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§ 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,
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 conduct 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
(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
(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.
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.


§ 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).