



Sen. William R. Haine

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09500HB4668sam001

LRB095 15342 LCT 51039 a

1 AMENDMENT TO HOUSE BILL 4668

2 AMENDMENT NO. _____. Amend House Bill 4668 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, 5-401.4, and 5-403 and by adding
6 Section 5-404 as follows:

7 (625 ILCS 5/5-401.3) (from Ch. 95 1/2, par. 5-401.3)

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

10 (a) Every person licensed or required to be licensed as a
11 scrap processor pursuant to Section 5-301 of this Chapter, ~~and~~
12 ~~every recyclable metal dealer as defined in Section 1-169.3 of~~
13 ~~this Code,~~ shall maintain for 3 years, at his established place
14 of business, the following records relating to the acquisition
15 of recyclable metals ~~scrap metals~~ or the acquisition of a
16 vehicle, junk vehicle, or vehicle cowl which has been acquired

1 for the purpose of processing into a form other than a vehicle,
2 junk vehicle or vehicle cowl which is possessed in the State or
3 brought into this State from another state, territory or
4 country. No scrap metal processor ~~or recyclable metal dealer~~
5 shall sell a vehicle or essential part, as such, except for
6 engines, transmissions, and powertrains, unless licensed to do
7 so under another provision of this Code. A scrap processor ~~or~~
8 ~~recyclable metal dealer~~ who is additionally licensed as an
9 automotive parts recycler shall not be subject to the record
10 keeping requirements for a scrap processor ~~or recyclable metal~~
11 ~~dealer~~ when acting as an automotive parts recycler.

12 (1) For a vehicle, junk vehicle, or vehicle cowl
13 acquired from a person who is licensed under this Chapter,
14 the scrap processor ~~or recyclable metal dealer~~ shall record
15 the name and address of the person, and the Illinois or
16 out-of-state dealer license number of such person on the
17 scrap processor's ~~processor or recyclable metal dealer's~~
18 weight ticket at the time of the acquisition. The person
19 disposing of the vehicle, junk vehicle, or vehicle cowl
20 shall furnish the scrap processor ~~or recyclable metal~~
21 ~~dealer~~ with documentary proof of ownership of the vehicle,
22 junk vehicle, or vehicle cowl in one of the following
23 forms: a Certificate of Title, a Salvage Certificate, a
24 Junking Certificate, a Secretary of State Junking
25 Manifest, a Uniform Invoice, a Certificate of Purchase, or
26 other similar documentary proof of ownership. The scrap

1 processor ~~or recyclable metal dealer~~ shall not acquire a
2 vehicle, junk vehicle or vehicle cowl without obtaining one
3 of the aforementioned documentary proofs of ownership.

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

24 (3) In addition to the other information required on
25 the scrap processor's ~~processor or recyclable metal~~
26 ~~dealer's~~ weight ticket, a scrap processor ~~or recyclable~~

1 ~~metal dealer~~ who at the time of acquisition of a vehicle,
2 junk vehicle, or vehicle cowl is furnished a Certificate of
3 Title, Salvage Certificate or Certificate of Purchase
4 shall record the Vehicle ~~vehicle~~ Identification Number on
5 the weight ticket or affix a copy of the Certificate of
6 Title, Salvage Certificate or Certificate of Purchase to
7 the weight ticket and the identification of the person
8 acquiring the information on the behalf of the scrap
9 processor ~~or recyclable metal dealer~~.

10 (4) The scrap processor ~~or recyclable metal dealer~~
11 shall maintain a copy of a Junk Vehicle Notification
12 relating to any Certificate of Title, Salvage Certificate,
13 Certificate of Purchase or similarly acceptable
14 out-of-state document surrendered to the Secretary of
15 State pursuant to the provisions of Section 3-117.2 of this
16 Code.

17 (5) For recyclable metals ~~scrap metals~~ valued at \$100
18 or more, the scrap processor ~~or recyclable metal dealer~~
19 shall, for each transaction, ~~verify and~~ record the identity
20 of the person from whom the recyclable metals ~~scrap metals~~
21 were acquired by verifying ~~recording~~ the identification of
22 that person from one source of identification, which shall
23 be a valid driver's license or State Identification Card,
24 on the scrap processor's ~~processor or recyclable metal~~
25 ~~dealer's~~ weight ticket at the time of the acquisition and
26 by making and recording a photocopy or electronic scan of

1 the driver's license or State Identification Card. Such
2 information shall be available for inspection by any law
3 enforcement official. If the person delivering the
4 recyclable metal does not have a valid driver's license or
5 State Identification Card, the scrap processor shall not
6 complete the transaction. The inspection of records
7 pertaining only to recyclable ~~scrap~~ metals shall not be
8 counted as an inspection of a premises for purposes of
9 subparagraph (7) of Section 5-403 of this Code.

