

House File 2206 - Introduced

HOUSE FILE 2206

BY IVERSON

A BILL FOR

1 An Act specifying requirements applicable to salvage dealers
2 and recyclers, and providing penalties.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 714I.1 Definitions.

2 As used in this chapter, unless the context otherwise
3 requires:

4 1. "*Nonferrous material*" means copper, copper alloys,
5 stainless steel, or aluminum.

6 2. "*Recycler*" means any person engaged in the business of
7 buying or selling salvaged materials for conversion by that
8 person or another person or facility into raw materials or
9 products composed primarily of recycled material. "*Recycler*"
10 does not include a vehicle recycler subject to chapter 321H or
11 a redemption center subject to chapter 455C.

12 3. "*Salvage dealer*" means any person engaged in the business
13 of buying, selling, and dealing in salvaged materials.

14 4. "*Salvaged material*" means scrap iron, brass, lead, copper
15 or aluminum wire or tubing, and other scrap metals.

16 Sec. 2. NEW SECTION. 714I.2 Salvage dealers — sales and
17 purchase records.

18 1. The county board of supervisors in each county shall
19 adopt an ordinance requiring a salvage dealer or recycler to
20 maintain complete, accurate, and legible records in the English
21 language of all purchases and receipt of salvaged materials.
22 The ordinance shall require a salvage dealer to maintain the
23 following records:

24 a. The identity of the person from whom the salvaged
25 material was received or purchased, including name and address;
26 date of birth; Iowa driver's license number, Iowa nonoperator's
27 identification card number, or social security number in
28 conjunction with photo identification; and sex, age, height,
29 and race.

30 b. The vehicle license plate number of the vehicle that
31 delivered the salvaged material to the salvage dealer, if
32 applicable.

33 c. The date and hour of the purchase or receipt of the
34 salvaged material.

35 d. A reasonably accurate inventory and description of the

1 salvaged material obtained.

2 *e.* The value of or amount paid for the salvaged material.

3 *f.* The weight or other measurable quantity of the salvaged
4 material.

5 *g.* From whom and at what time and place the salvaged
6 material was obtained by the person from whom it was purchased
7 or received, if known.

8 *h.* The date and manner of disposition by the salvage dealer
9 of the salvaged material by each article or in bulk.

10 *i.* The name and address of the person to whom the salvaged
11 material was sold or otherwise disposed of.

12 Sec. 3. NEW SECTION. 714I.3 **Payment — nonferrous material.**

13 1. A salvage dealer or recycler shall not provide payment
14 for nonferrous material unless, in addition to meeting
15 the record requirements of section 714I.2, the following
16 requirements are met:

17 *a.* (1) The payment for the material is to be made by
18 cash or check. The check may be mailed to the seller at the
19 address provided on the driver's license or nonoperator's
20 identification card obtained pursuant to section 714I.2,
21 subsection 2, or the cash or check may be collected by the
22 seller from the salvage dealer or recycler on or after the
23 third business day after the date of sale.

24 (2) If the seller prefers to have the check for the material
25 mailed to an alternative address, other than a post office
26 box, the salvage dealer or recycler shall obtain a copy of a
27 gas or electric utility bill addressed to the seller at that
28 alternative address with a payment due date no more than two
29 months prior to the date of sale.

30 (3) This paragraph "a" shall not apply if, during the
31 three-month interval prior to the date of sale, the salvage
32 dealer or recycler completes five or more separate transactions
33 per month, on five or more separate days per month, with the
34 seller.

35 *b.* At the time of sale, the salvage dealer or recycler

1 obtains a clear photograph or video of the seller in addition
2 to the photographic identification required in section 714I.2.

3 c. The salvage dealer or recycler obtains a clear photograph
4 or video of the nonferrous material being purchased.

5 2. This section shall not apply if, on the date of sale, the
6 salvage dealer or recycler has on file or receives all of the
7 following:

8 a. The name, physical business address, and business
9 telephone number of the seller's business.

10 b. The business license number or tax identification number
11 of the seller's business.

12 c. A copy of the valid driver's license of the person
13 delivering the nonferrous material on behalf of the seller to
14 the salvage dealer or the recycler.

15 Sec. 4. NEW SECTION. 714I.4 Retention of records —
16 unauthorized disclosure.

17 1. Records required or information obtained pursuant to
18 this chapter shall be preserved for a minimum of two years from
19 the date of purchase or receipt and maintained at the place of
20 business of the salvage dealer or recycler.

21 2. Any unauthorized disclosure of personal identification
22 information collected from a seller by a salvage dealer or
23 recycler is prohibited, and any such disclosure shall render
24 the violator subject to the penalty provisions of section
25 714I.7.

