



MICHIGAN STATE POLICE

LEGAL UPDATE

No. 75
APRIL 3, 2009

This update is published by the Michigan State Police Executive Division. Questions and comments may be directed to MSPLegal@michigan.gov. Past editions can be found at www.michigan.gov/msp-legal.

CRIMINAL LAW

Nonferrous metal regulatory act

Effective: April 1, 2009

Public Act 429 of 2008 created the nonferrous metal regulatory act ([MCL 445.421 - 445.443](#)) which regulates the buying and selling of nonferrous metal. The metals covered by the Act do not contain significant quantities of iron or steel, but contain copper, brass, platinum-based metals, aluminum, bronze, lead, zinc, nickel, or alloys of those metals.

The Act requires dealers of nonferrous metal to do the following ([MCL 445.425\(1\)](#)):

- Produce and maintain records of their metal purchases
- Participate in a theft-tracking database
- Tag and hold metals sold to them without certain documentation
- Pay sellers by a traceable method
- Verify a seller is at least 16 years old

The Act requires sellers of nonferrous metal to do the following ([MCL 445.425\(2\)](#)):

- Present to dealers a government issued photo identification
- Allow the dealer to copy the ID (photocopy or electronic copy)
- Allow the dealer to take the seller's thumbprint
- Execute a signed statement indicating the seller is authorized to sell the metal
- Attest that he or she has not been convicted of a crime involving theft of nonferrous metal

Dealer records

Dealers must keep records of each purchase for at least one year, and those records must be available for inspection by law enforcement officers. The records must contain all of the following ([MCL 445.427](#)):

- Seller's name, address, and ID number from the government ID card (a scan or

photocopy of the seller's ID satisfies this requirement)

- License plate number of the vehicle delivering the metal
- Date and time of the transaction
- Description of the metal
- Weight, quantity, or volume of the metal
- Amount and form of payment
- A signed statement from the seller indicating the seller owns or is authorized to sell the metal
- Seller's thumbprint

Dealers are not required to keep individual transaction records for purchases from commercial or industrial sellers as long as payment is made directly to the seller-business in a traceable manner, and the dealer has the seller's personal and business information on file.

Tag and hold

Dealers must tag and hold for seven days any item containing nonferrous metal offered by a seller without a written receipt or other documents demonstrating the ownership and source of the item if any of the following apply ([MCL 445.429](#)):

- The item has altered or obliterated serial numbers
- The dealer should know the item is or was the property of a government entity based on markings or the type of item
- The dealer should know the item is or was the property of a business based on markings or the type of item
- The item is a commemorative, decorative, or other cemetery-related or apparently ceremonial item
- The item is copper wiring

Further, regardless of documents provided by the seller, dealers must tag and hold any item listed in a notice or bulletin from a law enforcement agency.

Continued next page...

Nonferrous metal, continued

If the dealer re-sells a previously tagged and held item directly to another dealer, the second dealer does not have to tag and hold it.

Prohibited purchases and sales

Except when the seller has documentation stating they are the owner, agent, or person with authority to sell, the Act prohibits the purchase or sale of (MCL 445.429(4)):

- Any item containing nonferrous metal marked with the name, initials, markings, or logo of a government entity, utility, cemetery, or railroad
- Beer kegs
- Public fixtures

Dealer database

Dealers must participate in an internet-based database available to dealers, law enforcement agencies, and the public (MCL 445.431). The required database must list and track thefts of nonferrous metals and items containing nonferrous metals. The statute indicates the database already established on www.scraptheftalert.com satisfies this requirement.

Penalties

The Act provides the following penalties:

- Violating the dealer record requirements is a 93-day misdemeanor
- Violating the tag and hold requirements is a 93-day misdemeanor
- Buying or selling nonferrous metal when the person knows or has reason to know the item is stolen is a 5-year felony
- All other violations of the Act are state civil infractions (\$5000 fine)

The Act defines “dealer” as a business that buys nonferrous metal or an individual who buys any amount of nonferrous metal (even once). As a result, businesses and their employees could be liable for violations of the Act. Officers investigating violations of the Act should consult with their prosecutor to determine who to charge in cases involving dealer-businesses.

[Public Act 429 of 2008](#)

Larceny statute amended to include nonferrous metals

Effective: April 1, 2009

Public Act 431 of 2008 amended the general larceny statute (MCL 750.356) by adding nonferrous metal to the list of covered items. When the item stolen is nonferrous metal, the value of the property will be considered the greatest of the following:

- a) The replacement cost of the metal
- b) The cost of repairing damage caused during the larceny
- c) The total of both of the above

[Public Act 431 of 2008](#)

Secondhand or junk dealers

Effective: April 1, 2009

Public Act 428 of 2008 amended the statutes governing record retention by secondhand and junk dealers. The required records may now be written or electronic, but must also be numbered consecutively and include a copy of the seller’s driver license or state ID card. Payments for secondhand or junk items must now be made by check or an electronic payment system.

Records of secondhand or junk transactions must be made available for inspection by local or state law enforcement officers. Weekly reports must still be submitted to the dealer’s local police chief, but the reports must now include copies of the seller’s identification.

[Public Act 428 of 2008](#)

SUBSCRIPTIONS

In order to receive the Update via e-mail, click [here](#) or go to www.michigan.gov/msp-legal and click on “subscribe to legal updates”.