

House Research Act Summary

CHAPTER: 126

SESSION: 2013 Regular Session

TOPIC: Scrap vehicle and metal regulations

Analyst: Rebecca Pirius, 651.296.5044
Matt Burress, 651.296.5045

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Overview

This act amends and expands licensing and regulatory provisions in chapters 168, 168A, and 325E relating to scrap metal and scrap vehicle purchases.

It creates a new section that regulates scrap vehicle purchases only. It defines a “scrap vehicle operator” and requires an operator who purchases a scrap vehicle to record information and enter into the Automated Property System (APS would start January 1, 2015). As a general rule, the seller must provide a vehicle title to scrap the vehicle. There are exceptions and other requirements for vehicles that are more than 10 years old or more than 20 years old and inoperable. Business-to-business transactions would be exempt from APS, along with vehicles without a title being sold to a used vehicle parts dealer strictly for dismantling. In the latter instance, a seven-day hold requirement is applicable.

In addition, the act amends purchase record requirements, investigative hold provisions, and retention periods for recordings and images required under the new scrap vehicle section (§168A.1501) and section 325E.21 – which currently applies to all scrap *metal* transactions. Scrap *metal* dealers would also be required to enter transactions into APS (starting Jan. 1, 2015). It also expands civil remedies available for violations of all scrap regulations and other dealer regulations.

Finally, it directs a group of stakeholders, led by the Minneapolis Police Department (which runs APS), to develop a model affidavit and APS standards. It directs the group to submit proposed APS standards and a report on the system and any outstanding concerns to the Legislature before APS goes into effect.

Section

- 1 Dealer license categories.** Eliminates the “hulk” exception for scrap metal processor licensing. This has the effect of requiring a license for businesses engaged in buying hulks for scrap. (A “hulk” is a vehicle that is incapable of moving under its own power and has had valuable used parts removed. Its sole value is its metallic content.)
- 2 Injunction.** Authorizes injunctive relief and civil penalties for violations of licensing and regulatory provisions relating to scrap vehicle operators, scrap metal dealers, scrap metal processors, and salvage pools. Outlines factors to consider when issuing civil penalties or injunctive relief. Provides that no bond is required for an injunction. Directs disbursement of civil penalties.
- 3 County or city attorney to prosecute.** Provides that the city or county attorney is the agency responsible for prosecuting violations relating to licensing and regulation of vehicle dealers, scrap vehicle operators, and scrap metal dealers. Strikes language providing that the registrar (DMV) may file charges.
- 4 Notification on vehicle to be dismantled or destroyed; service fee.** Requires a dealer who purchases a vehicle for scrap to maintain the certificate of title for three years before destroying it. Strikes language requiring owner to mail title to DVS.
- 5 Scrapped, dismantled, or destroyed vehicle.** Creates a new section (§ 168A.1501) regulating scrap *vehicle* transactions.

Subd. 1. Definitions. Defines terms relating to scrap vehicle transactions, including “scrap vehicle,” “scrap vehicle operator,” and “interchange file specification format” (APS).

Subd. 2. Purchase or acquisition record required. Requires a scrap vehicle operator to create a permanent record for each purchase of a scrap vehicle, including the VIN, license plate number, vehicle make/model/color, date/time of purchase, photocopy of seller’s ID, amount paid, copy of the title and receipt, and an affidavit attesting that the vehicle is not stolen. Exempts business-to-business transactions from the record/APS requirements, except for retaining a copy of the receipt.

Subd. 3. Retention required. Requires records under subdivision 2 to be retained for 3 years. Cross-references a current record retention provision.

Subd. 4. Payment by check or electronic transfer required. Requires payment for scrap vehicles by check or electronic transfer. If there is no title, an electronic transfer of funds must be to a bank account. Exempts business-to-business transactions from this subdivision.

Subd. 5. Automated property system. Requires scrap vehicle operators to provide daily sale information under subdivision 2 via APS (using the interchange file specification format). Provides that an operator may request to be provided the APS software. Directs operators to notify patrons that transactions are reported to law enforcement. Prohibits fees to be charged to an operator for use of APS until the Legislature enacts a fee schedule. Directs all law enforcement agencies to participate

Section

in APS individually or in conjunction with another agency. Exempts transactions under subdivision 9 (dismantling) from this section.

Delayed effective date of January 1, 2015.

Subd. 6. Additional reporting. Directs unlicensed dealers and dealers not subject to APS to enter vehicle information into a federal reporting database.

Subd. 7. Vehicle with proof of ownership; title or bill of sale required. Prohibits *any person* from purchasing a scrap vehicle unless the seller provides a title or bill of sale, provides ID, and signs an affidavit of the right to sell the vehicle. Exceptions are provided in subdivisions 8, 9, and 10.

Subd. 8. Vehicle without proof of ownership; certain older vehicles. If a seller does not have title, a licensed *scrap vehicle operator* may purchase a vehicle that is more than 10 years old, if the seller: (1) provides documentation from DVS that the vehicle has not been registered for more than 7 years, (2) provides ID, and (3) signs an affidavit.

