

SCRAP YARD INFORMATION GUIDE

PENAL CODE

496a. JUNK AND SECONDHAND DEALERS; PURCHASING METALS USED IN TRANSPORTATION OR PUBLIC UTILITY SERVICE; DETERMINATION OF SELLER'S RIGHT; PUNISHMENT; RECORD OF TRANSACTION

- (a) Every person who, being a dealer in or collector of junk, metals, or secondhand materials, or the agent, employee, or representative of such dealer or collector, buys or receives any wire, cable, copper, lead, solder, mercury, iron or brass which he knows or reasonably should know is ordinarily used by or ordinarily belongs to a railroad or other transportation, telephone, telegraph, gas, water or electric light company or county, city, city and county, or other political subdivision of this state engaged in furnishing public utility service without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so is guilty of criminally receiving such property, and is punishable, by imprisonment in a state prison, or in a county jail for not more than one year, or by a fine of not more than two hundred fifty dollars (\$250), or by both such fine and imprisonment.
- (b) Any person buying or receiving material pursuant to subdivision (a) shall obtain evidence of his identity from the seller including, but not limited to, such person's full name, signature, address, driver's license number, vehicle license number, and the license number of the vehicle delivering the material.

The record of the transaction shall include an appropriate description of the material purchased and such record shall be maintained pursuant to Section 21607 of the Business and Professions Code.

BUSINESS & PROFESSIONS CODE

12512. PURCHASE OF LESS THAN TRUE QUANTITY AS MISDEMEANOR

When the sale of any commodity is based upon a quantity representation either furnished by the purchaser or obtained through the use of equipment supplied by him, the purchaser shall in no case buy the commodity according to any quantity which is less than the true quantity. Violation of this section is a misdemeanor.

12703. WEIGHMASTER LICENSE, FEE AND/OR PENALTY REQUIRED

Except as provided in Section 12701, no person shall perform any acts described in Section 12700, unless licensed as a weighmaster pursuant to this chapter and unless the current license fee and any penalty has been paid. The weighmaster shall forward to the department the name or names of deputy weighmasters with the appropriate fees required by Section 12704.

12716. RECORDKEEPING: INSPECTION

All weighmasters shall keep and preserve, as records, for a period of four years, all copies of voided certificates, records, and worksheets required by this chapter and true copies of all weighmaster certificates issued. These records shall, at all times, be open for inspection by the director.

12717. APPROVAL, TESTING AND SEALING OF WEIGHING OR MEASURING DEVICE

Any weighing, measuring, or counting instrument or device, as defined in Section 12500, which is used by a weighmaster and for which specifications and tolerances have been adopted by the director, shall be approved, tested, and sealed in accordance with this division.

12721. WEIGHTS ACTUALLY DETERMINED

Except as otherwise determined in this chapter, the vehicle, container, pallet, or commodity for which the weight, measure, or count is being certified shall actually be weighed, measured or counted at the time of, and for the purpose of, each certification.

12733. SCRAP METAL AND SALVAGE MATERIALS

In all cases where scrap metals and salvage materials are purchased or sold by dealers, brokers, or commission merchants on the basis of weight or measure, the quantity of the scrap metal and salvage material shall be determined by a weighmaster, and a weighmaster certificate shall be issued to the seller and the buyer. Settlement for the materials shall be made on the quantity shown thereon. If the quantity indications are readily accessible and clearly readable to both the buyer and the seller, at the time of determination, a weighmaster certificate is required to be issued only when requested by the buyer or seller.

21600. JUNK

As used in this article, "junk" means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof.

As used in this section, "scrap metal and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

21601. JUNK DEALER

As used in this article, "junk dealer" includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about from place to place procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

21602. JUNK YARD

As used in this article, "junk yard" includes any yard, plot, space, enclosure, building or any other place where junk is collected, stored, gathered together and kept.