10 This subdivision (a)(5) does not apply to electrical
11 contractors, to agencies or instrumentalities of the State
12 of Illinois or of the United States, to common carriers, to
13 purchases from persons, firms, or corporations regularly
14 engaged in the business of manufacturing recyclable metal,
15 in the business of selling recyclable metal at retail or
16 wholesale, or in the business of razing, demolishing,
17 destroying, or removing buildings, to the purchase by one
18 recyclable metal dealer from another, or the purchase from
19 persons, firms, or corporations engaged in either the
20 generation, transmission, or distribution of electric
21 energy or in telephone, telegraph, and other
22 communications if such common carriers, persons, firms, or
23 corporations at the time of the purchase provide the
24 recyclable metal dealer with a bill of sale or other
25 written evidence of title to the recyclable metal. This
26 subdivision (a)(5) also does not apply to contractual

1 arrangements between dealers.

2 (b) Any licensee ~~or recyclable metal dealer~~ who knowingly
3 fails to record any of the specific information required to be
4 recorded on the weight ticket required under any other
5 subsection of this Section, or Section 5-401 of this Code, or
6 who knowingly fails to acquire and maintain for 3 years
7 documentary proof of ownership in one of the prescribed forms
8 shall be guilty of a Class A misdemeanor and subject to a fine
9 not to exceed \$1,000. Each violation shall constitute a
10 separate and distinct offense and a separate count may be
11 brought in the same complaint for each violation. Any licensee
12 ~~or recyclable metal dealer~~ who commits a second violation of
13 this Section within two years of a previous conviction of a
14 violation of this Section shall be guilty of a Class 4 felony.

15 (c) It shall be an affirmative defense to an offense
16 brought under paragraph (b) of this Section that the licensee
17 ~~or recyclable metal dealer~~ or person required to be licensed
18 both reasonably and in good faith relied on information
19 appearing on a Certificate of Title, a Salvage Certificate, a
20 Junking Certificate, a Secretary of State Manifest, a Secretary
21 of State's Uniform Invoice, a Certificate of Purchase, or other
22 documentary proof of ownership prepared under Section 3-117.1
23 (a) of this Code, relating to the transaction for which the
24 required record was not kept which was supplied to the licensee
25 ~~or recyclable metal dealer~~ by another licensee ~~or recyclable~~
26 ~~metal dealer~~ or an out-of-state dealer.

1 (d) No later than 15 days prior to going out of business,
2 selling the business, or transferring the ownership of the
3 business, the scrap processor ~~or recyclable metal dealer~~ shall
4 notify the Secretary of that fact. Failure to so notify the
5 Secretary of State shall constitute a failure to keep records
6 under this Section.

7 (e) Evidence derived directly or indirectly from the
8 keeping of records required to be kept under this Section shall
9 not be admissible in a prosecution of the licensee ~~or~~
10 ~~recyclable metal dealer~~ for an alleged violation of Section
11 4-102 (a) (3) of this Code.

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

13 (625 ILCS 5/5-401.4)

14 Sec. 5-401.4. Purchase of beer kegs by scrap processors ~~and~~
15 ~~recyclable metal dealers~~.

16 (a) A scrap processor ~~or recyclable metal dealer~~ may not
17 purchase metal beer kegs from any person other than the beer
18 manufacturer whose identity is printed, stamped, attached, or
19 otherwise displayed on the beer keg, or the manufacturer's
20 authorized representative.

21 (b) The purchaser shall obtain a proof of ownership record
22 from a person selling the beer keg, including any person
23 selling a beer keg with an indicia of ownership that is
24 obliterated, unreadable, or missing, and shall also verify the
25 seller's identity by a driver's license or other

1 government-issued photo identification. The proof of ownership
2 record shall include all of the following information:

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

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

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

10 (4) The date of transaction.

