

ESB 1754

THE HOUSE OF REPRESENTATIVES  
Thursday, April 3, 2008

ENGROSSED  
Senate Bill No. 1754  
As Amended

ENGROSSED SENATE BILL NO. 1754 - By: GARRISON of the Senate and LIEBMANN of the House.

[ scrap metal - records and displays of purchases – repealer - effective date -  
emergency ]

1 SECTION 1. AMENDATORY 21 O.S. 2001, Section 1041, as amended by  
2 Section 1, Chapter 99, O.S.L. 2007 (21 O.S. Supp. 2007, Section 1041), is amended to  
3 read as follows:  
4 Section 1041. A. All persons, firms or corporations, who carry on the business of  
5 buying copper, copper alloy, aluminum, aluminum alloy and items listed in Section ~~8~~ of  
6 ~~this act~~ 1412 of Title 59 of the Oklahoma Statutes, commonly known as "junk dealers" as  
7 defined in Section 1401 of Title 59 of the Oklahoma Statutes, shall keep a record in a  
8 book or any other method allowed by law in their places of business and open to the  
9 inspection of any law enforcement official or authorized representative of any  
10 governmental entity or utility, showing the date of each purchase of such property, the  
11 name and address of the seller, the items of property purchased, and the price paid to the  
12 seller for each item of property. ~~All persons, firms and corporations carrying on such~~

1 ~~business shall keep all such property purchased upon display, and in plain sight, in their~~  
2 ~~places of business, for at least ten (10) days after purchasing the property, and keep the~~  
3 ~~property open for inspection by persons authorized in this section, during said time,~~  
4 ~~before disposing of same. Provided, however, this~~

5 B. As used in this act, "exempted seller" means any person, firm, corporation or  
6 municipal corporation which constructs, operates, or maintains electric distribution and  
7 transmission communications facilities, or who produces or otherwise acquires scrap  
8 copper in the normal course of business, including manufacturers, distributors, retailers,  
9 contractors, holders of farm-use tax permits or junk dealers.

10 C. This act shall not apply to persons, firms or corporations, carrying on a retail or  
11 wholesale business of buying new property of the character aforesaid, or to persons  
12 buying new property of the kind mentioned at retail or wholesale; provided further, that  
13 it purchases made from an exempted seller.

14 D. This act shall not apply to the sale or purchase of aluminum beverage cans  
15 which are obtained for recycling purposes. It shall be unlawful for any junk dealer to  
16 purchase articles mentioned herein from minors without having first obtained the  
17 consent, in writing, of the parents or guardian of such minor.

18 SECTION 2. AMENDATORY 21 O.S. 2001, Section 1045, as amended by  
19 Section 4, Chapter 99, O.S.L. 2007 (21 O.S. Supp. 2007, Section 1045), is amended to  
20 read as follows:

21 Section 1045. A. Every owner, keeper or proprietor of a junk shop, junk store,  
22 salvage yard, scrap processor, junk cart or other vehicle or boat, or collector of or dealer

1 in junk, salvage or other secondhand property, shall keep a separate book, register or  
2 other electronic system used to record and maintain the data required by this section, in  
3 which he or she shall enter the following information: name, address, age, a photocopy of  
4 the driver license or other form of government-issued photo identification, the vehicle  
5 description and vehicle license tag number of the person or persons from whom ~~ten (10)~~  
6 thirty-five (35) pounds or more of copper, copper alloy, aluminum, aluminum alloy or any  
7 item listed in Section ~~8 of this act~~ 1412 of Title 59 of the Oklahoma Statutes, is  
8 purchased; vehicle license tag number and description of vehicle or conveyance in which  
9 delivered; the date and place of each purchase of copper, copper alloy, aluminum,  
10 aluminum alloy or any item listed in Section ~~8 of this act~~ 1412 of Title 59 of the  
11 Oklahoma Statutes; the description shall include the weight of the materials purchased,  
12 including whether the same is in wire, cable, bars, rods, sheeting or tubing and, if any  
13 insulation is thereon, the names and addresses of the persons, groups of persons or  
14 corporations from whom seller purchased the materials. Such book, register or other  
15 electronic system shall be made available to any person authorized by law for inspection  
16 at any time.