21604. EXCLUSIONS

Except as otherwise provided in this article, this article does not apply to:

- (a) Any person who buys or sells junk acquired in the conduct of any business other than that of a junk dealer.
- (b) Those purchases of scrap metal by a junk dealer when the payment for the scrap metal is by check issued to the company represented as being the owner of the scrap.
- (c) Scrap metal purchased or received from another junk dealer or recycler who has recorded, reported, and held the materials as required. The purchase or receipt shall also be exempt from further holding or reporting provided that the selling party gives the buyer written assurance of this fact. The seller shall be held responsible for any failure to report or hold.

21605. JUNK DEALER AND RECYCLER RECORD: RECYCLER DEFINED

- (a) Every junk dealer and every recycler in this state is hereby required to keep a written record of all sales and purchases made in the course of his or her business.
- (b) For purposes of this article, "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code, who buys or sells scrap metal that constitutes junk, as defined in Section 21600.

21606. RECORD: CONTENT

- (a) Every junk dealer and every recycler shall set out in the written record required by this article all of the following:
 - (1) The place and date of each sale or purchase of junk made in the conduct of his or her business as a junk dealer or recycler.

- (2) The name, valid driver's license number and state of issue or California-issued identification card number, and vehicle license number including the state of issue of any motor vehicle used in transporting the junk to the junk dealer's or recycler's place of business.
 - (3) The name and address of each person to whom junk is sold or disposed of, and the license number of any motor vehicle used in transporting the junk from the junk dealer's or recycler's place of business.
 - (4) A description of the item or items of junk purchased or sold, including the item type and quantity, and identification number, if visible.
 - (5) A statement indicating either that the seller of the junk is the owner of it, or the name of the person he or she obtained it from, as shown on a signed transfer document.
- (b) A person who makes, or causes to be made, a false or fictitious statement regarding any information required by this section is guilty of a misdemeanor.
- (c) (1) Every junk dealer and every recycler shall report the information required under subdivision (a) to the chief of police, if the dealer's or recycler's business is located in a city, or to the sheriff, if the dealer's or recycler's business is located in an unincorporated part of a county, upon request of the chief of police or sheriff and on a monthly basis, except as provided in paragraph (2).
- (2) The chief of police or sheriff may request the report described in this section on a weekly basis if there is an ongoing investigation of the junk dealer or recycler concerning possible criminal activity. The chief of police or sheriff may request weekly reports for no more than a two-month period unless the investigation of the junk dealer or recycler continues and the chief of police or sheriff makes a subsequent request for weekly reports for an additional two-month period or part thereof.
- (d) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

21606.5. INSPECTION OF RECORDS

Every junk dealer or recycler shall, during normal business hours, allow periodic inspection of any premises maintained and any junk thereon for the purpose of determining compliance with the recordkeeping requirements of this article, and shall during those hours produce his or her records of sales and purchases, except as provided in subparagraph (A) of paragraph (4) of subdivision (a) of Section 21608.5, and all property purchased incident to those transactions which is in the possession of the junk dealer or recycler for inspection by any of the following persons:

- (a) An officer holding a warrant authorizing him or her to search for personal property.
- (b) A person appointed by the sheriff of a county or appointed by the head of the police department of a city.
- (c) An officer holding a court order directing him or her to examine the records or property.
- (d) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

21607. RECORDS: PRESERVATION

Every junk dealer and recycler shall preserve the written record required by this article for at least two years after making the final entry of any purchase or sale of junk or scrap metals and alloys as defined in Section 21600.

21608. VIOLATION: OFFENSE

- (a) A junk dealer or recycler who fails in any respect to keep the written record required by this article, or to set out in that written record any matter required by this article to be set out therein, is guilty of a misdemeanor. Every junk dealer or recycler who refuses, upon demand pursuant to Section 21606.5, to exhibit the written record required by this article, or who destroys that record within two years after making the final entry of a purchase or sale of junk therein, is guilty of a misdemeanor.
- (b) Any knowing and willful violation of subdivision (a) shall be punishable as follows:
 - (1) For a first offense, by a fine of not less than one thousand dollars (\$1,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment.
 - (2) For a second offense, by a fine of not less than two thousand dollars (\$2,000), or by imprisonment in the county jail for not less than 30 days, or by both that fine and imprisonment. In addition to any other

sentence imposed pursuant to this paragraph, the court may order the defendant to stop engaging in business as a junk dealer or recycler for a period not to exceed 30 days.