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

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

15 (625 ILCS 5/5-403) (from Ch. 95 1/2, par. 5-403)

16 Sec. 5-403. (1) Authorized representatives of the
17 Secretary of State including officers of the Secretary of
18 State's Department of Police, other peace officers, and such
19 other individuals as the Secretary may designate from time to
20 time shall make inspections of individuals and facilities
21 licensed or required to be licensed under Chapter 5 of the
22 Illinois Vehicle Code for the purpose of reviewing records
23 required to be maintained under Chapter 5 for accuracy and
24 completeness and reviewing and examining the premises of the
25 licensee's established or additional place of business for the

1 purpose of determining the accuracy of the required records.
2 Premises that may be inspected in order to determine the
3 accuracy of the books and records required to be kept includes
4 all premises used by the licensee to store vehicles and parts
5 that are reflected by the required books and records.

6 (2) Persons having knowledge of or conducting inspections
7 pursuant to this Chapter shall not in advance of such
8 inspections knowingly notify a licensee or representative of a
9 licensee of the contemplated inspection unless the Secretary or
10 an individual designated by him for this purpose authorizes
11 such notification. Any individual who, without authorization,
12 knowingly violates this subparagraph shall be guilty of a Class
13 A misdemeanor.

14 (3) The licensee or a representative of the licensee shall
15 be entitled to be present during an inspection conducted
16 pursuant to Chapter 5, however, the presence of the licensee or
17 an authorized representative of the licensee is not a condition
18 precedent to such an inspection.

19 (4) Inspection conducted pursuant to Chapter 5 may be
20 initiated at any time that business is being conducted or work
21 is being performed, whether or not open to the public or when
22 the licensee or a representative of the licensee, other than a
23 mere custodian or watchman, is present. The fact that a
24 licensee or representative of the licensee leaves the licensed
25 premises after an inspection has been initiated shall not
26 require the termination of the inspection.

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

3 (6) In the event information comes to the attention of the
4 individuals conducting an inspection that may give rise to the
5 necessity of obtaining a search warrant, and in the event steps
6 are initiated for the procurement of a search warrant, the
7 individuals conducting such inspection may take all necessary
8 steps to secure the premises under inspection until the warrant
9 application is acted upon by a judicial officer.

10 (7) No more than 6 inspections of a premises may be
11 conducted pursuant to Chapter 5 within any 6 month period
12 except pursuant to a search warrant. Notwithstanding this
13 limitation, nothing in this subparagraph (7) shall be construed
14 to limit the authority of law enforcement agents to respond to
15 public complaints of violations of the Code. For the purpose of
16 this subparagraph (7), a public complaint is one in which the
17 complainant identifies himself or herself and sets forth, in
18 writing, the specific basis for their complaint against the
19 licensee. For the purpose of this subparagraph (7), the
20 inspection of records pertaining only to recyclable ~~scrap~~
21 metals, as provided in subdivision (a) (5) of Section 5-401.3 of
22 this Code, shall not be counted as an inspection of a premises.

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

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

10 (10) Beginning July 1, 1988, any person licensed under
11 5-302 shall produce for inspection upon demand those records
12 pertaining to the acquisition of salvage vehicles in this
13 State. This inspection may be conducted at the principal
14 offices of the Secretary of State.

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

16 (625 ILCS 5/5-404 new)

17 Sec. 5-404. Injunctions. The Illinois Attorney General or
18 the State's Attorney for the county in which the scrap
19 processor is located, may initiate an appropriate action in the
20 circuit court of the county in which a scrap processor is
21 located, to prevent the unlawful operation of a scrap
22 processor, or to restrain, correct, or abate a violation of
23 this Act, or to prevent any illegal act or conduct by the scrap
24 processor.

1 (625 ILCS 5/1-169.3 rep.)

2 Section 10. The Illinois Vehicle Code is amended by
3 repealing Section 1-169.3.

4 Section 15. The Copper Purchase Registration Law is amended
5 by changing the title of the Act and Sections 1, 2, 3, 5, 7, and
6 8 and by adding Sections 4.5, 9, and 10 as follows:

7 (815 ILCS 325/Act title)

8 An Act to require the registration of the purchase of
9 recyclable metal ~~copper~~ as herein defined, and providing a
10 penalty for the violation thereof.

11 (815 ILCS 325/1) (from Ch. 121 1/2, par. 321)

12 Sec. 1. Short title. This Act ~~is known and~~ may be cited as
13 the "Recyclable Metal ~~Copper~~ Purchase Registration Law".

14 (Source: P.A. 76-1476.)

