



## Arizona Metals Theft Statute

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*This document is provided as background information for ReMA members. It does not constitute legal advice. Recyclers should consult their attorneys / legal advisors regarding the application of each state's statutes and regulations to each company's individual circumstances. Other state laws governing precious metals, secondhand materials, vehicles, and other materials may apply.*

*Current as of October 28, 2024*

### *Overview of Provisions (use the links to travel directly to that section)*

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*Please Note: Amendments by [2024 Arizona SB 1185](#), effective September 17, 2024, are included and noted in this summary. SB 1185 modifies restrictions on purchase, possession, or sale of a used catalytic converter to specify they apply to a used detached catalytic converter and makes the unlawful possession of 10 or more converters a Class 6 Felony.*

### *Materials Covered and Other Definitions (edited for clarity and conciseness)*

"Scrap Metals" includes (ReMA note: but is not limited to) insulated and uninsulated metallic cables and scrap vehicles.

"Ferrous Metals" means those metals that will attract a magnet and includes a Scrap Vehicle.

Prohibited Scrap Metal, as used in this summary, refers to the items listed in § 44-1642.01:

- Metal manhole covers;
- Brass or bronze valves or fittings that are commonly used on structures for access to water for the purpose of extinguishing fires;
- Brass or bronze commercial potable water backflow preventer valves;
- Water meters used for measuring the use and consumption of domestic water;
- Aluminum trench shoring that is commonly used for shoring below ground trenches and excavations for the construction of buildings and structures.
- Aluminum loading ramps used for loading and hauling motor vehicles;
- Aluminum or stainless steel beer or malt beverage kegs;
- Catalytic converters or any nonferrous parts of a catalytic converter;
- Metal municipal storm grates that are used to allow for water drainage from municipal streets or alleys.

"Scrap Vehicle" means a vehicle that has been reported to NMVTIS and that has been flattened, crushed, baled, or logged so that the vehicle is less than 50% of its original volume, is no longer the vehicle that is described by the certificate of title, and is sold for purposes of scrap metal only.

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"Scrap Metal Dealers" means each person or business entity engaged in the business of purchasing, trading, bartering, or otherwise receiving secondhand or castoff material of any kind that is commonly known as Scrap Metal. Excludes automotive recyclers that are licensed in [§ 28-4301](#) and whose primary business is the dismantling, selling, or disposing of parts or accessories of motor vehicles.

"Industrial Account" means *either*:

- An entity that files or is required to file monthly returns for its transaction privilege tax licenses *and that is reasonably expected to generate the type of Scrap Metals it sells*; or
- A governmental entity that sells Scrap Metal to a Dealer.

"Department" means the Department of Public Safety.

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### *Exemptions*

Except for purchases of catalytic converters or nonferrous parts of a catalytic converter, purchases from Industrial Accounts and other Dealers are exempt from the Reporting and Hold provisions. Other exemptions are specific to and listed with each provision.

The Recordkeeping, Seller's Receipt, Retention, Inspection, Payment Restrictions, and No Purchase from Minors provisions ([§ 44-1642](#) of the law) do not apply to transactions involving materials consisting of a metal product in its original manufactured form that is composed of no more than 20% by weight of nonferrous metal.

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### *Theft Notification Website*

Dealers and law enforcement must register on a free theft notification website that allows:

- Law enforcement to send detailed descriptions of stolen items to recycling operations and other law enforcement within at least a 100 mile radius of a theft;
- Dealers to alert law enforcement when the Dealers are offered suspicious metals.

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### *Registration*

A Dealer must register with the Department every 2 years by submitting the following information along with a fee determined by the Department to cover administration costs. A Dealer does not need to separately register branch offices or wholly-owned subsidiaries.

- The Dealer's name and address;
- The name of each person who owns at least 10% of the business;
- Full personal identification info on each owner of the business;
- A copy of each owner's driver's license;
- The location of each principal office and branch office;
- The name and address of any wholly-owned subsidiary.

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### *Required Registration Documents*

A Dealer must keep the following documents at each place of business:

- Proof of registration issued by the Department;
- A statement indicating compliance with the Theft Notification Website provision;
- An affidavit signed by the Dealer that the Dealer is in compliance with the law;
- A questionnaire the Dealer must prepare every 2 years to show compliance.

