

ASSEMBLY BILL

No. 841

Introduced by Assembly Member Torres

February 21, 2013

An act to amend Section 21608.5 of the Business and Professions Code, relating to junk dealers and recyclers.

LEGISLATIVE COUNSEL'S DIGEST

AB 841, as introduced, Torres. Junk dealers and recyclers: nonferrous materials: payment.

Existing law prohibits a junk dealer or a recycler from providing payment for nonferrous material, as defined, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and other specified requirements are met. Existing law exempts from these provisions a transaction having a value of not more than \$20 when the majority of the purchase is for beverage containers made of nonferrous material and no copper or copper alloy is included.

This bill would allow payment for nonferrous materials only by check marked to the seller's address. The bill would remove the \$20 limit for a transaction consisting primarily of beverage containers made of nonferrous material to be exempt from these provisions. The bill would also exempt from these provisions the redemption of any nonferrous material, including copper and copper alloy, with a value of not more than \$20 per transaction.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 21608.5 of the Business and Professions
2 Code is amended to read:

3 21608.5. (a) A junk dealer or recycler in this state shall not
4 provide payment for nonferrous material unless, in addition to
5 meeting the written record requirements of Sections 21605 and
6 21606, all of the following requirements are met:

7 (1) The payment for the material is made by ~~cash or check~~. The
8 check ~~may~~ *shall* be mailed to the seller at the address provided
9 pursuant to paragraph (3) ~~or the cash or check may be collected~~
10 ~~by the seller from the junk dealer or recycler on or after the third~~
11 ~~business day after the date of sale.~~

12 (2) At the time of sale, the junk dealer or recycler obtains a clear
13 photograph or video of the seller.

14 (3) (A) Except as provided in subparagraph (B), the junk dealer
15 or recycler obtains a copy of the valid driver's license of the seller
16 containing a photograph and an address of the seller, a copy of a
17 state or federal government-issued identification card containing
18 a photograph and an address of the seller, a passport from any
19 other country in addition to another item of identification bearing
20 an address of the seller, or a Matricula Consular in addition to
21 another item of identification bearing an address of the seller.

22 (B) If the seller prefers to have the check for the material mailed
23 to an alternative address, other than a post office box, the junk
24 dealer or recycler shall obtain a copy of a driver's license or
25 identification card described in subparagraph (A), and a gas or
26 electric utility bill addressed to the seller at that alternative address
27 with a payment due date no more than two months prior to the
28 date of sale. For purposes of this paragraph, "alternative address"
29 means an address that is different from the address appearing on
30 the seller's driver's license or identification card.

31 (4) The junk dealer or recycler obtains a clear photograph or
32 video of the nonferrous material being purchased.

33 (5) The junk dealer or recycler shall preserve the information
34 obtained pursuant to this subdivision for a period of two years after
35 the date of sale.

36 (6) (A) The junk dealer or recycler obtains a thumbprint of the
37 seller, as prescribed by the Department of Justice. The junk dealer
38 or recycler shall keep this thumbprint with the information obtained

1 under this subdivision and shall preserve the thumbprint in either
2 hardcopy or electronic format for a period of two years after the
3 date of sale.

4 (B) Inspection or seizure of the thumbprint shall only be
5 performed by a peace officer acting within the scope of his or her
6 authority in response to a criminal search warrant signed by a
7 magistrate and served on the junk dealer or recycler by the peace
8 officer. Probable cause for the issuance of that warrant must be
9 based upon a theft specifically involving the transaction for which
10 the thumbprint was given.

11 (b) Paragraph (1) of subdivision (a) shall not apply if, during
12 any three-month period commencing on or after the effective date
13 of this section, the junk dealer or recycler completes five or more
14 separate transactions per month, on five or more separate days per
15 month, with the seller and, in order for paragraph (1) of subdivision
16 (a) to continue to be inapplicable, the seller must continue to
17 complete five or more separate transactions per month with the
18 junk dealer or recycler.

19 (c) This section shall not apply if, on the date of sale, the junk
20 dealer or recycler has on file or receives all of the following
21 information:

22 (1) The name, physical business address, and business telephone
23 number of the seller's business.

24 (2) The business license number or tax identification number
25 of the seller's business.

26 (3) A copy of the valid driver's license of the person delivering
27 the nonferrous material on behalf of the seller to the junk dealer
28 or the recycler.

29 (d) (1) This section shall not apply to the purchase of nonferrous
30 material ~~having a value of not more than twenty dollars (\$20) in~~
31 ~~a single transaction~~, when the majority of the transaction is for the
32 redemption of beverage containers under the California Beverage
33 Container Recycling and Litter Reduction Act, as set forth in
34 Division 12.1 (commencing with Section 14500) of the Public
35 Resources Code.

36 (2) Materials made of copper or copper alloys shall not be
37 purchased under this subdivision.

38 (e) This section shall not apply to coin dealers or to automobile
39 dismantlers, as defined in Section 220 of the Vehicle Code.

1 (f) *This section shall not apply to the redemption of nonferrous*
2 *material having a value of not more than twenty dollars (\$20) in*
3 *a single transaction.*

4 ~~(f)~~

5 (g) For the purposes of this section, “nonferrous material” means
6 copper, copper alloys, stainless steel, or aluminum, but does not
7 include beverage containers, as defined in Section 14505 of the
8 Public Resources Code, that are subject to a redemption payment
9 pursuant to Section 14560 of the Public Resources Code.

10 ~~(g)~~

11 (h) This section is intended to occupy the entire field of law
12 related to junk dealer or recycler transactions involving nonferrous
13 material. However, a city or county ordinance, or a city and county
14 ordinance, relating to the subject matter of this section is not in
15 conflict with this section if the ordinance is passed by a two-thirds
16 vote and it can be demonstrated by clear and convincing evidence
17 that the ordinance is both necessary and addresses a unique problem
18 within and specific to the jurisdiction of the ordinance that cannot
19 effectively be addressed under this section.