

Enrolled Senate Bill 803

Sponsored by Senators GORSEK, FREDERICK; Senators DEMBROW, KENNEMER, PATTERSON, TAYLOR, Representatives DEXTER, FAHEY, GRAYBER, HOLVEY, KOTEK, MARSH, NERON, NOSSE, POWER (at the request of Multnomah County District Attorney Mike Schmidt)

CHAPTER

AN ACT

Relating to catalytic converters; creating new provisions; and amending ORS 164.095, 164.857, 165.116, 165.117, 165.118, 168.124, 801.236 and 822.137.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 164.857 is amended to read:

164.857. (1) A person commits the offense of unlawfully transporting metal property if the person transports metal property on a public highway or on premises open to the public with the intent to deliver the metal property to a scrap metal business and the person does not have a metal transportation certificate in the person's possession.

(2) A seller or transferor of metal property that has reason to believe that a buyer or transferee intends to obtain the metal property for delivery to a scrap metal business shall provide the buyer or transferee with a metal transportation certificate.

(3) A metal transportation certificate must include:

- (a) The date the metal property was acquired and the amount and type of metal property that the person is transporting;
 - (b) The location where the metal property was loaded and the destination of the metal property;
 - (c) The name, address and telephone number of the seller or the transferor;
 - (d) The signature of the seller or transferor or the authorized agent of the seller or transferor;
- and

(e) The name, address and telephone number of the person transporting the metal property.

(4) The Department of State Police shall create a form that may serve as a metal transportation certificate and shall make the form available on the department's website.

(5)(a) **Subject to paragraph (b) of this subsection**, it is a defense to a charge of unlawfully transporting metal property that the person transporting the metal property is the owner of the property or an agent or employee of the owner of the property.

(b) A person who transports private metal property may not raise the defense described in this subsection unless at the time the person was transporting the private metal property:

(A) The person was a commercial seller or an agent or employee of a commercial seller and the person possessed the information required under ORS 165.117 (4)(b)(G);

(B) The person was the owner or an agent or employee of a scrap metal business that maintains a fixed place of business and the person possessed reasonable proof that the person was an owner, agent or employee;

- (C)(i) The person was a dismantler or an agent or an employee of a dismantler;
 - (ii) The person possessed a valid, current dismantler certificate or an identification card issued under ORS 822.125; and
 - (iii) The stock or yard number assigned to the private metal property under ORS 822.137 was legibly marked on the private metal property; or
- (D)(i) The person had physical possession of the title or registration for the vehicle from which the private metal property was removed;
- (ii) The person's name was shown as the owner of the vehicle on the title or registration; and
 - (iii) The person accurately and correctly described the location of the vehicle.

(6) Unlawfully transporting metal property is a Class C misdemeanor.

(7) As used in this section:

(a) "Agent or employee of the owner of the property" includes a motor carrier as defined in ORS 825.005 that is operating in accordance with the provisions of ORS chapter 825.

(b) "Commercial seller," "dismantler," "fixed place of business," "metal property," "private metal property" and "scrap metal business" have the meanings given those terms in ORS 165.116.

SECTION 2. ORS 165.116 is amended to read:

165.116. As used in ORS 165.116 to 165.124:

(1) "Commercial account" means an agreement or arrangement between a commercial seller and a scrap metal business for regularly or periodically selling, delivering, purchasing or receiving metal property.

(2) "Commercial metal property" means an item fabricated or containing parts made of metal or metal alloys that:

(a) Is used as, used in or used as part of:

(A) A utility access cover or a cover for a utility meter;

(B) A pole, fixture or component of a street light or traffic light;

(C) A sign or marker located, with the permission of a governmental entity, alongside a street, road or bridge for the purpose of directing or controlling traffic or providing information to motorists;

(D) A traffic safety device, including a guardrail for a highway, road or bridge;

(E) A vase, plaque, marker, tablet, plate or other sign or ornament affixed to or in proximity to a historic site, grave, statue, monument or similar property accessible to members of the public;

(F) An agricultural implement, including an irrigation wheel, sprinkler head or pipe;

