

REFERENCE TITLE: scrap metal theft authority

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HB 2509

Introduced by
Representatives Konopnicki, Brown: Adams, Anderson, Burns J, Chabin,
Crandall, DeSimone, Nichols, Stump, Thrasher

AN ACT

AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3018.01; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 44; AMENDING SECTION 44-1642, ARIZONA REVISED STATUTES; AMENDING TITLE 44, CHAPTER 11, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1648; RELATING TO SCRAP METAL THEFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 41, chapter 27, article 2, Arizona Revised Statutes,
3 is amended by adding section 41-3018.01, to read:

4 41-3018.01. Scrap metal theft authority; termination July 1,
5 2018

6 A. THE SCRAP METAL THEFT AUTHORITY TERMINATES ON JULY 1, 2018.

7 B. TITLE 41, CHAPTER 44 IS REPEALED ON JANUARY 1, 2019.

8 Sec. 2. Title 41, Arizona Revised Statutes, is amended by adding
9 chapter 44, to read:

10 CHAPTER 44

11 SCRAP METAL THEFT AUTHORITY

12 ARTICLE 1. GENERAL PROVISIONS

13 41-4401. Scrap metal theft authority; powers and duties; fund;
14 audit

15 A. THE SCRAP METAL THEFT AUTHORITY IS ESTABLISHED CONSISTING OF THE
16 FOLLOWING MEMBERS:

17 1. TWO POLICE CHIEFS WHO ARE APPOINTED BY THE ARIZONA CHIEFS' OF
18 POLICE ASSOCIATION, ONE OF WHOM REPRESENTS A CITY OR TOWN WITH A POPULATION
19 OF ONE HUNDRED THOUSAND OR MORE PERSONS AND ONE OF WHOM REPRESENTS A CITY OR
20 TOWN WITH A POPULATION OF LESS THAN ONE HUNDRED THOUSAND PERSONS, OR THEIR
21 DESIGNEES.

22 2. TWO SHERIFFS WHO ARE APPOINTED BY THE ARIZONA SHERIFFS'
23 ASSOCIATION, ONE OF WHOM REPRESENTS A COUNTY WITH A POPULATION OF FIVE
24 HUNDRED THOUSAND OR MORE PERSONS AND ONE OF WHOM REPRESENTS A COUNTY WITH A
25 POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS, OR THEIR DESIGNEES.

26 3. TWO COUNTY ATTORNEYS WHO ARE APPOINTED BY THE GOVERNOR, ONE OF WHOM
27 REPRESENTS A COUNTY WITH A POPULATION OF ONE MILLION OR MORE PERSONS AND ONE
28 OF WHOM REPRESENTS A COUNTY WITH A POPULATION OF LESS THAN ONE MILLION
29 PERSONS, OR THEIR DESIGNEES.

30 4. TWO MEMBERS OF THE GENERAL PUBLIC WHO ARE APPOINTED BY THE
31 GOVERNOR.

32 5. THE DIRECTOR OF THE DEPARTMENT OF PUBLIC SAFETY OR THE DIRECTOR'S
33 DESIGNEE.

34 B. MEMBERS SERVE STAGGERED FOUR YEAR TERMS BEGINNING AND ENDING ON THE
35 THIRD MONDAY IN JANUARY. AT THE FIRST MEETING EACH YEAR, THE MEMBERS SHALL
36 SELECT A CHAIRPERSON FROM AMONG THE MEMBERS. THE AUTHORITY SHALL MEET AT THE
37 CALL OF THE CHAIRPERSON OR FIVE MEMBERS.

38 C. THE AUTHORITY MAY:

39 1. HIRE STAFF MEMBERS AS NECESSARY, INCLUDING AN EXECUTIVE DIRECTOR.
40 THE EXECUTIVE DIRECTOR'S ANNUAL COMPENSATION SHALL NOT BE MORE THAN
41 SEVENTY-FIVE THOUSAND DOLLARS.

42 2. PROVIDE WORK FACILITIES AND EQUIPMENT AS NECESSARY.

43 3. DETERMINE THE SCOPE OF THE PROBLEM OF SCRAP METAL THEFT, INCLUDING
44 PARTICULAR AREAS OF THE STATE WHERE THE PROBLEM IS GREATEST.

