
Business & Financial Services Committee

HB 1756

Brief Description: Concerning scrap metal licensing.

Sponsors: Representatives Hurst, Dahlquist, Haigh, Hope, Morris and Morrell.

Brief Summary of Bill

- Creates a licensing program for scrap metal processors and recyclers, with a license fee of \$1,000 and criminal and civil penalties for unlicensed activity.
- Prohibits cash transactions involving private metal property or nonferrous metal property.
- Requires a five day hold on all private metal property or nonferrous metal property, unless the scrap metal purchaser copies the seller's identification and a picture of the material being sold.
- Requires a scrap metal business to hold property which has been reported as stolen for up to 90 days, if directed in writing by a law enforcement officer.
- Preempts local regulation of scrap metal businesses.
- Increases civil penalties for violations of regulations relating to scrap metal businesses.

Hearing Date: 2/12/13

Staff: Sarah Koster (786-7303).

Background:

Businesses that are engaged in the business of purchasing or receiving private metal property, nonferrous metal property or commercial metal property are subject to certain requirements governing record keeping and transactions.

Definitions:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

"Commercial metal property" means: utility access covers; street-light poles and fixtures; road and bridge guard rails; 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, or railroad; 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 inch tubing, forty-two inches high with four-inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.

"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.

"Private metal property" means catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

Scrap metal businesses include scrap metal processors, scrap metal recycling centers, and scrap metal suppliers.

- A "scrap metal processor" is a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving private metal property, 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.
- A "scrap metal recycling center" is a person with a current business license that is engaged in the business of purchasing or receiving private metal property, 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 state.
- A "scrap metal supplier" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property or 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 state.

Transaction Requirements.

No scrap metal business may purchase or receive private metal property or commercial metal property unless the seller:

- has a commercial account with the scrap metal business;
- can prove ownership of the property by producing written documentation that the seller is the owner of the property; or
- can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

Transactions involving private metal property or nonferrous metal property valued at greater than \$30 may not be made in cash or with anyone who does not provide a street address. Payment must be by non-transferable check by mail no earlier than 10 days after the transaction.

Recordkeeping Requirements.

For transactions between a scrap metal business and a member of the general public, the following records must be kept and maintained for one year:

- the time, date, location, and value of the transaction;
- the name of the employee representing the scrap metal business in the transaction;
- the name, street address, and telephone number of the person with whom the transaction is made;
- the license plate number and state of issuance of the license plate on the motor vehicle used to deliver the metal property;
- a description of the motor vehicle;
- the current driver's license number or other identification card number of the seller or a copy of the identification;
- a description of the predominant types of private or non-ferrous metal property subject to the transaction, including the property's classification code; and
- a signed declaration by the seller that the transacted property is not, to the best of his or her knowledge, stolen.

These records must be open to inspection by law enforcement during ordinary hours of business, or at reasonable times if ordinary hours of business are not kept.

For sales between a scrap metal business and any other commercial enterprise, the scrap metal business must establish a commercial account for the commercial enterprise. For each commercial account, the scrap metal business must keep a record which indicates the name of the commercial enterprise, the business address and telephone number of the commercial enterprise, the full name of the person employed by the commercial enterprise who is authorized to designate an employee or agent to deliver metal property and commercial metal property, and a record of every purchase or receipt of metal property and commercial metal property from the commercial enterprise

Requests from Law Enforcement.

If requested by law enforcement, a scrap metal business must provide the transcript of records of the purchase or receipt of private metal property, nonferrous metal property, or commercial metal property involving a specific individual, vehicle, or item of nonferrous metal property or commercial metal property. The information may be transmitted within a specified time of not less than two business days. The information may be transmitted electronically, by fax, by computer, or by delivery of a computer disk subject to approval by law enforcement.

If the scrap metal business has good cause to believe that the metal property in his or her possession is lost or stolen, the scrap metal business must report that fact to law enforcement, together with the name of the owner, if known, and the transaction information.

Preserving Evidence of Metal Theft.

After written or verbal notice from law enforcement that an item of private, nonferrous, or commercial metal property has been reported as stolen, a scrap metal business must tag and hold

that property for a period of time directed by law enforcement up to a maximum of 10 business days.

Law enforcement is prohibited from placing a hold unless law enforcement reasonably suspects that the property is a lost or stolen item. Any hold must be removed within 10 business days after the property is determined not to be stolen or lost.