- (3) For a third or any subsequent offense, by a fine of not less than four thousand dollars (\$4,000), or by imprisonment in the county jail for not less than six months, or by both that fine and imprisonment. In addition to any other sentence imposed pursuant to this paragraph, the court shall order the defendant to stop engaging in business as a junk dealer or recycler for not less than one year.

- (c) The amendments to this section made by the act adding this subdivision shall become operative on December 1, 2008.

21608.3.

- (a) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any such disclosure shall render the violator liable for a civil fine of up to five thousand dollars (\$5,000).

- (b) This section shall become operative on December 1, 2008.

21608.5.

- (a) A junk dealer or recycler in this state shall not provide payment for nonferrous material unless, in addition to meeting the written record requirements of Sections 21605 and 21606, all of the following requirements are met:

- (1) The payment for the material is made by cash or check. The check may be mailed to the seller at the address provided pursuant to paragraph (3) or the check or cash may be collected by the seller from the junk dealer or recycler on the third business day after the date of sale.

- (2) At the time of sale, the junk dealer or recycler obtains a clear photograph or video of the seller.

- (3) (A) Except as provided in subparagraph (B), the junk dealer or recycler obtains a copy of the valid driver's license of the seller containing a photograph and an address of the seller or a copy of a state or federal government issued identification card containing a photograph and an address of the seller.

- (B) If the seller prefers to have the check for the material mailed to an alternative address, other than a post office box, the junk dealer or recycler shall obtain a copy of a driver's license or identification card described in subparagraph (A) and a gas or electric utility bill addressed to the seller at that alternative address with a payment due date no more than two months prior to the date of sale. For purposes of this paragraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.

- (4) The junk dealer or recycler obtains a clear photograph or video of the nonferrous material being purchased.

- (5) The junk dealer or recycler shall preserve the information obtained pursuant to this paragraph for a period of two years after the date of sale.

- (6) (A) The junk dealer or recycler obtains a thumbprint of the seller, as prescribed by the Department of Justice. The junk dealer or recycler shall keep this thumbprint with the information obtained under this subdivision and shall preserve the thumbprint in either hard copy or electronic format for a period of two years after the date of sale.

- (B) Inspection or seizure of the thumbprint shall only be performed by a peace officer acting within the scope of his or her authority in response to a criminal search warrant signed by a magistrate and served on the junk dealer or recycler by the peace officer. Probable cause for the issuance of that warrant must be based upon a theft specifically involving the transaction for which the thumbprint was given.

- (b) Paragraph (1) of subdivision (a) shall not apply if, during any three-month period commencing on or after the effective date of this section, the junk dealer or recycler completes five or more separate transactions per month, on five or more separate days per month, with the seller and, in order for paragraph (1) of subdivision (a) to continue to be inapplicable, the seller must continue to complete five or more separate transactions per month with the junk dealer or recycler.

- (c) This section shall not apply if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:

- (1) The name, physical business address, and business telephone number of the seller's business.

- (2) The business license number or tax identification number of the seller's business.

- (3) A copy of the valid driver's license of the person delivering the nonferrous material on behalf of the seller to the junk dealer or the recycler.

