

Senate Bill 803

Sponsored by Senator GORSEK (at the request of Multnomah County District Attorney Mike Schmidt)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Prohibits scrap metal business from purchasing or receiving catalytic converters, except from commercial seller. Requires scrap metal business to record certain information related to catalytic converter purchased or received by scrap metal business.

A BILL FOR AN ACT

1
2 Relating to catalytic converters; amending ORS 165.116, 165.117 and 165.118.

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

4 **SECTION 1.** ORS 165.116 is amended to read:

5 165.116. As used in ORS 165.116 to 165.124:

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

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

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

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

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

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

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

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

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

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

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

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

29 (c) Consists of material used in building construction or other commercial construction, includ-
30 ing:

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

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

- 1 (B) Aluminum gutters, downspouts, siding, decking, bleachers or risers; or
2 (C) Aluminum or stainless steel fence panels made of one-inch tubing 42 inches long, with four-
3 inch gaps; or
4 (d) Constitutes wire of a gauge typically used by utilities to provide electrical or telecommuni-
5 cations service.
- 6 (3) “Commercial seller” means a business entity, as defined in ORS 60.470, nonprofit corporation
7 or governmental entity that regularly or periodically sells or delivers metal property to a scrap
8 metal business as part of the entity’s business functions.
- 9 (4) “Electronic funds transfer” has the meaning given that term in ORS 293.525.
- 10 (5) “Law enforcement agency” has the meaning given that term in ORS 131.550.
- 11 (6) “Metal property” means commercial metal property, nonferrous metal property or private
12 metal property.
- 13 (7)(a) “Nonferrous metal property” means an item fabricated or containing parts made of or in
14 an alloy with copper, brass, aluminum, bronze, lead, zinc or nickel.
- 15 (b) “Nonferrous metal property” does not include gold, silver or platinum that is used in the
16 manufacture, repair, sale or resale of jewelry.
- 17 (8) “Nonprofit corporation” means a corporation to which the Secretary of State has issued a
18 certificate of existence or a certificate of authorization under ORS 65.027.
- 19 (9) “Private metal property” means a catalytic converter that has been removed from a vehicle
20 and is offered for sale as an independent item, whether individually or as part of a bundle, bale or
21 in other bulk form.
- 22 (10)(a) “Scrap metal business” means a person that:
23 (A) Maintains a permanent or fixed place of business at which the person:
24 (i) Engages in the business of purchasing or receiving metal property;
25 (ii) Alters or prepares metal property the person receives for use in manufacturing other pro-
26 ducts; and
27 (iii) Owns, leases, rents, maintains or uses a device used in metal recycling, including a hy-
28 draulic baler, metal shearer or metal shredder;
- 29 (B) Maintains a permanent or fixed place of business at which the person engages in the busi-
30 ness of purchasing or receiving metal property for the purpose of aggregation and sale to another
31 scrap metal business; or
32 (C) Does not necessarily maintain a permanent or fixed place of business in this state but en-
33 gages in the business of purchasing or receiving nonferrous metal property or private metal property
34 for the purpose of aggregation and sale to another scrap metal business.
- 35 (b) “Scrap metal business” does not include a governmental entity that accepts metal property
36 for recycling.
- 37 (11) “Stored value device” means a debit card or other device that draws funds from an account
38 owned or operated by the user and that allows the user to obtain something of value from a mer-
39 chant.
- 40 (12)(a) “Transaction” means a sale, purchase, receipt or trade of, or a contract, agreement or
41 pledge to sell, purchase, receive or trade, [*private metal property or*] nonferrous metal property that
42 occurs or forms between an individual and a scrap metal business.
- 43 (b) “Transaction” does not include:
44 (A) A transfer of metal property made without consideration; or
45 (B) A sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell, purchase,

1 receive or trade, [*private metal property or*] nonferrous metal property that occurs or forms between:

- 2 (i) A commercial seller or an authorized employee or agent of the commercial seller; and
- 3 (ii) A scrap metal business or an authorized employee or agent of the scrap metal business.

4 **SECTION 2.** ORS 165.117 is amended to read:

5 165.117. (1) Before completing a transaction, a scrap metal business engaged in business in this
6 state shall:

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

- 9 (A) Be accurate and written clearly and legibly in English;
- 10 (B) Be entered onto a standardized printed form or an electronic form that is securely stored
11 and is capable of ready retrieval and printing; and
- 12 (C) Contain all of the following information:
 - 13 (i) The signature of the individual with whom the scrap metal business conducts the transaction.
 - 14 (ii) The time, date, location and monetary amount or other value of the transaction.
 - 15 (iii) The name of the employee who conducts the transaction on behalf of the scrap metal busi-
16 ness.

