

ARTICLE 30

Sale of Recycled Metals

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57-30-1. Short title.

Chapter 57, Article 30 NMSA 1978 may be cited as the "Sale of Recycled Metals Act".

History: Laws 2008, ch. 29, § 1; 2012, ch. 29, § 1; 2012, ch. 33, § 1.

The 2012 amendment, effective July 1, 2012, changed the statutory reference to the act and at the beginning of the sentence, deleted "This act" and added "Chapter 57, Article 30 NMSA 1978".

Laws 2012, ch. 29, § 1 and Laws 2012, ch. 33, § 1 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 3. *See* 12-1-8 NMSA 1978.

57-30-2. Definitions.

As used in the Sale of Recycled Metals Act:

A. "aluminum material" means a product made from aluminum, an aluminum alloy or an aluminum byproduct. "Aluminum material" includes an aluminum beer keg but does not include other types of aluminum cans used to contain a food or beverage;

B. "bronze material" means:

- (1) a cemetery vase, receptacle or memorial made from bronze;
- (2) bronze statuary; or
- (3) material readily identifiable as bronze;

C. "business day" means any calendar day except Sunday and the following holidays: New Year's day, Washington's birthday, Memorial day, Independence day, Labor day, Columbus day, Veterans' day, Thanksgiving day, Christmas day, Martin Luther King, Jr.'s birthday and any other legal public holiday of the state of New Mexico or the United States;

D. "copper or brass material" means:

(1) insulated or noninsulated copper wire, hardware or cable of the type used by a public utility, commercial mobile radio service carrier or common carrier that consists of at least twenty-five percent copper; or

(2) a copper or brass item of a type commonly used in construction or by a public utility, commercial mobile radio service carrier or common carrier;

E. "department" means the regulation and licensing department;

F. "peace officer" means any full-time salaried and commissioned or certified law enforcement officer of a police or sheriff's department that is part of or administered by the state or a political subdivision of the state;

G. "personal identification document" means:

- (1) a driver's license;

(2) a military identification card; or

(3) a passport issued by the United States or by another country and recognized by the United States;

H. "regulated material" means:

- (1) aluminum material;
- (2) bronze material;
- (3) copper or brass material;
- (4) steel material;
- (5) a utility access cover;
- (6) a water meter cover;
- (7) a road or bridge guard rail;
- (8) a highway or street sign;
- (9) a traffic directional or control sign or signal; or
- (10) a catalytic converter that is not part of an entire motor vehicle;

I. "secondhand metal dealer" means a scrap metal processor in the business of operating or maintaining a scrap metal yard in a physical location in which scrap metal or cast-off regulated material is purchased for shipment, sale or transfer;

J. "steel material" means a product made from an alloy of iron, chromium, nickel or manganese, including stainless steel beer kegs; and

K. "superintendent" means the superintendent of regulation and licensing.

History: Laws 2008, ch. 29, § 2; 2012, ch. 29, § 2; 2012, ch. 33, § 2.

The 2012 amendment, effective July 1, 2012, eliminated personal identification certificates as a personal identification document; expanded the types of materials that are regulated; simplified the definition of "secondhand metal dealer"; in Subsection C, after "Sunday and the following", deleted "business"; in Subsection G, deleted former Paragraph (4), which provided that personal identification certificates issued by the department or another state were personal identification documents; in Subsection H, added Paragraphs (5) through (10); and in Subsection I, after "means", deleted the paragraph designation

of former Paragraph (1) and "an auto wrecker", after "scrap metal processor", deleted "or other person that purchases, collects or solicits regulated material; and" and deleted the paragraph designation of former Paragraph (2) and "a person who operates or maintains a scrap metal yard, or other place" and added "in the business of operating or maintaining a scrap metal yard in a physical location", and after "regulated metal is", deleted "collected or kept" and added "purchased".

Laws 2012, ch. 29, § 2 and Laws 2012, ch. 33, § 2 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 2. *See* 12-1-8 NMSA 1978.

57-30-2.1. Issuance of registration; period of registration.

The department is authorized to issue registrations to secondhand metal dealers that buy or sell regulated material. Original and renewed registrations shall be valid for a period of three years from the date of issuance, unless the registration is suspended or revoked.

History: Laws 2012, ch. 29, § 13 and Laws 2012, ch. 33, § 13.

