

CHAPTER 74
SCRAP METAL DEALERS

SOURCE: This entire chapter was originally added by P.L. 16-16:1 (June 6, 1981) and later repealed and reenacted by P.L. 29-070:2 (May 7, 2008).

- § 74101. Definitions.
- § 74102. Hours to Receive Scrap Metal Limited.
- § 74103. Records Required For Purchasing Non-Ferrous Metal Property from the General Public.
- § 74104. Requirements for Purchasing or Receiving Non-Ferrous Metal Property from the General Public.
- § 74105. Record for Commercial Accounts.
- § 74106. Reporting to Law Enforcement Officials.
- § 74107. Preserving Evidence of Metal Theft.
- § 74108. Civil Penalties.
- § 74109. Exemptions.
- § 74110. Posting of Signs.

§ 74101. Definitions.

As used in this Chapter, the following words and phrases are defined to mean:

(a) *Commercial account* means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under § 74104 of this Chapter.

(b) *Commercial enterprise* means a corporation, partnership, limited liability company, association, government department or agency, public corporation, or any other legal or commercial entity.

(c) *Commercial metal property* means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including, but *not* limited to, a telephone, commercial mobile radio services, cable, electric, water, natural gas or other utility; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one (1) inch tubing, forty-two inches (42") high with four inch (4") gaps; aluminum decking,

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bleachers, *or* risers; historical markers; statue plaques; grave markers and funeral vases; *or* agricultural irrigation wheels, sprinkler heads, and pipes.

(d) *Nonferrous metal property* means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys. *Nonferrous metal property* does *not* include precious metals.

(e) *Precious metals* means gold, silver, and platinum.

(f) *Record* means a paper, electronic *or* other method of storing information.

(g) *Scrap metal business* means a scrap metal supplier, scrap metal recycling center, and scrap metal processor.

(h) *Scrap metal processor* means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing *or* receiving nonferrous metal property and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic bailer, shearing device *or* shredding device for recycling.

(i) *Scrap metal recycling center* means a person with a current business license that is engaged in the business of purchasing *or* receiving nonferrous metal property and commercial metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the island.

(j) *Scrap metal supplier* means a person with a current business license that is engaged in the business of purchasing *or* receiving nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycling center *or* scrap metal processor and that does not maintain a fixed business location in the territory.

(k) *Transaction* means a pledge, *or* the purchase of, *or* the trade of any item of nonferrous metal property by a scrap metal business from a member of the general public. *Transaction* does *not* include donations *or* the purchase *or* receipt of nonferrous metal property by a scrap metal business from a commercial enterprise,

from another scrap metal business *or* from a duly authorized employee *or* agent of the commercial enterprise *or* scrap metal business.

§ 74102. Hours to Receive Scrap Metal Limited.

A scrap metal business *shall* not receive, transact *or* purchase any scrap metal products during the hours from 5:00 PM to 8:00 AM.

§ 74103. Records Required For Purchasing Non-Ferrous Metal Property from the General Public.

(a) At the time of a transaction, every scrap metal business doing business in Guam *shall* produce, wherever that business is conducted, an accurate and legible record of each transaction involving nonferrous metal property. These records must be written in the English language, documented on a standardized form *or* in electronic form, and contain at least the following information:

- (1) the name and signature of the person with whom the transaction is made;
- (2) the time, date, location, and value of the transaction;
- (3) the name of the employee representing the scrap metal business in the transaction;
- (4) the name, street address, and telephone number of the person with whom the transaction is made;
- (5) the license plate number of the motor vehicle used to deliver the nonferrous metal property subject to the transaction;
- (6) a description of the motor vehicle used to deliver the nonferrous metal property subject to the transaction;
- (7) the current driver's license number *or* other government-issued picture identification card number of the seller *or* a photocopy of the seller's driver's license *or* other government-issued picture identification card;
- (8) a description of the predominant types of nonferrous metal property subject to the transaction, including the property's classification code as provided in the Institute of Scrap Recycling Industries Scrap Specifications Circular, 2007, and weight, quantity, or volume; and

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(9) a photographic record of the items purchased prior to separation by category.

(b) For every transaction that involves nonferrous metal property, every scrap metal business doing business in Guam *shall* require the person with whom a transaction is being made to sign a declaration. The declaration may be included as part of the transactional record required under Subsection (1) of this Section, *or* on a receipt for the transaction. The declaration must state substantially the following:

“I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not, to the best of my knowledge, stolen property.”

The declaration must be signed and dated by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

(c) The record and declaration required under this Section must be open to the inspection of any commissioned local *or* federal law enforcement officer of Guam *or* any government department *or* agency at all times during the ordinary hours of business *or* at reasonable times if ordinary hours of business are not kept, and must be maintained wherever that business is conducted for one (1) year following the date of the transaction.

§ 74104. Requirements for Purchasing *or* Receiving Non-Ferrous Metal Property from the General Public.

