



City of Santa Cruz
Transportation and
Public Works Commission
Agenda Report

DATE: June 21, 2013

AGENDA OF: July 15, 2013
DEPARTMENT: PUBLIC WORKS
SUBJECT: Bicycle and Bicycle Parts Recycling/Scrap Value

RECOMMENDATION: FOR INFORMATION ONLY

BACKGROUND: The Transportation and Public Works Commission Chair requested that City staff investigate the issue of bicycle parts being redeemed for scrap metal at local recycling centers, and report back on whether the ability to sell bike parts to local recycling centers as scrap metal encourages the theft of bicycles and bicycle parts.

Within the City limits, Santa Cruz currently has two privately-owned recycling centers: the NexCycle center at Costco which accepts only California redemption value (CRV) bottles and cans for redemption, and the RePlanet Center on Fair Avenue which accepts CRV containers but also buys scrap metals. Recycling centers taking in only bottles and cans fall under CalRecycle laws and regulations for CRV redemption centers, while those that also accept scrap metal must comply with additional State laws. This report will focus on the scrap metal aspect as it pertains to bicycles and bicycle parts.

The City also receives bike frames and parts regularly at the Resource Recovery Facility (RRF) recycling center and those usually come from residential hauls of garage and property cleanouts. The public does not receive compensation for dropping off metal at the RRF. The RRF also receives bikes and bike parts from the Police Department who store reclaimed stolen bikes for a period of time, then donate the usable unclaimed bikes to charity organizations, and ultimately send on the unusable leftovers to the RRF metal pile.

Staff interviewed personnel at three local bicycle shops: Epicenter, Sprockets and Another Bike Shop. Overall, their perceptions were much the same: 1) they hear about bicycles are being stolen in Santa Cruz at the rate of one to two a week; 2) all shops have had discarded bicycle parts scavenged from their garbage, recycling, or metal pile; and 3) all shops have recently responded by either locking their dumpsters, donating usable parts, or taking the material to the Resource Recovery Facility.

Several State laws have been passed to assist local law enforcement officials in the investigation of stolen metals and in the apprehension of thieves. This is because the theft of fire hydrants, utility parts, manhole covers, agricultural equipment, wiring, guardrails and other metal items has been on the rise due, in part, to the increase in value of copper, brass and aluminum. Pursuant to the California Business and Professions Code, junk dealers and recyclers are required to obtain and maintain specified information pertaining to the sale, purchase and transport of “junk” (21605, 21606, 21607, and 21608). “Junk” is defined as “all secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys....” It does not include scrap iron, household generated waste or aluminum beverage containers (21600).

Section 21605 specifies that every junk dealer and recycler is required to keep a written record of all sales and purchases made in the course of his or her business. Section 21606 specifies the contents of the records required to be kept. Dealers and recyclers are required to report specified information to the chief of police, allow periodic inspections, and withhold payment for nonferrous materials until additional information is obtained and payment is made by cash or check (21606, 21606.5, and 21608.5).

Exempted from these requirements are specified transactions by persons not in the business of junk dealer or recycler, purchases of scrap metal by a junk dealer or recycler when the payment for the scrap metal is by check issued to the company represented as being the owner of the scrap, and scrap metal purchased or received from another junk dealer or recycler who has recorded, reported, and held the material as required (21604). Failure to keep and produce required records is punishable as a misdemeanor (21608).

Section 21608.5 requires junk dealers and recyclers to comply with regulations pertaining to payment for nonferrous materials. Pursuant to the provisions of section 21608.5, recyclers are prohibited from providing payment for nonferrous material, as defined, unless the payment is made by cash or check, the check is mailed or the cash or check is provided no earlier than 3 days after the date of sale, and the dealer or recycler obtains a photograph or video of the seller and certain other identifying information, as specified, including the thumbprint of the seller, to be retained by the dealer or recycler for a certain period of time. The section specifies exceptions to the payment by cash or check requirements in cases where the dealer or recycler completes five or more separate transactions per month with the seller, where the dealer or recycler receives specified information pertaining to the seller’s business from the seller, and when the purchase pertains to nonferrous materials of a certain value (less than \$20) when the majority of the transaction is for redemption of beverage containers.

The California Penal Code has further criminal penalties and fines for buying or receiving stolen fire hydrants or parts.

