



Ohio 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 30, 2019

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

"Recyclable Materials" means the following materials that are not special purchase articles, as listed in § 4737.04.(C)(5):

- "Number one copper": clean copper pipe, wire, or other number one copper that does not have solder, paint, or coating;
 - "Number two copper": unclean copper pipe, wire, or other number two copper;
 - "Sheet copper": copper roofing, gutters, downspouts, and other sheet copper;
 - "Insulated copper wire";
 - "Aluminum or copper radiators";
 - "Red brass": red brass valves and other red brass;
 - "Yellow brass": yellow brass fixtures, yellow brass valve and fitting, ornamental brass, and other yellow brass;
 - "Aluminum sheet";
 - "Aluminum extrusions": aluminum bleachers, benches, frames, pipe, and other aluminum extrusions;
 - "Cast aluminum": aluminum grills, lawnmower decks, motor vehicle parts and rims, and other cast aluminum;
 - "Clean aluminum wire";
 - "Unclean aluminum wire";
 - "Aluminum exteriors": aluminum siding, gutters and downspouts, shutters, trim, and other aluminum exterior items;
 - "Contaminated aluminum";
 - "Stainless steel": sinks, appliance housing, dishes, pots, pans, pipe, and other items made out of stainless steel;
 - "Large appliances": consumer and other appliances;
 - "Steel structural": all structural steel such as I-beams, trusses, channel iron, and similar steel from buildings;
 - "Miscellaneous steel": steel grates, steel farm machinery, steel industrial machinery, steel motor vehicle frames, and other items made out of steel;
 - "Sheet irons": bicycles, motor vehicle body parts made of iron, and other items made using sheet iron;
 - "Motor vehicle nonbody parts": motor vehicle batteries, radiators, and other such;
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- "Catalytic converters";
- "Lead";
- "Electric motors."
- "Electronic scrap": any consumer or commercial electronic equipment such as computers, servers, routers, video displays, and similar products.

"Special Purchase Article" includes all of the following:

- Beer kegs;
- Cable, wire, electrical components, and other equipment used in providing cable service or any utility service, including coverings, housings, or enclosures;
- Grave markers, sculptures, plaques, and vases made out of metal, the appearance of which suggests that the articles have been obtained from a cemetery;
- Guard rails for bridges, highways, and roads; highway and street signs; street light poles and fixtures; worker access hole covers, water meter covers, and other similar types of utility access covers; traffic directional and control signs and light signals, metal marked with the name of a political subdivision of the state, and other metal articles that are purchased and installed for use upon authorization of the state or any political subdivision of the state;
- Historical, commemorative, and memorial markers and plaques made out of metal;
- Grocery carts;
- Metal bossies;
- Railroad material, including journal brasses, rail spikes, rails, tie plates, frogs, and communication wire;
- Metal trays, merchandise containers, or similar transport containers used as a means for the bulk transportation, storage, or carrying of retail containers of milk, baked goods, eggs, or bottled beverage products; and
- "Burnt Wire," which is any coated metal wire that has been smelted, burned, or melted thereby removing the manufacturer's or owner's identifying marks.

Railroad Scrap, as used in § 4973.13, refers to worn or scrap metal, iron, brass, or other metal owned by a company operating a railroad, including worn or used links, pins, journal bearings, or other worn, used, or detached appendages of railroad equipment, or scrap metal of iron, brass, or steel appertaining to such equipment or to a railroad track.

"Bulk Merchandise Container" means a plastic or wooden carrier or holder used by a manufacturer or distributor to transport merchandise to wholesale and retail outlets.

"Common Recycled Matter" means bottles and other containers made out of steel, tin, or aluminum and other consumer goods that are metal that are recycled by individual consumers and not in the bulk or quantity that could be supplied or recycled by large business establishments. It excludes a metal tray used by a product producer, distributor, retailer, or agent as a means for the bulk transportation, storage, or carrying of retail containers of milk, baked goods, eggs, or bottled beverage products.

"Scrap Metal Dealer" means the owner or operator of a business that purchases or receives scrap metal for the purpose of sorting, grading, and shipping metals to third parties for direct or indirect melting into new products.

"Personal Identification Card" means a current and valid driver's license, military ID card, or a state ID card with a photograph.