17 B. The purchaser of ~~any copper, copper alloy, aluminum, aluminum alloy or any~~  
18 item listed in Section ~~8 of this act~~ 1412 of Title 59 of the Oklahoma Statutes, shall hold  
19 the purchases separate and apart so that such materials shall be readily identifiable  
20 from all other purchases for a period of not less than ten (10) days from the date of  
21 purchase of such materials during which period the purchaser shall not change the form  
22 of the materials and shall permit any person authorized by law to make inspection of

1 such materials during the ten-day holding period; ~~provided, however, that all such~~  
2 ~~purchases.~~ Purchases of any metal shall be exempt from the ten-day holding period  
3 required by this subsection and state law provided a digital photographic record, video  
4 record or other record format is used to identify the seller and the metal the seller is  
5 selling. The digital photographic record, video record or other record format shall be  
6 retained by the purchaser for ninety (90) days, and the purchaser shall permit any  
7 person authorized by law to make inspection of the record during the ninety-day holding  
8 period.

9 C. Purchases made from ~~persons, firms, corporations or municipal corporations who~~  
10 ~~construct, operate, or maintain electric distribution and transmission, communications~~  
11 ~~facilities or produce scrap copper or aluminum in their normal course of business or the~~  
12 ~~sale of copper or aluminum material by one licensed junk dealer to another~~ exempted  
13 sellers are not subject to the ten-day holding period; ~~and there shall be required from~~  
14 ~~such persons, firms, corporations or municipal corporations a bill of sale or other written~~  
15 ~~evidence of title of such purchases.~~

16 D. The purchaser shall ~~also~~ report in writing all purchases of thirty-five (35)  
17 pounds or more of copper, copper alloy, aluminum, aluminum alloy or item listed in  
18 ~~Section 8 of this act~~ 1412 of Title 59 of the Oklahoma Statutes, to the sheriff of the  
19 county in which the purchases are made, if requested in writing by the sheriff, within  
20 forty-eight (48) hours after any such ~~purchase~~ request is made. The report made to the  
21 sheriffs shall contain all of the information required to be maintained in the book ~~or,~~  
22 register or other electronic system provided for herein. ~~The provisions of this section~~

UNDERLINED language denotes Amendments to present Statutes.  
**BOLD FACE CAPITALIZED** language denotes Committee Amendments.  
~~Strike thru~~ language denotes deletion from present Statutes.

1 shall not apply to the sale or purchase of aluminum beverage cans which are obtained for  
2 recycling purposes.

3 SECTION 3. AMENDATORY 21 O.S. 2001, Section 1046, as amended by  
4 Section 5, Chapter 99, O.S.L. 2007 (21 O.S. Supp. 2007, Section 1046), is amended to  
5 read as follows:

6 Section 1046. Failure to maintain the book, register or other electronic system,  
7 failing to maintain ~~the copper, copper alloy, aluminum, aluminum alloy or any item~~  
8 listed in Section ~~8 of this act~~ 1412 of Title 59 of the Oklahoma Statutes, separate and in  
9 the original form purchased for a period of ten (10) days or recorded pursuant to the  
10 provisions of subsection B of Section 1045 of this title, so that such materials can be  
11 readily identifiable, or failure to report to the sheriff in the manner and time required in  
12 Section 1045 of this title shall be deemed a violation of the provisions of Section 1045 of  
13 this title and shall be punishable, upon conviction, by imprisonment in the county jail for  
14 a period of time not exceeding six (6) months, or by a fine of not more than Five  
15 Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

16 SECTION 4. AMENDATORY 21 O.S. 2001, Section 1047, as amended by  
17 Section 6, Chapter 99, O.S.L. 2007 (21 O.S. Supp. 2007, Section 1047), is amended to  
18 read as follows:

19 Section 1047. Any person who shall knowingly give false information with respect  
20 to information required to be maintained in the book ~~or~~, register or other electronic  
21 system provided for in Section 1045 of this title shall, upon conviction, be guilty of a  
22 felony punishable by imprisonment in the custody of the Department of Corrections for

1 not more than two (2) years, or by a fine of not more than Five Thousand Dollars  
2 (\$5,000.00), or by both such fine and imprisonment.

