

Senate File 2287 - Introduced

SENATE FILE 2287
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 3088)

A BILL FOR

1 An Act relating to scrap metal transactions, including by
2 regulating the sale of catalytic converters to scrap metal
3 dealers and providing for recordkeeping requirements,
4 providing penalties, and making penalties applicable.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 714.1, subsection 4, Code 2022, is
2 amended to read as follows:

3 4. Exercises control over stolen property, knowing such
4 property to have been stolen, or having reasonable cause to
5 believe that such property has been stolen, unless the person's
6 purpose is to promptly restore it to the owner or to deliver it
7 to an appropriate public officer. The fact that the person is
8 found in possession of property which has been stolen from two
9 or more persons on separate occasions, or that the person is a
10 dealer or other person familiar with the value of such property
11 and has acquired it for a consideration which is far below its
12 reasonable value, or that the person is a scrap metal dealer
13 and has violated section 714.27, subsection 2, paragraph "b", or
14 section 714.27, subsection 3, paragraph "c", in a transaction
15 involving the property, shall be evidence from which the court
16 or jury may infer that the person knew or believed that the
17 property had been stolen.

18 Sec. 2. Section 714.27, Code 2022, is amended to read as
19 follows:

20 **714.27 Scrap metal transactions and reporting — penalties.**

21 1. For purposes of [this section](#), ~~and~~ unless the context
22 otherwise requires, ~~the following definitions shall apply:~~

23 *a.* "Business transaction" means an exchange of consideration
24 for scrap metal, including a bulk sale of scrap metal,
25 between a scrap metal dealer and another scrap metal dealer,
26 an authorized vehicle recycler licensed under chapter 321H
27 operating a business at a fixed location, a motor vehicle
28 dealer licensed under chapter 322 operating a business at a
29 fixed location, a towable recreational vehicle dealer licensed
30 under chapter 322C operating a business at a fixed location,
31 or a mechanic or employee of an automotive repair facility
32 operating a business at a fixed location.

33 *b.* "Scrap metal" means any metal suitable for reprocessing.
34 "Scrap metal" does not include a motor vehicle, but does include
35 a catalytic converter detached from a motor vehicle.

1 ~~b.~~ c. "Scrap metal dealer" means any person operating a
2 business at a fixed or mobile location that is engaged in one
3 of the following activities:

4 (1) Buying, selling, procuring, collecting, gathering,
5 soliciting, or dealing in scrap metal.

6 (2) Operating, managing, or maintaining a scrap metal yard.

7 ~~e.~~ d. "Scrap metal yard" means any yard, plot, space,
8 enclosure, building, mobile facility, or other place where
9 scrap metal is collected, gathered together, stored, or kept
10 for shipment, sale, or transfer.

11 2. a. A person shall not sell scrap metal to a scrap metal
12 dealer in this state unless the person provides to the scrap
13 metal dealer, at or before the time of sale, the person's name,
14 address, and place of business, if any, and presents to the
15 scrap metal dealer a valid driver's license or nonoperator's
16 identification card, military identification card, passport, or
17 other government-issued photo identification.

18 b. A scrap metal dealer shall not make ~~an initial~~ a purchase
19 of scrap metal from a person without demanding and receiving
20 the information required by this subsection and subsection 3,
21 as applicable. However, after an initial transaction involving
22 scrap metal other than a catalytic converter, a scrap metal
23 dealer may ~~only require the person's name and place of business~~
24 waive the requirement that the person present an address and
25 photo identification for subsequent purchases not involving a
26 catalytic converter, provided the scrap metal dealer retains
27 all information received during the initial transaction.

28 3. For transactions involving the sale of a catalytic
29 converter, all of the following apply in addition to the
30 requirements of subsection 2:

31 a. For a business transaction, the person selling the
32 catalytic converter shall provide to the scrap metal dealer a
33 copy of the person's valid sales tax permit issued pursuant to
34 chapter 423.

35 b. For transactions other than business transactions,

1 the person selling the catalytic converter shall provide
2 an original receipt or invoice for a replacement catalytic
3 converter purchased fewer than thirty days before the person
4 sells the replaced catalytic converter to the scrap metal
5 dealer, or a junking certificate for a vehicle that was issued
6 fewer than thirty days before the person sells the catalytic
7 converter to the scrap metal dealer.

8 (1) The receipt, invoice, or junking certificate presented
9 by the person to the scrap metal dealer must be unmarked by a
10 scrap metal dealer pursuant to paragraph "c".