- 1 4. ANALYZE THE VARIOUS METHODS OF COMBATING THE PROBLEM OF SCRAP METAL
2 THEFT.
- 3 5. DEVELOP AND IMPLEMENT A PLAN OF OPERATION.
- 4 6. DEVELOP AND IMPLEMENT A FINANCIAL PLAN.
- 5 7. SOLICIT AND ACCEPT GIFTS AND GRANTS.
- 6 8. REPORT ON OR BEFORE DECEMBER 31 OF EACH YEAR TO THE GOVERNOR, THE
7 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
8 SECRETARY OF STATE AND THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES
9 AND PUBLIC RECORDS ON ITS ACTIVITIES DURING THE PRECEDING FISCAL YEAR.
- 10 D. IF THE CHAIRPERSON OF THE AUTHORITY KNOWS THAT A POTENTIAL GROUND
11 FOR THE REMOVAL OF A MEMBER OF THE AUTHORITY EXISTS UNDER THIS SUBSECTION,
12 THE CHAIRPERSON SHALL NOTIFY THE GOVERNOR. THE GOVERNOR SHALL REMOVE THE
13 MEMBER IF THE GOVERNOR FINDS THAT ANY OF THE FOLLOWING APPLIES:
- 14 1. THE MEMBER WAS NOT QUALIFIED TO SERVE AT THE TIME THE MEMBER WAS
15 APPOINTED.
- 16 2. THE MEMBER DOES NOT MAINTAIN THE MEMBER'S QUALIFICATIONS TO SERVE.
- 17 3. THE MEMBER CANNOT DISCHARGE THE MEMBER'S DUTIES FOR A SUBSTANTIAL
18 PART OF THE TERM DUE TO ILLNESS OR OTHER DISABILITY.
- 19 4. THE MEMBER IS ABSENT FROM MORE THAN ONE-HALF OF THE REGULARLY
20 SCHEDULED MEETINGS DURING A CALENDAR YEAR UNLESS THE MEMBER'S ABSENCE IS
21 EXCUSED BY A MAJORITY VOTE OF THE AUTHORITY.
- 22 E. THE SCRAP METAL THEFT AUTHORITY FUND IS ESTABLISHED CONSISTING OF
23 ANY PUBLIC OR PRIVATE MONIES THAT THE AUTHORITY MAY RECEIVE. THE SCRAP METAL
24 THEFT AUTHORITY SHALL ADMINISTER THE FUND. SUBJECT TO LEGISLATIVE
25 APPROPRIATION, MONIES IN THE FUND SHALL ONLY BE USED TO PAY THE EXPENSES OF
26 THE AUTHORITY AND TO CARRY OUT THE PURPOSES OF THIS SECTION. MONIES IN THE
27 FUND ARE EXEMPT FROM THE PROVISIONS OF SECTIONS 35-143.01 AND 35-190 RELATING
28 TO LAPSING OF APPROPRIATIONS. ON NOTICE FROM THE AUTHORITY, THE STATE
29 TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION
30 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.
- 31 F. THE AUTHORITY MAY ACCEPT NONMONETARY CONTRIBUTIONS, INCLUDING THE
32 SERVICES OF INDIVIDUALS, OFFICE AND SECRETARIAL ASSISTANCE, MAILINGS,
33 PRINTING, OFFICE EQUIPMENT, FACILITIES AND SUPPLIES, THAT ARE NECESSARY TO
34 CARRY OUT ITS FUNCTIONS. THE NONMONETARY CONTRIBUTIONS SHALL NOT BE INCLUDED
35 IN THE COSTS OF ADMINISTRATION LIMITATION PRESCRIBED BY SUBSECTION H OF THIS
36 SECTION.
- 37 G. THE SCRAP METAL THEFT AUTHORITY SHALL ALLOCATE MONIES IN THE FUND
38 TO PUBLIC AGENCIES FOR THE PURPOSE OF ESTABLISHING, MAINTAINING AND
39 SUPPORTING PROGRAMS THAT ARE DESIGNED TO PREVENT SCRAP METAL THEFT,
40 INCLUDING:
- 41 1. FINANCIAL SUPPORT TO LAW ENFORCEMENT AND PROSECUTION AGENCIES FOR
42 PROGRAMS THAT ARE DESIGNED TO INCREASE THE EFFECTIVENESS OF SCRAP METAL THEFT
43 PROSECUTION.
- 44 2. FINANCIAL SUPPORT FOR PROGRAMS THAT ARE DESIGNED TO EDUCATE AND
45 ASSIST THE PUBLIC IN THE PREVENTION OF SCRAP METAL THEFT.