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Exemptions

The following are exempt from the law under § 4737.043:

- Donations of articles to nonprofit organizations or any other person, as long as the donator receives no payment or any other valuable consideration;
- Sales or donations of Common Recycled Matter;
- Sales between a Dealer and a 501(c)(3) organization that collects for its own fundraising scrap ferrous and nonferrous metals for recycling rather than disposal;
- Sales between a Dealer and a governmental unit or another business, including a demolition company, public utility company, or another Dealer, that in the course of providing services or maintaining its property, generates scrap ferrous and nonferrous metals for recycling rather than disposal. The government unit or business must also provide proof of one of the following:
 - For government units, proof that reference to the government unit as a bona fide unit of government can be readily found by the public;
 - For a business, one of the following:
 - The business is registered with the Secretary of State;
 - The business has been issued a license under §5739.17; or
 - "The business advertises its services in a newspaper of general circulation once a week for not less than six consecutive months or provides a receipt showing payment for such advertising, a telephone book, electronic media that is available to the public, or some other type of media that is owned and operated by a person other than the business and, if an individual operates the business, the individual advertising the business has a specific place of business that is not the individual's permanent home residence."
- Sales between a Dealer and a person whose primary business is to create products that result in bulk quantities of metal used for recycling rather than disposal;
- Sales of catalytic converters between a Dealer and a Motor Vehicle Dealer as defined in §4517.01

Transactions of Bulk Merchandise Containers involving plastic containers that are not marked with a company name or logo or less than 10 wooden containers at a time are exempt from the Recordkeeping provision.

Junkyards and Scrap Processing Facilities that are zoned industrial, or are not zoned but are used for industrial activities, are exempt from the Licensing provision.

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Do Not Buy From Individual List

Unless a transaction is specifically exempted under [§ 4737.043](#) (see [Exemptions](#) provision for list), before purchasing or receiving articles from any person a Dealer must verify that they do not appear on either the searchable electronic list the Dealer receives from a law enforcement agency with jurisdiction or the [Ohio Dept. of Public Safety list](#) (must login to access). A Dealer must check whether:

- The person's state driver's license or state issued identification card number match the same information contained on the list; or
- The person's last name, first name, and date of birth match the same information contained on the list.

Once a person is deemed to be on the list, a Dealer may refer to secondary personal identifiers that are in plain visible sight (included in the DNB listing) to confirm the person matches the person identified on the list.

An individual included in the list may request their name be removed by filing an application with the law enforcement agency if the individual has not been convicted of a misdemeanor theft offense within the prior 3 years or a felony theft offense within the prior 6 years.

Recordkeeping

Dealers must retain a book or electronic file with a record in numerical order of all articles purchased or received in the course of the Dealer's daily business. [Ohio Admin Code 4501:5-3-03](#) requires all photographs taken as part of the record include a valid date and time stamp in a mm/dd/yyyy and 00:00 standard time format, be legible and clearly display the content being photographed, be in color, be no larger than 1 MB when transmitted for daily reports, and be transmitted as a JPEG. Records must include:

- The Seller's name and residence;
- One of the following:
 - A copy of the Seller's personal ID card; or
 - The Seller's name, address, and photograph decoded and recorded from the metallic strip in the Seller's ID card by an electronic device;
- A photograph of the Seller taken at the time of purchase;
- The Date and Time the articles were purchased or received;
- The weight of the articles as determined by a licensed commercial scale;
- The license plate number and state of issue of the Seller's motor vehicle;
- A description of the articles, consisting of:
 - For metal articles that are not Recyclable Materials, a full and accurate description of each article purchased or received by the Dealer, including any identifying letters or marks and the name and maker of the article if known;
 - For Recyclable Materials that are not Special Purchase Articles, the relevant category codes listed in the Materials Covered and other Definitions provision of this summary [§4737.04.(C)(5) of the law]; or
 - For Special Purchase Articles, the relevant category from the Materials Covered provision of this summary [§4737.04.(A)(2) of the law].

A Dealer in the business of purchasing, reselling, exchanging, recycling, shredding, or receiving bulk merchandise containers shall not purchase or receive plastic bulk merchandise containers that are marked with a company name or logo, or more than nine wooden bulk merchandise containers, from any other person at one time, unless the dealer maintains a record book or electronic file with entries numbered consecutively of all containers purchased or received.

