



Kansas Metals Theft Statute

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 September 27, 2024

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Please Note: Amendments by [2024 Kansas SB 349](#), effective July 1, 2024, are included and noted in this summary. SB 349 continued exceptions to the disclosure of public records, including those related to metal theft.

Plastic Bulk Merchandise Container requirements are not included in this summary, but can be found in [K.S.A. Ch. 65](#), Article 34, Sections [65-3428](#) and [65-3429](#).

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

"Regulated Scrap Metal" means any item, in any form, for which the purchase price was primarily based on the content of aluminum (does not include food or beverage containers), copper, brass, bronze, stainless steel, zinc, titanium, tungsten, nickel, platinum, palladium, rhodium, magnesium, lead, any other nonferrous metal, or any combination of such nonferrous metals. Regulated Scrap Metal includes catalytic converters.

"Bales of Regulated Metal" means Regulated Scrap Metal property processed with professional recycling equipment by compression, shearing or shredding, to a form in which it may be sold by a Scrap Metal Dealer consistent with industry standards.

"Catalytic Converters" means a device installed in the exhaust system of a motor vehicle that uses a catalyst to convert pollutant gases into less harmful gases.

"Nonferrous Metal" means a metal that does not contain iron or steel.

"Junk Vehicle" means a vehicle as defined in [K.S.A. 8-126](#) not requiring title as provided in K.S.A. Chapter 8, an aircraft, or a boat which is being sold for scrap value.

"Vehicle Part" means the front clip consisting of the two front fenders, hood, grill and front bumper of an automobile assembled as one unit; or the rear clip consisting of those body parts behind the rear edge of the back doors, including both rear quarter panels, the rear window, trunk lid, trunk floor panel and rear bumper, assembled as one unit.

Restricted Items, as used in this summary, refers to items listed in K.S.A. 50-6,111.(d):

- Utility access cover;
- Street light poles or fixtures;
- Road or bridge guard rails;
- Highway or street sign;
- Water meter cover;
- Traffic directional or traffic control signs;
- Traffic light signals;
- Any metal marked with any form of the name or initials of a governmental entity;
- Property owned and marked by a telephone, cable, electric, water or other utility provider or any such wire or cable that has had the sheathing removed, making ownership identification impossible;
- Property owned and marked by a railroad;
- Funeral markers or vases;
- Historical markers;
- Bales of Regulated Metal;
- Beer kegs;
- Manhole covers;
- Fire hydrants or fire hydrant caps;
- Junk Vehicles with missing or altered vehicle identification numbers;
- Real estate signs;
- Bleachers or risers, in whole or in part;
- Twisted pair copper telecommunications wiring of 25 pair or greater existing in 19, 22, 24 or 26 gauge;
- Burnt wire;
- Any catalytic converter that has:
 - A defaced identification mark or owner-applied paint or identification number; or
 - Been intentionally altered by removing or obliterating the make, model, or manufacturer number; and
- Any by-product or dust containing platinum, palladium, or rhodium.

"Scrap Metal Dealer" (or Dealer as used in this summary) means any individual, firm, company, partnership, association, or corporation that operates a business that is engaged in the business of buying, trading or dealing in Regulated Scrap Metal for the purpose of sale for recycling.

KBI means the Kansas Bureau of Investigation.

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Exemptions

The Recordkeeping provision does not apply to transactions in which the Seller is:

- A registered Scrap Metal Dealer;
- A vehicle dealer licensed under K.S.A. Chapter 8;
- A Scrap Metal Dealer or vehicle dealer registered or licensed in another state;
- Known to the purchasing Dealer to be a licensed business that operates out of a fixed business location and that can reasonably be expected to generate Regulated Scrap Metal; except that the Attorney General may determine by rules and regulations which of the requirements will apply to such businesses.

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Recordkeeping

A Dealer shall maintain a register in which the Dealer can record the following information, or cross-reference to previously received information, for the purchase or receipt of any Regulated Scrap Metal, Junk Vehicle or Vehicle Part. The register may be kept in electronic format.