15 (815 ILCS 325/2) (from Ch. 121 1/2, par. 322)

16 Sec. 2. Definitions. When used in this Act:

17 "Recyclable metal" means any copper, brass, or aluminum, or
18 any combination of those metals, purchased by a recyclable
19 metal dealer, irrespective of form or quantity, except that
20 "recyclable metal" does not include: (i) items designed to
21 contain, or to be used in the preparation of, beverages or food
22 for human consumption; (ii) discarded items of non-commercial

1 or household waste; (iii) gold, silver, platinum, and other
2 precious metals used in jewelry; or (iv) vehicles, junk
3 vehicles, vehicle cowls, or essential vehicle parts. "Copper"
4 means any copper, copper alloy or brass bars, cable, ingots,
5 rods, tubing, wire, wire scraps, clamps, connectors or other
6 appurtenances utilized or that can be utilized by common
7 carriers or by persons, firms, corporations or municipal
8 corporations engaged in either the generation, transmission or
9 distribution of electric energy or in telephone, telegraph or
10 other communications;

11 "Recyclable metal ~~Copper~~ dealer" means any individual,
12 firm, corporation or partnership engaged in the business of
13 purchasing and reselling recyclable metal ~~copper~~ either at a
14 permanently established place of business or in connection with
15 a business of an itinerant nature, including junk shops, junk
16 yards, or junk stores, except that "recyclable metal dealer"
17 does not include automotive parts recyclers, scrap processors,
18 repairers and rebuilders licensed pursuant to Section 5-301 of
19 the Illinois Vehicle Code. Recyclable metal dealers shall not
20 be engaged in the business of purchasing or reselling vehicles,
21 junk vehicles, vehicle cowls, or essential vehicle parts, ~~auto~~
22 wreckers, scrap metal dealers or processors, salvage yards,
23 collectors of or dealers in junk and junk carts or trucks.

24 (Source: P.A. 76-1476.)

1 Sec. 3. Records of purchases. Except as provided in Section
2 of this Act every recyclable metal ~~copper~~ dealer in this
3 State shall enter on forms provided by the Department of State
4 Police or such department as may succeed to its functions, for
5 each purchase of recyclable metal valued at \$100 ~~copper~~
6 ~~consisting of 50 pounds~~ or more the following information:

7 1. The name and address of the recyclable metal ~~copper~~
8 dealer;

9 2. The date and place of each purchase;

10 3. The name and address of the person or persons from
11 whom the recyclable metal ~~copper~~ was purchased, which shall
12 be verified from a valid driver's license or State
13 Identification Card. The recyclable metal dealer shall
14 make and record a photocopy or electronic scan of the
15 driver's license or State Identification Card. If the
16 person delivering the recyclable metal does not have a
17 valid driver's license or State Identification Card, the
18 recyclable metal dealer shall not complete the
19 transaction;

20 4. The motor vehicle license number and state of
21 issuance of the motor vehicle license number of the vehicle
22 or conveyance on which the recyclable metal ~~copper~~ was
23 delivered to the recyclable metal ~~copper~~ dealer;

24 5. A description of the recyclable metal ~~copper~~
25 purchased, including the weight and whether it consists of
26 bars, cable, ingots, rods, tubing, wire, wire scraps,

1 clamps, connectors ~~or~~ other appurtenances, or some
2 combination thereof.

3 A copy of the completed form shall be kept in a separate
4 book or register by the recyclable metal ~~copper~~ dealer and
5 shall be retained for a period of 2 years. Such book or
6 register shall be made available for inspection by any law
7 enforcement official or the representatives of common carriers
8 and persons, firms, corporations or municipal corporations
9 engaged in either the generation, transmission or distribution
10 of electric energy or engaged in telephone, telegraph or other
11 communications, at any time.

12 (Source: P.A. 94-181, eff. 1-1-06.)

13 (815 ILCS 325/4.5 new)

14 Sec. 4.5. Purchase of beer kegs by recyclable metal
15 dealers.

16 (a) A recyclable metal dealer may not purchase metal beer
17 kegs from any person other than the beer manufacturer whose
18 identity is printed, stamped, attached, or otherwise displayed
19 on the beer keg, or from the manufacturer's authorized
20 representative.

21 (b) The purchaser shall obtain a proof of ownership record
22 from a person selling the beer keg, including any person
23 selling a beer keg with an indicia of ownership that is
24 obliterated, unreadable, or missing, and shall also verify the
25 seller's identity by a driver's license or other

1 government-issued photo identification. The proof of ownership
2 record shall include all of the following information:

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

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

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

10 (4) The date of transaction.