CalRecycle identifies a “Recycling Center” as an operation certified by their department, which accepts from consumers, and pays or provides the refund value pursuant to their regulations, for empty beverage containers intended to be recycled. These recycling centers are independently owned and operated and satisfy the state requirement for a “Convenience Zone.” A convenience zone is “the area within a one-half mile radius of a supermarket.” The law requires that a state

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certified recycling center be established within a convenience zone, and if not, every store that sells CRV beverages must redeem cans and bottles in their store.

RePlanet on Fair Avenue is a certified recycling center which satisfies the state requirement for the convenience zone for the westside supermarkets. They must abide by CalRecycle regulations which cover CRV bottles and cans, as well as laws pertaining to scrap metals. RePlanet buys scrap metals from sellers throughout the county. In an unannounced staff visit, RePlanet showed staff a very limited number of bike parts that they had purchased as scrap, and said they do not typically receive many bikes or bike parts. At 15 to 25 cents a pound for aluminum, a whole bike frame has a scrap value of around \$2 or \$3. Resale of bikes or parts for transportation value is worth much more.

Replanet requires that scrap metal sellers fill out an AB844 Compliance Form to include: full name, address, valid driver's license, and vehicle license number. Sellers have their picture taken and must submit their thumbprint on the form. RePlanet does not accept any recycling that arrives at the facility in a blue City recycling cart or a shopping cart from retail stores. RePlanet denies payment for any kind of suspicious material brought to the facility.

According to a June 14, 2013, Santa Cruz Sentinel article, the Santa Cruz Police Department made arrests in the 400 block of La Fonda after hearing of "reports of drug dealing and operating a bicycle chop shop at the home." The article went on to say that "Authorities also found more than 50 dismantled and complete bikes on the property." The exposure of this bicycle theft ring has uncovered at least one source of many recent bicycle thefts in our area.

DISCUSSION: Although bicycle parts do show up in small quantities at local recycling facilities that accept scrap metal, it does not appear that the low scrap metal value of a bikes and bike parts is a driver of theft. Staff's conversations with local scrap metal buyers found very few bikes or bike parts being redeemed for scrap, while the landfill receives a large quantity of bikes and bike parts dropped off for no redemption. The exposure of a local bicycle chop shop indicated that resale of bikes and bike parts is likely to be much more lucrative than selling them for scrap value. Since 20 million new bicycles are purchased in the US each year we would expect to find damaged or old bicycles and parts making their way to recycling centers.

Staff asked the City Attorney what authority the City has to pass additional ordinances to restrict recycling buy-back centers given existing state laws? And, whether the City has authority to place tighter restrictions on recycling buy-back centers than exist in state law? The response was as follows:

"A city may not enact an ordinance which conflicts with state law. An ordinance conflicts with state law if the local legislation duplicates or contradicts state law or if the local legislation attempts to enter an area fully occupied by the state, either because further local legislation is expressly prohibited or because the state legislative scheme implies such prohibition. The purchase and sale of scrap metal has been held to be a matter of statewide concern and the legislature has comprehensively addressed these activities. Tosi v. County of Fresno (2008) 161 Cal. App. 4th 799.

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California Business & Professions Code section 21608.5 (g) provides an express prohibition on local ordinances pertaining to junk dealer or recycler transactions involving nonferrous material, stating, "This section is intended to occupy the entire field of law related to junk dealer or recycler transactions involving nonferrous material." The subsection provides an exception, however, in very limited and specific instances. A local ordinance that addresses payment for nonferrous materials will not be in conflict with section 21608.5 if the ordinance is passed by a two-thirds vote; it can be demonstrated by clear and convincing evidence that the local ordinance is both necessary and addresses a unique problem within and specific to the jurisdiction of the ordinance; and cannot effectively be addressed under the section. To determine whether a particular ordinance placing greater restrictions on recycle buy back centers falls within the 21608.5 subsection (g) exception, its provisions will have to fall directly within the parameters described in subsection 21608.5."

In short, local ordinances regulating scrap metal dealers are preempted by state law leaving no room for further regulation at the local level. To the extent the same activities and materials are involved in recycling buy-back centers, it is clear that the same analysis will apply. Although subsection 21608.5(g) provides an exception for local regulations passed by a two-thirds vote and supported by clear and convincing evidence of necessity and uniqueness specific to the jurisdiction, the authority provided by this subsection is limited and specific and will require a case by case analysis to determine whether proposed regulations fall within the parameters of the code's provisions.

FISCAL IMPACT: None

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