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09500HB1654ham001

LRB095 09874 DRH 32901 a

1 AMENDMENT TO HOUSE BILL 1654

2 AMENDMENT NO. _____. Amend House Bill 1654 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Vehicle Code is amended by
5 changing Sections 5-401.3 and 5-403 and adding Sections
6 1-169.2, 1-169.3, and 5-401.4 as follows:

7 (625 ILCS 5/1-169.2 new)

8 Sec. 1-169.2. Recyclable metal. Any copper, brass, or
9 aluminum, or any combination of those metals, purchased by a
10 recyclable metal dealer, irrespective of form or quantity,
11 except that "recyclable metal" does not include: (i) items
12 designed to contain, or to be used in the preparation of,
13 beverages or food for human consumption; (ii) discarded items
14 of non-commercial or household waste; or (iii) gold, silver,
15 platinum, and other precious metals used in jewelry.

1 (625 ILCS 5/1-169.3 new)

2 Sec. 1-169.3. Recyclable metal dealer. Any individual,
3 firm, corporation, or partnership engaged in the business of
4 purchasing and reselling recyclable metal either at a
5 permanently established place of business or in connection with
6 a business of an itinerant nature, including junk shops, junk
7 yards, junk stores, auto wreckers, scrap metal dealers or
8 processors, salvage yards, collectors of or dealers in junk,
9 and junk carts or trucks.

10 (625 ILCS 5/5-401.3) (from Ch. 95 1/2, par. 5-401.3)

11 Sec. 5-401.3. Scrap processors and recyclable metal
12 dealers required to keep records.

13 (a) Every person licensed or required to be licensed as a
14 scrap processor pursuant to Section 5-301 of this Chapter, and
15 every recyclable metal dealer as defined in Section 1-169.3 of
16 this Code, shall maintain for 3 years, at his established place
17 of business, the following records relating to the acquisition
18 of scrap metals or the acquisition of a vehicle, junk vehicle,
19 or vehicle cowl which has been acquired for the purpose of
20 processing into a form other than a vehicle, junk vehicle or
21 vehicle cowl which is possessed in the State or brought into
22 this State from another state, territory or country. No scrap
23 metal processor or recyclable metal dealer shall sell a vehicle
24 or essential part, as such, except for engines, transmissions,
25 and powertrains, unless licensed to do so under another

1 provision of this Code. A scrap processor or recyclable metal
2 dealer who is additionally licensed as an automotive parts
3 recycler shall not be subject to the record keeping
4 requirements for a scrap processor or recyclable metal dealer
5 when acting as an automotive parts recycler.

6 (1) For a vehicle, junk vehicle, or vehicle cowl
7 acquired from a person who is licensed under this Chapter,
8 the scrap processor or recyclable metal dealer shall record
9 the name and address of the person, and the Illinois or
10 out-of-state dealer license number of such person on the
11 scrap processor or recyclable metal dealer's ~~processor's~~
12 weight ticket at the time of the acquisition. The person
13 disposing of the vehicle, junk vehicle, or vehicle cowl
14 shall furnish the scrap processor or recyclable metal
15 dealer with documentary proof of ownership of the vehicle,
16 junk vehicle, or vehicle cowl in one of the following
17 forms: a Certificate of Title, a Salvage Certificate, a
18 Junking Certificate, a Secretary of State Junking
19 Manifest, a Uniform Invoice, a Certificate of Purchase, or
20 other similar documentary proof of ownership. The scrap
21 processor or recyclable metal dealer shall not acquire a
22 vehicle, junk vehicle or vehicle cowl without obtaining one
23 of the aforementioned documentary proofs of ownership.

24 (2) For a vehicle, junk vehicle or vehicle cowl
25 acquired from a person who is not licensed under this
26 Chapter, the scrap processor or recyclable metal dealer

1 shall verify and record that person's identity by recording
2 the identification of such person from at least 2 sources
3 of identification, one of which shall be a driver's license
4 or State Identification Card, on the scrap processor or
5 recyclable metal dealer's ~~processor's~~ weight ticket at the
6 time of the acquisition. The person disposing of the
7 vehicle, junk vehicle, or vehicle cowl shall furnish the
8 scrap processor or recyclable metal dealer with
9 documentary proof of ownership of the vehicle, junk
10 vehicle, or vehicle cowl in one of the following forms: a
11 Certificate of Title, a Salvage Certificate, a Junking
12 Certificate, a Secretary of State Junking Manifest, a
13 Certificate of Purchase, or other similar documentary
14 proof of ownership. The scrap processor or recyclable metal
15 dealer shall not acquire a vehicle, junk vehicle or vehicle
16 cowl without obtaining one of the aforementioned
17 documentary proofs of ownership.

