State of Arizona House of Representatives Forty-eighth Legislature First Regular Session 2007

HOUSE BILL 2314

AN ACT

AMENDING SECTIONS 13-1604, 44-1642, 44-1644 AND 44-1646, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1647; RELATING TO SCRAP METAL DEALERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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Be it enacted by the Legislature of the State of Arizona: Section 1. Section 13-1604, Arizona Revised Statutes, is amended to read:

13-1604. Aggravated criminal damage: classification

- A. A person commits aggravated criminal damage by intentionally or recklessly without the express permission of the owner:
- 1. Defacing, damaging or in any way changing the appearance of any building, structure, personal property or place used for worship or any religious purpose.
- 2. Defacing or damaging any building, structure or place used as a school or as an educational facility.
- 3. Defacing, damaging or tampering with any cemetery, mortuary or personal property of the cemetery or mortuary or other facility used for the purpose of burial or memorializing the dead.
- 4. DEFACING, DAMAGING OR TAMPERING WITH ANY UTILITY OR AGRICULTURAL INFRASTRUCTURE OR PROPERTY FOR THE PURPOSE OF OBTAINING NONFERROUS METALS AS DEFINED IN SECTION 44-1641.
 - B. Aggravated criminal damage is punishable as follows:
- 1. Aggravated criminal damage is a class 4 felony If the person intentionally or recklessly does any act described in subsection A OF THIS SECTION which causes damage to the property of another in an amount of ten thousand dollars or more, AGGRAVATED CRIMINAL DAMAGE:
- (a) RESULTING FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 1, 2 OR 3 OF THIS SECTION IS A CLASS 4 FELONY.
- (b) RESULTING FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 4 OF THIS SECTION IS A CLASS 3 FELONY.
- 2. Aggravated criminal damage is a class 5 felony If the person intentionally or recklessly damages property of another in an amount of one thousand five hundred dollars or more but less than ten thousand dollars, AGGRAVATED CRIMINAL DAMAGE:
- (a) RESULTING FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 1, 2 OR 3 OF THIS SECTION IS A CLASS 5 FELONY.
- (b) RESULTING FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 4 OF THIS SECTION IS A CLASS 4 FELONY.
 - 3. In all other cases aggravated criminal damage is:
- (a) A class 6 felony IF IT RESULTS FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 1, 2 OR 3 OF THIS SECTION.
- (b) A CLASS 5 FELONY IF IT RESULTS FROM ACTIONS DESCRIBED IN SUBSECTION A, PARAGRAPH 4 OF THIS SECTION.
- C. In determining the amount of damage to property, damages include the cost of repair or replacement of the property that was damaged AND THE COST OF THE LOSS OF CROPS AND LIVESTOCK.

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Sec. 2. Section 44-1642, Arizona Revised Statutes, is amended to read:
44-1642. Records of purchase: transaction limitations: age
requirement for scrap metal seller: exception

