



**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT** *to renumber and amend* 218.205 (1) and 218.23 (1); *to amend* 134.405  
2           (2), 134.405 (3) (title), 134.405 (3) (a) (intro.), 134.405 (3) (a) 1., 134.405 (3) (a)  
3           4., 134.405 (3) (b) (intro.), 134.405 (3) (b) 3., 134.405 (3) (b) 5., 134.405 (4) (c),  
4           218.21 (4) (a), 218.22 (1) (intro.), 218.23 (2), 218.23 (3), 218.24 (4) and 895.09  
5           (1); and *to create* 134.405 (7), 218.20 (1w), 218.205 (1) (b), (c) and (d), 218.205  
6           (3), 218.22 (3m) (c), 218.23 (1) (a) 1., 2. and 3. and 218.23 (1) (b) and (c) of the  
7           statutes; **relating to:** regulation of motor vehicle salvage dealers and the  
8           purchase of certain kinds of scrap metal, granting rule-making authority, and  
9           providing a penalty.

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***Analysis by the Legislative Reference Bureau***

**MOTOR VEHICLE SALVAGE DEALERS**

Under current law, all motor vehicle salvage dealers (salvage dealers) must be licensed by the Department of Transportation (DOT). A salvage dealer is a person who purchases and resells motor vehicles for wrecking, processing, scrapping, recycling, or dismantling purposes or who conducts the business of wrecking, processing, scrapping, or dismantling motor vehicles or selling parts of those vehicles. Among the requirements for obtaining a license, a salvage dealer must

furnish a \$25,000 bond or documentation of the salvage dealer's financial solvency. Any person who carries on or conducts the business of a salvage dealer without a license may be fined not less than \$500 nor more than \$5,000 or imprisoned for not more than 60 days or both.

Also under current law, a salvage dealer must deliver to DOT the certificate of title or bill of sale for any motor vehicle he or she acquires for wrecking within 30 days after the vehicle is delivered to the salvage yard, unless the previous owner has already delivered the certificate or bill of sale. A salvage dealer is required to maintain a record, in a form prescribed by DOT, for every vehicle he or she acquires and wrecks. Any person who violates these provisions may be fined not less than \$25 nor more than \$200 or imprisoned for not more than 60 days or both.

Current law also requires a salvage dealer to display his or her salvage dealer license number in proper form on every truck or truck-tractor owned by the salvage dealer that is operated for hauling, towing, or pushing salvage vehicles. Any person violating this provision may be fined not less than \$25 nor more than \$200 or imprisoned for not more than 60 days or both.

Under this bill, a salvage dealer may acquire a vehicle for the purpose of wrecking it in two ways. First, if a dealer obtains a vehicle with a certificate of title, the dealer must do all of the following:

1. Require the seller to present an operator's license or other government-issued, current photographic identification (identification), the certificate of title, and, if the seller is not the owner indicated on the certificate of title, proof of authorization to transfer the vehicle.

2. Verify that the identification provided by the seller is for the owner or person authorized to transfer the vehicle.

3. Retain a copy of the identification provided by the seller.

4. Deliver the certificate of title to DOT within 30 days of delivery of the vehicle.

Second, if the dealer obtains a vehicle without a certificate of title, the dealer must do all of the following:

1. Require the seller to present identification and, if the seller is not the owner of the vehicle, proof of authorization to transfer the vehicle.

2. Verify that the identification provided by the seller is for the owner or person authorized to transfer the vehicle.

3. Retain a copy of the identification provided by the seller.

4. Apply for a confirmation number by providing DOT or a participating political subdivision with the seller's identification information and the vehicle's identification information.

5. Pay DOT or the participating political subdivision a service fee.

6. Receive a confirmation number from DOT or the participating political subdivision.

7. Record the confirmation number on the bill of sale for the motor vehicle.

8. If the motor vehicle was previously sold for the purpose of wrecking, verify with DOT, and record on the bill of sale for the motor vehicle, all previous confirmation numbers received.

The bill specifies that DOT or the participating political subdivision may refuse to provide a confirmation number only if: 1) the seller of the motor vehicle is not the owner or a person authorized to transfer the motor vehicle; 2) the motor vehicle has a lien outstanding against it; or 3) the application for a confirmation number contains a false or fraudulent statement.

Also under the bill, the minimum amount of the bond in lieu of solvency documentation is increased to \$90,000 and the monetary penalties for violation of record maintenance and salvage dealer motor vehicle identification requirements are increased to a fine of not less than \$150 nor more than \$1,500. The potential term of imprisonment is unchanged.