- (d) This section shall not apply to the redemption of nonferrous material having a value of not more than twenty dollars (\$20) in a single transaction when the primary purpose of the transaction is the redemption of beverage containers under the California Beverage Container Recycling and Litter Reduction Act, as set forth in Division 12.1 (commencing with Section 14500) of the Public Resources Code.
- (e) This section shall not apply to coin dealers or to automobile dismantlers, as defined in Section 220 of the Vehicle Code.
- (f) For the purposes of this section, "nonferrous material" means copper, copper alloys, stainless steel, or aluminum, but does not include beverage containers, as defined in Section 14505 of the Public Resources Code, that are subject to a redemption payment pursuant to Section 14560 of the Public Resources Code.
- (g) This section is intended to occupy the entire field of law related to junk dealer or recycler transactions involving nonferrous material. However, a city or county ordinance, or a city and county ordinance, relating to the subject matter of this section is not in conflict with this section if the ordinance is passed by a two-thirds vote and it can be demonstrated by clear and convincing evidence that the ordinance is both necessary and addresses a unique problem within and specific to the jurisdiction of the ordinance that cannot effectively be addressed under this section.
- (h) This section shall become operative on December 1, 2008.

21608.6.

- (a) A junk dealer or recycler, as defined in subdivision(f), in this state shall not provide payment for newspaper, as defined in Section 538c of the Penal Code, or for California Redemption Value (CRV) containers unless, in addition to meeting the written record requirements of Sections 21605 and 21606, all of the following requirements are met:
 - (1) The payment for the newspaper or for the CRV containers is made by check or by other electronic transfer from the junk dealer or recycler to the seller. A recycler, if authorized by regulations adopted pursuant to Division 12.1 (commencing with Section 14500) of the Public Resources Code, may provide payment for CRV containers through a voucher that is immediately redeemable for cash.
 - (2) The junk dealer or recycler obtains and records a valid, documented address for the seller by obtaining a copy of the valid driver's license of the seller containing a photograph and an address of the seller, or a copy of a state or federal government-issued identification card containing a photograph and an address of the seller, or other valid identification containing the seller's address, such as utility bills in the seller's name. The junk dealer or recycler shall preserve the photograph and the address or the copies obtained pursuant to this paragraph for a period of two years after the date of sale.
- (b) The requirements of paragraph (1) of subdivision (a) shall not apply if, during any three-month period commencing on or after the effective date of this section, the junk dealer or recycler completes five or more separate transactions per month with the seller, and in order for the requirements of paragraph (1) of subdivision (a) to continue to be inapplicable, the seller must continue to complete five or more separate transactions per month with the junk dealer or recycler.
- (c) This section shall not apply if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:
 - (1) The name, physical business address, and business telephone number of the seller's business.
 - (2) The business license number or tax identification number of the seller's business.
 - (3) A copy of the valid driver's license or a copy of a state or federal government-issued identification card containing a photograph and an address of the person delivering newspaper or CRV containers on behalf of the seller to the junk dealer or the recycler.
- (d) Any unauthorized disclosure of personal identification information collected from a seller by a junk dealer or recycler is prohibited, and any violation of this prohibition is subject to a civil fine not to exceed five thousand dollars (\$5,000).
- (e) This section shall not apply to the payment for newspaper having a value of fifty dollars (\$50) or less in a single transaction or CRV containers having a value of one hundred dollars (\$100) or less in a single transaction.
- (f) This section shall only apply in jurisdictions that offer curbside pickup of materials that include newspaper and CRV containers.

- (g) Notwithstanding Section 21605, for purposes of this section, "recycler" means any processor, recycling center, or noncertified recycler, as those terms are defined in Chapter 2 (commencing with Section 14502) of Division 12.1 of the Public Resources Code.

