

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 433

BY JUDICIARY, RULES, AND ADMINISTRATION COMMITTEE

AN ACT

1 RELATING TO SCRAP METAL BUSINESSES; AMENDING SECTION 54-2701, IDAHO CODE,  
2 TO REVISE DEFINITIONS; AMENDING SECTION 54-2702, IDAHO CODE, TO REVISE  
3 REQUIREMENTS FOR RECORDS FOR PURCHASING NONFERROUS OR STAINLESS STEEL  
4 METAL PROPERTY FROM THE GENERAL PUBLIC; AMENDING SECTION 54-2704, IDAHO  
5 CODE, TO PROVIDE A CERTAIN RECORD RETENTION TIME REQUIREMENT; AMENDING  
6 SECTION 54-2705, IDAHO CODE, TO REVISE REQUIREMENTS FOR REPORTING TO  
7 LAW ENFORCEMENT; AMENDING SECTION 54-2706, IDAHO CODE, TO REVISE RE-  
8 QUIREMENTS FOR PRESERVING EVIDENCE OF METAL THEFT AND TO MAKE A TECH-  
9 NICAL CORRECTION; AMENDING SECTION 54-2707, IDAHO CODE, TO REVISE PRO-  
10 VISIONS REGARDING UNLAWFUL VIOLATIONS AND LIABILITY; AND AMENDING SEC-  
11 TION 54-2708, IDAHO CODE, TO REVISE EXEMPTIONS.  
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Section 54-2701, Idaho Code, be, and the same is hereby  
15 amended to read as follows:

16 54-2701. DEFINITIONS. The definitions in this section apply through-  
17 out this chapter unless the context clearly requires otherwise.

18 (1) "Commercial account" means a relationship between a scrap metal  
19 business and a commercial enterprise that is ongoing and properly documented  
20 under this chapter.

21 (2) "Commercial enterprise" means a corporation, partnership, limited  
22 liability company, association, state agency, political subdivision of the  
23 state, public corporation, or any other legal or commercial entity.

24 (3) "Commercial metal property" means: ~~Utility property sold by a~~  
25 commercial enterprise consisting of: access covers; street light poles and  
26 fixtures; road and bridge guardrails; highway or street signs; water meter  
27 covers; traffic directional and control signs; traffic light signals; any  
28 metal property marked with the name of a municipality, governmental entity  
29 or a commercial enterprise, including, but not limited to, a telephone, ca-  
30 ble, electric, water, natural gas, or other utility, or railroad materials;  
31 building construction materials consisting of copper pipe, tubing, or  
32 wiring, or aluminum wire, siding, downspouts, or gutters copper or aluminum  
33 wiring with associated clamps and connectors; aluminum or stainless steel  
34 fence panels; aluminum decking, bleachers, or risers; historical markers;  
35 statue plaques; grave markers and funeral vases; or agricultural irrigation  
36 equipment not limited to wheels, sprinkler heads, and or pivots or pipes;  
37 ~~or stainless steel designed to be used in agricultural or commercial busi-~~  
38 ~~nesses.~~

39 (4) "Nonferrous metal property" means metal property for which the  
40 value of the metal property is derived from the property's content of copper,  
41 brass, aluminum, bronze, lead, zinc, nickel, gold, silver, platinum and  
42 their alloys, but shall not include aluminum beverage containers, used bev-

1 erage containers or similar beverage containers; however, the term includes  
2 stainless steel beer kegs.

3 (5) "Record" means a paper, electronic, or other method of storing in-  
4 formation.

5 (6) "~~Scrap metal business~~" means ~~a scrap metal supplier, scrap metal~~  
6 ~~recycling center, and scrap metal processor~~ a commercial enterprise that  
7 purchases, receives or processes nonferrous metal property, stainless steel  
8 or commercial metal property.