- The Time, Date, and Place of the transaction;
- The Seller's:
 - Name, address, sex, date of birth, and identifying number from the Seller's driver's license, military ID card, passport, personal identification license, or from an official government document for a country other than the U.S.
 - A copy of the identification card or document. A copy of the ID card is not required if the Dealer has a copy in their register from a prior transaction.
- The license number, color, and style or make of any delivery motor vehicle;
- A general description of the predominant types of items made in accordance with the custom of the trade;
- The weight, quantity, or volume of the Regulated Scrap Metal purchased, made in accordance with the custom of the trade;
- For a Junk Vehicle or Vehicle Part, a description including the make, model, color, vehicle identification number and serial number if applicable;
- The price paid for, traded for or dealt for;
- The full name of the individual acting on the Dealer's behalf;
- The Seller's signed statement indicating from where the property was obtained and:
 - That each item is the Seller's personal property, is free of encumbrances and is not stolen; or
 - That the Seller is acting for the owner and has permission to sell each item, and the name and address of the owner of the property.
- Photographs of the item or lot of items being sold at the time of purchase or receipt.

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Junk Vehicles

For purchases of Junk Vehicles, a Dealer must inspect the vehicle and record the VIN. If the vehicle has been impounded by a governmentally operated vehicle impound facility or agency, the Dealer must obtain a bill of sale issued by that facility.

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Restricted Items

For purchases of Restricted Items, a Dealer must obtain proof that the Seller is an employee, agent or person who is authorized to sell the item on behalf of the governmental entity; utility provider; railroad; cemetery; civic organization; manufacturing, industrial or other commercial vendor that generates or sells such items in the regular course of business; or Scrap Metal Dealer.

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Retention

Records must be retained for 2 years.

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Inspection

Records shall be open at all times to law enforcement officers. If records are maintained electronically, a Dealer shall provide a printout to officers upon request.

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Reporting

Beginning July 1, 2020, every Dealer must forward the information required by the KBI to the database maintained by the KBI for each transaction within 72 hours after the transaction occurs. The KBI shall promulgate rules and regulations for what information and photos shall be entered and the manner for submitting the information.

On July 1, 2020, the AG must establish and maintain a transaction report database to provide information to law enforcement and for any other purpose deemed necessary by the AG to implement and enforce the Act. The database will then be maintained by the KBI.

Information maintained in, submitted to, or stored as part of the database by the KBI or by any entity contracting with the KBI may be provided to the AG and shall:

- Be confidential, only be used for investigatory, evidentiary, or analysis purposes related to criminal violations of city, state, or federal law, and shall only be released to law enforcement in response to an official investigation, to provide information to law enforcement, or for any other purpose deemed necessary by the AG; and
- Not be a public record or subject to the Kansas Open Records Act (*SB 349 removed the July 1, 2024 sunset date for this provision*).

A Dealer's contract with the contracting entity shall not:

- Require the Dealer to contract to release proprietary or confidential data, including customer information;
- Charge any fee as a condition of providing data, including a fee for electronic submission of information.

A Dealer providing information to the database as required is not subject to civil liability for any claim arising from negligence or omission by the state or any contracting entity in the collection, storing, or release of information.

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No Purchase from Minors

A Dealer may not purchase or receive Regulated Scrap Metal from a minor unless the minor is accompanied by a parent or guardian or the minor is a licensed Scrap Metal Dealer.

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Hold

30 day hold, exclusive of weekends and holidays, on any Regulated Scrap Metal, Junk Vehicle or Vehicle Part upon the receipt of notice from any law enforcement agency, or any of their agents or employees, that they have cause to believe the item has been stolen.

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Registration

Scrap Metal Dealers must register each place of business with the Attorney General.

Registrations are issued for 1 year, are subject to an application or renewal fee not more than \$500, as prescribed by the AG, for each particular place of business, and are not transferable.