- A. Every scrap metal dealer shall keep on the business premises a book or other similar record legibly printed or written in ink, in the English language of each transaction exceeding twenty-five dollars involving the receipt of scrap metal except used beverage containers. The record of each receipt of scrap metal shall include the following information:
 - 1. The date, time and place of the transaction.
- 2. An identifying description and weight of the specific scrap metal received.
 - 3. The dollar amount paid.
- 4. The seller's name, physical description including gender, height, weight, race and eye and hair color, PHYSICAL address, date of birth, signature and A PHOTOCOPY OF A CURRENT driver license number or a photocopy of a valid government issued photo identification card, NONOPERATING IDENTIFICATION LICENSE ISSUED PURSUANT TO SECTION 28-3165 OR PHOTO IDENTIFICATION CARD ISSUED BY A TRIBAL GOVERNMENT OR THE UNITED STATES MILITARY. THE SCRAP METAL DEALER MUST VALIDATE THE RECORDED INFORMATION BY USING THE SELLER'S CURRENT DRIVER LICENSE, NONOPERATING IDENTIFICATION LICENSE ISSUED PURSUANT TO SECTION 28-3165 OR PHOTO IDENTIFICATION CARD ISSUED BY A TRIBAL GOVERNMENT OR THE UNITED STATES MILITARY.
 - 5. The seller's transaction privilege tax number, if applicable.
- 6. The number and state of issuance of the license on the vehicle used to deliver the scrap metal.
- 7. A PHOTO OF THE METAL SOLD. THE PHOTO SHALL BE RETAINED WITH A PHOTOCOPY OF THE IDENTIFICATION PRESCRIBED IN PARAGRAPH 4 OF THIS SUBSECTION AND THE TRANSACTION INFORMATION.
- 8. A PHOTOGRAPH, VIDEO RECORD OR DIGITAL RECORD OF THE SELLER AND THE METAL INVOLVED IN THE TRANSACTION AND A RIGHT INDEX FINGERPRINT OF THE SELLER.
- B. The record and entries shall be retained in a book or similar record at the business premises for one year after making the final entry of any transaction and shall be retained either at the business premises or any other reasonably available location for an additional year. A scrap metal dealer shall not purchase materials for which a record is required to be kept by this section in a series of purchases under twenty-five dollars to avoid the requirements of this section. A scrap metal dealer's business premises, business records relating to scrap metal transactions, including a book or similar record prescribed by this section, and business inventory shall be open during regular business hours for reasonable inspection by a peace officer. Before an inspection shall take place a peace officer shall first identify himself and the purpose for the inspection to the scrap metal dealer, dealer's manager or other responsible person and comply with all reasonable and customary safety requirements of that scrap metal dealer for

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the business premises inspected. The scrap metal dealer may require the peace officer to sign an inspection log that includes the officer's name and serial or badge number and the time, the date and the purpose for the inspection.

- C. A SCRAP METAL DEALER SHALL NOT PROVIDE PAYMENT FOR ANY SCRAP METAL ON SITE AT THE TIME OF THE SCRAP METAL TRANSACTION. PAYMENT SHALL BE MADE BY MAILING A CHECK OR MONEY ORDER TO A PHYSICAL ADDRESS PROVIDED BY THE SELLER THROUGH A CURRENT DRIVER LICENSE OR OTHER IDENTIFICATION PRESCRIBED IN SUBSECTION A, PARAGRAPH 4 OF THIS SECTION. THE CHECK OR MONEY ORDER SHALL BE MADE PAYABLE TO THE BUSINESS NAME FOR AN INDUSTRIAL ACCOUNT. THIS SUBSECTION:
- 1. EXCEPT AS PROVIDED IN PARAGRAPHS 2 AND 3 OF THIS SUBSECTION, ONLY APPLIES TO INDUSTRIAL ACCOUNTS, COPPER AND ALUMINUM WIRE WITH A DIAMETER OF AT LEAST THREE-EIGHTS OF AN INCH.
- 2. EXCEPT AS PROVIDED IN PARAGRAPH 3 OF THIS SUBSECTION, APPLIES TO ALL SCRAP METAL TRANSACTIONS OF THREE HUNDRED DOLLARS OR MORE.
- 3. DOES NOT APPLY TO INDUSTRIAL ACCOUNTS IF THE INDUSTRIAL ACCOUNTS ANNUALLY PREREGISTER EMPLOYEES WHO ARE AUTHORIZED SELLERS ON BEHALF OF THE INDUSTRIAL ACCOUNTS.
- D. A SCRAP METAL DEALER SHALL PROVIDE A RECEIPT TO THE SELLER ON SITE AT THE TIME OF THE SCRAP METAL TRANSACTION, FOR EVERY TRANSACTION, AND SHALL INCLUDE THE FOLLOWING INFORMATION:
 - 1. THE DATE, TIME AND PLACE OF THE TRANSACTION.
- 2. AN IDENTIFYING DESCRIPTION AND WEIGHT OF THE SPECIFIC SCRAP METAL RECEIVED.
 - 3. THE DOLLAR AMOUNT OF THE TRANSACTION.
- E. A SCRAP METAL SELLER MAY NOT CONDUCT A SERIES OF TRANSACTIONS FOR ONE VEHICLE LOAD OF SCRAP METAL TO AVOID THE REQUIREMENTS OF THIS SECTION.
- F. A SCRAP METAL SELLER SHALL NOT PARTICIPATE IN MORE THAN ONE CASH TRANSACTION PER DAY FOR SCRAP METAL.
 - G. A SCRAP METAL SELLER SHALL BE AT LEAST EIGHTEEN YEARS OLD.
- H. THIS SECTION DOES NOT APPLY TO TRANSACTIONS INVOLVING USED BEVERAGE CONTAINERS OR MATERIALS CONSISTING OF ONE HUNDRED PER CENT FERROUS METAL.
 - Sec. 3. Section 44-1644, Arizona Revised Statutes, is amended to read: 44-1644. Report to law enforcement agencies; exemption; violation; classification
- A. Within twenty-four hours of receipt of scrap metals, except from an industrial account or a scrap metal dealer, for which a record is required to be kept by section 44-1642, a scrap metal dealer shall deliver to the local law enforcement agency a record of the receipt of the scrap metals. The record shall include the following information:
 - 1. The date, time and place of the receipt of the scrap metal.
- 2. An identifying description of the specific scrap metal received including the weight and amount paid or other consideration given.