3 SECTION 5. AMENDATORY 59 O.S. 2001, Section 1401, is amended to read  
4 as follows:

5 Section 1401. As used in this act, the following terms shall have the meanings  
6 indicated:

7 1. "Copper material" means the metal copper or copper alloy or anything made of  
8 either copper or copper alloy;

9 2. "Aluminum material" means the metal aluminum or aluminum alloy or anything  
10 made of either aluminum or aluminum alloy, except aluminum cans;

11 3. "Junk dealer" means any person, firm or corporation being an owner, keeper or  
12 proprietor of a junk shop, junk store, salvage yard or scrap processor handling copper  
13 material; a collector or dealer in junk, salvage or other property made of copper material  
14 or aluminum metal; anyone purchasing or handling copper material for remelting  
15 purposes; or anyone purchasing, handling or transferring vehicles for purposes of  
16 crushing, baling, shredding, flattening, recycling and reselling as bulk or processed  
17 metal;

18 4. "Yard" means the place where any junk dealer stores copper material or keeps  
19 the same for purpose of sale; ~~and~~

20 5. "Vehicle" means vehicle as defined in Section 1-186 of Title 47 of the Oklahoma  
21 Statutes; and

1        6. “Exempted seller” means any person, firm, corporation or municipal corporation  
2 who constructs, operates or maintains electric distribution and transmission  
3 communications facilities or who produces or otherwise acquires scrap copper in the  
4 normal course of business, including manufacturers, distributors, retailers, contractors,  
5 holders of farm-use tax permits or junk dealers.

6        SECTION 6. AMENDATORY    59 O.S. 2001, Section 1402, is amended to read  
7 as follows:

8        Section 1402. A. Any junk dealer and any person, firm, corporation or other legal  
9 entity desiring to become a junk dealer shall prior to the commencement of business file  
10 a verified application and obtain a sales tax permit, as provided by Section 1364 of Title  
11 68 of the Oklahoma Statutes, from the Oklahoma Tax Commission. Each junk dealer  
12 shall maintain at least one yard and, if such junk dealer maintains or desires to maintain  
13 more than one yard, the junk dealer shall obtain, in addition to the original sales tax  
14 permit, a duplicate sales tax permit for each additional yard.

15        B. The Oklahoma Tax Commission shall maintain a list of junk dealers to whom  
16 sales tax permits have been issued. The list shall be made available to the public upon  
17 request.

18        C. No person, firm, corporation or other legal entity desiring to become a junk  
19 dealer shall be denied a sales tax permit, as provided by Section 1364 of Title 68 of the  
20 Oklahoma Statutes, on the ground that the annual sales of the person, firm, corporation  
21 or other legal entity are insufficient in quantity or dollar value to warrant such permit.

1 SECTION 7. AMENDATORY 59 O.S. 2001, Section 1406, is amended to read  
2 as follows:

3 Section 1406. ~~(a)~~ A. Every junk dealer shall keep a separate book or register in  
4 which he shall enter the following information:

5 1. Name, address, age, driver's license number, or, if driver's license not available,  
6 similar definite identification of the person or persons from whom thirty-five (35) pounds  
7 or more of copper or copper alloy utilized by persons, firms, corporations or municipal  
8 corporations engaged in the transmission and distribution of electric energy, or engaged  
9 in telephone, telegraph or other communications is purchased; ~~license~~

10 2. License tag number of vehicle or conveyance in which delivered; ~~the date and~~

11 3. Date and place of each purchase of such copper or copper alloy; The description  
12 should include the weight of ~~said~~ the copper or copper alloy purchased, including whether  
13 the same is in wire, cable, bars, rods, or tubing, and if any installation is thereon, the  
14 names and addresses of the persons, groups of persons or corporations from whom the  
15 seller purchased ~~said~~ the copper or copper alloy.