9 (7) "~~Scrap metal processor~~" means ~~a person with a current business li-~~  
10 ~~icense that conducts business from a permanent location, that is engaged in~~  
11 ~~the business of purchasing or receiving metal property for the purpose of al-~~  
12 ~~tering the metal in preparation for its use as feedstock in the manufacture~~  
13 ~~of new products, and that maintains a hydraulic bailer, shearing device, or~~  
14 ~~shredding device for recycling.~~

15 (8) "~~Scrap metal recycling center~~" means ~~a person with a current busi-~~  
16 ~~ness license that is engaged in the business of purchasing or receiving non-~~  
17 ~~ferrous metal property for the purpose of aggregation and sale to another~~  
18 ~~scrap metal business and that maintains a fixed place of business within the~~  
19 ~~state.~~

20 (9) "~~Scrap metal supplier~~" means ~~a person that is engaged in the busi-~~  
21 ~~ness of purchasing or receiving nonferrous metal property for the purpose of~~  
22 ~~aggregation and sale to a scrap metal recycling center or scrap metal proces-~~  
23 ~~sor and that does not maintain a fixed business location in the state.~~

24 (10) "Transaction" means a pledge, or the purchase of, or the trade of  
25 any item of nonferrous metal property by a scrap metal business from a member  
26 of the general public. "Transaction" does not include donations or the pur-  
27 chase or receipt of nonferrous metal property by a scrap metal business from  
28 a commercial enterprise, from another scrap metal business, or from a duly  
29 authorized employee or agent of the commercial enterprise or scrap metal  
30 business.

31 SECTION 2. That Section 54-2702, Idaho Code, be, and the same is hereby  
32 amended to read as follows:

33 54-2702. RECORDS REQUIRED FOR PURCHASING NONFERROUS OR STAINLESS  
34 STEEL METAL PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a transac-  
35 tion, every scrap metal business doing business in this state shall produce,  
36 wherever that business is conducted, an accurate and legible record of each  
37 transaction involving nonferrous metal property or stainless steel metal  
38 property and ~~the photographs required in subsection (3) of this section.~~  
39 This record must be written in the English language, documented on a stan-  
40 dardized form or in electronic form, retained for five (5) years and contain  
41 the following information:

- 42 (a) The signature of the person with whom the transaction is made;  
43 (b) The date, location and value of the transaction;  
44 (c) The name of the employee representing the scrap metal business in  
45 the transaction;  
46 (d) The name and street address of the person with whom the transaction  
47 is made;

1 (e) A photocopy or digital image of a current driver's license that is  
 2 valid to operate a motor vehicle in the state of Idaho or a United States  
 3 or Idaho government-issued picture identification of the seller; and

4 (f) The license plate number of any vehicle required to have such a  
 5 plate, if any, used by the person with whom the transaction is made.

6 (2) For every transaction that involves nonferrous or stainless steel  
 7 metal property, every scrap metal business doing business in the state shall  
 8 require the person with whom a transaction is being made to sign a declara-  
 9 tion, which record must be maintained for five (5) years.

10 The declaration may be included as part of the transactional record re-  
 11 quired under subsection (1) of this section, or on a receipt for the transac-  
 12 tion. The declaration must state substantially the following: "I, the un-  
 13 dersigned, affirm under penalty of law that the property that is subject to  
 14 this transaction is not to the best of my knowledge stolen property."

15 The declaration must be signed and dated and the time of day noted by  
 16 the person with whom the transaction is being made. An employee of the scrap  
 17 metal business must witness the signing and dating of the declaration and  
 18 sign the declaration accordingly before any transaction may be consummated.