1 H. THE COSTS OF ADMINISTRATION SHALL NOT EXCEED TEN PER CENT OF THE
2 MONIES IN THE FUND IN ANY ONE YEAR SO THAT THE GREATEST POSSIBLE PORTION OF
3 THE MONIES AVAILABLE TO THE AUTHORITY IS EXPENDED ON COMBATING SCRAP METAL
4 THEFT.

5 I. MONIES EXPENDED FROM THE SCRAP METAL THEFT AUTHORITY FUND SHALL BE
6 USED TO SUPPLEMENT, NOT SUPPLANT, OTHER MONIES THAT ARE AVAILABLE FOR SCRAP
7 METAL THEFT PREVENTION.

8 J. EACH SELLER OF SCRAP METAL PURSUANT TO TITLE 44, CHAPTER 11,
9 ARTICLE 3.1 SHALL PAY A FEE OF ONE DOLLAR FOR EACH SCRAP METAL SALE OVER
10 TWENTY-FIVE DOLLARS AND AN ADDITIONAL ONE DOLLAR FEE FOR EVERY ONE HUNDRED
11 DOLLARS IN SALES. THE FEE SHALL BE FULLY EARNED AND NONREFUNDABLE AT THE
12 TIME THE SCRAP METAL DEALER, AS DEFINED IN SECTION 44-1641, PURCHASES THE
13 SCRAP METAL AND COLLECTS THE FEES. EACH SCRAP METAL DEALER, AS DEFINED IN
14 SECTION 44-1641, SHALL TRANSMIT THE FEE ON OR BEFORE JANUARY 31 AND ON OR
15 BEFORE JULY 31 OF EACH YEAR TO THE SCRAP METAL THEFT AUTHORITY FOR DEPOSIT IN
16 THE SCRAP METAL THEFT AUTHORITY FUND.

17 K. THE AUTHORITY SHALL CAUSE AN AUDIT TO BE MADE OF THE SCRAP METAL
18 THEFT AUTHORITY FUND. THE AUDIT SHALL BE CONDUCTED BY A CERTIFIED PUBLIC
19 ACCOUNTANT EVERY TWO YEARS. THE AUTHORITY SHALL FILE A CERTIFIED COPY OF THE
20 AUDIT WITH THE AUDITOR GENERAL IMMEDIATELY. THE AUDITOR GENERAL MAY MAKE
21 FURTHER AUDITS AND EXAMINATIONS AS THE AUDITOR GENERAL DEEMS NECESSARY AND
22 MAY TAKE APPROPRIATE ACTION RELATING TO THE AUDIT PURSUANT TO CHAPTER 7,
23 ARTICLE 10.1 OF THIS TITLE.

24 L. AUTHORITY MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE
25 ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4,
26 ARTICLE 2.

27 Sec. 3. Section 44-1642, Arizona Revised Statutes, is amended to read:
28 44-1642. Records of purchase; transaction limitations; age
29 requirement for scrap metal seller; exception

30 A. Every scrap metal dealer shall keep on the business premises a book
31 or other similar record legibly printed or written in ink, in the English
32 language of each transaction exceeding twenty-five dollars involving the
33 receipt of scrap metal. The record of each receipt of scrap metal shall
34 include the following information:

- 35 1. The date, time and place of the transaction.
- 36 2. A photograph and an identifying description and weight of the
37 specific scrap metal received.
- 38 3. The dollar amount of the transaction.
- 39 4. The seller's name, physical description including gender, height,
40 weight, race and eye and hair color, physical address, date of birth, ~~AND~~
41 signature and a photocopy of a current driver license, nonoperating
42 identification license issued pursuant to section 28-3165 or photo
43 identification card issued by a tribal government or the United States
44 military. The scrap metal dealer must validate the recorded information by
45 using the seller's current driver license, nonoperating identification

1 license issued pursuant to section 28-3165 or photo identification card
2 issued by a tribal government or the United States military.

3 5. The seller's transaction privilege tax number, if applicable.

4 6. The number and state of issuance of the license on the vehicle used
5 to deliver the scrap metal.

6 7. A photograph, video record or digital record of the seller involved
7 in the transaction.

8 8. A right index fingerprint of the seller.