Effective dates. — Laws 2012, ch. 33, § 17 made Laws 2012, ch. 33, § 13 effective July 1, 2012.

Compiler's notes. — Laws 2012, ch. 29, § 13 and Laws 2012, ch. 33, § 13 enacted identical new sections. The section was set out as enacted by Laws 2012, ch. 33, § 13. *See* 12-1-8 NMSA 1978.

57-30-2.2. Secondhand metal dealers; registration required; application; fee.

A. A secondhand metal dealer shall not buy or sell regulated material without a valid registration issued by the department.

B. An application for registration shall be completed, under penalty of perjury, on a form designed and provided by the department and shall include:

- (1) the full name and business address of the applicant;
- (2) a list of all locations at which the applicant engages or will engage in the business of buying or selling regulated material; and
- (3) any other information the department may require by rule.

C. An application for registration or for renewal of a registration shall be accompanied by a non-refundable application fee in an amount not to exceed twenty-five dollars (\$25.00).

History: Laws 2012, ch. 29, § 14 and Laws 2012, ch. 33, § 14.

Effective dates. — Laws 2012, ch. 33, § 17 made Laws 2012, ch. 33, § 14 effective July 1, 2012.

Compiler's notes. — Laws 2012, ch. 29, § 14 and Laws 2012, ch. 33, § 14 enacted identical new sections. The section was set out as enacted by Laws 2012, ch. 33, § 14. See 12-1-8 NMSA 1978.

57-30-2.3. Duties of secondhand metal dealers.

A. A secondhand metal dealer shall:

- (1) maintain a valid registration, issued by the department, and comply with the requirements of the Sale of Recycled Metals Act and rules promulgated pursuant to that act;
- (2) comply with all federal requirements for scrap metal dealers, including maintaining storm water permits;
- (3) register for the metal theft alert system, maintained by the institute of scrap recycling industries or its successor organization; and
- (4) keep all employees who are involved in the purchasing or receiving of regulated material apprised of alerts received on theft of regulated material in the geographic area.

B. A secondhand metal dealer who becomes aware that the dealer is in possession of regulated material that was stolen or unlawfully obtained shall not remove the material from the dealer's premises and shall report the same to a local law enforcement agency within twenty-four hours.

History: Laws 2012, ch. 29, § 15 and Laws 2012, ch. 33, § 15.

Effective dates. — Laws 2012, ch. 33, § 17 made Laws 2012, ch. 33, § 15 effective July 1, 2012.

Compiler's notes. — Laws 2012, ch. 29, § 15 and Laws 2012, ch. 33, § 15 enacted identical new sections. The section was set out as enacted by Laws 2012, ch. 33, § 15. See 12-1-8 NMSA 1978.

57-30-2.4. Restricted transactions; additional documentation required.

A. A secondhand metal dealer shall not purchase any of the following without written documentation indicating that the seller is the rightful owner or has permission from the rightful owner or that the material was otherwise lawfully obtained:

- (1) infrastructure grade regulated material that has been burned to remove insulation, unless the seller can produce written proof that the regulated material was lawfully burned;
- (2) regulated material where the manufacturer's make, model, serial or personal identification number or other identifying marks engraved or etched upon the material have been conspicuously removed or altered;
- (3) regulated material marked with the name, initials or otherwise identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company, a railroad or a governmental entity;
- (4) a utility access cover;
- (5) a water meter cover;
- (6) a road or bridge guard rail;
- (7) a highway or street sign;
- (8) a traffic directional or control sign or signal;
- (9) a metal beer keg that is clearly marked as being the property of the beer manufacturer; or
- (10) a catalytic converter that is not part of an entire motor vehicle.

B. The department shall promulgate rules that more specifically describe the type of documentation required before a secondhand metal dealer may engage in a transaction described in this section.

History: Laws 2012, ch. 29, § 16 and Laws 2012, ch. 33, § 16.

Effective dates. — Laws 2012, ch. 33, § 17 made Laws 2012, ch. 33, § 16 effective July 1, 2012.

Compiler's notes. — Laws 2012, ch. 29, § 16 and Laws 2012, ch. 33, § 16 enacted identical new sections. The section was set out as enacted by Laws 2012, ch. 33, § 16. See 12-1-8 NMSA 1978.

