

# State of South Dakota

EIGHTY-THIRD SESSION  
LEGISLATIVE ASSEMBLY, 2008

429P0483

## SENATE ENGROSSED NO. **SB 123** - 1/30/2008

Introduced by: Senators Albers, Abdallah, Hansen (Tom), Hundstad, Kloucek, Koetzle, Lintz, Maher, McCracken, Schmidt (Dennis), and Smidt (Orville) and Representatives Vanneman, Boomgarden, Bradford, Brunner, Hackl, Halverson, Hills, Juhnke, Koistinen, Lucas, McLaughlin, Moore, Pederson (Gordon), Pitts, Steele, Thompson, Tidemann, Turbiville, and Vehle

1 FOR AN ACT ENTITLED, An Act to provide for certain requirements for the sale and  
2 purchase of nonferrous metal property.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Industrial or commercial account," any person or business, including a scrap metal  
6 business, operating from a fixed location, that sells nonferrous metal to a scrap metal  
7 recycler pursuant to a contractual arrangement or agreement;

8 (2) "Law enforcement officer," any law enforcement officer as defined in § 23-3-7;

9 (3) "Nonferrous metal property," any metal property for which the value of the metal  
10 property is derived from the property's content of copper, brass, aluminum, bronze,  
11 lead, zinc, platinum, rhodium, palladium, or nickel, or any of their alloys. Aluminum  
12 does not include any food or beverage containers, except for a beer keg;

13 (4) "Record," a paper, electronic, or other method of storing information;



1 (5) "Scrap metal business," any scrap metal supplier, scrap metal recycling center, or  
2 scrap metal processor;

3 (6) "Transaction," a pledge to buy, the purchase of, or the trade for any nonferrous metal  
4 property by a scrap metal business from any person. A transaction does not include  
5 a sale or trade involving any industrial or commercial account.

6 Section 2. Each scrap metal business shall keep records of each transaction involving the  
7 purchase of nonferrous metal property that exceeds one hundred dollars. The scrap metal  
8 business shall be able to produce an accurate and legible record of each transaction involving  
9 nonferrous metal property at the location where the scrap metal is purchased. The records shall  
10 contain the following information:

11 (1) Date, location, and value of the transaction;

12 (2) Signature of the person selling the nonferrous metal property;

13 (3) Name, street address, city, and state of the seller;

14 (4) Current drivers license number or other government issued picture identification card  
15 number of the seller or, if no number is available, a copy of the seller's government  
16 issued picture identification card;

17 (5) A description of the predominant types of nonferrous metal property involved in the  
18 transaction, including the weight, quantity, or volume of the scrap nonferrous metal;  
19 and

20 (6) Name of the employee representing the scrap metal business in the transaction.

21 Section 3. The record and declaration required by this Act shall be open to the inspection  
22 of any law enforcement officer at all times during the ordinary hours of business or at reasonable  
23 times if ordinary hours of business are not kept. The record and declaration shall be maintained  
24 at the location that the business is conducted for one year following the date of the transaction.

1 Section 4. If a copy of the record of the transaction is requested by a law enforcement  
2 officer, a scrap metal business shall furnish a full, true, and correct transcript of the record from  
3 the purchase or receipt of the nonferrous metal property. This record shall be provided or  
4 transmitted to the applicable law enforcement agency within two business days.

5 If the scrap metal business has good cause to believe that any nonferrous metal property in  
6 the business's possession is lost or stolen, the scrap metal business shall promptly report that fact  
7 to a law enforcement officer, together with the name of the owner, if known, and the date of  
8 transaction and the name of the person from whom it was received.

9 Section 5. If the scrap metal business is notified by a law enforcement officer that an item  
10 of nonferrous metal property has been reported as stolen, a scrap metal business shall hold that  
11 property intact and safe from alteration, damage, or commingling, and shall place an identifying  
12 tag or other suitable identification on the property. The scrap metal business shall hold the  
13 property for a period of time as directed by the law enforcement agency up to a maximum of ten  
14 business days.

15 A law enforcement officer may not place on hold any item of nonferrous metal property  
16 unless that law enforcement agency reasonably suspects that the property is a lost or stolen item.  
17 Any hold that is placed on the nonferrous metal property shall be removed within ten business  
18 days. If the property on hold is determined not to be lost or stolen, the nonferrous metal property  
19 shall be returned to the owner or released.