The registration must contain:

- One of the following:
 - The name and residence of the applicant, including all previous names and aliases;
 - If the applicant is a corporation, the name and address of each manager, officer or director thereof, and each stockholder owning in the aggregate more than 25% of the stock of such corporation;
 - If the applicant is a partnership or limited liability company, the name and addresses of each partner or member;
- The length of time that the applicant has resided within Kansas and a list of all residences outside of Kansas during the previous 10 years;
- The particular place of business for which a registration is desired, the name of the business, the address where the business is to be conducted, the hours of operation and the days of the week during which the applicant proposes to engage in business;
- The name of the owner of the premises upon which the place of business is located;
- The applicant must disclose any prior convictions within the past 10 years of: a violation of [K.S.A. Ch. 21](#), Art. 58: Crimes Involving Property; poisoning a domestic animal; perjury; compounding a crime; obstructing legal process or official duty; falsely

reporting a crime; interference with law enforcement; interference with judicial process; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States.

A business licensed under [K.S.A. 8-2404](#) need not register unless it buys or recycles Regulated Scrap Metals that are not motor vehicle components.

The AG shall establish a system for the public to confirm Dealer registration certificates, which will include a listing of valid certificates and such other information collected pursuant to the Act as the AG determines is appropriate. Disclosure of any information through use of the system shall not be deemed to be an endorsement of any Dealer or determination of any facts, qualifications, information or reputation of any Dealer by the AG, the state, or any of their respective agents, officers, employees or assigns.

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Denial, Suspension, or Revocation of Registration

Registrations shall not be accepted for:

- A person who is not a citizen or legal permanent resident of the United States;
- A person under 18 years old whose parents or legal guardians have been convicted of a disqualifying crime while the parents or legal guardians were registered;
- A person who within the past 10 years has been pled guilty to or convicted of, or was released from incarceration, probation or parole for committing, attempting, or conspiring to commit a violation of [K.S.A. Ch. 21](#), Art. 58: Crimes Involving Property; poisoning a domestic animal; perjury; compounding a crime; obstructing legal process or official duty; falsely reporting a crime; interference with law enforcement; interference with judicial process; or any crime involving dishonesty or false statement or any substantially similar offense pursuant to the laws of any city, state or of the United States;
- A person who within the past 10 years:
 - Had their Dealer registration revoked;
 - Managed a facility for a Dealer whose registration was revoked;
 - Was an employee whose conduct contributed to such a revocation; or
 - Makes a materially false statement on their registration application;
- A partnership or limited liability company if any partners or members would be ineligible to receive a license;
- A corporation if any manager, officer, or director, or if any stockholder who owns 25% stock in aggregate, would be ineligible to receive a license;
- A person whose place of business is conducted by a manager or agent if such would be ineligible to receive a license;
- A person whose spouse has been convicted of a disqualifying crime while the spouse was registered.
- A person who does not own the premises where the business is located unless the person has a written lease for at least 3/4 of the registration period.

Upon 5 days' notice, a Scrap Metal Dealer's registration may be suspended for up to 30 days for the following, or revoked for 3 or more during a 24 month period:

- The registrant is found to have violated the Act or any similar ordinance, resolution or rules;
- The employment or continued employment of a person the Dealer knows has been convicted of violating the Act or a similar law in a city, county, or another state within the past 24 months;
- Permitting criminal activity in or upon their place of business.

The AG may revoke a registration with 5 days' notice for the following:

- The registrant knowingly gave materially false information on their registration;
- The registrant has become ineligible to obtain a registration under the Act;

- Nonpayment of registration fees after receiving a written 30 days past due notice; or
- The nonpayment of any civil penalty after receiving written notice that such penalty is more than 30 days past due.

Any action shall be brought individually against a single registrant's site and not against any other scrap metal sites or locations registered by the same Scrap Metal Dealer. Any person aggrieved by a decision to suspend or revoke a registration may appeal such in accordance with rules and regulations promulgated by the AG to implement the Act.

