



Rep. Monique D. Davis

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09500HB4668ham002

LRB095 15342 HLH 48988 a

1 AMENDMENT TO HOUSE BILL 4668

2 AMENDMENT NO. _____. Amend House Bill 4668, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Illinois Vehicle Code is amended by
6 changing Section 5-401.3 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 scrap metals or recyclable metal 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 or recyclable metal dealer's weight ticket
18 at the time of the acquisition. The person disposing of the
19 vehicle, junk vehicle, or vehicle cowl shall furnish the
20 scrap processor or recyclable metal dealer with
21 documentary proof of ownership of the vehicle, junk
22 vehicle, or vehicle cowl in one of the following forms: a
23 Certificate of Title, a Salvage Certificate, a Junking
24 Certificate, a Secretary of State Junking Manifest, a
25 Uniform Invoice, a Certificate of Purchase, or other
26 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 or
11 recyclable metal dealer's weight ticket at the time of the
12 acquisition. The person disposing of the vehicle, junk
13 vehicle, or vehicle cowl shall furnish the scrap processor
14 or recyclable metal dealer with documentary proof of
15 ownership of the vehicle, junk vehicle, or vehicle cowl in
16 one of the following forms: a Certificate of Title, a
17 Salvage Certificate, a Junking Certificate, a Secretary of
18 State Junking Manifest, a Certificate of Purchase, or other
19 similar documentary proof of ownership. The scrap
20 processor or recyclable metal dealer shall not acquire a
21 vehicle, junk vehicle or vehicle cowl without obtaining one
22 of the aforementioned documentary proofs of ownership.

23 (3) In addition to the other information required on
24 the scrap processor or recyclable metal dealer's weight
25 ticket, a scrap processor or recyclable metal dealer who at
26 the time of acquisition of a vehicle, junk vehicle, or

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

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

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

1 Identification Card. Such information shall be available
2 for inspection by any law enforcement official. If the
3 person delivering the scrap metals or recyclable metal does
4 not have a valid driver's license or State identification
5 card, the scrap processor or recyclable metal dealer shall
6 not complete the transaction. The inspection of records
7 pertaining only to scrap metals shall not be counted as an
8 inspection of a premises for purposes of subparagraph (7)
9 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 or required under any other
5 subsection of this Section or who knowingly fails to acquire
6 and maintain for 3 years documentary proof of ownership in one
7 of the prescribed forms shall be guilty of a Class A
8 misdemeanor and subject to a fine not to exceed \$1,000. Each
9 violation shall constitute a separate and distinct offense and
10 a separate count may be brought in the same complaint for each
11 violation. Any licensee or recyclable metal dealer who commits
12 a second violation of this Section within two years of a
13 previous conviction of a violation of this Section shall be
14 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 (f) Notwithstanding any other rulemaking authority that
13 may exist, neither the Governor nor any agency or agency head
14 under the jurisdiction of the Governor has any authority to
15 make or promulgate rules to implement or enforce the provisions
16 of this amendatory Act of the 95th General Assembly. If,
17 however, the Governor believes that rules are necessary to
18 implement or enforce the provisions of this amendatory Act of
19 the 95th General Assembly, the Governor may suggest rules to
20 the General Assembly by filing them with the Clerk of the House
21 and the Secretary of the Senate and by requesting that the
22 General Assembly authorize such rulemaking by law, enact those
23 suggested rules into law, or take any other appropriate action
24 in the General Assembly's discretion. Nothing contained in this
25 amendatory Act of the 95th General Assembly shall be
26 interpreted to grant rulemaking authority under any other

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

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

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