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LRB095 15342 HLH 47976 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 Section 5-401.3 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 scrap metals or recyclable metal or the acquisition of a  
15 vehicle, junk vehicle, or vehicle cowl which has been acquired  
16 for the purpose of processing into a form other than a vehicle,

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

11 (1) For a vehicle, junk vehicle, or vehicle cowl  
12 acquired from a person who is licensed under this Chapter,  
13 the scrap processor or recyclable metal dealer shall record  
14 the name and address of the person, and the Illinois or  
15 out-of-state dealer license number of such person on the  
16 scrap processor or recyclable metal dealer's weight ticket  
17 at the time of the acquisition. The person disposing of the  
18 vehicle, junk vehicle, or vehicle cowl shall furnish the  
19 scrap processor or recyclable metal dealer with  
20 documentary proof of ownership of the vehicle, junk  
21 vehicle, or vehicle cowl in one of the following forms: a  
22 Certificate of Title, a Salvage Certificate, a Junking  
23 Certificate, a Secretary of State Junking Manifest, a  
24 Uniform Invoice, a Certificate of Purchase, or other  
25 similar documentary proof of ownership. The scrap  
26 processor or recyclable metal dealer shall not acquire a

1 vehicle, junk vehicle or vehicle cowl without obtaining one  
2 of the aforementioned documentary proofs of ownership.

3 (2) For a vehicle, junk vehicle or vehicle cowl  
4 acquired from a person who is not licensed under this  
5 Chapter, the scrap processor or recyclable metal dealer  
6 shall verify and record that person's identity by recording  
7 the identification of such person from at least 2 sources  
8 of identification, one of which shall be a driver's license  
9 or State Identification Card, on the scrap processor or  
10 recyclable metal dealer's weight ticket at the time of the  
11 acquisition. The person disposing of the vehicle, junk  
12 vehicle, or vehicle cowl shall furnish the scrap processor  
13 or recyclable metal dealer with documentary proof of  
14 ownership of the vehicle, junk vehicle, or vehicle cowl in  
15 one of the following forms: a Certificate of Title, a  
16 Salvage Certificate, a Junking Certificate, a Secretary of  
17 State Junking Manifest, 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 (3) In addition to the other information required on  
23 the scrap processor or recyclable metal dealer's weight  
24 ticket, a scrap processor or recyclable metal dealer who at  
25 the time of acquisition of a vehicle, junk vehicle, or  
26 vehicle cowl is furnished a Certificate of Title, Salvage

1 Certificate or Certificate of Purchase shall record the  
2 vehicle Identification Number on the weight ticket or affix  
3 a copy of the Certificate of Title, Salvage Certificate or  
4 Certificate of Purchase to the weight ticket and the  
5 identification of the person acquiring the information on  
6 the behalf of the scrap processor or recyclable metal  
7 dealer.

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

15 (5) For scrap metals or recyclable metal valued at \$50  
16 ~~\$100~~ or more, the scrap processor or recyclable metal  
17 dealer shall, for each transaction, ~~verify and~~ record the  
18 following information:

19 (A) the identity of the person from whom the scrap  
20 metals or recyclable metal were acquired by verifying  
21 ~~recording~~ the identification of that person from one  
22 source of identification, which shall be a valid  
23 driver's license or State Identification Card, on the  
24 scrap processor or recyclable metal dealer's weight  
25 ticket at the time of the acquisition and by making and  
26 recording a photocopy or electronic scan of the

1           driver's license or State Identification Card;

2           (B) the name and address of the scrap processor or  
3           recyclable metal dealer;

4           (C) the name, initials, or other identification of  
5           the person who is verifying the identification  
6           required in item (5) (A) of this subsection;

7           (D) the date and place of each purchase;

8           (E) the motor vehicle license number of the vehicle  
9           or conveyance on which the scrap metals or recyclable  
10           metal were delivered to the scrap processor or  
11           recyclable metal dealer;

12           (F) the amount of consideration given for the scrap  
13           metals or recyclable metal and a copy of the cancelled  
14           check;

15           (G) a description of the scrap metals or recyclable  
16           metal purchased, including the weight and whether it  
17           consists of copper bars, cable ingots, rods, tubing,  
18           wire, wire scraps, clamps, connectors or other  
19           appurtenances or some combination thereof; and

20           (H) a statement signed by the seller or the  
21           seller's agent certifying that the seller or the  
22           seller's agent has the lawful right to sell and dispose  
23           of the scrap metals or recyclable metal.

24           The information required to be recorded under this  
25           subsection shall be maintained in a separate register by  
26           the scrap processor or recyclable metal dealer and shall be

1       retained for 3 years in accordance with this subsection  
2       (a). Such information shall be available for inspection by  
3       any law enforcement official. If the person delivering the  
4       scrap metals or recyclable metal either (i) does not have a  
5       valid driver's license or State identification card or (ii)  
6       is a minor, the scrap processor or recyclable metal dealer  
7       shall not complete the transaction. The inspection of  
8 records pertaining only to scrap metals shall not be  
9 counted as an inspection of a premises for purposes of  
10 subparagraph (7) of Section 5-403 of this Code.

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

1 subdivision (a) (5) also does not apply to contractual  
2 arrangements between dealers.

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

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

1 metal dealer or an out-of-state dealer.

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

8 (e) Evidence derived directly or indirectly from the  
9 keeping of records required to be kept under this Section shall  
10 not be admissible in a prosecution of the licensee or  
11 recyclable metal dealer for an alleged violation of Section  
12 4-102 (a) (3) of this Code.

13 (f) Notwithstanding any other rulemaking authority that  
14 may exist, neither the Governor nor any agency or agency head  
15 under the jurisdiction of the Governor has any authority to  
16 make or promulgate rules to implement or enforce the provisions  
17 of this amendatory Act of the 95th General Assembly. If,  
18 however, the Governor believes that rules are necessary to  
19 implement or enforce the provisions of this amendatory Act of  
20 the 95th General Assembly, the Governor may suggest rules to  
21 the General Assembly by filing them with the Clerk of the House  
22 and the Secretary of the Senate and by requesting that the  
23 General Assembly authorize such rulemaking by law, enact those  
24 suggested rules into law, or take any other appropriate action  
25 in the General Assembly's discretion. Nothing contained in this  
26 amendatory Act of the 95th General Assembly shall be



1 interpreted to grant rulemaking authority under any other  
2 Illinois statute where such authority is not otherwise  
3 explicitly given. For the purposes of this paragraph, "rules"  
4 is given the meaning contained in Section 1-70 of the Illinois  
5 Administrative Procedure Act, and "agency" and "agency head"  
6 are given the meanings contained in Sections 1-20 and 1-25 of  
7 the Illinois Administrative Procedure Act to the extent that  
8 such definitions apply to agencies or agency heads under the  
9 jurisdiction of the Governor.

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

11 Section 99. Effective date. This Act takes effect upon  
12 becoming law."