16 Such book or register shall be made available to any law enforcement official or the  
17 representatives of persons, firms, corporations or municipal corporations described above  
18 for inspection at any time.

19 ~~(b)~~ B. A junk dealer who purchases copper material shall also report, in writing, all  
20 purchases of thirty-five (35) pounds or more of copper material not exempt from the  
21 ten-day holding period to the sheriff of the county in which ~~said~~ the purchases are made,  
22 if requested in writing by ~~said~~ the sheriff. The report shall be made in writing to ~~said~~ the

1 sheriff within forty-eight (48) hours after any such purchase is made and shall contain all  
2 of the information required to be maintained in the book or register provided for herein.

3 C. This section shall not apply to purchases made from an exempted seller.

4 SECTION 8. AMENDATORY 59 O.S. 2001, Section 1406A, is amended to read  
5 as follows:

6 Section 1406A. A. Every junk dealer shall keep a separate book ~~or~~, register or  
7 other electronic system in which the junk dealer shall enter the following information:

8 ~~name~~

9 1. Name, address, age, driver license number, or, if driver license is not available,  
10 similar definite identification, as approved by rule of the Oklahoma Tax Commission, of  
11 the person or persons from whom a vehicle is purchased; ~~license~~

12 2. License tag number of vehicle or conveyance in which delivered; ~~the date and~~

13 3. Date and place of each purchase of a vehicle; and a description of the vehicle  
14 purchased including make, model, vehicle identification number and license tag number.

15 The person selling the vehicle shall be required to present to the junk dealer the  
16 title of the vehicle verifying ownership of the vehicle or a verified bill of sale from the  
17 owner of the vehicle or other proof of ownership. Such book or register shall be made  
18 available to any law enforcement official for inspection at any time.

19 B. Any purchases, transfers or handling between junk dealers with permits and/or  
20 licensed automotive dismantlers and parts recyclers shall be exempt from the provisions  
21 of this section.

1 SECTION 9. AMENDATORY 59 O.S. 2001, Section 1407, is amended to read  
2 as follows:

3 Section 1407. Each purchase of thirty-five (35) pounds or more of copper or copper  
4 alloy utilized by persons, firms, corporations or municipal corporations engaged in the  
5 transmission and distribution of electric energy, or engaged in telephone, telegraph or  
6 other communications shall be held separate and apart so that such copper and copper  
7 alloy shall be readily identifiable from all other purchases for a period of not less than  
8 ten (10) days from the date of purchase of such copper or copper alloy, during which  
9 period the purchaser shall not change the form of ~~said~~ the copper or copper alloy and  
10 shall permit any law enforcement officer or the ~~representatives of persons, firms,~~  
11 ~~corporations or municipal corporations~~ authorized representative of any governmental  
12 entity or utility to make inspection of such copper material during ~~said~~ the ten-day  
13 holding period; provided, however, that all such purchases made from ~~persons, firms,~~  
14 ~~corporations or municipal corporations who construct, operate, maintain or sell electric~~  
15 ~~distribution and transmission communications facilities, or produce scrap copper~~  
16 ~~material in the normal course of business or the sale of copper material by one licensed~~  
17 ~~junk dealer to another~~ are an exempted seller is not subject to ~~said~~ the ten-day holding  
18 period; ~~but there shall be required from such persons, firms, corporations or municipal~~  
19 ~~corporations a bill of sale or other written evidence of title of such purchases.~~

20 SECTION 10. AMENDATORY 59 O.S. 2001, Section 1408, as amended by  
21 Section 7, Chapter 99, O.S.L. 2007 (59 O.S. Supp. 2007, Section 1408), is amended to  
22 read as follows:

1 Section 1408. A. Anyone acting as a junk dealer without a permit, as required by  
2 Section 1402 of this title, shall, upon conviction, be guilty of a misdemeanor punishable  
3 by a fine of not more than Five Hundred Dollars (\$500.00); provided that each day of  
4 operation without a license constitutes a separate offense.