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### *Recordkeeping*

A Dealer must keep an English record, legibly printed or written in ink, of each Scrap Metal transaction with the following information:

- The date, time, and place of the transaction;
- A photograph of the Scrap Metal;
- An identifying description and weight of the Scrap Metal;
- The dollar amount of the transaction;

- The following identifying information, unless the Seller is exclusively selling aluminum beverage containers:
  - The Seller's name, physical description (including gender, height, weight, race, and eye and hair color), physical address, date of birth, and signature, a copy of the Seller's current driver's license, nonoperating ID license issued pursuant to [§ 28-3165](#), or photo ID issued by a tribal government or the United States military to validate the information; and
  - A copy of the identification used to verify the Seller's information.
- The Seller's transaction privilege tax number, if applicable;
- The license number and state of issuance of the delivery vehicle;
- A photograph, video record or digital record of the Seller;
- The right index fingerprint of the Seller.
- For catalytic converters or any nonferrous part of a catalytic converter, any unique identifying numbers or marking. For Industrial Accounts, the number of catalytic converters purchased.

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### *Seller's Receipt*

A Dealer must provide a receipt to the Seller on site at the time of the transaction, for every transaction, with the following information:

- The date, time, and place of the transaction;
- An identifying description and weight of the Scrap Metal;
- The dollar amount of the transaction.

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### *Retention*

Records must be retained for 2 years: at the business premises for 1 year after making the final entry of any transaction; and at the business premises or any other reasonably available location for an additional year.

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### *Inspection*

A Dealer's business premises, business records relating to Scrap Metal transactions, and business inventory must be open during regular business hours for reasonable inspection by a peace officer. Inspecting peace officers must first identify themselves and the purpose for the inspection to the Dealer, Dealer's manager, or other responsible person and comply with all of the Dealer's reasonable and customary safety requirements for the premises. The Dealer may require the officer to sign an inspection log with the officer's name, serial or badge number, time, date, and purpose of the inspection.

A Dealer's required registration documents (proof of registration, statement showing registration on a Theft Notification Website, affidavit of compliance, and biennial compliance questionnaire) for each place of business must be available for inspection by law enforcement. If a Dealer does not have the documents law enforcement must submit a notice of violation to the Dealer, and may not reinspect the premises for such until 7 days after the notice was received. After reinspection, if law enforcement determines that the Dealer is in violation, law enforcement may conduct a subsequent reinspection without a minimum waiting period.

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### *Reporting*

A Dealer must submit an electronic report to the Department within 24 hours after receiving Scrap Metal, except from an Industrial Account or another Dealer, with the following:

- The date, time, and place of the transaction;
- An identifying description and weight of the Scrap Metal;
- The dollar amount of the transaction;
- For a catalytic converter or any nonferrous part of a catalytic converter, any unique identifying number and markings.

- The Seller's name, physical description (including gender, height, weight, race, and eye and hair color), physical address, date of birth, and signature;
- A copy of the identification used to verify the Seller's information.
- The license number and state of issuance of the delivery vehicle.

For Catalytic Converters or any nonferrous parts of a catalytic converter purchased from an Industrial Account or another Dealer, a Dealer must electronically submit:

- The name, address, and transaction privilege tax number of the Seller;
- The date, time, and place of the transaction;
- The number of catalytic converters purchased;
- Any unique identifying numbers and markings on the catalytic converters or any nonferrous part of the catalytic converters.

The Department shall design and make available a seller and transaction form that may be used for reporting. A Dealer that submits information to the Department is not required to submit the same information to a local law enforcement agency.

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### *Hold*

7 day hold after a report is filed for any reportable transaction involving:

- Copper;
- Aluminum wire with a diameter of 3/8 inch or more; or
- Any transaction with a value over \$100.

Exempts transactions with Industrial Accounts or another Dealer, or purchases of:

- Used aluminum beverage containers;
- Ferrous Metals; or
- Scrap Metal authorized for release by a peace officer of that jurisdiction.

Separate from the other hold requirements, a Dealer must retain a used catalytic converter or the nonferrous parts of the catalytic converter in their original form for at least 7 days after the original purchase date at the Dealer's place of business.

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### *No Purchase from Minors*

A Scrap Metal Seller must be at least 16 years old.

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### *Prohibited Scrap Metal*

A Dealer may only knowingly purchase Prohibited Scrap Metal from the following if the Dealer follows the Recordkeeping and Reporting provisions:

- From an Industrial Account;
- From another Dealer; or
- After the metal is authorized for release by a peace officer of that jurisdiction.

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### *Catalytic Converters - Possession, Sale, and Purchase Restrictions*

In addition to the Hold, Prohibited Scrap Metal, and Reporting provisions, under [§ 13-3728](#), the purchase, solicitation, advertising, possession, or sale of a used *detached* catalytic converter or any nonferrous parts of a catalytic converter is a class 1 misdemeanor unless:

- A person that purchases the converter or parts electronically submits to the Department a record of each transaction in accordance with [§ 44-1644](#) (the [Reporting](#) provision);
- The possession or sale is by an automotive recycler that is licensed in [Title 28](#), Chapter 10) I the possession or sale is in the recycler's ordinary course of business;
- The purchase or sale is conducted as prescribed by [§ 44-1642.01](#) (the [Prohibited Scrap Metal](#) provision), except that a solicitation or advertisement may be made only for Industrial Accounts.