(G) A forestry implement or structure, including silvicultural equipment, gates, culverts and servicing and maintenance parts or supplies; or

(H) A logging operation implement, including mechanical equipment, rigging equipment and servicing and maintenance parts or supplies;

(b) Bears the name of, or a serial or model number, logo or other device used by, a commercial seller to identify the commercial seller's property including, but not limited to, implements or equipment used by railroads and utilities that provide telephone, commercial mobile radio, cable television, electricity, water, natural gas or similar services;

(c) Consists of material used in building construction or other commercial construction, including:

(A) Copper or aluminum pipe, tubing or wiring;

(B) Aluminum gutters, downspouts, siding, decking, bleachers or risers; or

(C) Aluminum or stainless steel fence panels made of one-inch tubing 42 inches long, with four-inch gaps; or

(d) Constitutes wire of a gauge typically used by utilities to provide electrical or telecommunications service.

(3) "Commercial seller" means:

(a) A business entity, as defined in ORS 60.470, **business enterprise with a fixed place of business**, nonprofit corporation or governmental entity that regularly or periodically sells or delivers metal property to a scrap metal business as part of the entity's business functions; **or**

(b) **A person with a court order authorizing the possession and sale of particular metal property.**

(4) **"Dismantler" means the holder of a valid, current dismantler certificate issued under ORS 822.110.**

[4] (5) "Electronic funds transfer" has the meaning given that term in ORS 293.525.

(6) **"Fixed place of business" means a location:**

(a) **Where a business enterprise primarily and regularly conducts the enterprise's business activity;**

(b) **That includes a commercial building; and**

(c) **That corresponds to the address shown on any licenses required by state law or local ordinance for all applicable business activity conducted at that location.**

[5] (7) "Law enforcement agency" has the meaning given that term in ORS 131.550.

[6] (8) "Metal property" means commercial metal property, nonferrous metal property or private metal property.

[7(a)] (9)(a) "Nonferrous metal property" means an item fabricated or containing parts made of or in an alloy with copper, brass, aluminum, bronze, lead, zinc or nickel.

(b) "Nonferrous metal property" does not include gold, silver or platinum that is used in the manufacture, repair, sale or resale of jewelry.

[8] (10) "Nonprofit corporation" means a corporation to which the Secretary of State has issued a certificate of existence or a certificate of authorization under ORS 65.027.

[9] (11) "Private metal property" means a catalytic converter **or a component of a catalytic converter** that has been removed from a vehicle and is offered for sale as an independent item, whether individually or as part of a bundle, bale or in other bulk form.

[10(a)] (12)(a) "Scrap metal business" means a person that:

(A) Maintains a permanent or fixed place of business at which the person:

(i) Engages in the business of purchasing or receiving metal property;

(ii) Alters or prepares metal property the person receives for use in manufacturing other products; and

(iii) Owns, leases, rents, maintains or uses a device used in metal recycling, including a hydraulic baler, metal shearer or metal shredder;

(B) Maintains a permanent or fixed place of business at which the person engages in the business of purchasing or receiving metal property for the purpose of aggregation and sale to another scrap metal business; [or]

(C) Does not necessarily maintain a permanent or fixed place of business in this state but engages in the business of purchasing or receiving nonferrous metal property [or *private metal property*] for the purpose of aggregation and sale to another scrap metal business **and holds any licenses required by state law or local ordinance for conducting all applicable business activity; or**

(D) **Engages in the business of purchasing or receiving private metal property at a fixed place of business and holds any licenses required by state law or local ordinance for all applicable business activity.**

(b) "Scrap metal business" does not include a governmental entity that accepts metal property for recycling.

[11] (13) "Stored value device" means a debit card or other device that draws funds from an account owned or operated by the user and that allows the user to obtain something of value from a merchant.

[12(a)] (14)(a) "Transaction" means a sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell, purchase, receive or trade, private metal property or nonferrous metal property that occurs or forms between an individual and a scrap metal business.

- (b) "Transaction" does not include:
 - (A) A transfer of metal property made without consideration; or
 - (B) A sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell, purchase, receive or trade, private metal property or nonferrous metal property that occurs or forms between:
 - (i) A commercial seller or an authorized employee or agent of the commercial seller; and
 - (ii) A scrap metal business or an authorized employee or agent of the scrap metal business.