18 (3) In addition to the other information required on
19 the scrap processor or recyclable metal dealer's
20 ~~processor's~~ weight ticket, a scrap processor or recyclable
21 metal dealer who at the time of acquisition of a vehicle,
22 junk vehicle, or vehicle cowl is furnished a Certificate of
23 Title, Salvage Certificate or Certificate of Purchase
24 shall record the vehicle Identification Number on the
25 weight ticket or affix a copy of the Certificate of Title,
26 Salvage Certificate or Certificate of Purchase to the

1 weight ticket and the identification of the person
2 acquiring the information on the behalf of the scrap
3 processor or recyclable metal dealer.

4 (4) The scrap processor or recyclable metal dealer
5 shall maintain a copy of a Junk Vehicle Notification
6 relating to any Certificate of Title, Salvage Certificate,
7 Certificate of Purchase or similarly acceptable
8 out-of-state document surrendered to the Secretary of
9 State pursuant to the provisions of Section 3-117.2 of this
10 Code.

11 (5) For scrap metals valued at \$100 or more, the scrap
12 processor or recyclable metal dealer shall verify and
13 record the identity of the person from whom the scrap
14 metals were acquired by recording the identification of
15 that person from at least 2 sources of identification, one
16 of which shall be a driver's license or State
17 Identification Card, on the scrap processor or recyclable
18 metal dealer's weight ticket at the time of the
19 acquisition. The inspection of records pertaining only to
20 scrap metals shall not be counted as an inspection of a
21 premises for purposes of subparagraph (7) of Section 5-403
22 of this Code.

23 This subdivision (a)(5) does not apply to electrical
24 contractors, to agencies or instrumentalities of the State
25 of Illinois or of the United States, to common carriers, to
26 purchases from persons, firms, or corporations regularly

1 engaged in the business of manufacturing recyclable metal,
2 in the business of selling recyclable metal at retail or
3 wholesale, or in the business of razing, demolishing,
4 destroying, or removing buildings, to the purchase by one
5 recyclable metal dealer from another, or the purchase from
6 persons, firms, or corporations engaged in either the
7 generation, transmission, or distribution of electric
8 energy or in telephone, telegraph, and other
9 communications if such common carriers, persons, firms, or
10 corporations at the time of the purchase provide the
11 recyclable metal dealer with a bill of sale or other
12 written evidence of title to the recyclable metal. This
13 subdivision (a)(5) also does not apply to contractual
14 arrangements between dealers.

15 (b) Any licensee or recyclable metal dealer who knowingly
16 fails to record any of the specific information required to be
17 recorded on the weight ticket or who knowingly fails to acquire
18 and maintain for 3 years documentary proof of ownership in one
19 of the prescribed forms shall be guilty of a Class A
20 misdemeanor and subject to a fine not to exceed \$1,000. Each
21 violation shall constitute a separate and distinct offense and
22 a separate count may be brought in the same complaint for each
23 violation. Any licensee or recyclable metal dealer who commits
24 a second violation of this Section within two years of a
25 previous conviction of a violation of this Section shall be
26 guilty of a Class 4 felony.

1 (c) It shall be an affirmative defense to an offense
2 brought under paragraph (b) of this Section that the licensee
3 or recyclable metal dealer or person required to be licensed
4 both reasonably and in good faith relied on information
5 appearing on a Certificate of Title, a Salvage Certificate, a
6 Junking Certificate, a Secretary of State Manifest, a Secretary
7 of State's Uniform Invoice, a Certificate of Purchase, or other
8 documentary proof of ownership prepared under Section 3-117.1
9 (a) of this Code, relating to the transaction for which the
10 required record was not kept which was supplied to the licensee
11 or recyclable metal dealer by another licensee or recyclable
12 metal dealer or an out-of-state dealer.

13 (d) No later than 15 days prior to going out of business,
14 selling the business, or transferring the ownership of the
15 business, the scrap processor or recyclable metal dealer shall
16 notify the Secretary of that fact. Failure to so notify the
17 Secretary of State shall constitute a failure to keep records
18 under this Section.

19 (e) Evidence derived directly or indirectly from the
20 keeping of records required to be kept under this Section shall
21 not be admissible in a prosecution of the licensee or
22 recyclable metal dealer for an alleged violation of Section
23 4-102 (a) (3) of this Code.

24 (Source: P.A. 90-89, eff. 1-1-98.)

1 Sec. 5-401.4. Purchase of beer kegs by scrap processors and
2 recyclable metal dealers.

3 (a) A scrap processor or recyclable metal dealer may not
4 purchase metal beer kegs from any person other than the beer
5 manufacturer whose identity is printed, stamped, attached, or
6 otherwise displayed on the beer keg, or the manufacturer's
7 authorized representative.

