

California Metal Scrap Statute

This document is provided as background information for ISRI members. It does not constitute legal advice. Scrap recyclers should consult their attorneys/legal advisors regarding the application of the law and regulations to each company's individual circumstances. Other laws governing precious metals, secondhand materials, vehicles, and the like may apply.

Current as of September 14, 2015

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Please Note: Amendments by [2015 California AB 236](#), effective January 1, 2016 and exempting licensed pawnbrokers and secondhand dealers from the weighmaster requirements, are included and noted in this summary.

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

"Junk" means any and all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, including any and all secondhand and used furniture, pallets, or other personal property, other than livestock, or parts or portions thereof.

"Scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler. Scrap Metal does not include scrap iron, household generated waste, or aluminum beverage containers.

"Nonferrous Material" means copper, copper alloys, stainless steel, or aluminum, but does not include CRV beverage containers;

"Prohibited Material" includes:

- Any reasonably recognizable, disassembled, or inoperative fire hydrant or fire department connection, including reasonably recognizable brass fittings and parts;
- Any manhole cover or lid or reasonably recognizable part of such; or

- Any backflow device or connection to that device or reasonably recognizable part of that device, that was owned or previously owned by an agency.

"Recycler" means any processor, recycling center, or noncertified recycler who buys or sells Scrap Metal that constitutes Junk.

"Junk Dealer" includes any person engaged in the business of buying, selling and dealing in junk, any person purchasing, gathering, collecting, soliciting or traveling about procuring junk, and any person operating, carrying on, conducting or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.

"Core Recycler" means a person or business, including a Recycler or Junk Dealer, that buys used individual catalytic converters, transmissions, or other parts previously removed from a vehicle. A person or business that buys a vehicle that may contain these parts is not a Core Recycler.

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Exemptions

Exempts:

- Secondhand furniture merchants;
- Pawnbrokers;
- Secondhand car dealers or merchants in connection with automobile and motor vehicle sales agencies but not conducted in conjunction with a junk yard;
- Persons selling new automobile tires or batteries or other equipment taking in part payment used articles of the same and thereafter selling or disposing of them;
- Secondhand oil well supply and equipment dealers not conducting or carrying on their business in connection with a junk yard;
- Secondhand clothing merchants and ragpickers.

Except as otherwise provided, the law does not apply to:

- Any person who buys or sells Junk acquired in the conduct of any business other than that of a Dealer or Recycler.
- Purchases of scrap metal by a Dealer or Recycler when the payment is by check issued to the company represented as being the owner of the scrap, except as provided in Purchase Restrictions - Prohibited Materials (§ 21609.1 of the law);
- Scrap metal purchased or received from another Dealer or Recycler who has recorded, reported, and held the material as required. The purchase or receipt is also exempt from further holding or reporting provided that the selling party gives the buyer written assurance of this fact. The seller shall be held responsible for any failure to report or hold.

The Payment Restrictions on Nonferrous Materials and CRV Containers do not apply if, during any 3 month period, the Dealer or Recycler completes 5 or more separate transactions per month, on 5 or more separate days per month, with the Seller. To continue to be exempt the Seller must continue to complete 5 or more separate transactions per month with the Dealer or Recycler.

The Payment and Additional Recordkeeping provisions for purchases of Nonferrous Materials do not apply to:

- Nonferrous Material that is not valued at more than \$20 in a single transaction if the majority of the transaction is for beverage containers as defined in the Public Resources Code Division 12.1;
- Coin dealers; or
- Automobile dismantlers as defined in Vehicle Code § 220.

The Payment and Additional Recordkeeping provisions for purchases of CRV Containers do not apply to CRV containers having a value of \$100 or less in a single transaction or to jurisdictions that do not offer curbside pickup of materials that include CRV Containers.

The provisions relating to catalytic converters apply to Core Recyclers and do not apply to a subsequent purchaser of a catalytic converter who is not a Core Recycler. Other than as provided in the Recordkeeping - Catalytic Converters provision, the catalytic converter provisions do not apply to a Core Recycler who holds a written agreement with a business or Recycler regarding the transactions. The Payment Restrictions - Catalytic Converters provision exempts transactions where the Core Recycler and the Seller have a written agreement for the transaction.

(added by AB 236) The Weighmaster Licensing provision exempts licensed pawnbrokers and secondhand dealers when the pawnbroker or secondhand dealer weighs property that it acquires and reports the acquisition according to its respective statute.