SECTION 3. ORS 165.117 is amended to read:

165.117. (1) Before completing a transaction, a scrap metal business engaged in business in this state shall:

(a) Create a metal property record for the transaction at the time and in the location where the transaction occurs. The record must:

- (A) Be accurate and written clearly and legibly in English;
- (B) Be entered onto a standardized printed form or an electronic form that is securely stored and is capable of ready retrieval and printing; and
- (C) Contain all of the following information:
 - (i) The signature of the individual with whom the scrap metal business conducts the transaction.
 - (ii) The time, date, location and monetary amount or other value of the transaction.
 - (iii) The name of the employee who conducts the transaction on behalf of the scrap metal business.
 - (iv) The name and telephone number of the individual with whom the scrap metal business conducts the transaction and a street address or, if a post office box is listed on the government-issued photo identification described in sub-subparagraph (vi) of this subparagraph, a post office box, to which the scrap metal business will mail payment to the individual.

(v) [A description of, and the license number and issuing state shown on the license plate affixed to, the motor vehicle, if any, used to transport the individual who conducts, or the nonferrous metal property or private metal property that is the subject of, the transaction.] **The make, model year and the license plate number and state of issue of the motor vehicle or motor vehicles, if any, used to transport the individual who conducts the transaction and to transport the nonferrous metal property or private metal property that is the subject of the transaction.**

(vi) A photocopy of a current, valid driver license or other government-issued photo identification belonging to the individual with whom the scrap metal business conducts the transaction.

(vii) A photograph of, or video surveillance recording depicting, a recognizable facial image of the individual with whom the scrap metal business conducts the transaction.

(viii) A general description of the nonferrous metal property [or private metal property] that constitutes the predominant part of the transaction **and a specific description of private metal property, if any, included in the transaction.** The description must include any identifiable marks on the property, if readily discernible, and must specify the weight, quantity or volume of the nonferrous metal property or private metal property.

(ix) **For private metal property, the vehicle identification number and a copy of the title or vehicle registration for the vehicle from which the private metal property was removed.**

(b) Require the individual with whom the scrap metal business conducts a transaction to sign and date a declaration printed in conspicuous type, either on the record described in this subsection or on a receipt issued to the individual with whom the scrap metal business conducts the transaction, that states:

I, _____, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN PROPERTY.

(c) Require the employee of the scrap metal business who conducts the transaction on behalf of the scrap metal business to witness the individual sign the declaration, and also to sign and date the declaration in a space provided for that purpose.

(d) For one year following the date of the transaction, keep a copy of the record and the signed and dated declaration described in this subsection. If the scrap metal business uses a video surveillance recording as part of the record kept in accordance with this subsection, the scrap metal business need not keep the video surveillance recording for one year, but shall retain the video surveillance recording for a minimum of 30 days following the date of the transaction. The scrap metal business shall at all times keep the copies at the current place of business for the scrap metal business.

(2) A scrap metal business engaged in business in this state may not do any of the following:

(a) Purchase or receive kegs or similar metallic containers used to store or dispense alcoholic beverages, except from a person that manufactures the kegs or containers or from a person licensed by the Oregon Liquor Control Commission under ORS 471.155.

(b) Conduct a transaction with an individual if the individual does not at the time of the transaction consent to the creation of the record described in subsection (1) of this section and produce for inspection a valid driver license or other **valid** government-issued photo identification that belongs to the individual.

(c) Conduct a transaction with an individual in which the scrap metal business pays the individual other than by electronic funds transfer, stored value card or stored value device, or by mailing a nontransferable check, made payable to the individual, for the amount of the transaction to the street address or post office box the individual provided under subsection (1)(a)(C)(iv) of this section. Payment must be made not earlier than three business days after the date of the transaction. The check, electronic funds transfer or stored value device must be drawn on or must draw from an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS 717.210.