21609. DEFINITION: POLICE HOLDS

- (a) Whenever a peace officer has probable cause to believe that property in the possession of a junk dealer or recycler is stolen, in lieu of seizing the property, the peace officer as defined in subdivision (b) of Section 21606.5, at his or her option, may place a hold on the property for a period not to exceed 90 days. When a peace officer places a hold on the property, the peace officer shall give the junk dealer or recycler a written notice at the time the hold is placed, describing the item or items to be held plus the case number. During that period the junk dealer or recycler shall not release or dispose of the property, except pursuant to a court order or upon receipt of a written authorization signed by a peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member. Except as specifically set forth in this section, a junk dealer or recycler shall not be subject to civil liability for compliance with this section.
- (b) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is required by a peace officer in a criminal investigation, the junk dealer or recycler, upon reasonable notice, shall produce the property at reasonable times and places or may deliver the property to any peace officer upon the request of any peace officer who is a member of the law enforcement agency of which the peace officer placing the hold on the property is a member.
- (c) Whenever property that is in the possession of a junk dealer or recycler is subject to a hold and the property is no longer required for the purpose of criminal investigation, the law enforcement agency that placed the hold on the property shall undertake the following:
- (1) With respect to the property being held, if the law enforcement agency has no knowledge of the property on hold being reported as stolen, the property shall be released upon written notice to the junk dealer or recycler. The notice shall be provided in a timely fashion.
 - (2) If the law enforcement agency has knowledge that the property has been reported stolen, the law enforcement agency shall notify the person who reported the stolen property of the name and address of the junk dealer or recycler holding the property and authorize the release of the property to that person. The law enforcement agency that placed the property on hold shall release the hold after 60 days has elapsed following the delivery of the notice to the person who reported the property stolen.
 - (3) If a victim seeks to recover property that is subject to a hold, the junk dealer or recycler shall advise the victim of the name and badge number of the peace officer who placed the hold on the property and the name of the law enforcement agency of which the officer is a member. If the property is not required to be held pursuant to a criminal prosecution the hold shall be released.
- (d) Upon conviction of a person for the theft of property placed on hold pursuant to this section, the court shall order the defendant to do both of the following:
- (1) Pay the junk dealer or recycler reasonable costs for storage of the property.
 - (2) Pay the victim for both the value of the property stolen and any reasonable collateral damage caused in the commission of the theft.
- (e) The amendments to this section made by the act this subdivision shall become operative on December 1, 2008.

21610. CATALYTIC CONVERTERS

- (a) For the purposes of this section, the term "core recycler" means a person or business, including a recycler or junk dealer, that buys used individual catalytic converters, transmissions, or other parts previously removed from a vehicle. A person or business that buys a vehicle that may contain these parts is not a core recycler
- (b) A core recycler who accepts a catalytic converter for recycling shall maintain a written record that contains all of the following:
- (1) The place and date of each sale or purchase of a catalytic converter made in the conduct of his or her business as a core recycler.
 - (2) The name, valid driver's license number, and state of issue, or California-issued identification number, of the seller of the catalytic converter and the vehicle license number, including state of issue of a motor vehicle

used in transporting the catalytic converter to the core recycler's place of business. If the seller is a business, the written record shall include the name, address, and telephone number of the business.