26 Sec. 5. NEW SECTION. 714I.5 Inspections.

27 1. Every salvage dealer or recycler shall, during normal
28 business hours, allow periodic inspection by a peace officer of
29 any premises maintained and any salvage material thereon for
30 the purpose of determining compliance with the recordkeeping
31 and payment requirements of this chapter, and shall during
32 those hours produce records of sales and purchases and all
33 property purchased incident to those transactions which is in
34 the possession of the salvage dealer or recycler.

35 2. For the purposes of this chapter, "peace officer" means

1 any of the following:

2 *a.* An officer holding a warrant authorizing the officer to
3 search for personal property.

4 *b.* A person appointed by the sheriff of a county or
5 appointed by the head of the department of a city.

6 *c.* An officer holding a court order directing the officer to
7 examine the records or property.

8 Sec. 6. NEW SECTION. 714I.6 **Property subject to hold.**

9 1. Whenever a peace officer has probable cause to believe
10 that property in the possession of a salvage dealer or
11 recycler is stolen, in lieu of seizing the property, the peace
12 officer may place a hold on the property for a period not
13 to exceed ninety days. When a peace officer places a hold
14 on the property, the peace officer shall provide the salvage
15 dealer or recycler a written notice at the time the hold
16 is placed, describing the item or items to be held plus an
17 applicable case number. During this period, the salvage dealer
18 or recycler shall not release or dispose of the property,
19 except pursuant to a court order or upon receipt of a written
20 authorization signed by a peace officer who is a member of the
21 law enforcement agency of which the peace officer placing the
22 hold on the property is a member. Except as specifically set
23 forth in this section, a salvage dealer or recycler shall not
24 be subject to civil liability for compliance with this section.

25 2. Whenever property that is in the possession of a salvage
26 dealer or recycler is subject to a hold and the property is
27 required by a peace officer in a criminal investigation, the
28 salvage dealer or recycler, upon reasonable notice, shall
29 produce the property at reasonable times and places or may
30 deliver the property to any peace officer upon the request of
31 any peace officer who is a member of the law enforcement agency
32 of which the peace officer placing the hold on the property is
33 a member.

34 3. Whenever property that is in the possession of a salvage
35 dealer or recycler is subject to a hold and the property is no

1 longer required for the purpose of criminal investigation, the
2 law enforcement agency that placed the hold on the property
3 shall undertake the following:

4 *a.* If the law enforcement agency has no knowledge of the
5 property on hold being reported as stolen, the property shall
6 be released upon written notice to the salvage dealer or
7 recycler. The notice shall be provided in a timely fashion.

8 *b.* If the law enforcement agency has knowledge that the
9 property has been reported stolen, the law enforcement agency
10 shall notify the person who reported the property as stolen of
11 the name and address of the salvage dealer or recycler holding
12 the property and authorize the release of the property to that
13 person within sixty days following delivery of the notice. If
14 the owner of property that has been reported as stolen seeks to
15 recover property that is subject to a hold, the salvage dealer
16 or recycler shall advise the owner of the property of the name
17 and badge number of the peace officer who placed the hold on
18 the property and the name of the law enforcement agency of
19 which the officer is a member. If the property is not required
20 to be held pursuant to a criminal prosecution the hold shall
21 be released.

22 *c.* Upon conviction of a person for the theft of property
23 placed on hold pursuant to this section, the court shall order
24 the person convicted to do both of the following:

25 (1) Pay the salvage dealer or recycler reasonable costs for
26 the storage of the property.

27 (2) Pay the owner of the stolen property for both the value
28 of the property stolen and any reasonable collateral damage
29 caused in the commission of the theft.

30 Sec. 7. NEW SECTION. 714I.7 **Penalty.**

31 1. A violation of this chapter is a simple misdemeanor.

32 2. A second or subsequent violation of this chapter is
33 a serious misdemeanor, and may subject the violator to the
34 possible suspension, revocation, or nonrenewal of a license or
35 permit, if issued by the state or a political subdivision of

1 the state, under conditions or as prescribed by the licensing
2 authority.

3 Sec. 8. REPEAL. Section 714.27, Code Supplement 2011, is
4 repealed.

5 EXPLANATION

6 This bill specifies requirements applicable to salvage
7 dealers and recyclers, primarily relating to recordkeeping and
8 identification of buyers and sellers of salvaged materials.

9 The bill provides several definitions. The bill defines
10 "nonferrous material" to mean copper, copper alloys, stainless
11 steel, or aluminum. The bill defines "recycler" to mean any
12 person engaged in the business of buying or selling salvaged
13 materials for conversion by that person or another person or
14 facility into raw materials or products composed primarily of
15 recycled material, not including a vehicle recycler subject
16 to Code chapter 321H or a redemption center subject to Code
17 chapter 455C. The bill defines a "salvage dealer" to mean any
18 person engaged in the business of buying, selling, and dealing
19 in salvaged materials. The bill defines "salvaged materials"
20 to mean scrap iron, brass, lead, copper or aluminum wire or
21 tubing, and other scrap metals.