Criminal Penalties.

It is a gross misdemeanor:

- to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of private, nonferrous, or commercial metal property to deceive a scrap metal business;
- to purchase or receive any private, nonferrous, or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated;
- to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any required book, record, or writing required to be kept;
- to enter into a transaction to purchase or receive private, nonferrous, or commercial metal property from any person under the age of 18 years or any person who is discernibly under the influence of intoxicating liquor or drugs;
- to enter into a transaction to purchase or receive private, nonferrous, or commercial metal property with anyone whom the scrap business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past 10 years whether the person is acting in his or her own behalf or as the agent of another;
- to sign the required declaration knowing that the private or nonferrous metal property subject to the transaction is stolen;
- to possess commercial metal property that was not lawfully purchased or received; and
- to engage in a series of transactions valued at less than \$30 with the same seller to avoid the cash payment limitations.

Civil Penalties.

Any other violation of the requirements is punishable by a fine of not more than \$1,000 for a first conviction and \$2,000 for subsequent convictions within two years of the first violation.

Exemptions.

The following entities are exempt from all of the requirements that apply to scrap metal businesses: licensed motor vehicle dealers, licensed vehicle wreckers or hulk haulers, persons in the business of operating an automotive repair facility, and persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

Summary of Bill:

A "scrap metal recycling center" will be known as a "scrap metal recycler"

Transaction Requirements.

Transactions involving private metal property or nonferrous metal property must be made by check, mailed no earlier than five days after the transaction was made.

All scrap metal businesses are required to complete a five day tag and hold for transactions involving private metal property or nonferrous metal property, unless they digitally capture a copy of one piece of current government-issued picture ID and a picture of the material being sold.

Preserving Evidence of Metal Theft.

After written notice from law enforcement that an item of private, non-ferrous, or commercial metal property has been reported as stolen; a scrap metal business must tag and hold that property for a period of time directed by law enforcement up to a maximum of 90 days.

Law enforcement is prohibited from placing a hold unless law enforcement reasonably suspects that the property is a lost or stolen item. Any hold must be removed within 90 days after the property is determined not to be stolen or lost.

Licensing.

All scrap metal processors and scrap metal recyclers must obtain a scrap metal license, through the Department of Licensing (Department).

The application for a license or renewal must include: the name and address of the scrap metal business; the names and addresses of all persons having an interest in the business or, if the business is a corporation, all corporate officers; and documentation that the business is in compliance with all applicable building code, zoning and other land use regulatory ordinances. An application or renewal form must also include certification from the chief of police of any city with a population of over 5,000, and in all other instances a member of the Washington State Patrol, that the applicant has an established place of business at the address shown at the application and, in the case of a renewal, the applicant is in compliance with applicable requirements.

The application must be accompanied by a fee for \$1,000 per physical location for an initial application or \$500 per physical location for a license renewal. Additionally, each applicant must file a surety bond with the Department in the amount of \$10,000. Licensees are also required to obtain a special set of license plates for each vehicle owned or operated by the licensee and used in the conduct of the business. The license plates may be obtained for a fee of \$5 for the original plate and \$2 for each additional set of plates.

The Department may refuse to issue a license to a person whose previous license has been canceled for cause; or to a person who the Department believes is acting on behalf of a person whose license is previously been canceled for cause.

Unlicensed activity is punishable as a gross misdemeanor or, for a second or subsequent offense, an unranked class C felony.

The Department may issue a cease and desist order to any person engaging in unlicensed activity and may assess a fine of up to \$1,000 for each violation. The unlicensed person shall have notice and opportunity for a hearing. The Department may examine or subpoena any persons, books, records, vehicles, or metal property bearing on an investigation under the licensing scheme and may adopt rules and regulations for operation and enforcement of the licensing program.

Funds raised from application and renewal fees and civil penalties collected by the Department of Licensing under this section will be forwarded to a new account in the state treasury, known as the scrap metal licensing account. All of the Department's expenses incurred in carrying out the scrap metal licensing program shall be paid from the account as authorized by legislative appropriation.

Preemption

The entire field of regulation of scrap metal businesses is preempted by the State of Washington. Political subdivisions in the state may only enforce those laws which are specifically authorized by state law and consistent with the chapter and may not be more restrictive than state law or impose greater penalties or restrictions.

Appropriation: None.

Fiscal Note: February 07, 2013.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.