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

14 (815 ILCS 325/5) (from Ch. 121 1/2, par. 325)

15 Sec. 5. Exemptions. The provisions of Section 3 of this Act
16 do not apply to electrical contractors, to agencies or
17 instrumentalities of the State of Illinois or of the United
18 States, to common carriers or to purchases from persons, firms
19 or corporations regularly engaged in the business of
20 manufacturing recyclable metal ~~copper~~, the business of selling
21 copper at retail or wholesale, in the business of razing,
22 demolishing, destroying or removing buildings, to the purchase
23 of one recyclable metal ~~copper~~ dealer from another or the
24 purchase from persons, firms or corporations engaged in either
25 the generation, transmission or distribution of electric

1 energy or in telephone, telegraph and other communications if
2 such common carriers, persons, firms or corporations at the
3 time of the purchase provide the recyclable metal ~~copper~~ dealer
4 with a bill of sale or other written evidence of title to the
5 recyclable metal ~~copper~~.

6 (Source: P.A. 94-181, eff. 1-1-06.)

7 (815 ILCS 325/7) (from Ch. 121 1/2, par. 327)

8 Sec. 7. Inapplicability. This Act shall not apply in any
9 municipality that ~~which~~ provides for the registration of
10 recyclable metal ~~copper~~ purchased by resolution, ordinance or
11 regulation that ~~which~~ substantially complies with the
12 substantive provisions of this Act or any rule or regulation
13 hereunder with the exception of the penalty provisions. The
14 fact of such nonapplication shall be evidenced by a certificate
15 of exemption issued by the Department of State Police or such
16 department as may succeed to its functions, if it finds that a
17 municipal resolution, ordinance, or regulation meeting such
18 requirements is being enforced. The ~~Such~~ certificate of
19 exemption shall be available for inspection in the office of
20 the municipal clerk. This Act does not apply in municipalities
21 with populations of 1,000,000 or over.

22 (Source: P.A. 84-25.)

23 (815 ILCS 325/8) (from Ch. 121 1/2, par. 328)

24 Sec. 8. Penalty. Any recyclable metal ~~copper~~ dealer who

1 knowingly fails to comply with this Act is guilty of a Class A
2 B misdemeanor for the first offense, and a Class 4 felony for
3 the second or subsequent offense. Each day that any recyclable
4 metal ~~copper~~ dealer so fails to comply shall constitute a
5 separate offense.

6 (Source: P.A. 77-2262.)

7 (815 ILCS 325/9 new)

8 Sec. 9. Injunctions. The Illinois Attorney General or the
9 State's Attorney for the county in which the recyclable metal
10 dealer is located, may initiate an appropriate action in the
11 circuit court of the county in which a recyclable metal dealer
12 is located, to prevent the unlawful operation of a recyclable
13 metal dealer, or to restrain, correct, or abate a violation of
14 this Act, or to prevent any illegal act or conduct by the
15 recyclable metal dealer.

16 (815 ILCS 325/10 new)

17 Sec. 10. Rules. Notwithstanding any other rulemaking
18 authority that may exist, neither the Governor nor any agency
19 or agency head under the jurisdiction of the Governor has any
20 authority to make or promulgate rules to implement or enforce
21 the provisions of this amendatory Act of the 95th General
22 Assembly. If, however, the Governor believes that rules are
23 necessary to implement or enforce the provisions of this
24 amendatory Act of the 95th General Assembly, the Governor may

1 suggest rules to the General Assembly by filing them with the
2 Clerk of the House and the Secretary of the Senate and by
3 requesting that the General Assembly authorize such rulemaking
4 by law, enact those suggested rules into law, or take any other
5 appropriate action in the General Assembly's discretion.
6 Nothing contained in this amendatory Act of the 95th General
7 Assembly shall be interpreted to grant rulemaking authority
8 under any other Illinois statute where such authority is not
9 otherwise explicitly given. For the purposes of this paragraph,
10 "rules" is given the meaning contained in Section 1-70 of the
11 Illinois Administrative Procedure Act, and "agency" and
12 "agency head" are given the meanings contained in Sections 1-20
13 and 1-25 of the Illinois Administrative Procedure Act to the
14 extent that such definitions apply to agencies or agency heads
15 under the jurisdiction of the Governor.

16 Section 99. Effective date. This Act takes effect January
17 2, 2009."