



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB1654

Introduced 2/22/2007, by Rep. Rich Brauer

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. Provides that every person licensed as a scrap processor shall maintain for 3 years, at his or her established place of business, specified records relating to the acquisition of scrap metals. Provides that a scrap processor shall verify and record the identity of each person from whom scrap metals are acquired. Provides that authorized representatives of the Secretary of State may inspect the premises of a scrap processor more than 6 times during a 6-month period if one or more of the inspections is an inspection of records relating to acquisition of scrap metals or of a vehicle, junk vehicle, or vehicle cowl that was acquired for the purpose of processing into a form other than a vehicle, junk vehicle, or vehicle cowl.

LRB095 09874 DRH 30085 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

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 required to keep records.

8 (a) Every person licensed or required to be licensed as a scrap
9 processor pursuant to Section 5-301 of this Chapter shall
10 maintain for 3 years, at his established place of business, the
11 following records relating to the acquisition of scrap metals
12 or the acquisition of a vehicle, junk vehicle, or vehicle cowl
13 which has been acquired for the purpose of processing into a
14 form other than a vehicle, junk vehicle or vehicle cowl which
15 is possessed in the State or brought into this State from
16 another state, territory or country. No scrap metal processor
17 shall sell a vehicle or essential part, as such, except for
18 engines, transmissions, and powertrains, unless licensed to do
19 so under another provision of this Code. A scrap processor who
20 is additionally licensed as an automotive parts recycler shall
21 not be subject to the record keeping requirements for a scrap
22 processor when acting as an automotive parts recycler.

23 (1) For a vehicle, junk vehicle, or vehicle cowl acquired

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

15 (2) For a vehicle, junk vehicle or vehicle cowl acquired
16 from a person who is not licensed under this Chapter, the scrap
17 processor shall verify and record that person's identity by
18 recording the identification of such person from at least 2
19 sources of identification, one of which shall be a driver's
20 license or State Identification Card, on the scrap processor's
21 weight ticket at the time of the acquisition. The person
22 disposing of the vehicle, junk vehicle, or vehicle cowl shall
23 furnish the scrap processor with documentary proof of ownership
24 of the vehicle, junk vehicle, or vehicle cowl in one of the
25 following forms: a Certificate of Title, a Salvage Certificate,
26 a Junking Certificate, a Secretary of State Junking Manifest, a

1 Certificate of Purchase, or other similar documentary proof of
2 ownership. The scrap processor shall not acquire a vehicle,
3 junk vehicle or vehicle cowl without obtaining one of the
4 aforementioned documentary proofs of ownership.

5 (3) In addition to the other information required on the
6 scrap processor's weight ticket, a scrap processor who at the
7 time of acquisition of a vehicle, junk vehicle, or vehicle cowl
8 is furnished a Certificate of Title, Salvage Certificate or
9 Certificate of Purchase shall record the vehicle
10 Identification Number on the weight ticket or affix a copy of
11 the Certificate of Title, Salvage Certificate or Certificate of
12 Purchase to the weight ticket and the identification of the
13 person acquiring the information on the behalf of the scrap
14 processor.

15 (4) The scrap processor shall maintain a copy of a Junk
16 Vehicle Notification relating to any Certificate of Title,
17 Salvage Certificate, Certificate of Purchase or similarly
18 acceptable out-of-state document surrendered to the Secretary
19 of State pursuant to the provisions of Section 3-117.2 of this
20 Code.

21 (5) For scrap metals, the scrap processor shall verify and
22 record the identity of the person from whom the scrap metals
23 were acquired by recording the identification of that person
24 from at least 2 sources of identification, one of which shall
25 be a driver's license or State Identification Card, on the
26 scrap processor's weight ticket at the time of the acquisition.

1 The inspection of records pertaining only to scrap metals shall
2 not be counted as an inspection of a premises for purposes of
3 subparagraph (7) of Section 5-403 of this Code.

4 (b) Any licensee who knowingly fails to record any of the
5 specific information required to be recorded on the weight
6 ticket or who knowingly fails to acquire and maintain for 3
7 years documentary proof of ownership in one of the prescribed
8 forms shall be guilty of a Class A misdemeanor and subject to a
9 fine 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 who commits a second violation of this Section within two years
13 of a previous conviction of a violation of this Section shall
14 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 person required to be licensed both reasonably and in good
18 faith relied on information appearing on a Certificate of
19 Title, a Salvage Certificate, a Junking Certificate, a
20 Secretary of State Manifest, a Secretary of State's Uniform
21 Invoice, a Certificate of Purchase, or other documentary proof
22 of ownership prepared under Section 3-117.1 (a) of this Code,
23 relating to the transaction for which the required record was
24 not kept which was supplied to the licensee by another licensee
25 or out-of-state dealer.

26 (d) No later than 15 days prior to going out of business,

1 selling the business, or transferring the ownership of the
2 business, the scrap processor shall notify the Secretary of
3 that fact. Failure to so notify the Secretary of State shall
4 constitute a failure to keep records under this Section.

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

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

10 (625 ILCS 5/5-403) (from Ch. 95 1/2, par. 5-403)

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

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

9 (3) The licensee or a representative of the licensee shall
10 be entitled to be present during an inspection conducted
11 pursuant to Chapter 5, however, the presence of the licensee or
12 an authorized representative of the licensee is not a condition
13 precedent to such an inspection.

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

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

24 (6) In the event information comes to the attention of the
25 individuals conducting an inspection that may give rise to the
26 necessity of obtaining a search warrant, and in the event steps

1 are initiated for the procurement of a search warrant, the
2 individuals conducting such inspection may take all necessary
3 steps to secure the premises under inspection until the warrant
4 application is acted upon by a judicial officer.

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

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

22 (9) Any licensee who, having been informed by a person
23 authorized to make inspections and examine records under this
24 Section that he desires to inspect records and the licensee's
25 premises as authorized by this Section, refuses either to
26 produce for that person records required to be kept by this

1 Chapter or to permit such authorized person to make an
2 inspection of the premises in accordance with this Section
3 shall subject the license to immediate suspension by the
4 Secretary of State.

5 (10) Beginning July 1, 1988, any person licensed under
6 5-302 shall produce for inspection upon demand those records
7 pertaining to the acquisition of salvage vehicles in this
8 State. This inspection may be conducted at the principal
9 offices of the Secretary of State.

10 (Source: P.A. 86-444.)