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Recordkeeping

Junk Dealers and Recyclers are required to keep a written record of all sales and purchases made with the following information; the Office of the Attorney General provides a Record of Junk Sale or Purchase form PDF for download at <http://oag.ca.gov/recycle>

- The place and date of each sale or purchase;
- For purchases, information from one of the following methods of identification:
 - The Seller's name and a valid driver's license number and state of issue;
 - The Seller's name and a California or U.S.-issued identification card number;
 - The Seller's name, ID number, and country of issue from a passport and the address from another item of identification that bears the Seller's name; or

- The Seller's name and ID number from a Matricula Consular and the address from another item of identification that bears the Seller's name.
- For sales, the name and address of each person to whom metal is sold.
- The vehicle license number including the state of issue of any motor vehicle used in transporting metal to or from the Junk Dealer's or Recycler's business.
- A description of the items purchased or sold, including the item type and quantity, and identification number, if visible.
- For purchases, a statement indicating either:
 - That the Seller is the owner of the metal; or
 - The name of the person the metal was obtained from, as shown on a signed transfer document.

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Additional Recordkeeping and Payment Restrictions - Nonferrous Materials

For non-exempt purchases of Nonferrous Materials, a Dealer or Recycler must also record the following before providing payment:

- A clear photograph or video of the Seller;
- A copy of the method(s) of identification provided above
 - If the Seller prefers payment by check delivered to an address different from that on the ID other than a P.O. Box, the Dealer or Recycler must also record a copy of a gas or electric utility bill addressed to the Seller at that address with a payment due date no more than 2 months prior to the date of sale.
- A clear photo or video of the nonferrous metal being purchased;
- A thumbprint in hardcopy or electronic format.

Unless exempt, payment for a purchase of Nonferrous Materials must be made by either:

- Cash or Check collected by the Seller from the Dealer or Recycler on or after the 3rd business day following the purchase; or
- Check mailed to the Seller at the address on the ID given for the purchase record. If the Seller prefers payment by check delivered to an address different from that on the identification other than a P.O. Box, the Dealer or Recycler must also record a copy of a gas or electric utility bill addressed to the Seller at that address with a payment due date no more than 2 months prior to the date of sale.

These additional requirements do not apply if the Dealer or Recycler has on file or receives on the date of sale the following:

- The name, physical business address, and business telephone number of the Seller's business;
- The business license number or tax identification number or the Seller's business;
- A copy of the valid driver's license of the person delivering the Nonferrous Material on behalf of the Seller to the Dealer or Recycler.

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Additional Recordkeeping and Payment Restrictions - CRV Containers

For California Redemption Value (CRV) containers, a Dealer or Recycler must also record the valid address from and make a copy of one of the following before providing payment:

- The Seller's valid driver's license;
- A state or federal government-issued photo ID card; or
- Other valid identification containing the Seller's address, such as utility bills in the Seller's name.

Unless exempt, payment for a purchase of CRV containers must be made by either:

- Check or electronic transfer from the Dealer or Recycler to the Seller; or
- A Recycler, if authorized by Public Resources Code Division 12.1, may provide payment through a voucher that is immediately redeemable for cash.

These additional requirements do not apply if the Dealer or Recycler has on file or receives on the date of sale the following:

- The name, physical business address, and business telephone number of the Seller's business;
- The business license number or tax identification number or the Seller's business;
- A copy of the valid driver's license or a state or federal government-issued ID card with a photograph and address of the person delivering the CRV Containers on behalf of the Seller to the Dealer or Recycler.

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Additional Recordkeeping - Beer Kegs

Dealers or Recyclers may only purchase or receive refillable stainless steel or aluminum alloy beer kegs marked with an indicia of ownership from the indicated owner unless the Seller or Transferor provides one of the following, which the Dealer or Recycler must copy and add to the transaction record:

- A receipt from the indicated owner verifying the Seller's current ownership; or
- A document indicating the Seller is authorized by the owner to sell the kegs.

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Purchase Restrictions - Prohibited Material

For purchases of Prohibited Materials, Dealers or Recyclers must obtain written certification on the letterhead of the agency that owned or previously owned the material.

The certification must:

- Describe the material;
- Certify that the agency has sold the material or is offering it for sale, salvage, or recycling; and
- Authorize and identify the person possessing the certification to negotiate the sale.

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Retention

Written records must be retained for at least 2 years "after making the final entry of any purchase or sale". For the Additional Recordkeeping - CRV Containers provision, the Dealer or Recycler must retain either the photograph and address from the specified identification or a copy of the identification.

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Inspection

Other than for materials with special inspection rules outlined below, Dealers and Recyclers shall allow periodic inspection during normal business hours of any junk or scrap metal property and any sale or purchase records by:

- An officer holding a warrant authorizing a search for personal property;
- A person appointed by a county sheriff or city head of police; or
- An officer holding a court order directing the examination of records or property.