The bill specifies that if a licensee is convicted of any combination of three record maintenance or salvage dealer motor vehicle identification requirement violations in the licensee's lifetime, DOT must suspend the licensee's license for 90 days. If a licensee is convicted of any combination of four or more of these violations in the licensee's lifetime, DOT must revoke the licensee's license.

The bill also prohibits any person from using a salvage dealer's license issued to another, signing a bill of sale for a junked motor vehicle as a purchaser on behalf of a salvage dealer unless the person is the dealer or an employee of the dealer, and possessing a motor vehicle for the purpose of wrecking, processing, scrapping, or dismantling the vehicle unless the person is licensed as a salvage dealer. The penalty for violating these provisions is the same as for conducting salvage dealer business without a license. The bill also requires salvage dealers to take reasonable measures to prevent disclosure of personal identifying information while carrying on or conducting the business of a salvage dealer. The penalty for violating this provision is the same as for failing to maintain required salvage dealer records.

### **PURCHASE AND SALE OF SCRAP METAL**

With certain limited exceptions, under current law, a "scrap dealer," which current law defines as a person engaged in the business of buying or selling certain kinds of scrap metal or plastic, may purchase scrap metal that does not primarily consist of iron or steel (nonferrous scrap metal) only if the seller is over the age of 18 and the scrap dealer does all of the following: 1) obtains photographic identification from the seller or deliverer; 2) records the seller's or deliverer's identifying information, the license plate number of the seller's or deliverer's vehicle, and certain descriptive information about the scrap metal; and 3) obtains the seller's signed declaration that the seller is the owner of the scrap metal being sold.

Also under current law, a scrap dealer must make certain documentation about nonferrous scrap metal purchases available to law enforcement officers, and a law enforcement officer of a locality in which a scrap dealer conducts business may require all scrap dealers in that locality to report all nonferrous scrap metal purchases to the law enforcement officer. Except for disclosures in documentation and reports to law enforcement, current law prohibits a scrap dealer from disclosing personally identifiable information to any person other than a successor in interest.

Under current law, the forgoing requirements generally do not apply to a scrap dealer's purchase of scrap metal that consists primarily of iron or steel (ferrous scrap

metal). This bill extends all of the foregoing requirements to the purchase of ferrous scrap metal by a scrap dealer.

The bill also creates a civil action allowing the owner of stolen ferrous scrap metal to recover from the thief the cost of replacing the scrap metal. The amount that may be recovered in the civil action is reduced by the amount that is collected as restitution or recompense in any criminal or municipal court action related to the same act or by the amount paid to the plaintiff under a deferred prosecution related to the same act. The civil action created by the bill is similar to a civil action under current law for certain stolen nonferrous scrap metal.

The bill allows a county, town, city, or village to enact an ordinance governing the sale of ferrous scrap metal to scrap dealers if the ordinance is not more stringent than the bill's requirements, except that a first class city may enact an ordinance that is more stringent than the bill's requirements. Current law contains similar provisions for ordinances regarding nonferrous scrap metal.

Finally, the bill requires that the Department of Agriculture, Trade and Consumer Protection (DATCP) administer a program for the sharing of information among state and local law enforcement officers or agencies concerning the sale and purchase or other transfer of ferrous scrap metal and nonferrous scrap metal and other related items. The bill also requires DATCP to establish a minimum period after a scrap dealer purchases certain kinds of proprietary metal or plastic items that the scrap dealer must retain the item with any identifying information intact.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1           **SECTION 1.** 134.405 (2) of the statutes is amended to read:

2           134.405 (2) PURCHASES OF FERROUS SCRAP METAL. A scrap metal dealer may  
3 purchase scrap metal other than ferrous scrap, nonferrous scrap, a metal article, or  
4 a proprietary article from any person over the age of 18.

5           **SECTION 2.** 134.405 (3) (title) of the statutes is amended to read:

6           134.405 (3) (title) PURCHASES OF FERROUS OR NONFERROUS SCRAP, METAL ARTICLES,  
7 PROPRIETARY ARTICLES.

