC 10-19-3-1 shall adopt rules under IC 4-22-2 to**
27 **administer and enforce this chapter, including rules concerning the**
28 **electronic reporting to the department of homeland security that**
29 **is required under section 2.5 of this chapter.**

30 SECTION 10. IC 25-37.5-1-5, AS AMENDED BY P.L.224-2013,
31 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2017]: **Sec. 5. The provisions record keeping requirements**
33 **of sections section 2 of this chapter, the reporting requirements of**
34 **section 2.5 of this chapter, and the requirements of the rules**
35 **adopted under section 3 of this chapter do not apply to:**

36 (1) purchases of valuable metal from persons, firms, limited
37 liability companies, or corporations a person regularly engaged
38 in:

39 (A) the business of manufacturing valuable metals; or

40 (B) the business of selling valuable metals at retail or
41 wholesale; to

42 (2) the purchase of valuable metal by one (1) valuable metal



1 dealer from another **valuable metal dealer or another business;**
 2 or
 3 **(3) the purchase of valuable metal from persons, firms, limited**
 4 **liability companies, or corporations a person** engaged in either:
 5 (A) the generation, transmission, or distribution of electric
 6 energy; or in
 7 (B) telephone, telegraph, and other communications;
 8 if such persons, firms, limited liability companies, or
 9 corporations; **the person**, at the time of **the purchase, provide**
 10 **provides** the valuable metal dealer **purchasing the valuable**
 11 **metal** with a bill of sale or other written evidence of title to the
 12 valuable metal.

13 SECTION 11. IC 25-37.5-1-6, AS AMENDED BY P.L.134-2012,
 14 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2017]: Sec. 6. **Before July 1, 2018**, the state police
 16 department shall publish ~~the following~~ on the state police Internet web
 17 site, **and after June 30, 2018, the department of homeland security**
 18 **shall publish on the department of homeland security Internet web**
 19 **site, the following:**

- 20 (1) The forms described in section 2(a) of this chapter to be used
 21 by valuable metal dealers when purchasing valuable metal.
 22 (2) A list that describes valuable metal products that are
 23 particularly susceptible to theft.
 24 (3) The:
 25 (A) statutes; and
 26 (B) rules adopted ~~by the superintendent of the state police~~
 27 ~~department~~ under section 3 of this chapter;
 28 concerning the regulation of valuable metal dealers.

29 SECTION 12. IC 25-37.5-1-7, AS AMENDED BY P.L.224-2013,
 30 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 31 JULY 1, 2017]: Sec. 7. (a) A ~~valuable metal dealer metals business~~
 32 ~~who that knowingly or intentionally~~ fails to comply with this chapter
 33 commits a Class A infraction.

34 (b) A person that **recklessly** sells or attempts to sell **stolen** valuable
 35 metal to a ~~valuable metal dealer that fails to comply with this chapter~~
 36 ~~metals business~~ commits a Class A ~~infraction~~: **misdemeanor**.

37 SECTION 13. IC 25-37.5-1-11 IS ADDED TO THE INDIANA
 38 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 39 [EFFECTIVE JULY 1, 2017]: **Sec. 11. (a) A unit (as defined in**
 40 **IC 36-1-2-23) is precluded by IC 36-1-3-8(a)(7) from adopting or**
 41 **enforcing an ordinance to regulate a metals business in any**
 42 **manner regarding:**



1 **(1) the purchase, sale, or holding of; or**
2 **(2) record keeping or reporting regarding;**
3 **scrap metal, ferrous metal, or nonferrous metal.**
4 **(b) This section does not limit the authority of a unit to impose**
5 **within its jurisdiction:**
6 **(1) zoning or land use restrictions;**
7 **(2) general business licensing requirements; or**
8 **(3) authorized business taxes;**
9 **that are not in conflict with the Indiana Code.**
10 **(c) A unit (as defined in IC 36-1-2-23) may not require a metals**
11 **business to comply with the reporting requirements as a condition**
12 **of granting to the metals business a permit or license to do business**
13 **within the boundaries of the unit.**
14 SECTION 14. IC 25-37.5-1-12 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2017]: **Sec. 12. The general assembly**
17 **covenants that it will not repeal or amend this chapter, except for**
18 **amendments:**
19 **(1) that make technical corrections; or**
20 **(2) that increase the penalties for violations of the statutes**
21 **concerning the theft of metal;**
22 **before July 1, 2027.**
23 SECTION 15. IC 34-30-2-101.9 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JULY 1, 2017]: **Sec. 101.9. IC 25-37.5-1-2.7**
26 **(Concerning the disclosure of information about valuable metal**
27 **purchases through a breach of the security of a computer system).**
28 SECTION 16. IC 35-52-25-61.5 IS ADDED TO THE INDIANA
29 CODE AS A NEW SECTION TO READ AS FOLLOWS
30 [EFFECTIVE JULY 1, 2017]: **Sec. 61.5. IC 25-37.5-1-7 defines a**
31 **crime concerning valuable metal.**