- (3) A description of the catalytic converters purchased or sold, including the item type and quantity, amount paid for the catalytic converter, and identification number, if any, and the vehicle identification number.
 - (4) A statement indicating either that the seller of the catalytic converter is the owner of the catalytic converter, or the name of the person from whom he or she has obtained the catalytic converter, including the business, if applicable, as shown on a signed transfer document.
- (c) A core recycler engaged in the selling or shipping of used catalytic converters to other recyclers or smelters shall retain information on the sale that includes all of the following:
- (1) The name and address of each person to whom the catalytic converter is sold or disposed of.
 - (2) The quantity of catalytic converters being sold or shipped.
 - (3) The amount that was paid for the catalytic converters sold in the transaction.
 - (4) The date of the transaction.
- (d) A core recycler shall not provide payment for a catalytic converter unless all of the following requirements are met:
- (1) The payment is made by check and provided to the seller by either of the following:
 - (A)
 - (i) Except as provided in clause (ii), mailed to the seller at the address provided pursuant to paragraph (3).
 - (ii) For a seller that is a business, mailed to the seller's business address.
 - (B)
 - (i) Except as provided in clause (ii), collected by the seller from the recycler on the third business day after the date of sale.
 - (ii) A seller that is a business may receive immediate payment. A seller that is a business that has a contract with a core recycler or a seller that is a licensed auto dismantler may receive immediate payment by check or by debit card or credit card.
 - (2) At the time of sale, the core recycler obtains a clear photograph or video of the seller.
 - (3)
 - (A) Except as provided in subparagraph (B), the core recycler obtains a Copy of the valid driver's license of the seller or the seller's agent containing a photograph and an address of the seller or the seller's agent, or a copy of a state or federal government issued identification card containing a photograph and an address of the seller or the seller's agent.
 - (B) If the seller prefers to have the check for the catalytic converter mailed to an alternative address, other than a post office box, the core recycler shall obtain a copy of a driver's license or identification card described in subparagraph (A) and a gas or electric utility bill addressed to the seller at the alternative address with a payment due date no more than two months prior to the date of sale. For the purpose of this subparagraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.
 - (4) The core recycler obtains a clear photograph or video of the catalytic converter being sold.
 - (5) At the time of sale, the core recycler obtains a written statement from the seller indicating how the seller obtained the catalytic converter.
- (e) The requirements of subdivision (d) shall not apply to a core recycler that buys used catalytic converters, transmissions, or other parts removed from a vehicle if the core recycler and the seller have a written agreement for the transaction.
- (f) Core recyclers accepting catalytic converters from licensed auto dismantlers or from recyclers who hold a written agreement with a business that sells catalytic converters for recycling purposes are required to collect only the following information:
- (1) Name of seller or agent acting on behalf of the seller.
 - (2) Date of transaction.
 - (3) Number of catalytic converters received in the course of the transaction.
 - (4) Amount of money that was paid for catalytic converters in the course of the transaction.
- (g) A core recycler shall keep and maintain the information required pursuant to this section for not less than two years.
- (h) A core recycler shall make the information required pursuant to this section available for inspection by local law enforcement upon demand.

- (i) A person who makes, or causes to be made, a false or fictitious statement regarding any information required pursuant to this section is guilty of a misdemeanor.
- (j) A person who violates the requirements of this section is guilty of a misdemeanor.
- (k) Upon conviction, a person who knowingly and willfully violates the requirements of this section shall be punished as follows:
 - (1) For a first conviction, by a fine of one thousand dollars (\$1,000).
 - (2) (A) For a second conviction, by a fine of not less than two thousand dollars (\$2,000).
(B) In addition to the fine imposed pursuant to subparagraph (A), the court may order the defendant to cease engaging in the business of a core recycler for a period not to exceed 30 days.
 - (3) (A) For a third and subsequent conviction, by a fine of not less than four thousand dollars (\$4,000).
(B) In addition to the fine imposed pursuant to subparagraph (A), the court shall Order the defendant to cease engaging in the business of a core recycler for a period not less than one year.
- (l) The provisions of this section apply to core recyclers and do not apply to a subsequent purchaser of a catalytic converter who is not a core recycler. Other than subdivision (f), the provisions of this section do not apply to a core recycler who holds a written agreement with a business or recycler regarding the transactions.

21650. ADEQUATE EVIDENCE OF AUTHORITY TO SELL

As used in this article, "adequate evidence of authority to sell" is evidence from which a reasonable person would conclude that the person presenting the evidence is the owner of the item he is attempting to sell or is the agent of such owner and is authorized by the owner to sell such item.

21652. PRESENTATION TO DEALER OF ADEQUATE EVIDENCE OF AUTHORITY TO SELL

Every junk dealer or secondhand dealer shall, before accepting for resale from any person any finished product, new item of finished or merchandisable quality, inventory item of new materials or finished quality, or other goods and materials in such a state or condition as to show that they are neither abandoned nor scrapped, shall require that such person present adequate evidence of authority to sell. Violation of this section is a misdemeanor.

21653. VIOLATIONS

Every junk dealer or secondhand dealer who resells any item acquired in violation of Section 21652 is guilty of a felony, if the value of the item exceeds four hundred dollars (\$400), and is guilty of a misdemeanor if the value of the item does not exceed four hundred dollars (\$400).