1           **SECTION 3.** 134.405 (3) (a) (intro.) of the statutes is amended to read:

2           134.405 (3) (a) (intro.) Subject to par. (b), a scrap dealer may purchase ferrous  
3 scrap, nonferrous scrap, metal articles, or proprietary articles from any person who  
4 is over the age of 18 if all of the following apply:

5           **SECTION 4.** 134.405 (3) (a) 1. of the statutes is amended to read:

6           134.405 (3) (a) 1. If the seller of ferrous scrap, nonferrous scrap, metal articles,  
7 or proprietary articles is an individual, at the time of the sale, the seller provides to  
8 the scrap dealer the seller’s motor vehicle operator’s license or other  
9 government–issued, current photographic identification that includes the seller’s  
10 full name, current address, date of birth, and recognized identification number. If  
11 the seller is not an individual, at the time of the sale, the individual who delivers the  
12 seller’s ferrous scrap, nonferrous scrap, metal articles, or proprietary articles  
13 provides to the dealer the deliverer’s motor vehicle operator’s license or other  
14 government–issued, current photographic identification that includes the  
15 deliverer’s full name, current address, date of birth, and recognized identification  
16 number.

17           **SECTION 5.** 134.405 (3) (a) 4. of the statutes is amended to read:

18           134.405 (3) (a) 4. With respect to a purchase of ferrous scrap, nonferrous scrap  
19 or a metal article the scrap dealer obtains the seller’s signed declaration that the  
20 seller is the owner of the items being sold.

21           **SECTION 6.** 134.405 (3) (b) (intro.) of the statutes is amended to read:

22           134.405 (3) (b) (intro.) This subsection does not apply to purchases of ferrous  
23 scrap, nonferrous scrap, metal articles, or proprietary articles by a scrap dealer from  
24 a commercial account, if the scrap dealer creates and maintains a record of its  
25 purchases from the commercial account that includes all of the following:

1           **SECTION 7.** 134.405 (3) (b) 3. of the statutes is amended to read:

2           134.405 (3) (b) 3. The name of a contact person at the commercial account who  
3 is responsible for the sale of ferrous scrap, nonferrous scrap, metal articles, or  
4 proprietary articles to the scrap dealer.

5           **SECTION 8.** 134.405 (3) (b) 5. of the statutes is amended to read:

6           134.405 (3) (b) 5. A description of the predominant types of ferrous scrap,  
7 nonferrous scrap, metal articles, or proprietary articles the scrap dealer has  
8 purchased from the commercial account.

9           **SECTION 9.** 134.405 (4) (c) of the statutes is amended to read:

10          134.405 (4) (c) A law enforcement officer of a city, village, town, or county in  
11 which a scrap dealer conducts business may request that all scrap dealers in the city,  
12 village, town, or county furnish reports of all purchases of ferrous scrap, nonferrous  
13 scrap, metal articles, and proprietary articles. A scrap dealer shall comply with a  
14 request under this paragraph by submitting to the requesting law enforcement  
15 officer a report of each purchase of ferrous scrap, nonferrous scrap, metal articles,  
16 and proprietary articles not later than the business day following the purchase,  
17 including each seller's or deliverer's name, date of birth, identification number, and  
18 address, and the number and state of issuance of the license plate on each seller's or  
19 deliverer's vehicle.

20          **SECTION 10.** 134.405 (7) of the statutes is created to read:

21          134.405 (7) DEPARTMENT RESPONSIBILITIES. (a) In this subsection, "department"  
22 means the department of agriculture, trade and consumer protection.

23          (b) The department shall do all of the following:

1           1. Establish a program for the sharing of information among state and local law  
2 enforcement officers or agencies concerning the sale and purchase or other transfer  
3 of ferrous scrap, nonferrous scrap, metal articles, and proprietary articles.

4           2. Establish a minimum period after a scrap dealer purchases a proprietary  
5 article that the scrap dealer must retain that proprietary article with any identifying  
6 information intact.

      \*\*\*\*NOTE: Do you want to include a specific length of time in the draft that the  
      minimum established by DATCP under subd. 2., above, may not be less than?

7           **SECTION 11.** 218.20 (1w) of the statutes is created to read:

8           218.20 (1w) “Participating political subdivision” means a city, village, town, or  
9 county that accepts submissions of information from a motor vehicle salvage dealer  
10 under s. 218.23 (1) (b) 4. and issues confirmation numbers under s. 218.23 (1) (b) 6.  
11 and that is authorized to directly access department motor vehicle title and  
12 operator’s license records.

