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**SB-143 Junk dealers and recyclers: nonferrous material: payment by general use prepaid cards.** (2019-2020)

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**Senate Bill No. 143**

**CHAPTER 243**

An act to amend Section 21608.5 of the Business and Professions Code, relating to business, and declaring the urgency thereof, to take effect immediately.

[ Approved by Governor September 05, 2019. Filed with Secretary of State September 05, 2019. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 143, Skinner. Junk dealers and recyclers: nonferrous material: payment by general use prepaid cards.

Existing law generally prohibits a junk dealer or recycler from providing payment for nonferrous material unless the payment is made by cash or check and specified other requirements are met, including that the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale.

This bill would authorize a junk dealer or recycler to also pay for nonferrous material by general use prepaid card in accordance with specified requirements.

This bill would also make nonsubstantive changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3 Appropriation: no Fiscal Committee: no Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 21608.5 of the Business and Professions Code is amended to read:

**21608.5.** (a) A junk dealer or recycler in this state shall not provide payment for nonferrous material unless, in addition to meeting the written record requirements of Sections 21605 and 21606, all of the following requirements are met:

(1) (A) The payment for the material is made by cash, general use prepaid card, or check. The check may be mailed to the seller at the address provided pursuant to paragraph (3), or the cash or check may be collected by the seller from the junk dealer or recycler on or after the third business day after the date of sale. If the buyer offers, and the seller agrees, to have the payment made by general use prepaid card, the card may be provided to the seller at the time of sale, but funds shall not be available to the seller until the third business day after the date of sale.

(B) If payment is made by general use prepaid card, a junk dealer or recycler shall pay any one-time initial issuance fee.

(C) A general use prepaid card used pursuant to this section shall allow for reasonably convenient access to a surcharge-free cash access network location, and the junk dealer or recycler shall inform the seller as to the location of a designated surcharge-free cash access location upon issuance of the card.

(D) Nothing in this section shall prevent or regulate the fees or surcharges charged by a bank or credit union that is not a party to the contract that requires payment to be made by a general use prepaid card.

(2) At the time of sale, the junk dealer or recycler obtains a clear photograph or video of the seller.

(3) (A) Except as provided in subparagraph (B), the junk dealer or recycler obtains a copy of the valid driver's license of the seller containing a photograph and an address of the seller, a copy of a state or federal government-issued identification card containing a photograph and an address of the seller, a passport from any other country in addition to another item of identification bearing an address of the seller, or a Matricula Consular in addition to another item of identification bearing an address of the seller.

(B) If the seller prefers to have the check or general use prepaid card with payment for the material mailed to an alternative address, other than a post office box, the junk dealer or recycler shall obtain a copy of a driver's license or identification card described in subparagraph (A), and a gas or electric utility bill addressed to the seller at that alternative address with a payment due date no more than two months prior to the date of sale. For purposes of this paragraph, "alternative address" means an address that is different from the address appearing on the seller's driver's license or identification card.

(4) The junk dealer or recycler obtains a clear photograph or video of the nonferrous material being purchased.

(5) The junk dealer or recycler shall preserve the information obtained pursuant to this subdivision for a period of two years after the date of sale.

(6) (A) The junk dealer or recycler obtains a thumbprint of the seller, as prescribed by the Department of Justice. The junk dealer or recycler shall keep this thumbprint with the information obtained under this subdivision and shall preserve the thumbprint in either hardcopy or electronic format for a period of two years after the date of sale.

(B) Inspection or seizure of the thumbprint shall only be performed by a peace officer acting within the scope of the peace officer's authority in response to a criminal search warrant signed by a magistrate and served on the junk dealer or recycler by the peace officer. Probable cause for the issuance of that warrant shall be based upon a theft specifically involving the transaction for which the thumbprint was given.

(b) Paragraph (1) of subdivision (a) shall not apply if, during any three-month period commencing on or after the effective date of this section, the junk dealer or recycler completes five or more separate transactions per month, on five or more separate days per month, with the seller and, in order for paragraph (1) of subdivision (a) to continue to be inapplicable, the seller shall continue to complete five or more separate transactions per month with the junk dealer or recycler.

(c) This section shall not apply if, on the date of sale, the junk dealer or recycler has on file or receives all of the following information:

(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.

(3) A copy of the valid driver's license of the person delivering the nonferrous material on behalf of the seller to the junk dealer or the recycler.

(d) (1) This section shall not apply to the purchase of nonferrous material having a value of not more than twenty dollars (\$20) in a single transaction, when the majority of the transaction is for the redemption of beverage containers under the California Beverage Container Recycling and Litter Reduction Act, as set forth in Division 12.1 (commencing with Section 14500) of the Public Resources Code.

(2) Materials made of copper or copper alloys shall not be purchased under this subdivision.

(e) This section shall not apply to coin dealers or to automobile dismantlers, as defined in Section 220 of the Vehicle Code.

(f) For purposes of this section, "designated surcharge-free cash access network location" means a location designated, in a contract between a junk dealer or recycler and a card issuer, as a location where a general use prepaid card holder can withdraw cash without paying a surcharge.

(g) For purposes of this section, "general use prepaid card" has the same meaning as "prepaid account" in Section 1005.2 of Title 12 of the Code of Federal Regulations as it read on April 1, 2019, except that a general use prepaid card does not include a card

for which any of the following fees are charged by the card issuer to the card user:

- (1) A fee or surcharge to make a purchase with the card.
- (2) A fee or surcharge to make a balance inquiry.
- (3) A fee or surcharge to withdraw funds at a designated surcharge-free cash access network location.
- (4) A fee or surcharge to lodge a dispute regarding the balance of funds on the card.
- (5) A fee or surcharge for account inactivity.

(h) For the purposes of this section, "nonferrous material" means copper, copper alloys, stainless steel, or aluminum, but does not include beverage containers, as defined in Section 14505 of the Public Resources Code, that are subject to a redemption payment pursuant to Section 14560 of the Public Resources Code.

(i) This section 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 this section is not in conflict with this 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 this section.

**SEC. 2.** This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to remove the risk of cash theft faced by vulnerable populations by allowing them to use, as an alternative to cash, the prepaid cards that are the subject of this act and to enable metal recycling companies to more easily track cases of metal theft, at the earliest possible time, it is necessary that this act take effect immediately.