



Pennsylvania 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 November 4, 2022

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Please Note: Amendments by [2022 Pennsylvania HB 2398](#), effective 60 days after enactment, are included and noted in this summary

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

Scrap Material is a term used in the Act but not defined. The Act requires recordkeeping for any transaction involving the purchase of Restricted Materials and on any transaction when the purchase of Scrap Material exceeds \$100.

"Ferrous metals." Items that are predominantly made from iron or steel that have no further use in their original manufactured form but which can be melted for their metal content and utilized in the manufacture of new products.

"Nonferrous Metals." Items that are predominantly made from metals other than iron and steel, such as copper, brass, aluminum, bronze, lead, zinc, nickel and alloys that have no further use in their original manufactured form but which can be melted for their metal content and utilized in the manufacture of new products.

Restricted Materials, as used in this summary, refers to the following materials as listed in Section 5 that may only be purchased from a Commercial Enterprise:

- New production scrap or new materials that are a part of a manufacturing process that are being sold by an individual, not a company;
 - Full sized, new materials, such as those used in construction, or equipment and tools used by contractors;
 - "Commercial Metal Property." Utility access covers, street light poles and fixtures, road and bridge guardrails, highway or street signs, water meter covers, traffic directional and control signs, traffic light signals, any metal property clearly marked with the name of the commercial enterprise, including, but not limited to, a telephone, cable, electric, water, natural gas or other utility or railroad, unused or undamaged building construction materials consisting of copper pipe, tubing or wiring, aluminum wire, siding, downspouts or gutters, aluminum or stainless steel fence panels, aluminum decking, bleachers or risers, historical markers, statue plaques, grave markers, funeral vases, agricultural irrigation wheels, sprinkler heads and pipes;
 - Metallic wire that has been burned in whole or in part to remove insulation, unless the aggregate value is less than \$100;
 - "Beer Keg" Vessel designed to contain at least 128 fl. oz. of malt or brewed beverage;
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- Detached "Catalytic Converters." An air pollution abatement device that removes pollutants from motor vehicle exhaust, either by oxidizing them into carbon dioxide and water or reducing them to nitrogen.
- "Railroad Material." Railroad power and signal equipment, road or rail crossing signals, railroad track, railroad switch components, railroad spike, angle/joint bar as used in the joining of railroad track, railroad anchors, railroad tie plate or bolt used in constructing a railroad.

"Secondary Metal" under 18 Pa.C.S. § 3935.1. means wire, pipe or cable commonly used by communications, gas and electrical utilities and railroads and mass transit or commuter rail agencies, copper, aluminum or other metal, or a combination of metals, that is valuable for recycling or reuse as raw material.

"Recycling Facility Operator." An owner, operator or employee who operates a facility employing a technology that is a process to separate or classify municipal waste and who creates or recovers reusable materials that can be sold to or reused by a manufacturer as a substitute for or a supplement to virgin raw materials. The term does not include a person who operates a transfer station or landfill for solid waste, composting facility or resource recovery facility.

"Scrap Processor." An owner, operator or employee who, from a fixed location, utilizes machinery and equipment for processing and manufacturing ferrous or nonferrous metallic scrap, paper scrap, plastic scrap, rubber scrap or glass scrap into prepared grades and whose principal product is sold as a raw material in the manufacture of new products.

"Processing." Receiving, storing or reselling Scrap Materials for payment or other financial consideration.

"Seller." Any person, other than a Commercial Enterprise, who sells Scrap Materials to a scrap processor or recycling facility operator.

"Commercial Account." A relationship between a Scrap Processor and a commercial enterprise that is ongoing and properly documented.

"Commercial Enterprise." A corporation, partnership, limited liability company, single proprietorship, association, State agency, political subdivision of the Commonwealth, public corporation or any other legal or commercial entity.