Records must contain the following:

- The Seller's name and residence;
- A copy of the Seller's personal identification card;
- A description of the containers, including the number purchased or received;
- The Date and Time the Dealer purchased or received the containers;
- The license plate number and state of issue of the Seller's motor vehicle;
- If the Dealer is in the business of reselling bulk merchandise containers, a photograph of each container recorded and of each Seller, taken at the time of the transaction.

For Special Purchase Articles or for a Bulk Merchandise Container subject to the record requirements, a Dealer must additionally record the following and pay by check, with payment withheld for two days after the purchase:

- A photograph of each Special Purchase Article or Bulk Merchandise Container;
- Proof that the Seller owns the item.

Secondhand Dealers / Peddlers

A person other than a Scrap Metal Dealer who transacts in secondhand articles other than special purchase articles, scrap iron, and scrap metal, shall post a sign in a conspicuous place upon their place of business with the person's name and occupation. The person shall keep a consecutively numbered book or electronic record of purchases with the following:

- A description of the items purchased or received;
- The Seller's name, description, and residence;
- The Day and Time of the transaction;

- One of the following:
 - A copy of the Seller's personal ID card; or
 - The Seller's name, address, and photograph decoded and recorded from the metallic strip in the Seller's ID card by an electronic device.

A peddler or person who goes about with a wagon to purchase or obtain articles, and who does not have a place of business in a building, need not retain articles for 30 days before selling them if they report their records weekly with the mayor of the municipal corporation where they sell the articles they have obtained, along with a description of the articles sold, the purchaser, and the purchaser's place of business.

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Retention

Until the state registry is operational, Dealers must retain records for at least 1 year after the transaction date, except photos need only be retained for 60 days. Once the registry is operational, records shall only be retained for 60 days.

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Inspection

Records shall be open for inspection by the representative of any law enforcement agency, railroad police officers, and the Director of Public Safety or the Director's designated representative during all business hours. A law enforcement agency may inspect any photographic records collected and maintained by a scrap metal dealer of either yard operations or individual transactions.

If an asserted owner of a Special Purchase Article or Bulk Merchandise Container or their agent provides proof of having filed a stolen property report, a Dealer must make records of Special Purchase Articles purchased or received after the date of the theft available for inspection, except the Dealer must withhold the name of the Seller and the amount paid.

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Reporting

[Ohio Admin. Code Ch. 4501:5-3](#)-03 requires a daily electronic report by 12 PM EST of all retail transactions during the previous day using the Ohio Dept. of Public Safety [Scrap Metal & Bulk Merchandise Container Dealers page](#). Reports must be submitted in English by manually entering the transactions, uploading prepared transaction reports manually, or utilizing independent software capable of transmitting them in accordance with the rules. Photographs must include a valid date and time stamp in a mm/dd/yyyy and 00:00 standard time format, be legible and clearly display the content being photographed, be in color, be no larger than 1 MB when transmitted, and be transmitted as a JPEG. Records submitted to any law enforcement agency, railroad police officer, or the Director or Director's representative are not public records.

Upon request, Dealers shall provide a copy of records to any law enforcement agency, railroad police officer, or the Director or Director's representative.

A person or their agent who claims to own a stolen article that may be identified in the submitted records and provides proof of having filed a stolen property report may request those records held by a law enforcement agency. The law enforcement agency shall redact information that reveals the name of the Seller, the price the Dealer paid, or the estimated value of any article the Dealer received. The law enforcement agency shall determine which records to provide based upon the time period that the alleged theft is reported to have taken place, and may charge or collect a fee for providing records.

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Purchase Restrictions

No Dealer shall purchase or receive:

- Any metal articles from a Seller who refuses to show their personal ID card or to allow the Dealer to take a photograph as required;

- Any articles from a person on the Do Not Buy From Individual List;
- Any items from a minor or apprentice;
- Any items between 9 PM and 7 AM;
- Any Special Purchase Articles or Bulk Merchandise Containers from a Seller under 18 years old;
- More than 1 catalytic converter per day from the same person except from a motor vehicle dealer as defined in § 4517.01

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Purchase Restrictions - Railroad Scrap

Under § 4973.13 to § 4973.16, Railroad Scrap may only be sold by the superintendent, general managing agent, or receiver of a company operating a railroad, in quantities of 1 ton or more. The Seller must deliver the purchaser a bill of sale of such metal and retain a copy for their office. The Purchaser shall ascertain whether the Seller lawfully owns the Railroad Scrap using the bill of sale or otherwise.