13           **SECTION 12.** 218.205 (1) of the statutes is renumbered 218.205 (1) (intro.) and  
14 amended to read:

15           218.205 (1) (intro.) No person may ~~carry~~ do any of the following:

16           (a) Carry on or conduct the business of a motor vehicle salvage dealer unless  
17 licensed to do so by the department. ~~Any person violating this section may be fined~~  
18 ~~not less than \$500 nor more than \$5,000 or imprisoned for not more than 60 days or~~  
19 ~~both.~~

20           **SECTION 13.** 218.205 (1) (b), (c) and (d) of the statutes are created to read:

21           218.205 (1) (b) Use a motor vehicle salvage dealer’s license not issued to that  
22 person.

1 (c) Sign a bill of sale for a junked motor vehicle as a purchaser on behalf of a  
2 motor vehicle salvage dealer unless the person is the dealer or an employee of the  
3 dealer.

4 (d) Possess a motor vehicle for the purpose of wrecking, processing, scrapping,  
5 or dismantling the vehicle unless the person is licensed as a motor vehicle salvage  
6 dealer.

7 **SECTION 14.** 218.205 (3) of the statutes is created to read:

8 218.205 (3) Any person violating this section may be fined not less than \$500  
9 nor more than \$5,000 or imprisoned for not more than 60 days or both.

10 **SECTION 15.** 218.21 (4) (a) of the statutes is amended to read:

11 218.21 (4) (a) Unless the applicant furnishes a bond, or other adequate  
12 collateral as security, of not less than ~~\$25,000~~ \$90,000 under conditions provided by  
13 s. 218.0114 (20) (b), every application shall be accompanied by a current financial  
14 statement to determine the applicant's solvency as required under sub. (1). Except  
15 as provided in par. (b), this paragraph does not apply to the application of a scrap  
16 metal processor.

17 **SECTION 16.** 218.22 (1) (intro.) of the statutes is amended to read:

18 218.22 (1) (intro.) The department shall issue a license to the applicant for a  
19 motor vehicle salvage dealer's license upon the receipt of a properly completed  
20 application form accompanied by the fee required under sub. (2) (c) or (d), upon being  
21 satisfied that the applicant is financially solvent or that the applicant has furnished  
22 a bond, or other adequate collateral as security, of not less than ~~\$25,000~~ \$90,000  
23 under conditions provided by s. 218.0114 (20) (b), and of good character and:

24 **SECTION 17.** 218.22 (3m) (c) of the statutes is created to read:



1           218.22 **(3m)** (c) If a licensee is convicted of any combination of 3 violations of  
2 s. 218.23 or 218.24 in the licensee’s lifetime, the department shall suspend the  
3 licensee’s license for 90 days. If a licensee is convicted of any combination of 4 or more  
4 violations of s. 218.23 or 218.24 in the licensee’s lifetime, the department shall revoke  
5 the licensee’s license.

6           **SECTION 18.** 218.23 (1) of the statutes is renumbered 218.23 (1) (a) (intro.) and  
7 amended to read:

8           218.23 (1) (a) (intro.) ~~Whenever~~ Except as provided in par. (b), whenever a  
9 licensed motor vehicle salvage dealer acquires a motor vehicle for the purpose of  
10 wrecking it, the dealer shall ~~mail~~ do all of the following:

11           4. Mail or deliver the certificate of title ~~or if the transfer to the salvage dealer~~  
12 ~~was by a bill of sale, the bill of sale, for such~~ the vehicle to the department within 30  
13 days after the vehicle is delivered to the salvage yard ~~unless the previous owner~~  
14 ~~already has done so or, if another person is in possession of the certificate of title, as~~  
15 ~~shown by the records of the department of transportation, that person already has~~  
16 ~~done so.~~

17           (d) If the dealer subsequently wishes to transfer ~~such~~ a vehicle acquired for the  
18 purpose of wrecking it to another person, the dealer shall make ~~such~~ the transfer only  
19 by bill of sale. In ~~such~~ the bill of sale, the dealer shall describe the vehicle and shall  
20 state that the certificate of title for the vehicle has been mailed or delivered to the  
21 department because the vehicle was to have been junked. If both the buyer and the  
22 seller are motor vehicle salvage dealers, each dealer shall retain a copy of the bill of  
23 sale.

24           **SECTION 19.** 218.23 (1) (a) 1., 2. and 3. of the statutes are created to read:

25           218.23 (1) (a) 1. Require the transferor to present all of the following:

1           a. The transferor’s current motor vehicle operator’s license or other current,  
2 government–issued photographic identification. The department may promulgate  
3 rules governing the types of government–issued photographic identification that  
4 may be used to satisfy the requirement under this subd. 1. a.