9 B. The record and entries shall be retained in a book or similar
10 record at the business premises for one year after making the final entry of
11 any transaction and shall be retained either at the business premises or any
12 other reasonably available location for an additional year. A scrap metal
13 dealer shall not purchase materials for which a record is required to be kept
14 by this section in a series of purchases under twenty-five dollars to avoid
15 the requirements of this section. A scrap metal dealer's business premises,
16 business records relating to scrap metal transactions, including a book or
17 similar record prescribed by this section, and business inventory shall be
18 open during regular business hours for reasonable inspection by a peace
19 officer. Before an inspection shall take place a peace officer shall first
20 identify himself and the purpose for the inspection to the scrap metal
21 dealer, dealer's manager or other responsible person and comply with all
22 reasonable and customary safety requirements of that scrap metal dealer for
23 the business premises inspected. The scrap metal dealer may require the
24 peace officer to sign an inspection log that includes the officer's name and
25 serial or badge number and the time, the date and the purpose for the
26 inspection.

27 C. A scrap metal dealer shall not provide payment for any scrap metal
28 on site at the time of the scrap metal transaction. Payment shall be made by
29 mailing a check or money order to a physical address provided by the seller
30 through a current driver license or other identification prescribed in
31 subsection A, paragraph 4 of this section. The check or money order shall be
32 made payable to the business name for an industrial account. This
33 subsection:

34 1. Except as provided in paragraphs 2 and 3 of this subsection, only
35 applies to industrial accounts, copper and aluminum wire with a diameter of
36 at least three-eighths of an inch.

37 2. Except as provided in paragraph 3 of this subsection, applies to
38 all scrap metal transactions of ~~three-hundred~~ TWENTY-FIVE dollars or more.

39 3. Does not apply to industrial accounts if the industrial accounts
40 annually preregister employees who are authorized sellers on behalf of the
41 industrial accounts.

42 D. A scrap metal dealer shall provide a receipt to the seller on site
43 at the time of the scrap metal transaction, for every transaction, and shall
44 include the following information:

- 1 1. The date, time and place of the transaction.
2 2. An identifying description and weight of the specific scrap metal
3 received.
4 3. The dollar amount of the transaction.
5 E. A scrap metal seller may not conduct a series of transactions for
6 one vehicle load of scrap metal to avoid the requirements of this section.
7 F. A scrap metal seller shall not participate in more than one cash
8 transaction per day for scrap metal.
9 G. A scrap metal seller shall be at least sixteen years ~~old~~ OF AGE.
10 H. This section does not apply to transactions involving used aluminum
11 beverage containers or materials consisting of a metal product in its
12 original manufactured form that is comprised of no more than twenty per cent
13 by weight nonferrous metal.
14 Sec. 4. Title 44, chapter 11, article 3.1, Arizona Revised Statutes,
15 is amended by adding section 44-1648, to read:
16 44-1648. Law enforcement authority for seizure of scrap metals
17 NOTWITHSTANDING ANY OTHER LAW, A LAW ENFORCEMENT OFFICER MAY SEIZE ANY
18 SCRAP METAL THE LAW ENFORCEMENT OFFICER REASONABLY SUSPECTS IS STOLEN.
19 Sec. 5. Purpose
20 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
21 the legislature establishes the scrap metal theft authority to provide
22 assistance to law enforcement with funding and programs to reduce the
23 incidence of scrap metal theft in this state.
24 Sec. 6. Scrap metal theft authority; initial terms
25 A. Notwithstanding section 41-4401, Arizona Revised Statutes, as added
26 by this act, the initial terms of members of the scrap metal theft authority
27 who are appointed pursuant to section 41-4401, subsection A, paragraphs 1
28 through 4, Arizona Revised Statutes, as added by this act, are:
29 1. Two terms ending January 1, 2010.
30 2. Two terms ending January 1, 2011.
31 3. Two terms ending January 1, 2012.
32 4. Two terms ending January 1, 2013.
33 B. All subsequent appointments shall be made as prescribed by statute.
34 Sec. 7. Requirements for enactment; two-thirds vote
35 Pursuant to article IX, section 22, Constitution of Arizona, this act
36 is effective only on the affirmative vote of at least two-thirds of the
37 members of each house of the legislature and is effective immediately on the
38 signature of the governor or, if the governor vetoes this act, on the
39 subsequent affirmative vote of at least three-fourths of the members of each
40 house of the legislature.