

1 AN ACT concerning business.

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 and adding Sections 1-169.2,
6 1-169.3, and 5-401.4 as follows:

7 (625 ILCS 5/1-169.2 new)

8 Sec. 1-169.2. Recyclable metal. Any copper, brass, or
9 aluminum, or any combination of those metals, purchased by a
10 recyclable metal dealer, irrespective of form or quantity,
11 except that "recyclable metal" does not include: (i) items
12 designed to contain, or to be used in the preparation of,
13 beverages or food for human consumption; (ii) discarded items
14 of non-commercial or household waste; or (iii) gold, silver,
15 platinum, and other precious metals used in jewelry.

16 (625 ILCS 5/1-169.3 new)

17 Sec. 1-169.3. Recyclable metal dealer. Any individual,
18 firm, corporation, or partnership engaged in the business of
19 purchasing and reselling recyclable metal either at a
20 permanently established place of business or in connection with
21 a business of an itinerant nature, including junk shops, junk
22 yards, junk stores, auto wreckers, scrap metal dealers or

1 processors, salvage yards, collectors of or dealers in junk,
2 and junk carts or trucks.

3 (625 ILCS 5/5-401.3) (from Ch. 95 1/2, par. 5-401.3)

4 Sec. 5-401.3. Scrap processors and recyclable metal
5 dealers required to keep records.

6 (a) Every person licensed or required to be licensed as a
7 scrap processor pursuant to Section 5-301 of this Chapter, and
8 every recyclable metal dealer as defined in Section 1-169.3 of
9 this Code, shall maintain for 3 years, at his established place
10 of business, the following records relating to the acquisition
11 of scrap metals or the acquisition of a vehicle, junk vehicle,
12 or vehicle cowl which has been acquired for the purpose of
13 processing into a form other than a vehicle, junk vehicle or
14 vehicle cowl which is possessed in the State or brought into
15 this State from another state, territory or country. No scrap
16 metal processor or recyclable metal dealer shall sell a vehicle
17 or essential part, as such, except for engines, transmissions,
18 and powertrains, unless licensed to do so under another
19 provision of this Code. A scrap processor or recyclable metal
20 dealer who is additionally licensed as an automotive parts
21 recycler shall not be subject to the record keeping
22 requirements for a scrap processor or recyclable metal dealer
23 when acting as an automotive parts recycler.

24 (1) For a vehicle, junk vehicle, or vehicle cowl
25 acquired from a person who is licensed under this Chapter,

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

17 (2) For a vehicle, junk vehicle or vehicle cowl
18 acquired from a person who is not licensed under this
19 Chapter, the scrap processor or recyclable metal dealer
20 shall verify and record that person's identity by recording
21 the identification of such person from at least 2 sources
22 of identification, one of which shall be a driver's license
23 or State Identification Card, on the scrap processor or
24 recyclable metal dealer's ~~processor's~~ weight ticket at the
25 time of the acquisition. The person disposing of the
26 vehicle, junk vehicle, or vehicle cowl shall furnish the

1 scrap processor or recyclable metal dealer with
2 documentary proof of ownership of the vehicle, junk
3 vehicle, or vehicle cowl in one of the following forms: a
4 Certificate of Title, a Salvage Certificate, a Junking
5 Certificate, a Secretary of State Junking Manifest, a
6 Certificate of Purchase, or other similar documentary
7 proof of ownership. The scrap processor or recyclable metal
8 dealer shall not acquire a vehicle, junk vehicle or vehicle
9 cowl without obtaining one of the aforementioned
10 documentary proofs of ownership.

11 (3) In addition to the other information required on
12 the scrap processor or recyclable metal dealer's
13 ~~processor's~~ weight ticket, a scrap processor or recyclable
14 metal dealer who at the time of acquisition of a vehicle,
15 junk vehicle, or vehicle cowl is furnished a Certificate of
16 Title, Salvage Certificate or Certificate of Purchase
17 shall record the vehicle Identification Number on the
18 weight ticket or affix a copy of the Certificate of Title,
19 Salvage Certificate or Certificate of Purchase to the
20 weight ticket and the identification of the person
21 acquiring the information on the behalf of the scrap
22 processor or recyclable metal dealer.

23 (4) The scrap processor or recyclable metal dealer
24 shall maintain a copy of a Junk Vehicle Notification
25 relating to any Certificate of Title, Salvage Certificate,
26 Certificate of Purchase or similarly acceptable

1 out-of-state document surrendered to the Secretary of
2 State pursuant to the provisions of Section 3-117.2 of this
3 Code.

4 (5) For scrap metals valued at \$100 or more, the scrap
5 processor or recyclable metal dealer shall verify and
6 record the identity of the person from whom the scrap
7 metals were acquired by recording the identification of
8 that person from one source of identification, which shall
9 be a driver's license or State Identification Card, on the
10 scrap processor or recyclable metal dealer's weight ticket
11 at the time of the acquisition. The inspection of records
12 pertaining only to scrap metals shall not be counted as an
13 inspection of a premises for purposes of subparagraph (7)
14 of Section 5-403 of this Code.

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

1 communications if such common carriers, persons, firms, or
2 corporations at the time of the purchase provide the
3 recyclable metal dealer with a bill of sale or other
4 written evidence of title to the recyclable metal. This
5 subdivision (a)(5) also does not apply to contractual
6 arrangements between dealers.