- The possession or sale is by a commercial motor vehicle parts or repair business that sells or installs new catalytic converters if the possession or sale is in the ordinary course of business. A parts or repair business may purchase a used *detached* catalytic converter being sold as a vehicle repair part in compliance with U.S. EPA policy if the converter is marked with the date the converter was removed and either the VIN of the vehicle it was removed from or an alternative number that can be immediately linked to the VIN by law enforcement.

(SB 1185 changed "used catalytic converter" to "used detached catalytic converter")

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### *Vehicle Purchases*

Notwithstanding any other law, only [Title 28](#) governs the purchase by a scrap metal dealer of a vehicle as defined in [§ 28-101](#) solely for the purpose of processing the vehicle into a scrap vehicle or into prepared grades of scrap metal (note that a "vehicle" does not include a "scrap vehicle" as defined in the metals theft statute).

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### *Burned Metallic Wire*

A Dealer may only purchase or receive metallic wire that was burned in whole or in part to remove insulation from:

- An Industrial Account;
- Another Dealer; or
- A Seller who provides the Dealer written evidence identifying the person who delivers the wire that includes evidence the wire was lawfully burned.

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### *Aluminum or Copper Wire*

A Dealer shall not accept aluminum wire with a diameter of at least 3/8ths of an inch or any copper wire that has had the insulation removed and shall not remove insulation from the wire until after the 7 day hold period unless the Seller is an Industrial Account or another Dealer.

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### *Payment Restrictions*

No cash payments for purchases involving the following:

- Any Transactions involving air conditioning cooling coils; or
- Any of the following, unless the Seller is annually preregistered as an authorized Seller on behalf of an Industrial Account:
  - Industrial accounts
  - Copper and aluminum wire with a diameter of at least 3/8ths of an inch,
  - Any scrap Metal transactions of \$300 or more.

Payment for such must be by mailing a check or money order to the address provided in the transaction record, payable to the business name for an industrial account. For transactions involving air conditioning cooling coils with an Industrial Account, a Dealer may also pay the seller on site with a check made payable to the Industrial Account. A Seller may not participate in more than one cash transaction per day for Scrap Metal, or conduct a series of transactions for one vehicle load of Scrap Metal to avoid requirements.

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### *Department Responsibilities*

The Department shall establish electronic reporting submission standards by rule, allowing submission in a format that is compatible with the output format of at least 4 record keeping software programs currently in use in the scrap metal industry in Arizona and that can be electronically merged with the Department's database. The Department shall make reported information available to local law enforcement over the internet and provide for training and procedures to allow law enforcement to access the information.

The Department must post the name and address of each scrap metal dealer and the location of each principal office and branch location as submitted in the scrap metal dealer's registration on the Department's website.

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### *2023 Joint Legislative Committee on Metal Theft*

The President of the Arizona Senate and the Speaker of the Arizona House for the first regular session in 2023 may appoint a joint legislative committee on metal theft to review the effectiveness of this law in deterring crime and the cost of compliance to industries affected. The Committee may report on its findings by December 1, 2023.

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### *Penalties*

A Dealer who fails to maintain the required registration documents for each place of business is subject to any or all of the following that apply:

- A penalty of any costs associated with enforcement;
- The immediate suspension of all Scrap Metal transactions unless the business was previously registered as a Scrap Metal Recycler or has a local business license;
- 1st violation: a civil penalty of \$500;
- 2nd violation: a civil penalty of \$2,000 and a suspension or revocation of the business license, or the suspension or permanent cessation of business operations if a business license is not required.
- 3rd or subsequent: a civil penalty that is \$2,000 more than the previous penalty imposed.

A Seller may not conduct a series of transactions for one vehicle load of Scrap Metal to avoid the requirements of the Recordkeeping or Payment Restrictions provisions.

A Dealer who fails to comply with the law is guilty of a class 1 misdemeanor.

Under [§ 13-3728](#), the purchase, solicitation, advertising, possession, or sale of a used *detached* catalytic converter or any nonferrous parts of a catalytic converter in violation of requirements is a class 1 misdemeanor, *except that a violation involving the unlawful possession of 10 or more used detached catalytic converters is a Class 6 felony.*

Under [§ 13-1802](#), a person commits theft if, without lawful authority, the person knowingly commits one of the following involving ferrous or nonferrous metal:

- Controls the metal of another with the intent to deprive the other person of it;
- Controls the metal of another knowing or having reason to know it was stolen; or
- Purchases metal within the ordinary course of business knowing it was stolen.