(d) Purchase metal property from a nonprofit corporation other than by electronic funds transfer, stored value card or stored value device, or by mailing a nontransferable check, made payable to the nonprofit corporation, for the amount of the purchase price to the business address provided under subsection (4)(a)(B) of this section. Payment must be made not earlier than three business days after the date of the purchase. The check, electronic funds transfer or stored value device must be drawn on or must draw from an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS 717.210.

(e) Purchase private metal property from a commercial seller other than by electronic funds transfer, credit card, debit card, stored value card or stored value device or by mailing a nontransferable check, made payable to the commercial seller, for the amount of the purchase price to the business address provided under subsection (4)(a)(B) of this section. Except for an electronic funds transfer, credit card transaction or debit card transaction which can be immediate, payment must be made not earlier than three business days after the date of the purchase. The check, electronic funds transfer, credit card, debit card or stored value device must be drawn on or must draw from an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS 717.210.

[(e)] (f) Cash or release a check issued in payment for a transaction or for a purchase described in paragraph (c), (d) **or** (e) of this subsection other than as provided in this paragraph or paragraph (c), *[or]* (d) **or** (e) of this subsection. If a check is not delivered to the intended recipient within 10 days of the date of the transaction or the purchase, the scrap metal business may release the check directly to the individual or *[nonprofit corporation]* **commercial seller** with the written approval of

a law enforcement agency having jurisdiction over the scrap metal business. If a check is returned as undelivered or undeliverable, the scrap metal business shall:

(A) Release the check directly to the individual or *[nonprofit corporation]* **commercial seller** with the written approval of a law enforcement agency having jurisdiction over the scrap metal business; or

(B) Retain the check until the individual or *[nonprofit corporation]* **commercial seller** to which the check was mailed provides a valid address in accordance with subsection (1)(a)(C)(iv) or (4)(a)(B) of this section. If after 30 days following the date of the transaction or the purchase described in paragraph (c), (d) or (e) of this subsection the individual or *[nonprofit corporation]* **commercial seller** fails to provide a valid address, the scrap metal business may cancel the check and the individual or *[nonprofit corporation]* **commercial seller** shall forfeit to the scrap metal business the amount due as payment.

(g) **Purchase or receive private metal property, except from:**

(A) **A commercial seller; or**

(B) **An individual who is the owner of the vehicle from which the private metal property was removed and who provides the information required under subsection (1)(a)(C) of this section.**

(3) If a scrap metal business obtains the approval of a law enforcement agency under subsection *[(2)(e)]* **(2)(f)** of this section, the scrap metal business shall retain the written approval for one year following the date the approval is received.

(4) Before purchasing or receiving metal property from a commercial seller, a scrap metal business shall:

(a) Create and maintain a commercial account with the commercial seller. As part of the commercial account, the scrap metal business shall enter accurately, clearly and legibly in English onto a standardized printed form, or an electronic form that is securely stored and is capable of ready retrieval and printing, the following information:

(A) The full name of the commercial seller;

(B) The business address and telephone number of the commercial seller; and

(C) The full name of each employee, agent or other individual the commercial seller authorizes to receive payment for metal property from the scrap metal business.

(b) *[Record]* **Create a metal property record** as part of the commercial account at the time **and in the location that** the scrap metal business purchases or receives metal property from a commercial seller **that contains** the following information:

(A) The time, date and location at which the *[commercial seller delivered the metal property for purchase or receipt]* **scrap metal business purchased or received the metal property;**

(B) **The printed name and signature or electronic signature of the employee who conducted the purchase or receipt on behalf of the scrap metal business;**

(C) **The printed name and signature or electronic signature of the individual or individuals who conducted the purchase or receipt of the metal property on behalf of the commercial seller and of the individual or individuals who delivered the metal property on behalf of the commercial seller to the scrap metal business, if different;**

(D) **A photocopy of a valid driver license or other valid government-issued photo identification belonging to the individual or individuals who conducted the purchase or receipt of the metal property on behalf of the commercial seller and of the individual or individuals who delivered the metal property on behalf of the commercial seller to the scrap metal business, if different;**

[(B)] (E) The monetary amount or other value of the metal property;

[(C)] (F) A description of the type of metal property that constitutes the predominant part of the purchase or receipt; *[and]*

[(D)] *The signature of the individual who delivered the metal property to the scrap metal business.*

(G) For private metal property sold or transferred by a commercial seller other than a dismantler, the following information for the vehicle from which the private metal property was removed:

(i) The make, model year, vehicle identification number and, if available, the license plate number and issuing state shown on the license plate; and

(ii) The date that the commercial seller removed the private metal property; and

(H) For private metal property sold or transferred by a dismantler, the stock or yard number or numbers assigned to the private metal property by the dismantler under ORS 822.137.

