

# ONE HUNDREDTH LEGISLATURE - SECOND SESSION - 2008

## COMMITTEE STATEMENT

LB766

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**Hearing Date:** January 23, 2008

**Committee On:** Judiciary

**Introducer(s):** (Cornett)

**Title:** Regulate scrap metal recycling

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### Roll Call Vote - Final Committee Action:

Placed on General File with Amendments

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### Vote Results:

7 Yes	Senators Ashford, Chambers, Lathrop, McDonald, McGill, Pirsch, Schimek
0 No	
1 Absent	Senators Pedersen
0 Present, not voting	

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### Proponents:

Ted Powers

### Representing:

AnheuserBusch

Mary Campbell

Tim Keigher  
Michele Bang  
Tim Texel

Shelley ShalingZart

Bruce Kevil  
Tom Casady

**Opponents:**  
Robert Ellis

Sam Jacobs  
Todd Hoppe  
E.J. Webber  
Chuck Rosenberg  
Sheila Jones  
Steve Andrews

**Neutral:**

Executive Director of the Associated Beverage Distributors of Nebraska  
Miller Brewing Company  
Omaha Police Department  
General Counsel for the Nebraska Power Review Board  
VicePresident and Assistant Counsel for Lincoln Electric System  
Nebraska State Home Builders Association  
City of Lincoln

**Representing:**  
VicePresident and General Counsel for Alter Trading Corporation  
Columbus Metal  
Deputy Saunders County Sheriffs Office and Triangle Metals in Kearney  
City Iron Metal Company and Scrap Central  
Nebraska State Recycling Association

**Representing:**

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### **Summary of purpose and/or change:**

Legislative Bill 766 would implement a scrap metal reporting requirement for all fixed location; scrap metal recycler's regulated metals purchases.

- Fixed location is defined as "any site occupied by a secondary metals recycler as either the owner, or lessee of a site under a lease or other rental agreement for duration of not less than one year".
- Regulated metal under this act is defined as "all metals excluding gold and silver".

**A** scrap metal recycler must maintain either a written or electronic record of all regulated metal purchases and then submit the record of these purchases on or before the fifth day of each month to the chief law enforcement officer of the jurisdiction in which any fixed location operated by the scrap metal recycler is located. Records submitted under this act are not public records as defined in section 84-712.01 (Neb. Rev. Stat.).

Under LB 766 the following information must be maintained for transactions in which a scrap metal recycler purchases scrap metal and must be kept by the recycler for at least a year:

- The name and address of the scrap metal recycler;

- The name and signature of employee entering the information;
- The date and time of the transaction;
- The amount given for the scrap metal, if any;
- The name, signature, date of birth, and address of the seller of the scrap metal;
- The drivers license, or either a state or federal identification card number, of the person delivering the scrap metal to the scrap metal recycler;
- A photocopy of the current driver's license, state-issued identification card, or federal government-issued identification card, of the person delivering the scrap metal to the scrap metal recycler;
- A fingerprint from the person delivering the scrap metal. The fingerprint shall be taken from the right index finger, but if the right index finger is missing, the fingerprint shall be taken from the left index finger; and
- A photograph or time-stamped video recording of the regulated metals property, with enough clarity to display any distinguishing marks.

**LB 766 would also require the following:**

- That the person selling the scrap metal to the scrap metal recycler receive at no charge a plain written or printed receipt of the recorded transaction containing a copy of the entries required by this section.
- That any peace officer during normal business hours had the right to inspect any and all purchased scrap metal property in the possession of the scrap metals recycler; and any and all records required to be maintained under section 2 of this act.
- That no scrap metal recycler shall purchase scrap metal for cash and that payment shall be issued only by check 72 hours after the recorded transaction.
- That no scrap metal recycler purchase or receive scrap metal from any person under the age of majority, appears to be under the influence of alcohol, a narcotic drug, a stimulant, or a depressant, or appears to be mentally incompetent, or who does not possess a valid form of personal identification or current operator's license required under section 2 of this act at the time of the recorded transaction.

**The bill would not apply to the following transactions:**

- Purchases of scrap metal from a manufacturing, industrial, or other commercial vendor that generates or sells regulated metals in the ordinary course of its business;
- The collection or purchase of scrap metal in the form of beverage or food cans; or
- Recycling or neighborhood cleanup programs contracted or sponsored by the state or any political subdivision.

**Any person violating any of the provisions of sections 1 to 9 of this act is guilty of a Class II misdemeanor (6 months/\$1,000 or both)**

## Explanation of amendments, if any:

### Amendment 1865

First, page 1, lines 9-11 of the amendment narrows the definition of regulated metals property as nonferrous metal, except gold and silver and metal beer kegs including those made of stainless steel. This eliminates ferrous metals except for stainless steel kegs. *(Page 2, lines 7-8 of original bill)*

Second, page 2, lines 4-7 of the amendment deletes the requirement that scrap metal dealers forward copies of the records to law enforcement on the 5<sup>th</sup> day of each month. *(Page 2, line 25 thru page 3, line 5 of original bill.)*

Third, page 3, lines 9-10 of the amendment changes the requirement that the photograph or video recording be “with enough clarity to display distinguishing marks.” The amendment would only provide that a photograph or time-stamped video recording of the regulated metals property be taken. *(Page 4, lines 9-11 of original bill)*

Fourth, page 3, line 26 through pages 4, line 5 of the amendment provides that a scrap metal recycler may pay cash to a metal seller for metal up to \$25. Cash payment for metal above \$25 would be prohibited. Purchases made with the same seller of scrap metal within a 24 hour period would be considered a single transaction. Amendment 1865 would also remove the requirement that the scrap metal dealer pay the customer by check only and payment must be made to the person presenting the identification at the time of the transaction. Also, the amendment removes the 72 hour hold of materials currently listed in the bill. *(Page 5 lines 2-8, of original bill)*

Fifth, page 4, line 1 of the amendment strikes the language that prevented the scrap dealer from purchasing regulated metal property from someone under the influence of alcohol, drugs, or appears to be mentally incompetent. By working with several scrap metal facilities it was determined it would be difficult for employees to determine if someone were under the influence or mentally incompetent. *(Page 5, lines 18-19 of original bill)*

Sixth, page 4, lines 10-13 of the amendment narrows the language relating to the defacing of serial numbers so that it only applies to the purchase of kegs. *(Page 5, beginning on line 20 through page 6 line 1 of the original bill)*

Finally, page 4 beginning on line 25 through page 5 line 1, of the amendment, the preemption language is removed and allows any lawful rule, regulation, resolution, ordinance, or statute which is more restrictive than the nine sections of the bill. *(Page 6, lines 13-16 of the original bill)*

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Senator Brad Ashford, Chairperson