

# Scrap Metal Regulations

## SCRAP YARD SECTIONS

### 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 Profession Code.

#### 498. UTILITY SERVICES: THEFT

(a) The following definitions govern the construction of this section:

(1) "Person" means any individual, or partnership, firm, association, corporation, limited liability company, or other legal entity.

(2) "Utility" means any electrical, gas, or water corporation as those terms are defined in the Public Utilities Code, and electrical, gas, or water systems operated by any political subdivision.

(3) "Customer" means the person in whose name utility service is provided.

(4) "Utility Service" means the provision of electricity, gas or water, or any other service provided by the utility for compensation.

(5) "Divert" means to change the intended course or path of electricity, gas, or water without the authorization or consent of the utility.

(6) "Tamper" means to rearrange, injure, alter, interfere with, or otherwise prevent from performing a normal or customary function.

(7) "Reconnection" means the reconnection of utility service by a customer or other person after service has been lawfully disconnected by the utility.

(b) Any person who, with intent to obtain for himself or herself without paying the full lawful charge therefore, or with intent to enable another person to do so, or with intent to deprive any utility of any part of the fully lawful charge for utility services it provides, commits, authorizes, solicits, aids, or abets any of the following shall be guilty of a misdemeanor:

(1) Diverts or causes to be diverted utility services, by any means whatsoever.

(2) Prevents any utility meter, or other device used in determining the charge for utility services, from accurately performing its measuring function by tampering or by any other means.

(3) Tampers with any property owned by or used by the utility to provide utility services.

(4) Makes or causes to be made any connection with or reconnection with property owned or used by the utility to provide utility services without the authorization or consent of the utility.

(5) Uses or receives the direct benefit of all or a portion of utility services with knowledge or reason to believe that the diversion, tampering, or unauthorized connection existed at the time of that use, or that the use or receipt was otherwise without the authorization or consent of the utility.

(c) In any prosecution under this section, the presence of any of the following objects, circumstances, or conditions on premises controlled by the customer or by the person using or receiving the direct benefit of all or a portion of utility services obtained in violation of this section shall permit an inference that the customer or person intended to and did violate this section:

- (1) Any instrument, apparatus, or device primarily designed to be used to obtain utility services without paying the full lawful charge thereof.
- (2) Any meter that has been altered, tampered with, or bypassed so as to cause no measurement or inaccurate measurement of utility services.
- (d) If the value of all utility services obtained in violation of this section totals more than four hundred dollars (\$400) or if the defendant has previously been convicted of an offense under this section or any former section which would be an offense under this section, or of an offense under the laws of another state or of the United States which would have been an offense under this section if committed in this state, then the violation is punishable by imprisonment in the county jail for not more than one year, or in the state prison.
- (e) This section shall not be constructed to preclude the applicability of any other provision of the criminal law of this state.

#### 591. TELEGRAPH, TELEPHONE, CABLE TELEVISION OR ELECTRICAL LINES

A person who unlawfully and maliciously takes down, removes, injures, or obstructs any line of telegraph, telephone, or cable television, or any other line used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, or severs any wire thereof, or makes any unauthorized connection with any line, other than a telegraph, telephone, or cable television line, used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, is punishable by imprisonment in the state prison, or by a fine not exceeding five hundred dollars (\$500), or imprisonment in the county jail not exceeding one year.

#### 593. ELECTRICAL LINE: PUNISHMENT

Every person who unlawfully and maliciously takes down, removes, injures, interferes with, or obstructs any line erected or maintained by proper authority for the purpose of transmitting electricity for light, heat, or power, or any part thereof, or any insulator or crossarm, appurtenance or apparatus connected therewith, or severs or in any way interferes with any wire, cable, or current thereof, is punishable by imprisonment in the state prison, or by fine not exceeding one thousand dollars (\$1,000), or imprisonment in the county jail not exceeding one year.

#### 593b. ELECTRICAL LINES: CLIMBING POLES OR TOWERS

Every person who shall, without the written permission of the owner, lessee, or person or corporation operating any electrical transmission line, distributing line or system, climb upon any pole, tower, or other structure which is a part of such line or system and is supporting or is designed to support a wire or wires, cable or cables, for the transmission or distribution of electric energy, shall be deemed guilty of a misdemeanor; provided, that nothing herein shall apply to employees of either privately or publicly owned public utilities engaged in the performance of their duties.

#### 593c. GAS LINES: HAZARDOUS LIQUID PIPELINES

Every person who willfully and maliciously breaks, digs up, obstructs, interferes with, removes or injures any pipe or main or hazardous liquid pipeline erected, operated, or maintained for the purpose of transporting, conveying or distributing gas or other hazardous liquids for light, heat, power or any other purpose, or any part thereof, or any valve, meter, holder, compressor, machinery, appurtenance, equipment or apparatus connected with any such main or pipeline, or used in connection with or affecting the operation thereof or the conveying of gas or hazardous liquid there through, or shuts off, removes, obstructs, injures, or in any way interferes with any valve or fitting installed on, connected to, or operated in connection with any such main or pipeline, or controlling or affecting the flow of gas or hazardous liquid through any such main or pipeline, is guilty of a felony.

### **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.

#### 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) Any person who makes, or causes to be made, any false or fictitious statement regarding any information required by this section, is guilty of a misdemeanor.

#### 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 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) Any officer holding a warrant authorizing him or her to search for personal property.
- (b) Any person appointed by the sheriff of any county or appointed by the head of the police department of any city.
- (c) Any officer holding a court order directing him or her to examine the records or property.

#### 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) Any 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 any 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 five hundred dollars (\$500), or by imprisonment in the county jail for not less than 30 days, or by both the fine and imprisonment.
- (2) For a second 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 the 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 two thousand dollars (\$2,000), or by imprisonment in the county jail for not less than six months, or by both the 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 a period of 30 days.

#### 21609. DEFINITION: POLICE HOLDS

(a) Whenever any 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 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. 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 the 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 scrap metal 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 any person for the theft of property placed on hold pursuant to this section, the court shall order the defendant to pay the junk dealer or recycler reasonable costs for storage of the property.

#### 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).