(c) Require all signatories to the metal property record to declare the accuracy of the information contained in the record by including on the metal property record in conspicuous type, "I AFFIRM BY MY SIGNATURE THAT UNDER PENALTY OF LAW THAT THE INFORMATION I PROVIDED AND REFLECTED ON THIS FORM IS TRUE AND ACCURATE."

(5) A scrap metal business may require an individual from whom the business obtains metal property to provide the individual's thumbprint to the scrap metal business.

(6) A scrap metal business shall make all records and accounts required to be maintained under this section available to any peace officer on demand.

(7)(a) **Except as otherwise provided in ORS 165.118**, violation of this section is a specific fine violation, and the presumptive fine for the violation is \$1,000.

(b) Notwithstanding paragraph (a) of this subsection, the presumptive fine for a violation of a provision of this section is \$5,000 if the scrap metal business has at least three previous convictions for violations of a provision of this section.

SECTION 4. ORS 165.118 is amended to read:

165.118. (1) A person commits the offense of unlawfully altering metal property if the person, with intent to deceive a scrap metal business as to the ownership or origin of an item of metal property, knowingly removes, alters, renders unreadable or invisible or obliterates a name, logo, model or serial number, personal identification number or other mark or method that a manufacturer uses to identify the metal property.

(2)(a) A person commits the offense of making a false statement on a metal property record if the person:

[(a)] (A) Knowingly makes, causes or allows to be made a false entry or misstatement of material fact in a metal property record described in ORS 165.117; or

[(b)] (B) Signs a declaration under ORS 165.117 knowing that the nonferrous metal property or private metal property that is the subject of a transaction is stolen.

(b) **As used in this subsection, "material fact" means information required under ORS 165.117 (1)(a)(C) or (4)(b).**

(3) A person commits the offense of unlawfully purchasing or receiving metal property if the person is a scrap metal business, [or] is an agent or employee of a scrap metal business **or engages in the business of purchasing or receiving metal property** and the person **does any of the following:**

(a) **Conducts a private metal property transaction or purchases or receives private metal property without holding a license required by state law or local ordinance to engage in all applicable business activity.**

(b) **Fails to create a metal property record under ORS 165.117 when purchasing or receiving private metal property or fails to properly maintain metal property records related to private metal property.**

(c) **Purchases or receives private metal property at any place other than a fixed place of business for either the scrap metal business or the commercial seller.**

(d) **Purchases or receives private metal property if the person is not, or is not an agent or employee of, a business enterprise with a fixed place of business.**

(e) Fails to report any of the following to a law enforcement agency within 24 hours:

[(a)] (A) The purchase or receipt of metal property that the person knows or has good reason to know was the subject of theft.

[(b)] (B) The purchase or receipt of metal property that the person knows or has good reason to know has been unlawfully altered as described in subsection (1) of this section.

[(c)] (C) The purchase or receipt of metallic wire from which insulation has been removed, unless the individual offering the wire for purchase or receipt can prove by appropriate documentation that the individual owns or is entitled to offer the wire for purchase or receipt and that the insulation has been removed by accident or was done by legitimate means or for a legitimate purpose. The scrap metal business shall retain a copy of the documentation provided.

[(d)] (D) The purchase or receipt of commercial metal property that the person knows or has good reason to know was purchased or received from a person other than:

[(A)] (i) A commercial seller that has a commercial account with the scrap metal business; or

[(B)] (ii) An individual who can produce written documentation or identification that proves that the individual is an employee, agent or other individual authorized by a commercial seller that has a commercial account with the scrap metal business to deliver commercial metal property for purchase or receipt.