57-30-3. Notice to sellers.

A. A secondhand metal dealer shall at all times maintain in a prominent place in the dealer's place of business, in open view to a seller of regulated material, a notice in two-inch lettering that:

- (1) includes the following language:

"A PERSON ATTEMPTING TO SELL REGULATED MATERIAL MUST PRESENT SUFFICIENT IDENTIFICATION AS REQUIRED BY STATE LAW.

WARNING: STATE LAW PROVIDES A CIVIL FINE FOR A PERSON WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR OTHER FALSE INFORMATION TO A SECONDHAND METAL DEALER WHILE ATTEMPTING TO SELL REGULATED MATERIAL."; and

(2) states the secondhand metal dealer's usual business hours.

B. The notice required by this section may be contained on a sign that contains another notice if the secondhand metal dealer is required to display another notice pursuant to applicable law.

History: Laws 2008, ch. 29, § 3.

Effective dates. — Laws 2008, ch. 29, § 16 made the Sale of Recycled Metals Act effective January 1, 2009.

Applicability. — Laws 2008, ch. 29, § 15 provided that the provisions of the Sale of Recycled Metals Act

shall not apply to a purchase of regulated material from a manufacturing, industrial or other commercial vendor that sells regulated material in the ordinary course of the vendor's business.

57-30-4. Information provided by seller.

A. A person attempting to sell regulated material to a secondhand metal dealer shall:

- (1) display to the secondhand metal dealer the person's personal identification document;
- (2) sign a written statement provided by the secondhand metal dealer that the person is the legal owner of or is lawfully entitled to sell the regulated material offered for sale;
- (3) provide to the secondhand metal dealer the year, make, model and license plate number of the motor vehicle used to transport the regulated material; and
- (4) allow the secondhand metal dealer to take a photograph of the seller and the regulated material.

B. The secondhand metal dealer or the dealer's agent shall visually verify the accuracy of the personal identification document and vehicle identification presented by the seller at the time of the dealer's purchase of regulated material.

History: Laws 2008, ch. 29, § 4; 2012, ch. 29, § 3; 2012, ch. 33, § 3.

The 2012 amendment, effective July 1, 2012, required the seller to permit the secondhand metal dealer to photograph the seller and the regulated material, and in Subsection A, added Paragraph (4).

Laws 2012, ch. 29, § 3 and Laws 2012, ch. 33, § 3 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 3. See 12-1-8 NMSA 1978.

57-30-5. Record of purchase.

A. A secondhand metal dealer in this state shall keep an accurate and legible written record, in a form approved by the department, of each purchase made in the course of the dealer's business of:

- (1) copper or brass material;
- (2) bronze material;
- (3) aluminum material in excess of ten pounds; or
- (4) steel material in excess of one ton, except that a written record shall be kept of each purchase of a stainless steel beer keg.

B. The record shall be in English and shall include:

- (1) the place and date of the purchase;
 - (2) the name and address of each person from whom the regulated material is purchased or obtained;
 - (3) the identifying number of the personal identification document of each person from whom the regulated material is purchased or obtained;
 - (4) the year, make, model and license plate number of the motor vehicle used to transport the regulated material;
 - (5) a description made in accordance with the custom of the trade of the type and quantity of regulated material purchased;
 - (6) the statement required by Paragraph (2) of Subsection A of Section 57-30-4 NMSA 1978;
- and

(7) the written documentation required for certain transactions pursuant to Section 16 [57-30-18 NMSA 1978] of this 2012 act, if applicable.

C. A secondhand metal dealer may take a digital photograph, with a date and time stamp, of:

- (1) the seller of the regulated material; and
- (2) the regulated material in the form in which it was purchased or obtained by the secondhand metal dealer.

History: Laws 2008, ch. 29, § 5; 2012, ch. 29, § 4; 2012, ch. 33, § 4.

The 2012 amendment, effective July 1, 2012, required secondhand metal dealers to maintain written documentation indicating that the seller is the owner of or has permission from the owner to sell certain regulated material; authorized secondhand metal dealers to take photographs of sellers and the regulated mate-

rial; in Subsection A, after "dealer's business", deleted "from a person"; in Subsection B, added Paragraph (7); and added Subsection C.

Laws 2012, ch. 29, § 4 and Laws 2012, ch. 33, § 4 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 4. *See* 12-1-8 NMSA 1978.