5 B. Any junk dealer failing to maintain records, as required by Sections 1406 and  
6 1406A of this title, shall, upon conviction, be guilty of a misdemeanor punishable by  
7 imprisonment in the county jail for not more than one (1) year, or by a fine of not more  
8 than Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment. Each  
9 separate purchase or transfer of a vehicle in violation of Section 1406A of this title shall  
10 be considered a separate violation of this section.

11 C. Any person who fails to hold copper, or copper alloy, ~~aluminum, aluminum alloy~~  
12 ~~and as required by Section 1407A of this title, or who fails to hold~~ any materials listed in  
13 ~~Section 8 of this act~~ Section 1412 of this title, for ten (10) days as required by law, shall,  
14 upon conviction, be guilty of a misdemeanor punishable by a fine of not more than Two  
15 Thousand Five Hundred Dollars (\$2,500.00). Any person convicted of a second violation  
16 of this subsection shall be guilty of a misdemeanor punishable by a fine of Five Thousand  
17 Dollars (\$5,000.00). A third or subsequent violation of this subsection shall be  
18 punishable by a fine of Ten Thousand Dollars (\$10,000.00).

19 D. Any person who knowingly gives false information with respect to the  
20 information required in Sections 1406 and 1406A of this title shall, upon conviction, be  
21 guilty of a misdemeanor punishable by a fine of not more than Five Hundred Dollars  
22 (\$500.00).

1 E. Each conviction of a junk dealer or salvage dealer for violation of any provision  
2 of this act shall be reported to the Oklahoma Tax Commission by the clerk of the court  
3 rendering such verdict.

4 SECTION 11. AMENDATORY 59 O.S. 2001, Section 1410, is amended to read  
5 as follows:

6 Section 1410. A. Every junk dealer shall keep a separate book ~~or~~, register or other  
7 electronic system in which the dealer shall enter the following information:

8 1. Name, address, age, driver's license number, or, if driver's license not available,  
9 similar definite identification of the person or persons from whom thirty-five (35) pounds  
10 or more of aluminum is purchased; ~~license~~

11 2. License tag number of vehicle or conveyance in which delivered; ~~the date~~

12 3. Date and place of each purchase of such aluminum; ~~a description and~~

13 4. Description, including the weight of the aluminum purchased, and the names  
14 and addresses of the persons, groups of persons or corporations from whom seller  
15 purchased ~~said~~ the aluminum.

16 The book or register shall be made available to any law enforcement official for  
17 inspection at any time.

18 B. A junk dealer who purchases aluminum shall also report, in writing, all  
19 purchases of thirty-five (35) pounds or more of aluminum to the sheriff of the county in  
20 which the purchases are made, if requested in writing by the sheriff. The report shall be  
21 made in writing to the sheriff within forty-eight (48) hours after ~~said~~ the request is made

1 and shall contain all of the information required to be maintained in the book or register  
2 provided for in this section.

3 C. The provisions of this section shall not apply to purchases made from an  
4 exempted seller. The provisions of this section shall also not apply to the sale or  
5 purchase of aluminum beverage cans which are obtained for recycling purposes.