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Penalties

If any person willfully fails or refuses to file a statement or report required by the Act or obey any subpoena issued by the AG, the AG may apply to a district court and, after a hearing, the court may issue an order:

- Granting injunctive relief restraining the sale or advertisement of any services or merchandise by such persons;
- Vacating, annulling, or suspending a corporate charter of a corporation created by or under Kansas law, revoking or suspending the certificate of authority to do business in Kansas of a foreign corporation, or revoking or suspending any other licenses, permits, or certificates issued pursuant to law to the person which are used to further the allegedly unlawful practice; or
- Granting other relief as may be required until the person files the statement or report or obeys the subpoena.

Between July 1, 2017, and July 1, 2020, failure to comply with the following provisions may result in the assessment of a civil penalty by the AG of \$100 to \$5,000 for each violation.

- Recordkeeping requirements to record a copy of the Seller's ID;
- Recordkeeping requirements to photograph the items being sold;
- Inspection provision
- Junk Vehicles provision
- No Purchase from Minors provision;
- Restricted Items provision;
- Hold provision.

Beginning July 1, 2020, any Dealer who violates any provisions of the Act, in addition to any other penalty provided by law, may incur a civil penalty of \$100 to \$5,000 for each violation; the AG may also impose such penalty for any employee or agent of the Dealer or on any person or entity required to be registered as a Dealer. The penalty shall only be imposed upon the written order of the AG to the Dealer responsible for the violation, and must state the violation, the penalty to be imposed, and the right of the Dealer to appeal as provided in the Kansas Judicial Review Act.

The AG may bring a civil action to obtain a declaratory judgement that an act or practice violates the Act; enjoin or obtain a restraining order against any person who has, is, or is otherwise likely to violate the Act; recover reasonable expenses and investigation fees; or impose any civil penalty authorized by the Act. In lieu of investigation or continuing an action or proceeding, the AG may accept a consent judgement for a violation of the Act. Such must be approved by the district court and an entry of judgment must be made. Once the approval is received, any breach of the conditions shall be treated as a violation of a court order. In any action brought by the AG, the court may, without requiring the AG's bond make orders or judgements necessary to prevent the use or employment of any practice declared to be a violation of the Act; issue a temporary restraining order or enjoin any person from violating the Act; award reasonable expenses and investigation fees, civil penalties and costs; and grant other appropriate relief.

The commission of any act or practice declared a violation of the Act shall render the violator liable to the state for a civil penalty of up to \$5,000 for each violation.

Any person who willfully violates the terms of any court order issued pursuant to the Act shall pay a civil penalty of up to \$10,000 per violation, in addition to other penalties imposed by the court, as the court deems necessary and proper. The district court issuing an order shall retain jurisdiction, and the AG acting in the name of the state may petition for recovery of civil penalties.

Any continuing act or practice declared to be a violation of the Act shall be deemed a separate violation for each day such act or practice exists.

Any person, whether or not a Kansas resident or citizen, who in person or through an agent engages in business as a Dealer submits to the jurisdiction of the Kansas courts for any cause of action arising from such business. Every administrative or civil action pursuant to the Act shall be brought in the Shawnee County district court or in any other district whose venue is authorized by law.

Under [K.S.A. 22-2902](#) - Preliminary Examination, at any examination at which the details of transaction records required by the Act are to be introduced as evidence, the records shall be admissible in the preliminary examination in the same manner and with the same force and effect as if the individuals who made the record, and the records custodian who keeps the record, had testified in person.

Under [K.S.A. 21-5804](#) - Intent to Deprive of Property, in a prosecution for theft, if the theft is of Regulated Scrap Metal either in whole or part, the failure to give information or the giving of false information to a Dealer, the transportation of the metal outside the county from where it was obtained or across state lines, or the alteration of the metal before any transaction with a Dealer shall be prima facie evidence of intent to permanently deprive the owner of the metal of the possession, use, or benefit thereof.