5           b. The certificate of title and, if the transferor is not the owner indicated on the  
6 certificate of title, proof of authorization to transfer the vehicle. The department may  
7 promulgate rules governing the proof of authorization to transfer a vehicle under this  
8 subd. 1. b.

9           2. Verify that the identification provided by the transferor is for the same  
10 person as the owner or person authorized to transfer the vehicle.

11           3. Retain a copy of the identification provided under subd. 1. a. The department  
12 may promulgate rules limiting the period during which a copy of identification shall  
13 be retained under this subdivision.

14           **SECTION 20.** 218.23 (1) (b) and (c) of the statutes are created to read:

15           218.23 (1) (b) A licensed motor vehicle salvage dealer may acquire a motor  
16 vehicle for the purpose of wrecking it from the owner of the motor vehicle without a  
17 certificate of title being delivered to the department if the motor vehicle salvage  
18 dealer does all of the following:

19           1. Requires the transferor to present all of the following:

20           a. The transferor’s current motor vehicle operator’s license or other current,  
21 government–issued photographic identification. The department may promulgate  
22 rules governing the types of government–issued photographic identification that  
23 may be used to satisfy the requirement under this subd. 1. a.

1           b. If the transferor is not the owner of the vehicle, proof of authorization to  
2 transfer the vehicle. The department may promulgate rules governing the proof of  
3 authorization to transfer a vehicle under this subd. 1. b.

4           2. Verifies that the identification provided by the transferor is for the same  
5 person as the owner or person authorized to transfer the vehicle.

6           3. Retains a copy of the identification provided under subd. 1. a. The  
7 department may promulgate rules limiting the period during which a copy of  
8 identification shall be retained under this subdivision.

9           4. Applies for a confirmation number by providing the department or a  
10 participating political subdivision with a copy of the transferor's current motor  
11 vehicle operator's license or other current, government-issued photographic  
12 identification and a description of the vehicle, including the identification number  
13 and any other information reasonably required for proper identification of the  
14 vehicle.

15           5. Pays the department or, if the information under subd. 4. is provided to a  
16 participating political subdivision, the participating political subdivision, the  
17 amount specified in s. 342.14 (5).

18           6. Receives a confirmation number from the department or political  
19 subdivision.

20           7. Records the confirmation number on the bill of sale for the motor vehicle.

21           8. If the motor vehicle was previously transferred under this paragraph,  
22 verifies with the department, and records on the bill of sale for the motor vehicle, all  
23 confirmation numbers received for the previous transfers of the motor vehicle under  
24 this paragraph.

1 (c) The department or, if the information under par. (b) 4. is provided to a  
2 participating political subdivision, the participating political subdivision, shall  
3 examine the department's records and may refuse to issue a confirmation number  
4 if there are reasonable grounds to believe any of the following:

5 1. The transferor of the motor vehicle is not the owner or a person authorized  
6 to transfer the motor vehicle.

7 2. The motor vehicle has a lien outstanding against it.

8 3. The application under par. (b) 4. contains a false or fraudulent statement.

9 **SECTION 21.** 218.23 (2) of the statutes is amended to read:

10 218.23 (2) Every licensed motor vehicle salvage dealer shall maintain a record  
11 of every vehicle ~~which~~ that is bought or otherwise acquired and wrecked by the  
12 salvage dealer, ~~which.~~ The record shall state the name and address of the person  
13 from whom ~~such~~ the vehicle was acquired and the date ~~thereof~~ the vehicle was  
14 acquired. The record shall be in the form prescribed by the department. The motor  
15 vehicle salvage dealer shall take reasonable measures to prevent the disclosure,  
16 except to the department, a participating political subdivision, or an employee or  
17 agent of the motor vehicle salvage dealer, of any personal identifying information,  
18 as defined in s. 943.201 (1) (b), of an individual collected while carrying on or  
19 conducting the business of a motor vehicle salvage dealer.

20 **SECTION 22.** 218.23 (3) of the statutes is amended to read:

21 218.23 (3) Any person violating this section may be fined not less than ~~\$25~~ \$150  
22 nor more than ~~\$200~~ \$1,500 or imprisoned not more than 60 days or both.

23 **SECTION 23.** 218.24 (4) of the statutes is amended to read:

24 218.24 (4) Any person violating this section may be fined not less than ~~\$25~~ \$150  
25 nor more than ~~\$200~~ \$1,500 or imprisoned not more than 60 days or both.