[(e)] (E) The purchase or receipt of metal property from an individual whom the person knows or has good reason to know[:]

[(A)] is under 16 years of age[;] or

[(B)] has, according to written or electronically transmitted information provided by a peace officer or [law enforcement] **government** agency, been convicted within the past five years, as a principal, agent or accessory of a crime involving:

(i) Drugs;

(ii) Burglary, robbery or theft;

(iii) Possession or receipt of stolen property;

(iv) The manufacture, delivery or possession of, with intent to deliver, methamphetamine;

(v) The manufacture, delivery or possession of, with intent to deliver, ephedrine or a salt, isomer or salt of an isomer of ephedrine;

(vi) The manufacture, delivery or possession of, with intent to deliver, pseudoephedrine or a salt, isomer or salt of an isomer of pseudoephedrine; or

(vii) Possession of anhydrous ammonia with intent to manufacture methamphetamine.

(4) Violation of a provision of subsections (1) to (3) of this section is a Class A misdemeanor.

SECTION 5. ORS 165.124 is amended to read:

165.124. (1) Except as provided in subsection (2) of this section, ORS 164.857, 165.116, 165.117, 165.118 and 165.122 do not apply to:

(a) A person engaged in recycling beverage containers as defined in ORS 459A.700.

(b) A person engaged in buying or selling used or empty food containers made of metal.

(c) A person to whom a vehicle dealer certificate has been issued under ORS 822.020.

(d) A person to whom a dismantler certificate has been issued under ORS 822.110.

(e) A person to whom a towing business certificate has been issued under ORS 822.205.

(2) A person described in subsection (1)(c) to (e) of this section shall comply with and is subject to the penalty provided for violating a provision of ORS 164.857, 165.116, 165.117, 165.118 or 165.122, if the person purchases, receives or transports **or acts as a commercial seller of:**

(a) Private metal property; or

(b) Commercial metal property or nonferrous metal property, that is not a motor vehicle or a part of a motor vehicle.

(3) Notwithstanding subsection (2) of this section, ORS 164.857, 165.116, 165.117, 165.118 and 165.122 do not apply to a person who sells private metal property if the person:

(a) Sells the private metal property as a vehicle repair part;

(b) Complies with United States Environmental Protection Agency policies and regulations related to private metal property, including testing and labeling requirements;

(c) Maintains a fixed place of business at which the person engages in the business of selling vehicle repair parts;

(d) Holds any licenses required by federal or state law or local ordinance for conducting all applicable business activity;

(e) Clearly and legibly marks the private metal property:

(A) With the vehicle identification number of the vehicle from which the private metal property was removed or with an alternative number;

(B) With the date the private metal property was removed from the vehicle; and

(C) In English and in a permanent manner, including but not limited to engraving or the use of permanent ink or a permanent label; and

(f) Provides the vehicle identification number of the vehicle from which the private metal property was removed upon the request of a law enforcement official, if the person used an alternative number instead of the vehicle identification number.

SECTION 6. ORS 822.137 is amended to read:

822.137. (1) As used in this section, "major component part" includes significant parts of a motor vehicle such as engines, short blocks, frames, transmissions, transfer cases, cabs, doors, differentials, front or rear clips, quarter panels, truck beds or boxes, hoods, bumpers, fenders, **catalytic converters** and airbags. The Department of Transportation may by rule designate other motor vehicle parts not specified in this subsection as major component parts. "Major component part" does not include cores or parts of cores that require remanufacturing or that are limited in value to that of scrap metal.

(2) In addition to any other penalty provided by law, the department may impose on a dismantler, in the manner provided by ORS 183.745, a civil penalty not to exceed \$1,000 per violation if the dismantler:

(a) Acquires a motor vehicle or major component part without obtaining a certificate of sale and, if applicable, a certificate of title.

(b) Acquires a catalytic converter or a component of a catalytic converter, that has been removed from a vehicle and is offered for sale as an independent item, separate and distinct from a vehicle acquisition, whether individually or as part of a bundle, bale or in other bulk form.