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- 3. A description of the person delivering the metal to the scrap metal dealer including the person's gender, height, weight, race and hair and eye color, address, date of birth and A PHOTOCOPY OF A CURRENT driver license, number or a photocopy of a valid government issued photo NONOPERATING identification card LICENSE ISSUED PURSUANT TO SECTION 28-3165 OR PHOTO IDENTIFICATION CARD ISSUED BY A TRIBAL GOVERNMENT OR THE UNITED STATES MILITARY.
- 4. The number and state of issuance of the license on the vehicle used to deliver the scrap metal.
- B. FOR COPPER, ALUMINUM WIRE WITH A DIAMETER OF AT LEAST THREE-EIGHTHS OF AN INCH AND TRANSACTIONS WITH A VALUE OVER ONE HUNDRED DOLLARS, a scrap metal dealer shall hold in its custody in the same size, shape and condition in which the nonferrous scrap metal was received on its business premises any nonferrous scrap metal received in a reportable transaction for seven days after filing the report prescribed by subsection A of this section.
- C. Subsection B of this section does not apply to transactions with industrial accounts, other scrap metal dealers or purchases by scrap metal dealers of used beverage containers or ferrous scrap metals and of scrap metal authorized for release by a peace officer of that jurisdiction.
- D. A person who fails to file a report prescribed by this section is guilty of a class 1 misdemeanor.
 - Sec. 4. Section 44-1646, Arizona Revised Statutes, is amended to read:

 44-1646. Burned metallic wire; aluminum wire; copper wire;

 transaction restrictions; applicability
- A. A scrap metal dealer shall not purchase or otherwise receive metallic wire that was burned in whole or in part to remove insulation unless the scrap metal dealer receives from the scrap metal seller written evidence identifying the person who delivers the wire to the scrap metal dealer that includes evidence that the wire was lawfully burned. This section does not apply to transactions with industrial accounts located outside of the state of Arizona or scrap metal dealers located outside the state of Arizona.
- B. A SCRAP METAL DEALER SHALL NOT ACCEPT ALUMINUM WIRE WITH A DIAMETER OF AT LEAST THREE-EIGHTHS OF AN INCH OR ANY COPPER WIRE THAT HAS HAD THE INSULATION REMOVED AND SHALL NOT REMOVE THE INSULATION FROM THE WIRE UNTIL AFTER THE SEVEN DAY PERIOD PRESCRIBED BY SECTION 44-1644, SUBSECTION B.
- C. THIS SECTION DOES NOT APPLY TO TRANSACTIONS WITH ALL INDUSTRIAL ACCOUNTS OR TO TRANSACTIONS BETWEEN SCRAP METAL DEALERS.
- Sec. 5. Title 44, chapter 11, article 3.1, Arizona Revised Statutes, is amended by adding section 44-1647, to read:
 - 44-1647. Department of public safety; transaction form
- THE DEPARTMENT OF PUBLIC SAFETY SHALL DESIGN AND MAKE AVAILABLE A SELLER AND TRANSACTION FORM THAT MAY BE USED BY A SCRAP METAL DEALER WHO MUST REPORT PURSUANT TO SECTION 44-1644.

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