11 (2) This paragraph does not apply to a transaction if
12 the person presents proof, unmarked by a scrap metal dealer
13 pursuant to paragraph "c", to the scrap metal dealer that the
14 sale is approved by the sheriff of the county in which the
15 vehicle from which the catalytic converter was removed is
16 registered.

17 c. The scrap metal dealer shall mark the receipt, invoice,
18 junking certificate, or proof of sheriff approval presented
19 under paragraph "b" to indicate the catalytic converter has
20 been sold. The scrap metal dealer shall take a photograph of
21 the catalytic converter that clearly identifies the item as a
22 catalytic converter.

23 ~~3.~~ 4. A scrap metal dealer shall keep a confidential
24 register or log of each transaction, including a record copy
25 of the information required by subsections 2 and 3.
26 All records and information kept pursuant to this subsection
27 shall be retained for at least two years, and shall be provided
28 to a law enforcement agency or other officer or employee
29 designated by a county or city to enforce this section upon
30 request during normal business hours when the law enforcement
31 agency or designated officer or employee of a county or city
32 has reasonable grounds to request such information as part
33 of an investigation. A law enforcement agency or designated
34 officer or employee of a county or city shall preserve the
35 confidentiality of the information provided under this

1 subsection and shall not disclose it to a third party, except
2 as may be necessary in enforcement of [this section](#) or the
3 prosecution of a criminal violation.

4 ~~4. 5.~~ All scrap metal transactions, other than those
5 transactions exempt pursuant to [subsection 5 6](#), ~~in which the~~
6 ~~total sale price exceeds fifty dollars~~ shall require payment by
7 check or electronic funds transfer.

8 ~~5. 6.~~ ~~The following scrap metal transactions~~ Transactions
9 in which the total sale price is fifty dollars or less, except
10 transactions for the sale of a catalytic converter, are exempt
11 from the requirements of [this section](#).

12 ~~a.~~ ~~Transactions in which the total sale price is fifty~~
13 ~~dollars or less, except transactions for the sale of catalytic~~
14 ~~converters.~~

15 ~~b.~~ ~~Transactions for the sale of catalytic converters in~~
16 ~~which the total sale price is seventy-five dollars or less.~~

17 ~~c.~~ ~~Transactions in which a scrap metal dealer is selling~~
18 ~~scrap metal.~~

19 ~~d.~~ ~~Transactions in which the person selling the scrap~~
20 ~~metal is known to the scrap metal dealer purchasing the scrap~~
21 ~~metal to be the officer, employee, or agent of an established~~
22 ~~commercial or industrial business, operating from a fixed~~
23 ~~location, that may reasonably be expected to produce scrap~~
24 ~~metal during the operation of the business.~~

25 ~~6. 7.~~ ~~a.~~ The provisions of [this section](#) shall take
26 precedence over and supersede any local ordinance adopted by a
27 political subdivision that regulates scrap metal transactions.

28 ~~b.~~ ~~Notwithstanding paragraph "a" of [this subsection](#), a city~~
29 ~~ordinance regarding scrap metal or other scrap material in~~
30 ~~effect prior to January 1, 2012, in a city with a population~~
31 ~~exceeding one hundred fifty thousand as shown by the 2010~~
32 ~~federal decennial census may continue to be enforced by the~~
33 ~~city which adopted it.~~

34 ~~7. 8.~~ A person who violates [subsection 2](#), paragraph "a",
35 ~~or~~, including a person who conducts a scrap metal transaction

1 by or on behalf of a scrap metal dealer, who violates this
2 section shall be subject to a civil penalty as follows:

3 a. An initial violation shall subject the person to a civil
4 penalty in the amount of one ~~hundred~~ thousand dollars.

5 b. A second violation within two years shall subject
6 the person to a civil penalty in the amount of five ~~hundred~~
7 thousand dollars.

8 c. A third or subsequent violation within two years shall
9 subject the person to a civil penalty in the amount of ~~one~~ ten
10 thousand dollars.

11 9. Proof that a scrap metal dealer, or a person acting
12 on behalf of a scrap metal dealer, conducted a scrap metal
13 transaction in violation of subsection 2, paragraph "b", or
14 subsection 3, paragraph "c", shall be evidence from which the
15 court or jury may infer any of the following:

16 a. The person aided and abetted the underlying theft of the
17 catalytic converter involved in the transaction from a vehicle,
18 under section 703.1.

19 b. The person had knowledge that a public offense has been
20 committed and that a certain person committed it, for purposes
21 of proving the scrap metal dealer or person acting on behalf of
22 a scrap metal dealer acted as an accessory after the fact under
23 section 703.3.