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Hold - Railroad Material

Automatic 30 day hold on Railroad Material, other than purchases and sales under § 4973.13 to § 4973.16.

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Notice to Sellers

Dealers must post a notice in a conspicuous place on their premises notifying Sellers of the penalties applicable to any person who:

- Provides a false personal ID card to the Dealer;
- Provides any other false information for the records with the purpose to defraud; or
- Violates §2913.02.

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Payment Restrictions

Dealers must pay for Special Purchase Articles and Bulk Merchandise Containers by check and must withhold payment for 2 days after purchase.

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State Database/Registry

By January 1, 2014, the Director of Public Safety must develop and implement a secure database for use by law enforcement agencies that is capable of all of the following:

- Receiving and storing daily reports from Scrap Metal Dealers, Bulk Merchandise Dealers, and other parties required to report secondhand transactions;
- Providing secure search capabilities to law enforcement agencies;
- Creating a link and retransmission capability for receipt of ISRI scrap theft alerts for transmission to Dealers and law enforcement agencies;
- Making the Do Not Buy From Individual Lists available through an electronic searchable format for individual law enforcement agencies and for Dealers;
- Providing, without charge, interlink programming enabling the transfer of information to dealers.

A scrap metal dealer or bulk merchandise container dealer may search, modify, or update only the dealer's own business data contained within the registry. All registration fees and fees from §4737.99(f) shall be used to develop and maintain the registry, and shall be deposited into the Infrastructure Protection Fund.

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Registration

Dealers must register with the Director of Public Safety. Registrations are valid for one year, with an initial registration fee of \$200 and renewal fees of \$150. A copy of the registration certificate must be prominently displayed. Applicants must provide:

- The name and street address of the Dealer's place of business;

- The name of the primary owner, and the manager if it is not the primary owner;
- The electronic mail address of the business; and
- Confirm the Dealer can electronically send and receive information with the Dept.

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Licensing of Junk Yards and Scrap Processing Facilities

Junk yards and Scrap Processing Facilities within 1,000 feet of the nearest edge of the right of way of a highway in the interstate or primary system, except in zoned or unzoned industrial areas, must be licensed by the county auditor. Any Yard or Facility within 1,000 feet of a state or county road or 300 feet for a township road must be obscured from view by natural objects or a fence between 6 and 10 feet high which is non-transparent, kept in good order and repair, and with no advertisement other than the name of the person under whose name the license was issued and the nature of the business.

The initial fee for a license is \$25; licenses must be renewed annually for \$10 each year. An applicant must provide the following on an application signed and sworn by the applicant:

- The name and address of the applicant;
- The location of the Junk Yard or Scrap Processing Facility;
- If the applicant is a firm, partnership, or association, the names and addresses of each member;
- If the applicant is a corporation:
 - The date and place of incorporation;
 - The names and addresses of its officers and directors;
- Other such reasonable information

Before a license is issued or renewed and twice annually in addition, the sheriff or, if the sheriff designates, a township police officer or constable, and the chief of police of each municipal corporation shall inspect a Yard or Facility within their jurisdiction for compliance. The official shall, for the purpose of these examinations, have free access to the grounds and buildings used or proposed for use in the conduct of the Yard or Facility activity by the applicant or the licensee. Such inspections may be made at any time during the licensee's regular work hours, or between 8 AM and 5 PM, Monday through Friday. The Director of Transportation may also inspect junk yards adjacent to state highways and advise the Attorney General of alleged violations.

Owners shall be immediately notified by registered mail of any nonconformity with requirements and have 60 days to conform, after which another inspection will be held. Owners still out of compliance will have their license suspended for 90 days, during which time they may still sell articles, but may not accept articles for future resale. An owner may appeal the suspension or request for another inspection at any time during the 90 days. After 90 days another inspection will be held; if still out of compliance, the license will be revoked and a \$100 tax imposed for each day after revocation that the violation continues.

Licenses may be revoked by the Chief Executive Officer of the Municipality or the County Auditor of the county where the yard or facility is located after reasonable notice and opportunity to be heard for a violation of Chapter 4737, and may not be reissued to the licensee, their husband or wife, or any partnership or corporation of which the licensee is a member, until the licensee is in compliance.