Subd. 9. Vehicle without proof of ownership; dismantling. If a seller does not have title, a licensed *used vehicle parts dealer* may purchase a vehicle that is being purchased only for dismantling if the seller: (1) agrees to a 7-day hold, (2) provides ID, and (3) signs an affidavit.

Subd. 10. Exempt purchases. Exempts business-to-business transactions and inoperable vehicles that are more than 20 years old from the proof of ownership provisions in subdivisions 7-9.

Subd. 11. Criminal penalty. Creates a misdemeanor penalty for violation of this section.

Subd. 12. Investigative holds. Includes language on investigative holds currently found in the scrap metal regulations (see section 13) with similar changes. Authorizes an initial 72-hour hold upon notification from law enforcement that the scrap vehicle operator shall not sell or remove a vehicle. Requires the agency to confirm the hold in writing which then remains in effect for 30 days from date of initial notification. Provides that the agency may confiscate the vehicle and remove it, place it on hold and leave it in the premises, or direct its release to an owner. Provides that if law enforcement does not timely issue a notification to confiscate or issues the notification but fails to remove the vehicle within 15 days, the operator may process the vehicle. Allows restitution for operator or any other victim for out-of-pocket expenses related to a hold in a subsequent criminal case.

Subd. 13. Video security cameras. Requires scrap vehicle operators to obtain a readily identifiable image of the seller's face, retain recordings for 60 days, and keep them open for inspection by law enforcement. Exempts specific transactions.

Subd. 14. Preemption of local ordinances. Provides that this section preempts

Section

similar local ordinances.

Effective date is August 1, 2013, except for the following: video surveillance requirements are effective January 1, 2014, and APS is effective January 1, 2015.

- 6, 7, 18 Reporting to DVS.** Amends reporting of dismantled or destroyed vehicles to DVS. Eliminates distinction between older and late model vehicles (the latter is repealed in section 18). Requires all scrapped vehicles be reported by a dealer to DVS in ten days.
- 8 Definitions.** Amends definitions pertaining to “scrap metal dealer” regulations. Provides that “scrap metal” does NOT include scrap vehicles (which will be regulated under section 5). Also defines “interchange file specification format,” “seller,” and “proof of identification.”
- 9 Purchase or acquisition record required.** Amends the record requirements for scrap metal transactions occurring between August 1, 2013 and December 31, 2014. Provides that seller must sign an affidavit of right to sell the vehicle. Expires January 1, 2015 (see section 2).
- 10 Purchase or acquisition record required.** Amends the record requirements for scrap metal transactions occurring on or after January 1, 2015. Provides additional information that must be collected and transferred via APS (under section 3). Requires limited record keeping in business-to-business transactions (see para. (c)). Requires dealers to provide copy of receipt to seller in all transactions. Authorizes law enforcement to conduct regular and routine inspections of dealers.
- 11 Automated property system.** Requires scrap metal dealers to provide daily sale information under section 10 via APS (using the interchange file specification format). Provides that a dealer may request to be provided the APS software. Directs dealers to notify patrons that transactions are reported to law enforcement. Prohibits APS from charging fees to a dealer until the Legislature enacts a fee schedule. Requires all law enforcement agencies to participate in APS. Effective January 1, 2015.
- 12 Registration required.** Sunsets statute that requires scrap metal dealers to participate in the BCA criminal alert network. (Sunsets January 1, 2015 when APS will be in effect.)
- 13 Investigative holds; confiscation of vehicles.** Amends current section on investigative holds for scrap metal purchases. Authorizes an initial 72-hour hold upon notification from law enforcement that the scrap metal dealer shall not sell or remove an item. Requires the agency to confirm the hold in writing which then remains in effect for 30 days from date of initial notification. Provides that the agency may confiscate the stolen item or evidence and remove it, place the item on hold and leave it in the premises, or direct its release to an owner. Provides that if law enforcement does not timely issue a notification to confiscate or issues the notification but fails to remove the item within 15 days, the dealer may process the item. Allows restitution for dealer or any other victim for out-of-pocket expenses related to a hold in a subsequent criminal case.
- 14 Video security cameras required.** Requires scrap metal dealers to obtain a readily identifiable image of the seller’s face, retain recordings for 60 days, and keep them open for

Section

inspection by law enforcement.

- 15 Preemption of local ordinances.** Provides that this section preempts similar local ordinances.
- 16 APS standards.** Directs the Minneapolis Police Department, in consultation with law enforcement, prosecutors, commissioner of public safety, legislators and representatives from each regulated industry, to develop a model affidavit and standards for implementation and use of APS. The model affidavit must be completed by August 1, 2013. Proposed APS standards and a report on specified issues are to be submitted to the legislature by February 1, 2014. Final standards are to be completed by August 1, 2014, and provided to the industry by September 1, 2014. (APS scrap metal reporting is effective January 1, 2015.)
- 17 Superseded provisions.** Provides that amendments made to section 168A.153, in this act supersede any changes made in the omnibus transportation policy bill.