19 ~~(3) For every transaction that involves nonferrous or stainless steel~~  
 20 ~~metal property purchased from the general public, every scrap metal business~~  
 21 ~~doing business in the state shall create a photographic or digital image of~~  
 22 ~~the following, or may create a digital video record of no less than thirty~~  
 23 ~~(30) seconds in total length of the following:~~

24 ~~(a) Each of the individuals with whom the transaction is being made, to~~  
 25 ~~include the face, head and shoulders;~~

26 ~~(b) The vehicle used by the person (s) with whom the transaction is being~~  
 27 ~~made with the property involved in the transaction clearly visible;~~

28 ~~(c) The vehicle used by the person (s) with whom the transaction is being~~  
 29 ~~made with the license plate number clearly visible;~~

30 ~~(d) The property involved in the transaction that allows for the prop-~~  
 31 ~~erty to be identified; and~~

32 ~~(e) The provisions of this subsection shall not apply upon and after the~~  
 33 ~~fourth purchase from the same member of the general public to the same~~  
 34 ~~scrap metal business within one (1) year.~~

35 All transactions involving the sale of nonferrous metal property shall in-  
 36 clude a digital, photographic or videographic image of the transaction to  
 37 include the person, property and vehicle involved in the transaction. Such  
 38 images shall be used exclusively for the purposes as defined in this section.  
 39 The provisions of this subsection shall not apply upon and after the fourth  
 40 purchase from the same member of the general public to the same scrap metal  
 41 business within one (1) year.

42 SECTION 3. That Section 54-2704, Idaho Code, be, and the same is hereby  
 43 amended to read as follows:

44 54-2704. RECORD FOR COMMERCIAL ACCOUNTS. (1) Every scrap metal busi-  
 45 ness must create and maintain a permanent record with a commercial enter-  
 46 prise, including another scrap metal business, in order to establish a com-  
 47 mercial account. That record, at a minimum, must be retained for five (5)  
 48 years and must include the following information:

49 (a) The full name of the commercial enterprise or commercial account;

1 (b) The business address and telephone number of the commercial enter-  
2 prise or commercial account;

3 (c) The full name of the primary contact of the commercial enterprise or  
4 whoever is authorized to deliver nonferrous metal and stainless steel  
5 and commercial metal property to the scrap metal business; and

6 (d) The full name of the primary contact of the commercial enterprise  
7 who is authorized to permit a scrap metal business to take possession of  
8 nonferrous metal and stainless steel and commercial metal property at  
9 the business location of the commercial enterprise.

10 (2) The record maintained by a scrap metal business for a commercial ac-  
11 count must document every purchase or receipt of nonferrous metal and stain-  
12 less steel and commercial metal property made in the previous five (5) years  
13 from the commercial enterprise. The documentation must include, at a mini-  
14 mum, the following information:

15 (a) The time, date and value of the property being purchased or re-  
16 ceived;

17 (b) A description of the predominant types of property being purchased  
18 or received.

19 (3) Payment for nonferrous metal and stainless steel and/or commercial  
20 metal property purchased or received by the scrap metal business under a com-  
21 mmercial account will be made by cash, credit cards, electronic funds trans-  
22 fer or check payable to the commercial enterprise.

23 SECTION 4. That Section 54-2705, Idaho Code, be, and the same is hereby  
24 amended to read as follows:

25 54-2705. REPORTING TO LAW ENFORCEMENT. Upon request by any commis-  
26 sioned law enforcement officer of the state or any of its political subdivi-  
27 sions, every scrap metal business shall make available a full, true, and  
28 correct record from the purchase or receipt of nonferrous metal property or  
29 stainless steel involving a specific individual, vehicle, or item of nonfer-  
30 rous metal property or commercial metal property provided that such record  
31 still exists at the time of inquiry. This information may be transmitted  
32 within a specified time of not less than five (5) business days to the appli-  
33 cable law enforcement agency electronically, by facsimile transmission, or  
34 by modem or similar device, or by delivery of computer disk subject to the  
35 requirements of, and approval by, the chief of police or the county's chief  
36 law enforcement officer. The scrap metal business and law enforcement may  
37 arrange a time for law enforcement to review records in lieu of providing the  
38 records as set forth in this section.

