

2010 Bill 205

Third Session, 27th Legislature, 59 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 205

SCRAP METAL DEALERS AND RECYCLERS ACT

MR. QUEST

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

BILL 205

2010

SCRAP METAL DEALERS AND RECYCLERS ACT

(Assented to _____, 2010)

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of Alberta, enacts as follows:

Definitions

1 In this Act,

- (a) “Minister” means the Minister determined under section 16 of the *Government Organization Act* as the Minister responsible for this Act;
- (b) “peace officer” means a peace officer as defined in the *Provincial Offences Procedure Act*;
- (c) “record” means a record in any form and includes books, notes, papers and documents, whether in electronic form or otherwise, that may contain information respecting the business of a scrap metal dealer or recycler;
- (d) “scrap metal” means new or used items substantially made of aluminum, brass, bronze, copper, stainless steel, steel, tin or other metal prescribed by the regulations;
- (e) “scrap metal dealer or recycler” means a person engaged in the business of purchasing, trading or bartering scrap metal and includes employees of that person.

Non-application

2(1) This Act does not apply where a scrap metal dealer or recycler purchases or receives scrap metal from a body corporate that is duly authorized to carry on business in Alberta.

(2) This Act does not apply to a depot operator as defined under the *Beverage Container Recycling Regulation* (AR 101/97).

Requirements - acquiring scrap metal

3(1) No scrap metal dealer or recycler shall purchase or receive scrap metal from a person who fails to provide

- (a) proof of identity as prescribed by the regulations, and
- (b) information respecting the transaction prescribed by the regulations.

(2) A scrap metal dealer or recycler who purchases or receives scrap metal shall obtain and record information respecting the transaction prescribed by the regulations.

(3) A scrap metal dealer or recycler shall inform a person entering into a transaction that the information obtained under this section is being collected and may be provided to a peace officer or a law enforcement agency.

(4) A scrap metal dealer or recycler shall maintain the prescribed information obtained pursuant to this section for a minimum of one year after the transaction.

(5) Within 24 hours of purchasing or receiving scrap metal of a weight that is greater than a weight prescribed in the regulations, a scrap metal dealer or recycler shall provide the prescribed information collected under this section to a law enforcement agency.

(6) For the purpose of calculating the weight of scrap metal received or purchased as required under subsection (5), any transaction or series of transactions with the same individual during a 7-day period is deemed to be one transaction.

Investigation

4(1) A peace officer who has reasonable grounds to believe that a person has committed an offence under this Act or the regulations may, after explaining to the person or to the person's agent that the

peace officer wishes to enter the person's business premises for the purposes of carrying out an investigation, request permission to enter the business premises.

(2) If a person permits an peace officer to enter business premises for the purposes of an investigation, the peace officer may, with the permission of the person, inspect, examine and make copies of or temporarily remove books, records, documents or other things that are relevant to determine if an offence has been committed under this Act or the regulations.

(3) When a peace officer removes any books, records, documents or other things under subsection (2), the peace officer

- (a) shall give a receipt for them to the person from whom they were taken,
- (b) may make copies of, take photographs of or otherwise record them,
- (c) shall, within a reasonable time, return anything that has been copied to the person to whom the receipt was given, and
- (d) shall return everything else that was removed to the person to whom the receipt was given within a reasonable time after the investigation and any prosecution resulting from the investigation is concluded.

(4) Upon demand by a peace officer, a scrap metal dealer or recycler shall present to the peace officer for view any scrap metal demanded that has come into the possession of the scrap metal dealer or recycler in the course of business and that remains in his or her possession.

Order compelling assistance in investigations

5(1) Where a person refuses to allow or interferes with an investigation under this Act, a peace officer may apply to the Court of Queen's Bench by originating notice for an order

- (a) compelling a person to allow a peace officer to enter the person's business premises, private dwelling or other place occupied or controlled by the person;
- (b) requiring a person to produce for the peace officer's examination the person's books, records, documents or other things relevant to the investigation;