Under [§ 13-1802](#), the value of any ferrous or nonferrous metal for sentencing includes the amount of any damage to property caused as a result of the theft. In an action for the theft of ferrous or nonferrous metal, unless satisfactorily explained or acquired in the ordinary course of business by an automotive recycler as defined in [§ 28-4301](#) or a Dealer, the following inferences may rise:

- Proof of possession of Scrap Metal that was recently stolen may give rise to an inference that the person in possession was aware of the risk it was stolen or participated in the theft;
- Proof of sale of stolen Scrap Metal at a price substantially below its fair market value may give rise to an inference that the person selling was aware of the risk that it was stolen.

Under [§ 12-712](#), a defendant may be found not liable in a civil action if the claimant (or the deceased person in an action taken by their heir or estate) was attempting to commit, was committing, or was immediately fleeing from an act in violation of the metal theft provisions of



[§ 13-1802](#) (subsection A, paragraphs 7 and 8), and was as a result in any way responsible for the accident or event that caused their harm.

Under [§ 13-3728](#), the purchase or sale of a used catalytic converter is a class 1 misdemeanor unless the purchase or sale:

- Is in the ordinary course of business by a commercial motor vehicle parts or repair business in connection with the sale or installation of a new catalytic converter;
- Is by an automotive recycler that is licensed in [Title 28](#), Chapter 10); or
- Is conducted as prescribed by [§ 44-1642.01](#) (the [Prohibited Scrap Metal](#) provision).

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### *Preemption*

Counties, cities, and towns may not enact or enforce ordinances, rules, or regulations that conflict, but may enact such that regulate Scrap Metal Dealers and are not in conflict.

The power to register Scrap Metal Dealers is preempted by the state. [§ 9-500.38](#) and [§ 11-269.16](#) (auxiliary container statutes) and this law do not affect a city's, town's, or county's power to enforce business licensing laws, or a city's, town's, or county's system for licensing a Scrap Metal Dealer if the licensing system includes background checks or identification and fingerprinting of the owners of the Scrap Metal Dealer. A Scrap Metal Dealer's license that is current and in good standing with a city's, town's or county's licensing system before September 13, 2013 is in compliance with that licensing system and the city, town or county may not require the Scrap Metal Dealer to reapply for licensure in order to be in compliance with the city's, town's or county's licensure system unless there is an event or circumstance that requires an amendment or filing pursuant to the city's, town's or county's licensing system's requirements.

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### *References and Recent Amendments*

#### Statutes

- Scrap Metal Dealers: [A.R.S. Title 44](#), Ch. 11, Art. 3.1 Scrap Metal Dealers; § 44.1641 to § 44-1649
- Theft of Ferrous or Nonferrous: [A.R.S. Title 13, Ch. 18, § 13-1802](#) Theft; classification; definitions (ReMA note: subsection A, paragraphs 7 to 9; subsections I and J; subsection K, paragraph 2)
- Catalytic Converters: [A.R.S. Title 13, Ch. 37, § 13-3728](#) Unlawful purchase or sale of used catalytic converter; classification; definition
- Liability: [A.R.S. Title 12, Ch. 6, Art. 12, § 12-712](#) Affirmative defense; limitation; criminal act (ReMA note: subsection C)

#### Recent Amendments

- [2013 Arizona HB 2262](#) (effective 90 days after close of session)
- [2013 Arizona SB 1107](#) (effective 90 days after close of session)
- [2014 Arizona HB 2268](#) (effective July 24, 2014)
- [2014 Arizona HB 2269](#) (effective July 24, 2014)
- [2014 Arizona SB 1460](#) (effective July 24, 2014)
- [2015 Arizona HB 2288](#) (effective July 3, 2015)
- [2017 Arizona HB 2044](#) (effective August 3, 2017)
- [2018 Arizona SB 1209](#) (effective August 2, 2018)
- [2018 Arizona HB 2307](#) (HB 2307 will not become effective unless on or before 10/01/20 the Dept. of Transportation implements an electronic system for a registered scrap metal dealer or a licensed automotive recycler to report all vehicle acquisitions electronically within 48 hours and verify at the time of a transaction that a motor vehicle offered for sale has not been reported stolen.)
- [2022 Arizona HB 2652](#) (effective May 9, 2022)
- [2024 Arizona SB 1185](#) (effective September 17, 2024)