6 SECTION 12. AMENDATORY Section 8, Chapter 99, O.S.L. 2007 (59 O.S.  
7 Supp. 2007, Section 1412), is amended to read as follows:

8 Section 1412. A. A junk dealer or salvage dealer licensed or permitted to do  
9 business in this state shall not purchase any of the following items without obtaining  
10 proof that the seller owns the property, either by receipt, bill of sale or other ~~proof~~  
11 written evidence of ownership, or proof that the seller is an ~~employee, agent, or~~  
12 ~~contractor of a governmental entity, utility company, cemetery, railroad, manufacturer,~~  
13 exempted seller or other person, business or entity owning the property and the seller is  
14 authorized to sell the item on behalf of the person, business or entity owning the  
15 property:

- 16 1. A manhole cover;
- 17 2. An electric light pole and its fixtures and hardware, including transmission and  
18 distribution cable and wire, or any other hardware associated with the electric utility  
19 system;
- 20 3. A guard rail;
- 21 4. A street sign, traffic sign or traffic signal and its fixtures or hardware;
- 22 5. ~~Communications, transmission and service wire;~~

1       ~~6.~~ A funeral marker or funeral vase;

2       ~~7.~~ 6. A historical marker;

3       ~~8.~~ 7. Railroad equipment, including, but not limited to, a tie plate, switch plate, E

4 clip or rail tie junction;

5       ~~9.~~ 8. Any metal item that is marked with any form of the name, initials or logo of a

6 governmental entity, utility company, cemetery or railroad;

7       ~~10.~~ 9. A copper or aluminum condensing or evaporating coil from a heating or air

8 conditioning unit;

9       ~~11.~~ 10. An aluminum or stainless steel container or bottle designed to hold propane

10 for fueling fork lifts;

11       ~~12.~~ 11. Metal bleachers or other seating facilities used in recreational areas or

12 sporting arenas;

13       ~~13.~~ 12. Automotive catalytic converters;

14       ~~14.~~ ~~Plumbing~~ 13. New plumbing or electrical fixtures;

15       ~~15.~~ ~~Tools~~ 14. New tools; and

16       ~~16.~~ 15. Machinery or supplies commonly used in the drilling, completing, operating

17 or repairing of oil or gas wells.

18       B. Any person convicted of a violation of this section shall be punishable by a fine of

19 not more than Two Thousand Five Hundred Dollars (\$2,500.00). A second or subsequent

20 violation of this section shall be punishable by a fine of not more than Five Thousand

21 Dollars (\$5,000.00). A third violation of this section shall be punishable by a fine of Ten

1 Thousand Dollars (\$10,000.00) and forfeiture of the junk dealer's or salvage dealer's  
2 license or permit.

3 SECTION 13. AMENDATORY Section 9, Chapter 99, O.S.L. 2007 (59 O.S.  
4 Supp. 2007, Section 1413), is amended to read as follows:

5 Section 1413. A. Any junk dealer or salvage dealer licensed or permitted to do  
6 business in this state shall be required to pay the seller of any material, regulated by the  
7 provisions of Section 1401 et seq. of ~~Title 59 of the Oklahoma Statutes~~ this title, Section  
8 1041 of Title 21 of the Oklahoma Statutes, or this act, with a check, bank draft, money  
9 order, electronic transfer of funds or any other legal means other than cash for any  
10 amount in excess of ~~Twenty-five Dollars (\$25.00)~~ Five Hundred Dollars (\$500.00) per  
11 transaction. Such payment may be provided at the time of purchase or by mail, as  
12 determined by the junk dealer or salvage dealer. No junk dealer shall be permitted to  
13 exchange its own check, bank draft or money order for cash. If payment is to be made by  
14 mail, the junk dealer or salvage dealer shall provide the seller with a sales receipt at the  
15 time such items are accepted.

16 B. This section shall not apply to purchases made from an exempted seller.

17 SECTION 14. REPEALER 21 O.S. 2001, Sections 1043 and 1044, as amended  
18 by Section 3, Chapter 99, O.S.L. 2007 (21 O.S. Supp. 2007, Section 1044), are hereby  
19 repealed.

20 SECTION 15. This act shall become effective July 1, 2008.

1           SECTION 16. It being immediately necessary for the preservation of the public  
2 peace, health and safety, an emergency is hereby declared to exist, by reason whereof  
3 this act shall take effect and be in full force from and after its passage and approval.  
4 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT AND  
5 TRANSPORTATION, dated 04-02-08 - DO PASS, As Amended.