Junkyards and Scrap Processing Facilities that are zoned industrial, or are not zoned but are used for industrial activities as determined by the Director of Transportation, are exempt.

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Penalties

Unless specified, violations are subject to a \$25 to \$1,000 fine and costs of prosecution.

Accepting items for future resale while a Junk Yard or Scrap Processing Facility's license is suspended is a misdemeanor of the fourth degree.

A violation of the Recordkeeping, Secondhand Dealer, Retention, Inspection, Reporting, Hold, Do Not Buy From Individual List, or Purchase Restrictions provisions, or failure to display a copy of their registration certificate, is:

- 1st offense: misdemeanor of the first degree.
- 2nd offense of one of the listed provisions: felony of the fifth degree, and a court may suspend a Dealer's registration for 90 days.
- 3rd or subsequent offense: felony of the fourth degree, and a court may suspend a Dealer's registration for 90 days.

Acting as a Dealer without registering is a felony of the fifth degree, and the court shall enjoin the person from engaging in the business of a Dealer

A person who receives, purchases, or sells a Special Purchase Article or Bulk Merchandise Container without complying with the applicable rules is guilty of a:

- 1st offense: felony of the fifth degree;
- 2nd or subsequent offense: felony of the 3rd degree

A motor vehicle used in the theft or illegal transportation of metal shall be impounded at a municipal corporation impound lot or another lot utilized for that purpose for:

- 1st offense: 30 to 60 days;
- 2nd or subsequent offense: 60 to 180 days;
- Involving a Special Purchase Article or Bulk Merchandise Container: 90 to 360 days.

An impounded motor vehicle may be recovered from the impound lot at the end of the impound term upon payment of fees.

Under § 4973.14, when the right or title to Railroad Scrap is questioned in a suit, a Dealer must make prima-facie proof of title and the ownership derived from it. If it appears that any of the metals were unlawfully obtained and mixed or confused with other scrap metal it shall be deemed a confusion of goods unless the Dealer establishes a lawful title from or through a railroad company.

Under § 4973.15, a railroad company may claim to be the general owner of and replevy any Railroad Scrap and other metals with which they may have been confused, found in the possession of a person, firm, or company, when there is good reason to believe that such metals or articles were unlawfully taken from such company or its receiver. The officer, agent, or receiver of the railroad company need only state that they believe such metals were unlawfully taken from their company or another company; the other party must prove a right or title to them. In absence of proof the railroad company shall be held to be the general owner, but any other company or receiver may be entitled to a part of the payment for cost and expenses of replevying if they show that part of such metals were unlawfully taken from them. A railroad company that replevies without reasonable cause to believe the property was unlawfully taken is liable for a sum not exceeding double the value of the property, in addition to any damages sustained.

Theft of a Special Purpose Article or Bulk Merchandise Container under §2913 - Theft, unless it involves property valued at \$7,500 or more, or \$1,000 or more stolen from an elderly or disabled person, is a felony of the fifth degree.

Receiving a Stolen Special Purchase Article or Bulk Merchandise Container under § 2913 - Theft, unless it involves property valued at \$7,500 or more, is a felony of the fifth degree

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Preemption

No political subdivision shall enforce any regulation in conflict with the law. No political subdivision shall enact or enforce a regulation or ordinance requiring a Dealer to tag and hold any scrap metal purchased or received.

The licensing requirements for Junk Yards and Scrap Processing Facilities do not preclude or preempt local law. The industrial exemption for licensing a Yard or Facility does not prohibit the regulation or prohibition of such by municipal corporations.

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References and Recent Amendments

Statutes

- [Ohio Rev. Code Title 47, Ch. 4737](#): Secondhand Dealers; Junk Yards; § 4737.01 to § 4737.99
- Railroad Scrap: [Ohio Rev. Code Title 49, Ch. 4973](#); § 4973.13 to § 4973.16

Regulations

- [Ohio Admin. Code Ch. 4501:5-3](#) Scrap Metal Dealers

[Ohio Homeland Security - Scrap Metal
Scrap Metal Dealers Registration and Login Page](#)

Recent Amendments

- [2013 Ohio HB 51](#)
- [2014 Ohio HB 483](#) (effective June 16, 2014)
- Rules requiring Do Not Buy lists (4501:5-3-01) and daily electronic reporting (4501:5-3-3) are effective as of February 1, 2015

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