[(b)] (c) Possesses, sells or otherwise disposes of a motor vehicle or any part of a motor vehicle knowing that the vehicle or part has been stolen.

[(c)] (d) Sells, buys, receives, conceals, possesses or disposes of a motor vehicle or any part of a motor vehicle having a missing, defaced, intentionally altered or covered vehicle identification number, unless directed to do so by a law enforcement official.

[(d)] (e) Commits forgery in the second degree, as defined in ORS 165.007, or misstates a material fact relating to a certificate of title, registration or other document related to a motor vehicle that has been reassembled from parts of other motor vehicles.

[(e)] (f) Fraudulently obtains, creates or modifies a dismantler certificate.

[(f)] (g) Fails to maintain records at the certified place of business for three years from the date of acquisition of a motor vehicle that describe and identify the vehicle, including:

(A) The certificate of title number;

(B) The state where the vehicle was last registered, if applicable;

(C) The number of the last registration plate issued and the state of issuance, if applicable;

(D) The year, make and model of the vehicle;

(E) The vehicle identification number;

(F) The date acquired;

(G) The vehicle, stock or yard number assigned to the vehicle by the dismantler; and

(H) Any other information required by the department.

[(g)] (h) Fails to maintain records at the certified place of business for three years from the date of acquisition of a major component part that describe and identify the part, including:

(A) The physical characteristics of the part;

- (B) The stock or yard number assigned to the part by the dismantler;
- (C) The vehicle identification number of the motor vehicle from which the part came; *[and]*
- (D) Transaction documents regarding the sale or disposal of a catalytic converter, including documents that show the transaction date, dollar amount, stock or yard number assigned to the catalytic converter and the signatures of buyer and seller; and**

[(D)] (E) Any other information required by the department.

[(h)] (i) Commits a dishonest act or omission during the sale of a motor vehicle or major component part that, as determined by the department, causes a loss to the purchaser.

[(i)] (j) Is convicted of a crime involving false statements or dishonesty that directly relates to the business of the dismantler or suffers any civil judgment imposed for conduct involving fraud, misrepresentation or conversion.

[(j)] (k) Fails to comply with any provision of ORS 822.133.

SECTION 7. ORS 801.236 is amended to read:

801.236. (1) "Dismantler" means a person who is engaged in the business of:

[(1)] (a) Buying, selling, dealing in or processing, except for processing into scrap metal, motor vehicles for the purpose of destroying, salvaging, dismantling, disassembling, reducing to major component parts, crushing, compacting, recycling or substantially altering in form; or

[(2)] (b) Buying, selling, dealing in or processing motor vehicle major component parts that are stocked in the inventory of the business, if the buying, selling, dealing in or processing of major component parts is not part of a business selling new vehicles or repairing vehicles.

(2) "Dismantler" does not include a scrap metal business as defined in ORS 165.116.

SECTION 8. ORS 164.095 is amended to read:

164.095. (1) A person commits theft by receiving if the person receives, retains, conceals or disposes of property of another knowing or having good reason to know that the property was the subject of theft.

(2) It is a defense to a charge of violating subsection (1) of this section if:

(a) The person is a scrap metal business as defined in ORS 165.116 or an agent or employee of a scrap metal business;

(b) The person receives or retains metal property as defined in ORS 165.116; and

(c) The person makes a report in accordance with ORS 165.118 *[(3)(a)]* **(3)(e)(A)**.

(3) "Receiving" means acquiring possession, control or title, or lending on the security of the property.

SECTION 9. The amendments to ORS 164.857, 165.116, 165.117, 165.118, 165.124, 801.236 and 822.137 by sections 1 to 7 of this 2021 Act apply to conduct occurring on or after the effective date of this 2021 Act.

Passed by Senate April 21, 2021

Repassed by Senate June 9, 2021

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Lori L. Brocker, Secretary of Senate

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Peter Courtney, President of Senate

Passed by House June 7, 2021

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Tina Kotek, Speaker of House

Received by Governor:

.....M.,....., 2021

Approved:

.....M.,....., 2021

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M.,....., 2021

.....
Shemia Fagan, Secretary of State