

## **Preemption**

- 2014
  - Arizona HB 2268 clarified the preemption clause exemption for local licensing laws.
- 2013
  - 3 states (OH, FL, GA) agreed to \$0 cash limit on certain transactions as part of a package that maintained previously enacted preemption provisions.
  - KY recyclers did not fight for preemption. They conceded it was not possible to achieve
  - Maine recyclers chose not to bring up the subject of preemption
  - Tennessee recyclers abandoned the fight for preemption
  - Washington State recyclers secured a partial state preemption on the regulation of Scrap Metal Businesses. Effective January 1, 2014, Local ordinances must have the same or lesser penalty as provided by state law; local ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law are preempted and repealed.

## **Major Amendments in 2014**

- Alaska CSHB 305, effective January 1, 2015, will make Alaska the 50th state to enact metals theft legislation.
- Arizona passed three bills amending the materials covered, exemptions, payment restrictions, penalties, and preemption provisions of the law.
- California AB 2312, effective January 1, 2015, requires that all recyclers use ScrapTheftAlert.com and encourages law enforcement to report thefts to the system.
- Connecticut HB 5506 adds purchase and payment restrictions for municipal property.
- Idaho HB 518 makes changes to the definitions, recordkeeping, payment restrictions, reporting, tag and hold, and penalties provisions, and adds 5 year record retention and inspection requirements.
- Indiana HB 1441 requires additional recordkeeping for HVAC and catalytic converters.
- Michigan HB 4593 essentially rewrote the state's metal theft law.
- Minnesota HF 2605 clarified amendments passed in 2013 and moved the effective date of many provisions from January 1, 2015 to February 15, 2016.
- Missouri passed two bills amending the materials covered, recordkeeping, payment restrictions, and penalty provisions.
- Pennsylvania passed two bills amending the materials covered, recordkeeping, payment restrictions, and penalty provisions, and adding a state registration requirement.
- South Carolina passed two bills amending the materials covered, exemptions, purchase restrictions, payment restrictions, and penalty provisions.
- Vermont HB 872 added railroad scrap to the list of materials covered.

## Current “State” of State Metals Theft Legislation

(Current as of November 14, 2014)

**Recordkeeping/Documentation:** Effective January 1, 2015, Alaska will join the other 49 states in requiring records for certain scrap metal transactions.

**Payment Restrictions:** 33 states have some form of payment restriction.

- 26 states limit cash payments for certain types of transactions
  - 16 (not including Washington, see below) have some form of outright cash ban, often involving copper, catalytic converters, air conditioning coils and condensers, and other such items.
  - Georgia, Maine, Michigan, Minnesota, and Mississippi have total cash bans.
  - Washington allows up to \$30 cash if a recycler also records a copy of the seller's ID and a photo or video of the property.
- Colorado, Montana, and Utah (not included in the cash limits number above) have optional payment restrictions to avoid additional recordkeeping requirements.
- Texas (not included in the cash limits number above) requires recyclers to register with the state and (if applicable) local government to make cash payments, and the Dept. of Public Safety may prohibit a recycler from making cash payments if they fail to comply with the state's reporting requirements.
- Connecticut requires payment for municipal property be sent to the official designated in the letter of authorization for its sale.
- Idaho requires payment to a Commercial Account be by cash, credit cards, electronic funds transfer, or check payable to the Commercial Enterprise.
- Pennsylvania requires the recycler to develop methods of tracking transactions with individuals paid in cash, and requires an acknowledgement of receipt of payment signed by the deliverer for cash payments to Commercial Accounts.

### Reporting

- 33 states have some form of reporting requirement on the books with some combination of automatic reporting, reporting by request of a law enforcement agency, and/or reporting of items a recycler suspects may be stolen.
- 25 states require automatic reporting of transactions involving some or all purchased materials; in some states this requirement is on hold pending the creation of a state database to receive the reports.
  - 16 states currently require electronic reporting of transaction information
    - CA, GA and OH do not have an active system yet
    - Minnesota will require electronic reporting starting in 2016
    - Michigan requires if a system is approved by state police
    - Nevada requires if the local law enforcement establishes a system
  - Many states leave it to localities to set how, and to whom, reporting should occur – e.g., through Leads Online