Inspection or seizure of a thumbprint shall only be performed by a peace officer acting within the authority of a criminal search warrant signed by a magistrate and served on the junk dealer or recycler by the peace officer. Probable cause for the issuance of that warrant must be based upon a theft specifically involving the transaction for which the thumbprint was given.

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Reporting

Reports shall be transmitted electronically beginning 12 months after the Department of Justice and local law enforcement agencies develop a standard format to be used statewide to transmit the report. Until that time, each secondhand dealer may either continue to report using existing forms and procedures or may begin electronically reporting.

Every Recycler shall report the information required in the Recordkeeping provision to the chief of police or sheriff as provided in [Bus. & Prof. Code § 21628](#). This shall occur daily, or on the first working day after purchase of the property, on forms or through an electronic reporting system approved or provided by the Department of Justice. The Office of the Attorney General provides a Record of Junk Sale or Purchase form PDF for download at <http://oag.ca.gov/recycle>

A Dealer or Recycler who unknowingly takes possession of Prohibited Material in a load of nonprohibited materials without the required certification must notify the appropriate law enforcement agency by the end of the next business day after discovering the prohibited material. The report must be by electronic mail, fax, or a letter delivered in person or by certified mail to provide the written confirmation necessary to prevent a Dealer or Recycler being charged with a civil or criminal penalty for possession of the material.

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Recordkeeping - Catalytic Converters

A Core Recycler who accepts a catalytic converter for recycling must maintain a written record with the following:

- The Place and Date of each sale or purchase of a catalytic converter made in the conduct of business as a Core Recycler;
- The Seller's name;
- The Seller's valid driver's license number and state of issue, or California issued identification number;
- The state of issue of a motor vehicle used in transporting the catalytic converter;
- If the Seller is a business, the name, address, and telephone number of the business;
- A description of the catalytic converters purchased or sold, including item type and quantity, and identification number, if any, and the vehicle identification number;
- Amount paid for the catalytic converter;
- Either:
 - A statement that the Seller is the owner, or
 - The name of the person from whom the Seller obtained the catalytic converter, including the business, if applicable, as shown on a signed transfer document.

A Core Recycler accepting a catalytic converter from a licensed auto dismantler or from a Recycler who holds a written agreement with a business that sells catalytic converters for recycling purposes is required to collect only the following for a transaction:

- The name of the Seller or agent acting on the Seller's behalf;
- The Date of the transaction;
- The number of catalytic converters received;
- The amount paid for the catalytic converters;

A Core Recycler selling or shipping used catalytic converters to other Recyclers or smelters shall retain the following information from the sale:

- The name and address of each person to whom the catalytic converter is sold or disposed to;
- The quantity of catalytic converters being sold or shipped;
- The amount paid for the catalytic converters sold;
- The Date of the transaction.

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Additional Recordkeeping and Payment Restrictions- Catalytic Converters

Before providing payment, for a catalytic converter, a Core Recycler must also obtain:

- A clear photo or video of the Seller at the time of sale;

- A copy of the Seller or Seller's agent's valid driver's license or government-issued identification card containing the Seller's photograph and address.
 - If the Seller prefers payment by check delivered to an address different from that on the ID other than a P.O. Box, the Core Recycler must also record a copy of a gas or electric utility bill addressed to the Seller at that address with a payment due date no more than 2 months prior to the date of sale.
- A clear photo or video of the catalytic converter being sold;
- A written statement indicating how the Seller obtained the catalytic converter.

Payment for catalytic converters must be by check by one of the following:

- For an individual, by check:
 - mailed to the Seller at the address provided in the transaction record, or
 - collected from the Core Recycler on the 3rd business day;
- For a business:
 - By check mailed to the Seller's business address;
 - By check collected immediately;
 - A business that has a contract with the Core Recycler or a licensed auto dismantler may also receive immediate payment by debit card or credit card.

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Retention - Catalytic Converters

Records must be retained for not less than 2 years

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Inspection - Catalytic Converters

Core Recyclers shall make records available for inspection by local law enforcement upon demand.

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Hold

90 day hold on property in the possession of a Dealer or Recycler upon receipt of a written notice from a peace officer with probable cause to believe that the property is stolen. The written notice must describe the item(s) to be held and the case number. Property subject to a hold must be produced at all reasonable times and places or may be delivered to any peace officer upon request of any peace officer who is a member of the same agency as the issuing officer. A hold is issued in lieu of an officer seizing the property suspected stolen.

