

# Scrap Metal Laws

## Effective as of December 1, 2008

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The **Current Law**, prior to the recent changes that will go into effect on December 1 of this year, can be found in the state's Business and Professions Code, sections 21600 and 21606.

**Section 21600 sets forth the definition of "junk" as follows:**

"As used in this article, '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."

**Section 21606 sets forth the current reporting requirements for all recyclers as follows:**

Requires the recycler to provide a written record for each purchase of ferrous and non-ferrous material the following:

1. Driver's License No. w/State of Issuance
2. Vehicle License No. w/State of Issuance
3. Name of Seller
4. Address of Seller
5. Description of Material Type and Quantity.
6. Statement indicating either that the seller of the material is the owner or has obtained permission from the owner to sell the material to the recycler.

**The New Law for all recyclables effective December 1, 2008, but only until December 31, 2008**

1. All recyclers will be required to send a monthly report to local law enforcement, if requested.
2. A weekly report may be provided to law enforcement if there is an ongoing investigation of possible criminal activity and the weekly report is requested.

**The New Law effective January 1, 2009 and thereafter**

Section 21606(c) is amended as follows:

1. Requires all recycles to provide a **daily** report of the information required under B&P Code Section 21606(a) to law enforcement.

# The New Reporting Requirements for Copper, Copper Alloys, Aluminum, and Stainless Steel (Nonferrous material) effective December 1, 2008:

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1. **Payment** for nonferrous materials, as defined, must be made as follows:
  - Check may be mailed to seller at the address provided, or
  - Cash or check may be collected by the seller from the recycler on the third business day after the date of sale.

**Note Exception:** Payment by check or the three day delay of payment will not apply if, during any three month period commencing on or after December 1, 2008, the recycler completes five or more separate transactions per month, on five or more separate days per month, with the seller. In order for this provision to continue to be applicable, the seller must continue to complete five or more separate transactions per month with the recycler.
2. **A photograph or video of seller** must be obtained.
  - Photocopy of seller's valid driver's license with an address or a copy of a state or federal government-issued identification card containing a photograph and an address of the seller. Note, however, that if the seller prefers to have the check mailed to an alternative address, other than a post office box, the recycler shall obtain a copy of a driver's license or identification card and a copy of a gas or electric utility bill addressed to the seller at the alternative address with a payment due date no more than two months prior to the date of sale.
3. **A photograph or video of all nonferrous materials** (i.e., copper, copper alloys, aluminum, and stainless steel) purchased from seller.
4. **A thumbprint of seller** must be obtained.
5. **All records must be kept for a period of two years** as is currently required.

**NONE OF THE ABOVE STATED REQUIREMENTS APPLY IF, ON THE DATE OF SALE, THE RECYCLER HAS ON FILE OR RECEIVES ALL OF THE FOLLOWING INFORMATION FROM A SELLER:**

1. The name, physical business address, and business telephone number of the seller's business,
2. The business license number or tax identification number of the seller's business, and
3. A copy of the valid driver's license of the person delivering the nonferrous material on behalf of the seller.

Additionally, the requirements will not apply to the redemption of nonferrous material having a value of not more than \$20 in a single transaction when the primary purpose of the transaction is the redemption of beverage containers.

### **Statewide Preemption**

The new requirements pertaining to the purchasing of copper, copper alloys, aluminum, and stainless steel (Business and Professions Code Section 21608.5) is intended to occupy the entire field of law related to junk dealer or recycler transactions involving nonferrous material. However, a city or county ordinance, or a city and county ordinance, relating to the subject matter of B&P Code § 21608.5 is not in conflict with said section if the ordinance is passed by a two-thirds vote and it can be demonstrated by clear and convincing evidence that the ordinance is both necessary and addresses a unique problem within and specific to the jurisdiction of the ordinance that cannot effectively be addressed under B&P Code § 21608.5.