8 (b) The purchaser shall obtain a proof of ownership record
9 from a person selling the beer keg, including any person
10 selling a beer keg with an indicia of ownership that is
11 obliterated, unreadable, or missing, and shall also verify the
12 seller's identity by a driver's license or other
13 government-issued photo identification. The proof of ownership
14 record shall include all of the following information:

15 (1) The name, address, telephone number, and signature
16 of the seller or the seller's authorized representative.

17 (2) The name and address of the buyer, or consignee if
18 not sold.

19 (3) A description of the beer keg, including its
20 capacity and any indicia of ownership or other
21 distinguishing marks appearing on the exterior surface.

22 (4) The date of transaction.

23 (c) The information required to be collected by this
24 Section shall be kept for one year from the date of purchase or
25 delivery, whichever is later.

1 (625 ILCS 5/5-403) (from Ch. 95 1/2, par. 5-403)

2 Sec. 5-403. (1) Authorized representatives of the
3 Secretary of State including officers of the Secretary of
4 State's Department of Police, other peace officers, and such
5 other individuals as the Secretary may designate from time to
6 time shall make inspections of individuals and facilities
7 licensed or required to be licensed under Chapter 5 of the
8 Illinois Vehicle Code for the purpose of reviewing records
9 required to be maintained under Chapter 5 for accuracy and
10 completeness and reviewing and examining the premises of the
11 licensee's established or additional place of business for the
12 purpose of determining the accuracy of the required records.
13 Premises that may be inspected in order to determine the
14 accuracy of the books and records required to be kept includes
15 all premises used by the licensee to store vehicles and parts
16 that are reflected by the required books and records.

17 (2) Persons having knowledge of or conducting inspections
18 pursuant to this Chapter shall not in advance of such
19 inspections knowingly notify a licensee or representative of a
20 licensee of the contemplated inspection unless the Secretary or
21 an individual designated by him for this purpose authorizes
22 such notification. Any individual who, without authorization,
23 knowingly violates this subparagraph shall be guilty of a Class
24 A misdemeanor.

25 (3) The licensee or a representative of the licensee shall
26 be entitled to be present during an inspection conducted

1 pursuant to Chapter 5, however, the presence of the licensee or
2 an authorized representative of the licensee is not a condition
3 precedent to such an inspection.

4 (4) Inspection conducted pursuant to Chapter 5 may be
5 initiated at any time that business is being conducted or work
6 is being performed, whether or not open to the public or when
7 the licensee or a representative of the licensee, other than a
8 mere custodian or watchman, is present. The fact that a
9 licensee or representative of the licensee leaves the licensed
10 premises after an inspection has been initiated shall not
11 require the termination of the inspection.

12 (5) Any inspection conducted pursuant to Chapter 5 shall
13 not continue for more than 24 hours after initiation.

14 (6) In the event information comes to the attention of the
15 individuals conducting an inspection that may give rise to the
16 necessity of obtaining a search warrant, and in the event steps
17 are initiated for the procurement of a search warrant, the
18 individuals conducting such inspection may take all necessary
19 steps to secure the premises under inspection until the warrant
20 application is acted upon by a judicial officer.

21 (7) No more than 6 inspections of a premises may be
22 conducted pursuant to Chapter 5 within any 6 month period
23 except pursuant to a search warrant. Notwithstanding this
24 limitation, nothing in this subparagraph (7) shall be construed
25 to limit the authority of law enforcement agents to respond to
26 public complaints of violations of the Code. For the purpose of

1 this subparagraph (7), a public complaint is one in which the
2 complainant identifies himself or herself and sets forth, in
3 writing, the specific basis for their complaint against the
4 licensee. For the purpose of this subparagraph (7), the
5 inspection of records pertaining only to scrap metals, as
6 provided in subdivision (a) (5) of Section 5-401.3 of this Code,
7 shall not be counted as an inspection of a premises.

8 (8) Nothing in this Section shall be construed to limit the
9 authority of individuals by the Secretary pursuant to this
10 Section to conduct searches of licensees pursuant to a duly
11 issued and authorized search warrant.

12 (9) Any licensee who, having been informed by a person
13 authorized to make inspections and examine records under this
14 Section that he desires to inspect records and the licensee's
15 premises as authorized by this Section, refuses either to
16 produce for that person records required to be kept by this
17 Chapter or to permit such authorized person to make an
18 inspection of the premises in accordance with this Section
19 shall subject the license to immediate suspension by the
20 Secretary of State.

21 (10) Beginning July 1, 1988, any person licensed under
22 5-302 shall produce for inspection upon demand those records
23 pertaining to the acquisition of salvage vehicles in this
24 State. This inspection may be conducted at the principal
25 offices of the Secretary of State.

26 (Source: P.A. 86-444.)".