The Dealer or Recycler may not release or dispose of the property during the hold except pursuant to a court order or upon receipt of a written authorization signed by a peace officer who is a member of the same agency as the issuing officer. If the agency has no knowledge of the property on hold being reported as stolen, the property shall be released "in a timely fashion" by a written notice to the Dealer or Recycler. If the agency has knowledge the property has been reported stolen, they shall notify the person of the name and address of the Dealer or Recycler and authorize the property's release to that person;

the agency shall release the hold once 60 days have elapsed after the person is notified. If a person seeks to recover property subject to a hold, the Dealer or Recycler shall advise the person of the name and badge number of the issuing officer and the name of their agency; if the property is not held pursuant to a criminal prosecution the hold shall be released.

Prohibited Material received without a certification and reported to law enforcement must be set aside and not sold pending a determination by the law enforcement agency.

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Theft Alert Notifications

A Junk Dealer or Recycler shall request to receive theft alert notifications regarding the theft of commodity metals, including, but not limited to, ferrous metal, copper, brass, aluminum, nickel, stainless steel, and alloys, in the junk dealer's or recycler's geographic region from the theft alert system maintained by ISRI or its successor.

Under the newly created [Cal. Penal Code](#) Part 4, Title 1, Ch. 2, Art. 6, § 11199.5, local law enforcement are encouraged to report thefts of commodity metals that have occurred within their jurisdiction to the theft alert system to ensure that users receive timely and thorough information regarding metal thefts. ISRI or its successor shall not sell subscribers' information received pursuant to this section to third parties.

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Weighmaster Licensing

In addition to the standard requirements for weighmasters ([Cal. Bus. & Prof. Code](#) Div. 5, Ch. 7, §12700-12737), a Junk Dealer or Recycler applying for or renewing a weighmaster's license with the Department of Food and Agriculture must also submit:

- A copy of the applicant's current business license;
- A statement that the applicant has filed an application for a stormwater permit or is not required to obtain one;
- A statement that the applicant either has the equipment necessary to comply with the photographic and thumbprinting requirements for Nonferrous Metals or will not be purchasing or selling Nonferrous Metals;
- A statement that the applicant has requested to receive theft alert notifications, unless ISRI or its successor requires payment for use of the system; and
- The name or names of any deputy weighmasters.

The Department will investigate the application within 90 days (or 1 year for a renewal after Jan. 1, 2015). If the information is determined to be inaccurate the Department will send a notice to the Dealer or Recycler. The Dealer or Recycler will have 14 days to provide accurate information or their license will be revoked. A Dealer or Recycler whose license is revoked is entitled to a hearing.

A weighmaster who is or is performing services on behalf of a Dealer or Recycler must pay the standard annual license fees as well as an additional:

- \$500 for each location if operating from fixed locations;
- \$500 if operating at other than a fixed location.

These additional requirements will sunset on January 1, 2019 unless removed or extended.

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Penalties

A Dealer or Recycler that violates the Recordkeeping, Retention or Inspection provisions commits a misdemeanor punishable by:

- 1st offense: at least \$1,000 fine and/or at least 30 days imprisonment in county jail;
- 2nd offense: at least \$2,000 fine and/or at least 30 days imprisonment in county jail. A court **may** order the defendant to stop engaging as a Dealer or Recycler for at most 30 days.
- 3rd or subsequent: at least \$4,000 fine and/or at least 6 months imprisonment in county jail. A court **shall** order the defendant to stop engaging as a Dealer or Recycler for at least 1 year.

Any unauthorized disclosure of personal information collected from a Seller by a Dealer or Recycler is prohibited and punishable by a civil fine of up to \$5,000.

A defendant convicted of theft of property that has been placed on hold shall be ordered to pay the Dealer or Recycler for reasonable costs for storage of the property and pay the victim for both the value of the property stolen and any reasonable collateral damage caused by the theft.

A person who makes a false or fictitious statement regarding information required for catalytic converters or violates requirements for catalytic converters commits a misdemeanor. A knowing and willful violation is punishable by:

- 1st offense: \$1,000 fine;
- 2nd offense: at least \$2,000 fine. A court **may** order the defendant to cease engaging as a Core Recycler for at most 30 days.
- 3rd or subsequent: at least \$4,000 fine. A court **shall** order the defendant to cease engaging as a Core Recycler for at least 1 year.

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Preemption

Preempts city and/or county ordinances involving Nonferrous Material unless the ordinance is passed by a 2/3rds vote and can be demonstrated by clear and convincing evidence to be both necessary and addressing a unique problem within and specific to the jurisdiction that is not effectively addressed by the state law.

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