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Recordkeeping - Sellers

A Processor or Operator must record the following for all Sellers of Restricted Material (as a reminder, Restricted Material may only be purchased from a Commercial Enterprise) as well as any other Seller when the purchase of Scrap Material exceeds \$100:

- A copy of the Seller's driver's license;
- The Seller's and buyer's signature for each transaction;
- If the Seller is under 18 years old, written permission of their parent or legal guardian;
- Date and Time of the transaction;
- A description of the scrap material, including the weight;
- The amount paid to the Seller;

For transactions paid in cash, a Processor or Operator must develop methods of tracking a transaction that obtains the Seller's signature on a receipt for the transaction. The receipt must also include a certification that the Seller is the owner or authorized seller of the scrap material.

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Recordkeeping - Commercial Accounts

A Processor or Operator must create and maintain a permanent record containing the following information with a Commercial Enterprise, including another scrap metal business, in order to establish a Commercial Account:

- The full name and Federal or State tax identification number;
- The business address and telephone number.

Each Commercial Enterprise's record shall document every purchase and receipt of ferrous or nonferrous metal and commercial metal property, including, at minimum:

- The Date and Time;
- The value of the property being purchased or received;
- A description of the predominant types of property being purchased.
- A copy of the Deliverer's driver's license.

If a financial transaction occurs between the Processor or Operator and the Deliverer, the Processor or Operator must additionally record:

- The license plate number of the vehicle transporting the scrap material;
- The telephone number of the Commercial Account;
- Confirmation that the Deliverer is authorized to receive a check or cash on behalf of the person or entity providing the Scrap Material, consisting of a written, signed authorization from the owner or officer of the Commercial Enterprise stating the person delivering the Scrap Material is designated to receive payment;
- If paid in cash, an acknowledgement of receipt of payment signed by the Deliverer.

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Retention

Records must be maintained for a minimum of 2 years from the date of the transaction.

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Inspection

A Processor or Operator shall disclose Seller registration information during normal business hours to any investigative or law enforcement officer or any person acting at their direction or request to investigate suspected criminal activities. Disclosure of Commercial Enterprise registration information is not specified.

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Tag and Hold and Reporting

A law enforcement officer may issue a Processor or Operator written or verbal notification that certain materials have been reported stolen. An officer must reasonably suspect that the Scrap Material has been lost or stolen, and the material description must be as specific as possible, including, but not limited to, the type and the style of the material, length or weight or any other such descriptions. A Processor or Operator may request the law enforcement officer's name, badge number, and department contact number for a verbal hold notice.

The Processor or Operator must inform law enforcement that the reported material is on their premises within 24 hours of either receiving the hold notice or of receiving the reported materials, and tag and hold the material for up to 48 hours after informing law enforcement. After 48 hours the material must be returned to its owner or released from the hold unless it is extended by a magisterial district judge who has determined that probable cause exists that the scrap is stolen.

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Registration

A Scrap Processor and Recycling Facility must register with the State Police, with individual registrations for each physical address of a Scrap Processing and Recycling Facility. Registrations are valid for 2 years; there is a \$100 fee for each registration or renewal. Registrations must be in writing on a State Police form, or on the form or electronic after the establishment of a state registration database, and include the following:

- For an individual or general partnership applicant:
 - Name, or name of each partner;
 - Driver's license number or a copy of an identification card issued by the state in which the individual or each partner resides;
 - Business or partnership name, address, and telephone number;
 - Federal employer identification number, if applicable;
- For a corporation, limited liability company, or limited partnership applicant:
 - Name of the registering officer, manager, and general partner;
 - Business name, address, and telephone number;
 - Name of each director or each individual holding greater than a 5% equity interest in the entity;
- For an out-of-state applicant, the name and address of the entity's resident agent or registered office provider in Pennsylvania and any registration number or license number issued to the entity by its home state or political subdivision, if applicable.
- For a joint venture, the name, address, and telephone number of the joint venture and of each party to the joint venture.

Within 14 business days of receiving the registration form and fee, the State Police must issue a written notice of registration identifying the name of the applicant, Scrap Processing and Recycling Facility name and address, and a registration number. Registration numbers must be included in all advertisements distributed in Pennsylvania, and the notice of registration must be clearly visible at the place of business.

The State Police shall establish and maintain a statewide registry of Scrap Processors and Recycling Facilities. The registry information shall be posted on the State Police's publically accessible website. Until July 1, 2016, registration fees shall be used to create an electronic registration database; afterwards, the fees shall be deposited in the general fund.