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

19 (c) It shall be an affirmative defense to an offense
20 brought under paragraph (b) of this Section that the licensee
21 or recyclable metal dealer or person required to be licensed
22 both reasonably and in good faith relied on information
23 appearing on a Certificate of Title, a Salvage Certificate, a
24 Junking Certificate, a Secretary of State Manifest, a Secretary
25 of State's Uniform Invoice, a Certificate of Purchase, or other
26 documentary proof of ownership prepared under Section 3-117.1

1 (a) of this Code, relating to the transaction for which the
2 required record was not kept which was supplied to the licensee
3 or recyclable metal dealer by another licensee or recyclable
4 metal dealer or an out-of-state dealer.

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

11 (e) Evidence derived directly or indirectly from the
12 keeping of records required to be kept under this Section shall
13 not be admissible in a prosecution of the licensee or
14 recyclable metal dealer for an alleged violation of Section
15 4-102 (a) (3) of this Code.

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

17 (625 ILCS 5/5-401.4 new)

18 Sec. 5-401.4. Purchase of beer kegs by scrap processors and
19 recyclable metal dealers.

20 (a) A scrap processor or recyclable metal dealer may not
21 purchase metal beer kegs from any person other than the beer
22 manufacturer whose identity is printed, stamped, attached, or
23 otherwise displayed on the beer keg, or the manufacturer's
24 authorized representative.

25 (b) The purchaser shall obtain a proof of ownership record

1 from a person selling the beer keg, including any person
2 selling a beer keg with an indicia of ownership that is
3 obliterated, unreadable, or missing, and shall also verify the
4 seller's identity by a driver's license or other
5 government-issued photo identification. The proof of ownership
6 record shall include all of the following information:

7 (1) The name, address, telephone number, and signature
8 of the seller or the seller's authorized representative.

9 (2) The name and address of the buyer, or consignee if
10 not sold.

11 (3) A description of the beer keg, including its
12 capacity and any indicia of ownership or other
13 distinguishing marks appearing on the exterior surface.

14 (4) The date of transaction.

15 (c) The information required to be collected by this
16 Section shall be kept for one year from the date of purchase or
17 delivery, whichever is later.

18 (625 ILCS 5/5-403) (from Ch. 95 1/2, par. 5-403)

19 Sec. 5-403. (1) Authorized representatives of the
20 Secretary of State including officers of the Secretary of
21 State's Department of Police, other peace officers, and such
22 other individuals as the Secretary may designate from time to
23 time shall make inspections of individuals and facilities
24 licensed or required to be licensed under Chapter 5 of the
25 Illinois Vehicle Code for the purpose of reviewing records

1 required to be maintained under Chapter 5 for accuracy and
2 completeness and reviewing and examining the premises of the
3 licensee's established or additional place of business for the
4 purpose of determining the accuracy of the required records.
5 Premises that may be inspected in order to determine the
6 accuracy of the books and records required to be kept includes
7 all premises used by the licensee to store vehicles and parts
8 that are reflected by the required books and records.

9 (2) Persons having knowledge of or conducting inspections
10 pursuant to this Chapter shall not in advance of such
11 inspections knowingly notify a licensee or representative of a
12 licensee of the contemplated inspection unless the Secretary or
13 an individual designated by him for this purpose authorizes
14 such notification. Any individual who, without authorization,
15 knowingly violates this subparagraph shall be guilty of a Class
16 A misdemeanor.

17 (3) The licensee or a representative of the licensee shall
18 be entitled to be present during an inspection conducted
19 pursuant to Chapter 5, however, the presence of the licensee or
20 an authorized representative of the licensee is not a condition
21 precedent to such an inspection.

22 (4) Inspection conducted pursuant to Chapter 5 may be
23 initiated at any time that business is being conducted or work
24 is being performed, whether or not open to the public or when
25 the licensee or a representative of the licensee, other than a
26 mere custodian or watchman, is present. The fact that a

1 licensee or representative of the licensee leaves the licensed
2 premises after an inspection has been initiated shall not
3 require the termination of the inspection.

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

6 (6) In the event information comes to the attention of the
7 individuals conducting an inspection that may give rise to the
8 necessity of obtaining a search warrant, and in the event steps
9 are initiated for the procurement of a search warrant, the
10 individuals conducting such inspection may take all necessary
11 steps to secure the premises under inspection until the warrant
12 application is acted upon by a judicial officer.

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

26 (8) Nothing in this Section shall be construed to limit the

1 authority of individuals by the Secretary pursuant to this
2 Section to conduct searches of licensees pursuant to a duly
3 issued and authorized search warrant.

4 (9) Any licensee who, having been informed by a person
5 authorized to make inspections and examine records under this
6 Section that he desires to inspect records and the licensee's
7 premises as authorized by this Section, refuses either to
8 produce for that person records required to be kept by this
9 Chapter or to permit such authorized person to make an
10 inspection of the premises in accordance with this Section
11 shall subject the license to immediate suspension by the
12 Secretary of State.

13 (10) Beginning July 1, 1988, any person licensed under
14 5-302 shall produce for inspection upon demand those records
15 pertaining to the acquisition of salvage vehicles in this
16 State. This inspection may be conducted at the principal
17 offices of the Secretary of State.

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