39 SECTION 5. That Section 54-2706, Idaho Code, be, and the same is hereby  
40 amended to read as follows:

41 54-2706. PRESERVING EVIDENCE OF METAL THEFT. ~~(1)~~ Following notifi-  
42 cation, either verbally or in writing, from a commissioned law enforcement  
43 officer of the state or any of its political subdivisions, that an item of  
44 nonferrous metal property, stainless steel, or commercial metal property  
45 has been reported as stolen, a scrap metal business shall hold that property  
46 intact and safe from alteration, damage, or commingling, and shall place an  
47 identifying tag or other suitable identification upon the property. The

1 scrap metal business shall hold the property for a period of time as directed  
 2 by the applicable law enforcement agency up to a maximum of ~~ten~~ five (~~10~~5)  
 3 business days.

4 SECTION 6. That Section 54-2707, Idaho Code, be, and the same is hereby  
 5 amended to read as follows:

6 54-2707. UNLAWFUL VIOLATIONS AND LIABILITY. (1) It is a misdemeanor  
 7 for:

8 (a) Any person to deliberately remove, alter, or obliterate any manu-  
 9 facturer's make, model, or serial number, personal identification num-  
 10 ber, or identifying marks engraved or etched upon an item of nonferrous  
 11 metal property or commercial metal property in order to deceive a scrap  
 12 metal business;

13 (b) Any person to knowingly make, cause, or allow to be made any false  
 14 entry or misstatement of any material matter in any book, record, or  
 15 writing required to be kept under this chapter;

16 (c) Any person to sign the declaration required under this chapter  
 17 knowing that the nonferrous metal property subject to the transaction  
 18 is stolen;

19 (d) Any scrap metal business to knowingly possess commercial metal  
 20 property that was not lawfully purchased or received under the require-  
 21 ments of this chapter;

22 (e) Any scrap metal business to engage in a series of transactions val-  
 23 ued at less than twenty dollars (\$20.00) with the same seller at the same  
 24 location within a twenty-four (24) hour period of time for the purposes  
 25 of avoiding the requirements of this chapter; or

26 (f) Any person to intentionally violate the provisions of section  
 27 54-2703, Idaho Code.

28 (2) Any person, other than a scrap metal business, who has pled guilty  
 29 to or been found guilty of violating the provisions of this section for a sec-  
 30 ond time within five (5) years is guilty of a felony.

31 (3) A person who knowingly and intentionally takes copper or other non-  
 32 ferrous metals from an electrical substation without authorization of the  
 33 utility, or who knowingly and intentionally takes copper or other nonferrous  
 34 metals from a utility or communications services provider, thereby causing  
 35 damage to the facilities of a utility or communications services provider,  
 36 or interfering with the ability of a utility or communications services  
 37 provider to provide service, is guilty of a felony.

38 (4) (a) A public or private owner of metal property is not civilly li-  
 39 able to a person who is injured during the theft or attempted theft of  
 40 metal property.

41 (b) A public or private owner of metal property is not civilly liable to  
 42 a person for injuries caused by a dangerous condition created as a re-  
 43 sult of the theft or attempted theft of the owner's metal property when  
 44 the owner did not know, and could not have reasonably known, of the dan-  
 45 gerous condition.

46 This section does not create or impose a duty of care upon an owner of metal  
 47 property that would not otherwise exist under common law.

1 SECTION 7. That Section 54-2708, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 54-2708. EXEMPTIONS. The provisions of this chapter do not apply to  
4 transactions conducted by the following:

5 (1) Motor vehicle dealers that do not meet the definition of a scrap  
6 metal business as described in section 54-2701, Idaho Code;

7 (2) Persons in the business of operating an automotive repair facility  
8 that do not meet the definition of a scrap metal business as described in sec-  
9 tion 54-2701, Idaho Code;

10 (3) Persons in the business of buying or selling empty food and beverage  
11 containers, including metal food and beverage containers, except beer kegs;  
12 and

13 (4) Transactions of a value of less than twenty dollars (\$20.00); and

14 (5) Entities or individuals who do not receive compensation for the  
15 metal property.