24 Sec. 3. Section 805.8C, subsection 10, Code 2022, is amended
25 to read as follows:

26 10. *Scrap metal transaction violations.* For violations of
27 section 714.27, the scheduled fine is one ~~hundred~~ thousand
28 dollars for a first violation, five ~~hundred~~ thousand dollars
29 for a second violation within two years, and ~~one~~ ten thousand
30 dollars for a third or subsequent violation within two years.
31 The scheduled fine under **this subsection** is a civil penalty
32 which shall be deposited into the general fund of the county
33 or city if imposed by a designated officer or employee of a
34 county or city, or deposited in the general fund of the state
35 if imposed by a state agency, and the crime services surcharge

1 under section 911.1 shall not be added to the penalty.

2

EXPLANATION

3

The inclusion of this explanation does not constitute agreement with
4 the explanation's substance by the members of the general assembly.

5

Current law generally requires all scrap metal transactions
6 with a scrap metal dealer to meet certain requirements. A
7 person who sells the scrap metal must provide identifying
8 information to the scrap metal dealer and the dealer must
9 keep a confidential record of each transaction. In addition,
10 payments for the scrap metal must be made by check or
11 electronic funds transfer. A person who violates these
12 provisions is subject to a civil penalty of between \$100 and
13 \$1,000. These provisions do not apply to the sale of catalytic
14 converters totaling \$75 or less, or to the sale of other scrap
15 metal totaling \$50 or less.

16 This bill requires a person selling a catalytic converter as
17 part of a business transaction (transactions between a scrap
18 metal dealer and certain businesses with fixed locations) to
19 provide to the scrap metal dealer a copy of the person's valid
20 sales tax permit issued pursuant to Code chapter 423.

21 The bill requires a person selling a catalytic converter to a
22 scrap metal dealer other than as part of a business transaction
23 to provide to the scrap metal dealer an original receipt or
24 invoice for a replacement catalytic converter purchased fewer
25 than 30 days before the person sells the replaced catalytic
26 converter, or a junking certificate for a vehicle issued fewer
27 than 30 days before the person sells the catalytic converter.
28 The receipt, invoice, or junking certificate must be unmarked
29 by a scrap metal dealer. The requirement does not apply if
30 the person presents proof, unmarked by a scrap metal dealer,
31 that the sale is approved by the sheriff of the county in which
32 the vehicle from which the catalytic converter was removed is
33 registered.

34 A scrap metal dealer is required to keep a confidential
35 register or log of each transaction, including a copy of the

1 information required by the bill. Under the bill, a scrap
2 metal dealer must mark the original receipt, invoice, junking
3 certificate, or proof of sheriff approval, as applicable, to
4 indicate the catalytic converter has been sold. A scrap metal
5 dealer must also take a photograph of the catalytic converter
6 that clearly identifies the item as a catalytic converter.

7 The bill makes Code section 714.27 applicable to all scrap
8 metal transactions with a scrap metal dealer except for sales
9 of \$50 or less that do not involve a catalytic converter.

10 The bill strikes an exception relating to city ordinances,
11 thereby providing that any local ordinance adopted by a
12 political subdivision that regulates scrap metal transactions
13 is superseded by Code section 714.27.

14 The bill increases the civil penalty for persons who violate
15 Code section 714.27 for an initial violation from \$100 to
16 \$1,000, for a second violation within two years from \$500 to
17 \$5,000, and for a third or subsequent violation within two
18 years from \$1,000 to \$10,000.

19 For purposes of theft as defined in Code section 714.1(4),
20 the bill adds that a scrap metal dealer's violation of
21 recordkeeping and other requirements is evidence from which the
22 court or jury may infer that the person knew or believed that
23 the property had been stolen. The penalty for theft ranges
24 from a simple misdemeanor to a class "C" felony depending on
25 the value of the property. A simple misdemeanor is punishable
26 by confinement for no more than 30 days and a fine of at
27 least \$105 but not more than \$855, and a class "C" felony is
28 punishable by confinement for no more than 10 years and a fine
29 of at least \$1,370 but not more than \$13,660.

30 Under the bill, proof that a scrap metal dealer, or a person
31 acting on behalf of a scrap metal dealer, conducted a scrap
32 metal transaction in violation of the recordkeeping and other
33 requirements is evidence from which the court or jury may infer
34 that the person aided and abetted the underlying theft of the
35 catalytic converter involved in the transaction from a vehicle,

1 under Code section 703.1, or that the person had knowledge that
2 a public offense has been committed and that a certain person
3 committed it, for purposes of proving the scrap metal dealer
4 or person acting on behalf of a scrap metal dealer acted as an
5 accessory after the fact under Code section 703.3.