- (c) authorizing the peace officer to copy or remove the books, records, documents or other things on any terms that the Court considers appropriate;
 - (d) requiring a person to co-operate with the investigation on any terms that the Court considers appropriate;
 - (e) authorizing the peace officer, if charges are laid as a result of the investigation, to retain books, records, documents or other things until the charges have been formally disposed of.
- (2)** The Court of Queen’s Bench may grant an order under subsection (1) if satisfied on evidence under oath by the peace officer that there are reasonable grounds to believe that
- (a) an offence under this Act or the regulations has been committed, and
 - (b) the order is appropriate in the circumstances.
- (3)** An application under this section may be made ex parte unless in the opinion of the Court of Queen’s Bench it would be improper to do so.
- (4)** No force may be used in enforcing an order granted under this section unless a person identified in the order is specifically authorized to use force.
- (5)** A copy of a document seized under an order granted under subsection (1) and certified by the person who conducted the investigation to be a true copy of the original document is admissible in evidence without proof of the signature or appointment of the person who signed the certificate and, in the absence of evidence to the contrary, the copy has the same probative force as the original.
- (6)** An order under subsection (1) applies to a person under investigation and may also apply to third parties such as accountants or other persons who have possession or control of books, records or documents relating to the activities of the person under investigation.
- (7)** The following persons may apply to the Court of Queen’s Bench for an order varying or cancelling an order under subsection (1):
- (a) a person to whom the order is directed;

- (b) a person under investigation who is named in the order;
- (c) a person other than one referred to in clauses (a) and (b) who is otherwise affected by the order.

(8) On an application under subsection (7), the Court of Queen's Bench may vary or cancel an order on any terms or conditions the Court considers just, if the Court finds that

- (a) all or a part of the order is not required for the protection of persons who are dealing with a person under investigation named in the order, or
- (b) one or more affected persons are unduly prejudiced by the order.

Protection from action

6 No action lies against a scrap metal dealer or recycler for the disclosure of any information or record pursuant to this Act or the regulations if such disclosure is made in good faith for the purpose of this Act.

Offences and penalties

7(1) A person who contravenes this Act or the regulations is guilty of an offence and liable on conviction

- (a) for a first offence
 - (i) in the case of an individual, to a fine not exceeding \$5000, to imprisonment for a term of not more than one year, or to both;
 - (ii) in the case of a corporation, to a fine not exceeding \$15 000; and
- (b) for a 2nd or subsequent offence
 - (i) in the case of an individual, to a fine not exceeding \$15 000, to imprisonment for a term not exceeding one year, or to both,
 - (ii) in the case of a corporation, to a fine not exceeding \$50 000.

(2) If a corporation commits an offence under this Act, any officer, director, employee or agent of the corporation who directed, authorized, assented to, acquiesced in or participated in the

commission of the offence is guilty of the offence and is liable to the punishment provided for the offence whether or not the corporation has been prosecuted for or convicted of the offence.

(3) Unless otherwise provided in this Act, no person may be convicted of an offence under this Act or the regulations if the person establishes that the person exercised all due diligence to prevent the commission of the offence.

(4) Where an offence under this Act or the regulations is committed or continued on more than one day, the person who committed the offence is liable to be convicted for a separate offence for each day on which the offence is committed or continued.

Regulations

8 The Lieutenant Governor in Council may make regulations

- (a) prescribing the types of identification that are acceptable for confirming the identity of persons selling or providing scrap metal for the purpose of this Act;
- (b) prescribing the information that must be obtained and recorded by a scrap metal dealer or recycler when purchasing or obtaining scrap metal;
- (c) respecting the manner in which prescribed information is to be recorded and maintained by scrap metal dealers or recyclers;
- (d) prescribing materials as scrap metal for the purpose of this Act;
- (e) prescribing a weight for the purpose of section 3(5);
- (f) prescribing conditions that a person selling or providing scrap metal must meet before a scrap metal dealer or recycler may purchase or receive the scrap metal;
- (g) exempting any transaction or person or any class of persons from all or any provision of this Act and prescribing any circumstance in which all or any provision of this Act does not apply;
- (h) for the purpose of section 3, prescribing

- (i) additional information that must be obtained and recorded with respect to a transaction or purchase and the manner of recording that information,
 - (ii) the manner in which recorded information must be provided to a law enforcement agency, peace officer or other persons,
 - (iii) the timing or frequency of the provision of recorded information to a law enforcement agency, peace officer or other person;
- (i) defining any word or expression used but not defined in this Act;
 - (j) respecting any matter or thing the Lieutenant Governor in Council considers necessary or advisable to carry out effectively the intent and purpose of this Act.

Coming into force

- 9** This Act comes into force on Proclamation.