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Penalties

Violation by a Recycler is a summary offense with a maximum \$2,500 fine. A second or subsequent violation is a misdemeanor of the third degree.

Failure to register as a Scrap Processor or Recycling Facility is a summary offense punishable by a fine of \$1,000.

Upon conviction of an offense under 18 Pa.C.S. § 3921 (relating to theft by unlawful taking or disposition) or § 3925 (relating to receiving stolen property) that relates to the theft of Scrap Material or the transportation of stolen Scrap Material, the court may order the impoundment of any vehicle used in the act for the following periods, with the person convicted responsible for any associated fees:

- 1st offense: between 30 and 60 days;
- Second or subsequent involving the same motor vehicle: between 60 and 180 days.

Under 18 Pa.C.S. § 3935.1, a person commits Theft of Secondary Metal if they unlawfully take or attempt to take possession of, carry away, or exercise unlawful control over any Secondary Metal with intent to deprive the rightful owner, punishable by:

- For a 1st or second offense of Sect. 3935.1 or Sect. 3921 (theft by unlawful taking or disposition), including a conviction, Accelerated Rehabilitative Disposition or other form of preliminary disposition, if the value is:
 - less than \$50, a 3rd degree misdemeanor;
 - \$50 or more but less than \$200, a 2nd degree misdemeanor;
 - \$200 or more but less than \$1000, a 1st degree misdemeanor
 - \$1,000 or more, a 3rd degree felony.
- For a third or subsequent offense, a 3rd degree felony regardless of the value.

(added by HB 2398) Under [75 Pa.C.S. § 3723](#), Theft of a Catalytic Converter is committed if a person unlawfully takes or attempts to take possession of, carry away, or exercise unlawful control over a catalytic converter with intent to deprive the rightful owner of the catalytic converter. If the value of the catalytic converter unlawfully obtained is:

- Less than \$50: a misdemeanor of the 3rd degree
- \$50 or more but less than \$200: misdemeanor of the 2nd degree
- \$200 or more but less than \$1,000: misdemeanor of the 1st degree
- \$1,000 or more: felony of the 3rd degree
- 3rd or subsequent offense: felony of the 3rd degree regardless of value. 1st or 2nd offense includes a conviction, acceptance of, or other form of preliminary disposition before the sentencing on the present violation for an offense of theft of a catalytic converter.

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Preemption

Preempts and supersedes any local ordinance or rule adopted after the effective date of this act (December 8, 2008) which seeks to regulate the processing of scrap materials.

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References and Recent Amendments

Statutes

Please Note: Pennsylvania's statutes are split into Consolidated and Unconsolidated statutes. Consolidated statutes are grouped by subject and updated as new amendments are made. Unconsolidated Statutes are as they were passed by the Pennsylvania Legislature in chronological order and are not updated with later amendments, which must be referenced separately.

- [Pa. Unconsolidated Statutes Act of October 9, 2008, P.L. 1408, No. 113, Cl. 27](#): Scrap Materials Theft Prevention Act - Enactment
 - [Pa. Unconsolidated Statutes Act of June 26, 2014, P.L. 799, No. 79, Cl. 27](#): Scrap material theft prevention act - commercial accounts, restricted materials, statewide registry of scrap processors and recycling facilities, duty to register, criminal registry and penalties
- [Pa. Consolidated Statutes Title 18, Ch. 39, Subch. B, § 3935.1](#). Theft of secondary metal; 18 Pa.C.S. § 3935.1.
- [Pa. Consolidated Statutes Title 75, Ch. 37](#), Subch. A, § 3723. Theft of catalytic converter; 75 Pa.C.S. § 3723

Recent Amendments

- [2014 Pennsylvania SB 1077](#) (approved 06/26/14, effective 60 days after enacted)
- [2014 Pennsylvania HB 80](#) (approved 10/28/14, effective 60 days after enacted) (note: ruled unconstitutional)
- [2017 Pennsylvania HB 267](#) (effective August 21, 2017) (note: reinstates 2014 PA HB 80)
- [2022 Pennsylvania HB 2398](#) (effective 60 days after enactment)

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