57-30-6. Preservation of records.

A secondhand metal dealer shall preserve each record required by Section 57-30-5 NMSA 1978 until the first anniversary of the date the record was made.

History: Laws 2008, ch. 29, § 6; 2012, ch. 29, § 5; 2012, ch. 33, § 5.

The 2012 amendment, effective July 1, 2012, changed the statutory reference to the applicable section and after "Section", deleted "5 of the Sale

of Recycled Metals Act" and added "57-30-5 NMSA 1978".

Laws 2012, ch. 29, § 5 and Laws 2012, ch. 33, § 5 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 5. *See* 12-1-8 NMSA 1978.

57-30-7. Inspection of records by peace officers; holds on property.

A. Upon request, a secondhand metal dealer shall produce to a peace officer during the dealer's usual business hours the requested record of purchase as required by Section 57-30-5 NMSA 1978.

B. If a peace officer determines, through an investigation or examination of the records kept by the secondhand metal dealer, that the dealer may be in possession of stolen property or property that constitutes evidence in a criminal investigation, the peace officer may place a hold on the property prohibiting the sale or removal of the property from the premises. The hold may remain in effect for up to five days or until the hold is lifted or the property is seized, whichever occurs earlier.

C. The inspecting peace officer shall inform the secondhand metal dealer of the person's status as a peace officer.

History: Laws 2008, ch. 29, § 7; 2012, ch. 29, § 6; 2012, ch. 33, § 6.

The 2012 amendment, effective July 1, 2012, eliminated the authority of employees of the department to inspect records; authorized peace officers to place a hold on property that the officer believes may be stolen property; in Subsection A, after "peace officer", deleted "or an authorized employee of the department"; added Subsection B; and in Subsection C,

after "inspecting peace officer", deleted "or authorized employee of the department", and after "status as a peace officer", deleted "or authorized employee of the department".

Laws 2012, ch. 29, § 6 and Laws 2012, ch. 33, § 6 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 6. *See* 12-1-8 NMSA 1978.

57-30-8. Furnishing of report to department.

A. As of January 1, 2014, a secondhand metal dealer shall, not later than the second business day after the date of the purchase or other acquisition of regulated material for which a record is required pursuant to Section 57-30-5 NMSA 1978, upload to the database maintained by the department a report containing the information required to be recorded pursuant to that section.

B. A local governmental entity shall not impose any reporting requirements on secondhand metal dealers regarding the purchase or acquisition of regulated material.

History: Laws 2008, ch. 29, § 8; 2012, ch. 29, § 7; 2012, ch. 33, § 7.

The 2012 amendment, effective July 1, 2012, required secondhand metal dealers to upload the record of acquisitions of regulated material to the database

maintained by the department; prohibited municipalities from imposing reporting requirements on secondhand metal dealers; in Subsection A, at the beginning of the sentence, added "As of January 1, 2014, a secondhand metal dealer shall" and after "Section",

deleted "5 of the Sale of Recycled Metals Act a second-hand metal dealer shall mail to or file with" and added "57-30-5 NMSA 1978, upload to the database maintained by"; and added Subsection B.

Laws 2012, ch. 29, § 7 and Laws 2012, ch. 33, § 7 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 7. *See* 12-1-8 NMSA 1978.

57-30-9. Database.

The department shall establish and maintain an electronic database containing the records required to be preserved pursuant to Section 57-30-6 NMSA 1978, which database shall be accessible to law enforcement agencies and the department. Records received by the department pursuant to Section 57-30-8 NMSA 1978 shall be available in the database by the end of the second business day following receipt by the department.

History: Laws 2008, ch. 29, § 9; 2012, ch. 29, § 8; 2012, ch. 33, § 8.

The 2012 amendment, effective July 1, 2012, restricted access to the database to law enforcement agencies and the department; in the title, deleted "Public" and in the first sentence, after "database

shall be accessible to", deleted "the public" and added "law enforcement agencies and the department".

Laws 2012, ch. 29, § 8 and Laws 2012, ch. 33, § 8 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 8. *See* 12-1-8 NMSA 1978.

57-30-10. Powers and duties of superintendent.

The superintendent has authority to promulgate reasonable regulations for the administration and enforcement of the Sale of Recycled Metals Act and is expressly authorized to make regulations regarding records of purchase of regulated material and the database required pursuant to that act.