Under [K.S.A. 21-5813](#) - Criminal Damage to Property, it is aggravated criminal damage to property if the value or amount of damage exceeds \$5,000 and the damage was committed to obtain any Regulated Scrap Metal or Restricted Items (as listed in K.S.A. 50-6,111.(d)) upon any building, structure, residence, facility, site, place, property, vehicle, or any infrastructure thereof (statute lists numerous specific examples, but ends with the statement above and has additional clarifiers to make it as encompassing as possible). Aggravated criminal damage to property is a severity level 6, non-person felony. The amount of damages may include the cost of repair or replacement, the reasonable cost of the loss of production, crops, and livestock, reasonable labor costs of any kind, reasonable material costs of any kind, and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. This also applies to court-ordered restitution under K.S.A. 21-6604 - Authorized Dispositions. Under K.S.A. 21-6804 - Sentencing Grid for Nondrug Crimes, the sentence for aggravated criminal damage to property when such person has a prior conviction for any nonperson felony shall be presumptive imprisonment; such shall not be considered a departure and shall not be subject to appeal.

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Attorney General Powers

The AG is given jurisdiction and authority over the implementation, administration, and enforcement of the Act, including to employ agents to implement, administer, and enforce the Act; contract; expend funds; license and discipline; investigate; issue subpoenas; keep statistics; and conduct compliance education and outreach programs. The AG is authorized to adopt rules and regulations to implement the Act.

The AG will administer the scrap metal theft reduction fee fund. All fees, charges, or penalties collected under the Act shall be remitted to the state treasury to be credited to the fund. All expenditures shall be for the administration of duties, functions, and operating expenses

incurred under the provisions of the Act. The KBI will administer the scrap metal data repository fund, with similar restrictions on expenses. The AG may transfer any moneys from the reduction fee fund to the data repository fund, and must certify such transfers to the Director of Accounts and Reports and transmit a copy of the certifications to the Director of the Budget and the Director of Legislative Research.

If, by the AG's own inquiries or as a result of complaints, the AG has reason to believe a person has, is, or is about to engage in a violation of the Act, the AG or any deputy or assistant AG may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence. If the subpoenaed matter is located outside the state the person may make it available within the state or pay the expenses for the AG or their designee to examine it where it is located.

The AG shall serve notice requiring a person to file a statement or report, or of a subpoena on a person, by certified mail to the last known place of business or residence or in the matter provided in the code of civil procedure. The AG may request an individual who refuses to comply to be ordered by the court to provide the testimony or matter. Except in prosecution for perjury, an individual who complies with a court order after asserting a privilege against self-incrimination to which they are entitled by law may not be subjected to a criminal proceeding or a civil penalty for the transaction the individual is required to testify on or produce relevant matter for.

By February 1, 2021, and annually thereafter, the AG must submit a report to the legislature on the implementation, administration, and enforcement of the provisions of the Scrap Metal Theft Reduction Act.

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Preemption

A municipality shall not enact or enforce any ordinance, resolution or regulation relating to the implementation, administration and enforcement of the provisions of the Scrap Metal Theft Reduction Act. Any such ordinance, resolution or regulation adopted prior to July 1, 2015 shall be null and void. No action shall be commenced or prosecuted against any individual for a violation of any such ordinance, resolution or regulation which was adopted before July 1, 2015, if the violation occurred on or after July 1, 2014.

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Sunset

The Scrap Metal Theft Reduction Act shall expire on July 1, 2028.

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References and Recent Amendments

Statutes

- [Kan. Stat. Ann. Chapter 50](#), Article 6, Scrap Metal Dealers; Section 109 to 112d; Scrap Metal Theft Reduction Act. K.S.A. 50-6,109 to K.S.A. 50-6,112d

Recent Amendments

- [2015 Kansas HB 2408](#)
- [2017 Kansas SB 149](#)
- [2018 Kansas SB 261](#)
- [2019 Kansas HB 2248](#)
- [2020 Kansas HB 2137](#)
- [2021 Kansas SB 159](#)
- [2023 Kansas HB 2326](#) (effective July 1, 2023)
- [2024 Kansas SB 349](#) (effective July 1, 2024)

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