22 The bill provides that the county board of supervisors in
23 each county shall adopt an ordinance requiring a salvage dealer
24 or recycler to maintain records of all purchases and receipt
25 of salvaged materials. The bill specifies that the records
26 shall include the identity of the person from whom the salvaged
27 material was received or purchased, including name and address;
28 date of birth; Iowa driver's license number, Iowa nonoperator's
29 identification card number, or social security number in
30 conjunction with photo identification; and sex, age, height,
31 and race; the vehicle license plate number of the vehicle
32 that delivered the salvaged material to the salvage dealer,
33 if applicable; the date and hour of the purchase or receipt
34 of the salvaged material; a reasonably accurate inventory and
35 description of the salvaged material obtained; the value of

1 or amount paid for the salvaged material; the weight or other
2 measurable quantity of the salvaged material; from whom and at
3 what time and place the salvaged material was obtained by the
4 person from whom it was purchased or received, if known; the
5 date and manner of disposition by the salvage dealer of the
6 salvaged material by each article or in bulk; and the name and
7 address of the person to whom the salvaged material was sold or
8 otherwise disposed of.

9 The bill also provides that a salvage dealer or recycler
10 shall not provide payment for nonferrous material unless,
11 in addition to meeting the record requirements, additional
12 requirements are met. The bill provides that payment for the
13 material shall be made by cash or check mailed to the seller at
14 the address provided by the seller, or the cash or check may
15 be collected by the seller from the salvage dealer or recycler
16 on or after the third business day after the date of sale. In
17 the event that the seller prefers to have the check for the
18 material mailed to an alternative address, other than a post
19 office box, the bill requires the salvage dealer or recycler
20 to obtain a copy of a gas or electric utility bill addressed
21 to the seller at that alternative address with a payment due
22 date no more than two months prior to the date of sale. The
23 bill provides that the delayed payment provision shall not
24 be applicable if, during the three-month interval prior to
25 the date of sale, the salvage dealer or recycler completes
26 five or more separate transactions per month, on five or more
27 separate days per month, with the seller. Additionally, the
28 bill requires that at the time of sale, the salvage dealer
29 or recycler must obtain a clear photograph or video of the
30 seller and of the nonferrous material being purchased. The
31 bill provides that none of the above requirements regarding
32 delayed payment and identification shall apply to a transaction
33 if, on the date of sale, the salvage dealer or recycler has
34 on file or receives the name, physical business address,
35 and business telephone number of the seller's business, the

1 business license number or tax identification number of the
2 seller's business, and a copy of the valid driver's license of
3 the person delivering the nonferrous material on behalf of the
4 seller to the salvage dealer or the recycler.

5 The bill specifies that records required or information
6 obtained pursuant to the bill's provisions shall be preserved
7 for a minimum of two years from the date of purchase or
8 sale, and subjects any unauthorized disclosure of personal
9 identification information collected from a seller by a salvage
10 dealer or recycler to penalty provisions as subsequently
11 described.

12 The bill requires every salvage dealer or recycler, during
13 normal business hours, to allow periodic inspection of any
14 premises maintained and any salvage material thereon for the
15 purpose of determining compliance with the recordkeeping
16 requirements, and requires the production of sales and
17 purchase records and all property purchased incident to those
18 transactions which is in the possession of the salvage dealer
19 or recycler for inspection by a peace officer, as defined in
20 the bill.

21 The bill provides that when a peace officer has probable
22 cause to believe that property in the possession of a salvage
23 dealer or recycler is stolen, in lieu of seizing the property,
24 the peace officer may place a hold on the property for a period
25 not to exceed 90 days. The bill specifies notice and release
26 provisions with regard to any property subject to a hold. The
27 bill provides that upon conviction of a person for the theft
28 of property placed on hold, the court shall order the person
29 convicted to pay the salvage dealer or recycler reasonable
30 costs for the storage of the property, and pay the owner of the
31 stolen property for both the value of the property stolen and
32 any reasonable collateral damage caused in the commission of
33 the theft.

34 The bill provides that an initial violation of the bill's
35 provisions is a simple misdemeanor, and that a second or

1 subsequent violation is a serious misdemeanor, and may subject
2 the violator to the possible suspension, revocation, or
3 nonrenewal of a license or permit, if issued by the state or a
4 political subdivision of the state. A simple misdemeanor is
5 punishable by confinement for no more than 30 days or a fine
6 of at least \$65 but not more than \$625, or by both. A serious
7 misdemeanor is punishable by confinement for no more than one
8 year and a fine of at least \$315 but not more than \$1,875.

9 Additionally, the bill repeals Code section 714.27,
10 which authorized political subdivisions to adopt a model
11 ordinance providing restrictions on sales of copper to salvage
12 dealers. Such sales would now be encompassed within the bill's
13 provisions.