History: Laws 2008, ch. 29, § 10; 2012, ch. 29, § 9; 2012, ch. 33, § 9.

The 2012 amendment, effective July 1, 2012, eliminated public access to the database and after "regulated material and the" deleted the word "public".

Laws 2012, ch. 29, § 9 and Laws 2012, ch. 33, § 9 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 9. *See* 12-1-8 NMSA 1978.

57-30-11. Waiting period for disposal of regulated material.

A secondhand metal dealer shall not process or permit to be removed from the dealer's premises regulated material until at least twenty-four hours have elapsed since the dealer acquired the regulated material.

History: Laws 2008, ch. 29, § 11; 2012, ch. 29, § 10; 2012, ch. 33, § 10.

The 2012 amendment, effective July 1, 2012, reduced the waiting period for disposal of regulated material to twenty-four hours and after "regulated material until", deleted "the fifth business day after the

date on which" and added "at least twenty-four hours have elapsed since".

Laws 2012, ch. 29, § 10 and Laws 2012, ch. 33, § 10 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 10. *See* 12-1-8 NMSA 1978.

57-30-12. Prohibited acts.

A person shall not, with the intent to deceive:

A. display to a secondhand metal dealer a false or invalid personal identification document in connection with the person's attempted sale of regulated material;

B. make a false material statement or representation to a secondhand metal dealer in connection with:

(1) that person's execution of a written statement required by Subsection A of Section 57-30-4 NMSA 1978;

(2) the dealer's efforts to obtain the information required pursuant to Subsection B of Section 57-30-5 NMSA 1978; or

(3) the written documentation required for certain transactions pursuant to Section 16 [57-30-18 NMSA 1978] of this 2012 act; or

C. deliberately remove or alter a manufacturer's make, model, serial or personal identification number or other identifying marks engraved or etched upon property that is regulated material.

History: Laws 2008, ch. 29, § 12; 2012, ch. 29, § 11; 2012, ch. 33, § 11.

The 2012 amendment, effective July 1, 2012, prohibited a person from making a false statement

in a written document indicating that the seller is the owner of or has permission from the owner to sell certain regulated material and from removing identifying information from regulated material; in Subsection B, added Paragraph (3); and added Subsection C.

Laws 2012, ch. 29, § 11 and Laws 2012, ch. 33, § 11 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 11. *See* 12-1-8 NMSA 1978.

57-30-13. Civil penalty; suspension or revocation of registration.

A. A person who violates any provision of the Sale of Recycled Metals Act may be assessed a civil penalty by the superintendent not to exceed one thousand dollars (\$1,000) per violation.

B. The superintendent may suspend or revoke the registration of a secondhand metal dealer when the superintendent finds that the dealer has intentionally violated a provision of the Sale of Recycled Metals Act.

C. Prior to the imposition of a civil penalty or the suspension or revocation of a registration, the superintendent shall provide notice and an opportunity to be heard pursuant to the pertinent notice and hearing provisions of the Uniform Licensing Act [Chapter 61, Article 1 NMSA 1978].

History: Laws 2008, ch. 29, § 13; 2012, ch. 29, § 12; 2012, ch. 33, § 12.

The 2012 amendment, effective July 1, 2012, provided for the suspension or revocation of the registration of secondhand metal dealers; added Subsection B; and in Subsection C, after "imposition of a", changed "civil penalty, the person being penalized shall be afforded" to "civil penalty or the suspension or revoca-

tion of a registration, the superintendent shall provide", and after "to be heard", deleted "by the superintendent".

Laws 2012, ch. 29, § 12 and Laws 2012, ch. 33, § 12 enacted identical amendments to this section. The section was set out as amended by Laws 2012, ch. 33, § 12. *See* 12-1-8 NMSA 1978.

57-30-14. Applicability.

The provisions of the Sale of Recycled Metals Act shall not apply to a purchase of regulated material from a manufacturing, industrial or other commercial vendor that sells regulated material in the ordinary course of the vendor's business.

History: Laws 2008, ch. 29, § 15.

Compiler's notes. — Laws 2008, ch. 29, § 15 was erroneously left out of the 2008 compilation by the

compiler. The provisions of this section became effective January 1, 2009.