(a) No scrap metal business may enter into a transaction to purchase *or* receive nonferrous metal property from any person who cannot produce at least one (1) piece of current government-issued picture identification, including a valid driver's license *or* identification card issued by any jurisdiction.

(b) No scrap metal business may purchase *or* receive commercial metal property unless the seller:

- (1) has a commercial account with the scrap metal business;
- (2) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or

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(3) can produce written documentation that the seller is an employee *or* agent authorized to sell the property on behalf of a commercial enterprise.

(c) No scrap metal business may enter into a transaction to purchase *or* receive metallic wire that was burned in whole *or* in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned.

(d) Each transaction *shall* only be paid by a nontransferable check, mailed by the scrap metal business to a street address provided under § 74103 of this Chapter, no earlier than ten (10) days after the transaction was made. A transaction occurs on the date provided in the record required under § 74103 of this Chapter.

(e) No scrap metal business may purchase *or* receive beer kegs from anyone *except* a manufacturer of beer kegs or licensed brewery.

§ 74105. Record for Commercial Accounts.

(a) Every scrap metal business must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. That record, at a minimum, must include the following information:

(1) the full name of the commercial enterprise *or* commercial account;

(2) the business address and telephone number of the commercial enterprise or commercial account; and

(3) the full name of the person employed by the commercial enterprise who is authorized to deliver nonferrous metal property and commercial metal property to the scrap metal business.

(b) The record maintained by a scrap metal business for a commercial account must document every purchase *or* receipt of nonferrous metal property and commercial metal property from the commercial enterprise. The documentation must include, at a minimum, the following information:

(1) the time, date, and value of the property being purchased *or* received;

(2) a description of the predominant types of property being purchased *or* received; and

(3) the signature of the person delivering the property to the scrap metal business.

§ 74106. Reporting to Law Enforcement Officials.

(a) Upon request by any Commissioned Law Enforcement Officer of Guam, every scrap metal business *shall* furnish a full, true, and correct transcript of the records from the purchase *or* receipt of nonferrous metal property and commercial metal property involving a specific individual, vehicle, *or* item of nonferrous metal property *or* commercial metal property. This information may be transmitted within a specified time of *not* less than two (2) business days to the applicable law enforcement agency electronically, by facsimile transmission *or* by modem *or* similar device, *or* by delivery of computer disk subject to the requirements of, and approval by, the Chief of Police *or* chief law enforcement officer.

(b) *If* the scrap metal business has good cause to believe that any nonferrous metal property *or* commercial metal property in his *or* her possession has been previously lost or stolen, the scrap metal business *shall* promptly report that fact to the applicable commissioned law enforcement officer of Guam, the Chief of Police, *or* the chief law enforcement officer, together with the name of the owner, *if* known, and the date when and the name of the person from whom it was received.

§ 74107. Preserving Evidence of Metal Theft.

(a) Following notification, either verbally *or* in writing, from a commissioned law enforcement officer of Guam that an item of nonferrous metal property *or* commercial metal property has been reported as stolen, a scrap metal business *shall* hold that property intact and safe from alteration, damage, *or* commingling, and *shall* place an identifying tag *or* other suitable identification upon the property. The scrap metal business *shall* immediately relinquish custody of the property to the appropriate law enforcement entity.

(b) A commissioned law enforcement officer of Guam *shall* not place on hold any item of nonferrous metal property *or* commercial metal property unless that law enforcement agency reasonably suspects that the property is a lost *or* stolen item. Any hold that is placed on the property must be removed within ten (10) business days after the property on hold is determined not to be stolen *or* lost and the property must be returned to the owner *or* released.

§ 74108. Civil Penalties.

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Each violation of the requirements of this Chapter shall be punishable, upon conviction, by a fine of not less than One Hundred Thousand Dollars (\$100,000) and the permanent revocation of a scrap metal business' business license.

SOURCE: P.L. 16-16:1 (June 6, 1981) added GC § 16128. Codified as 11 GCA § 74104. Repealed and reenacted to this section by P.L. 29-070:2 (May 7, 2008). Amended by P.L. 33-155:2 (May 17, 2016).

§ 74109. Exemptions.

The provisions of this Chapter do *not* apply to transactions conducted by the following:

- (a) licensed motor vehicle dealers;
- (b) licensed vehicle wreckers *or* hulk haulers;
- (c) persons in the business of operating an automotive repair facility; and
- (d) persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

§ 74110. Posting of Signs.

(a) Each scrap metal business shall erect and maintain a sign in a conspicuous place on the premises to indicate the penalties for a violation of this Chapter. Each sign shall read with letters of not less than two inches (2") in height.

(b) Each violation of Chapter 74 of Title 11, Guam Code Annotated, relative to the requirements for purchasing or receiving non-ferrous metal property shall be punishable, upon conviction, by a fine of not less than \$100,000 and the permanent revocation of a scrap metal business' business license.

SOURCE: Added by P.L. 33-155:4 (May 17, 2016).