17 (iv) The name and telephone number of the individual with whom the scrap metal business
18 conducts the transaction and a street address or, if a post office box is listed on the government-
19 issued photo identification described in sub-subparagraph (vi) of this subparagraph, a post office box,
20 to which the scrap metal business will mail payment to the individual.

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

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

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

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

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

36 _____

37
38 I, _____, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM
39 SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN
40 PROPERTY.

41 _____

42
43 (c) Require the employee of the scrap metal business who conducts the transaction on behalf
44 of the scrap metal business to witness the individual sign the declaration, and also to sign and date
45 the declaration in a space provided for that purpose.

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

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

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

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

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

25 (d) Purchase metal property from a nonprofit corporation other than by electronic funds trans-
26 fer, stored value card or stored value device, or by mailing a nontransferable check, made payable
27 to the nonprofit corporation, for the amount of the purchase price to the business address provided
28 under subsection (4)(a)(B) of this section. Payment must be made not earlier than three business days
29 after the date of the purchase. The check, electronic funds transfer or stored value device must be
30 drawn on or must draw from an account that the scrap metal business maintains with a financial
31 institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission
32 business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS
33 717.210.

34 (e) Cash or release a check issued in payment for a transaction or for a purchase described in
35 paragraph (d) of this subsection other than as provided in this paragraph or paragraph (c) or (d) of
36 this subsection. If a check is not delivered to the intended recipient within 10 days of the date of
37 the transaction or the purchase, the scrap metal business may release the check directly to the in-
38 dividual or nonprofit corporation with the written approval of a law enforcement agency having ju-
39 risdiction over the scrap metal business. If a check is returned as undelivered or undeliverable, the
40 scrap metal business shall:

41 (A) Release the check directly to the individual or nonprofit corporation with the written ap-
42 proval of a law enforcement agency having jurisdiction over the scrap metal business; or

43 (B) Retain the check until the individual or nonprofit corporation to which the check was mailed
44 provides a valid address in accordance with subsection (1)(a)(C)(iv) or (4)(a)(B) of this section. If af-
45 ter 30 days following the date of the transaction or the purchase described in paragraph (d) of this

1 subsection the individual or nonprofit corporation fails to provide a valid address, the scrap metal
2 business may cancel the check and the individual or nonprofit corporation shall forfeit to the scrap
3 metal business the amount due as payment.

4 **(f) Purchase or receive private metal property, except from a commercial seller.**

5 (3) If a scrap metal business obtains the approval of a law enforcement agency under subsection
6 (2)(e) of this section, the scrap metal business shall retain the written approval for one year fol-
7 lowing the date the approval is received.

8 (4) Before purchasing or receiving metal property from a commercial seller, a scrap metal busi-
9 ness shall:

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

14 (A) The full name of the commercial seller;

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

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

18 (b) Record as part of the commercial account at the time the scrap metal business purchases
19 or receives metal property from a commercial seller the following information:

20 (A) The time, date and location at which the commercial seller delivered the metal property for
21 purchase or receipt;

22 (B) The monetary amount or other value of the metal property;

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

25 **(D) For private metal property, the make, model year, vehicle identification number and**
26 **the license number and issuing state shown on the license plate of the motor vehicle from**
27 **which the private metal property was removed; and**

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

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

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

34 (7)(a) Violation of this section is a specific fine violation, and the presumptive fine for the vio-
35 lation is \$1,000.

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

39 **SECTION 3.** ORS 165.118 is amended to read:

40 165.118. (1) A person commits the offense of unlawfully altering metal property if the person,
41 with intent to deceive a scrap metal business as to the ownership or origin of an item of metal
42 property, knowingly removes, alters, renders unreadable or invisible or obliterates a name, logo,
43 model or serial number, personal identification number or other mark or method that a manufacturer
44 uses to identify the metal property.

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

1 person:

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

4 (b) Signs a declaration under ORS 165.117 knowing that the nonferrous metal property [*or pri-*
5 *ivate metal property*] that is the subject of a transaction is stolen.

6 (3) A person commits the offense of unlawfully purchasing or receiving metal property if the
7 person is a scrap metal business or an agent or employee of a scrap metal business and the person
8 fails to report any of the following to a law enforcement agency within 24 hours:

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

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

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

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

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

21 (B) An individual who can produce written documentation or identification that proves that the
22 individual is an employee, agent or other individual authorized by a commercial seller that has a
23 commercial account with the scrap metal business to deliver commercial metal property for pur-
24 chase or receipt.

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

27 (A) Is under 16 years of age; or

28 (B) Has, according to written or electronically transmitted information provided by a peace of-
29 ficer or law enforcement agency, been convicted within the past five years, as a principal, agent or
30 accessory of a crime involving:

31 (i) Drugs;

32 (ii) Burglary, robbery or theft;

33 (iii) Possession or receipt of stolen property;

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

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

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

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

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

41