

# HB4133



## 95TH GENERAL ASSEMBLY

### State of Illinois

2007 and 2008

**HB4133**

by Rep. John A. Fritchey

#### SYNOPSIS AS INTRODUCED:

625 ILCS 5/5-401.3  
625 ILCS 5/5-403

from Ch. 95 1/2, par. 5-401.3  
from Ch. 95 1/2, par. 5-403

Amends the Illinois Vehicle Code. In provisions dealing with records to be kept by scrap processors and recyclable metal dealers, replaces references to "scrap metals" with references to "recyclable metals". Effective January 1, 2008.

LRB095 13383 DRH 39052 b

A BILL FOR

1 AN ACT concerning recyclable metals.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing  
5 Sections 5-401.3 and 5-403 as follows:

6 (625 ILCS 5/5-401.3) (from Ch. 95 1/2, par. 5-401.3)

7 Sec. 5-401.3. Scrap processors and recyclable metal  
8 dealers required to keep records.

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

1 automotive parts recycler shall not be subject to the record  
2 keeping requirements for a scrap processor or recyclable metal  
3 dealer when acting as an automotive parts recycler.

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

22 (2) For a vehicle, junk vehicle or vehicle cowl  
23 acquired from a person who is not licensed under this  
24 Chapter, the scrap processor or recyclable metal dealer  
25 shall verify and record that person's identity by recording  
26 the identification of such person from at least 2 sources

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

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

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

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

20           This subdivision (a)(5) does not apply to electrical  
21 contractors, to agencies or instrumentalities of the State  
22 of Illinois or of the United States, to common carriers, to  
23 purchases from persons, firms, or corporations regularly  
24 engaged in the business of manufacturing recyclable metal,  
25 in the business of selling recyclable metal at retail or  
26 wholesale, or in the business of razing, demolishing,

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

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

24       (c) It shall be an affirmative defense to an offense  
25       brought under paragraph (b) of this Section that the licensee  
26       or recyclable metal dealer or person required to be licensed

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

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

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

21 (Source: P.A. 95-253, eff. 1-1-08.)

22 (625 ILCS 5/5-403) (from Ch. 95 1/2, par. 5-403)

23 Sec. 5-403. (1) Authorized representatives of the  
24 Secretary of State including officers of the Secretary of  
25 State's Department of Police, other peace officers, and such

1 other individuals as the Secretary may designate from time to  
2 time shall make inspections of individuals and facilities  
3 licensed or required to be licensed under Chapter 5 of the  
4 Illinois Vehicle Code for the purpose of reviewing records  
5 required to be maintained under Chapter 5 for accuracy and  
6 completeness and reviewing and examining the premises of the  
7 licensee's established or additional place of business for the  
8 purpose of determining the accuracy of the required records.  
9 Premises that may be inspected in order to determine the  
10 accuracy of the books and records required to be kept includes  
11 all premises used by the licensee to store vehicles and parts  
12 that are reflected by the required books and records.

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

21 (3) The licensee or a representative of the licensee shall  
22 be entitled to be present during an inspection conducted  
23 pursuant to Chapter 5, however, the presence of the licensee or  
24 an authorized representative of the licensee is not a condition  
25 precedent to such an inspection.

26 (4) Inspection conducted pursuant to Chapter 5 may be

1 initiated at any time that business is being conducted or work  
2 is being performed, whether or not open to the public or when  
3 the licensee or a representative of the licensee, other than a  
4 mere custodian or watchman, is present. The fact that a  
5 licensee or representative of the licensee leaves the licensed  
6 premises after an inspection has been initiated shall not  
7 require the termination of the inspection.

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

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

17 (7) No more than 6 inspections of a premises may be  
18 conducted pursuant to Chapter 5 within any 6 month period  
19 except pursuant to a search warrant. Notwithstanding this  
20 limitation, nothing in this subparagraph (7) shall be construed  
21 to limit the authority of law enforcement agents to respond to  
22 public complaints of violations of the Code. For the purpose of  
23 this subparagraph (7), a public complaint is one in which the  
24 complainant identifies himself or herself and sets forth, in  
25 writing, the specific basis for their complaint against the  
26 licensee. For the purpose of this subparagraph (7), the

1 inspection of records pertaining only to recyclable ~~scrap~~  
2 metals, as provided in subdivision (a) (5) of Section 5-401.3 of  
3 this Code, shall not be counted as an inspection of a premises.

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

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

17 (10) Beginning July 1, 1988, any person licensed under  
18 5-302 shall produce for inspection upon demand those records  
19 pertaining to the acquisition of salvage vehicles in this  
20 State. This inspection may be conducted at the principal  
21 offices of the Secretary of State.

22 (Source: P.A. 95-253, eff. 1-1-08.)

23 Section 99. Effective date. This Act takes effect January  
24 1, 2008.