

SHB 1251 - H AMD 231

By Representative Morrell

ADOPTED AS AMENDED 03/10/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
4 section apply throughout this chapter unless the context clearly
5 requires otherwise.

6 (1) "Commercial account" means a relationship between a scrap metal
7 business and a commercial enterprise that is ongoing and properly
8 documented under section 3 of this act.

9 (2) "Commercial enterprise" means a corporation, partnership,
10 limited liability company, association, state agency, political
11 subdivision of the state, public corporation, or any other legal or
12 commercial entity.

13 (3) "Commercial metal property" means: Utility access covers;
14 street light poles and fixtures; road and bridge guardrails; highway or
15 street signs; water meter covers; traffic directional and control
16 signs; traffic light signals; any metal property marked with the name
17 of a commercial enterprise, including but not limited to a telephone,
18 cable, electric, water, natural gas, or other utility, or railroad;
19 unused or undamaged building construction materials consisting of
20 copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts,
21 or gutters; aluminum or stainless steel fence panels made from one inch
22 tubing, forty-two inches high with four inch gaps; aluminum decking,
23 bleachers, or risers; historical markers; statue plaques; grave markers
24 and funeral vases; or agricultural irrigation wheels, sprinkler heads,
25 and pipes.

26 (4) "Nonferrous metal property" means metal property for which the
27 value of the metal property is derived from the property's content of
28 copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys,
29 and unwanted electronic product, as that term is defined under RCW

1 70.95N.020. "Nonferrous metal property" does not include precious
2 metals.

3 (5) "Precious metals" means gold, silver, and platinum.

4 (6) "Record" means a paper, electronic, or other method of storing
5 information.

6 (7) "Scrap metal business" means a scrap metal supplier, scrap
7 metal recycling center, and scrap metal processor.

8 (8) "Scrap metal processor" means a person with a current business
9 license that conducts business from a permanent location, that is
10 engaged in the business of purchasing or receiving metal property for
11 the purpose of altering the metal in preparation for its use as
12 feedstock in the manufacture of new products, and that maintains a
13 hydraulic bailer, shearing device, or shredding device for recycling.

14 (9) "Scrap metal recycling center" means a person with a current
15 business license that is engaged in the business of purchasing or
16 receiving nonferrous metal property for the purpose of aggregation and
17 sale to another scrap metal business and that maintains a fixed place
18 of business within the state.

19 (10) "Scrap metal supplier" means a person with a current business
20 license that is engaged in the business of purchasing or receiving
21 nonferrous metal property for the purpose of aggregation and sale to a
22 scrap metal recycling center or scrap metal processor and that does not
23 maintain a fixed business location in the state.

24 (11) "Transaction" means a pledge, or the purchase of, or the trade
25 of any item of nonferrous metal property by a scrap metal business
26 from a member of the general public. "Transaction" does not include
27 donations or the purchase or receipt of nonferrous metal property by a
28 scrap metal business from a commercial enterprise, from another scrap
29 metal business, or from a duly authorized employee or agent of the
30 commercial enterprise or scrap metal business.

31 NEW SECTION. **Sec. 2.** RECORDS REQUIRED FOR PURCHASING NONFERROUS
32 METAL PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a
33 transaction, every scrap metal business doing business in this state
34 shall produce wherever that business is conducted an accurate and
35 legible record of each transaction involving nonferrous metal property.
36 This record must be written in the English language, documented on a

1 standardized form or in electronic form, and contain the following
2 information:

3 (a) The signature of the person with whom the transaction is made;

4 (b) The time, date, location, and value of the transaction;

5 (c) The name of the employee representing the scrap metal business
6 in the transaction;

7 (d) The name, street address, and telephone number of the person
8 with whom the transaction is made;

9 (e) The license plate number and state of issuance of the license
10 plate on the motor vehicle used to deliver the nonferrous metal
11 property subject to the transaction;

12 (f) A description of the motor vehicle used to deliver the
13 nonferrous metal property subject to the transaction;

14 (g) The current driver's license number or other government-issued
15 picture identification card number of the seller or a copy of the
16 seller's government-issued picture identification card; and

17 (h) A description of the predominant types of nonferrous metal
18 property subject to the transaction, including the property's
19 classification code as provided in the institute of scrap recycling
20 industries scrap specifications circular, 2006, and weight, quantity,
21 or volume.

22 (2) For every transaction that involves nonferrous metal property,
23 every scrap metal business doing business in the state shall require
24 the person with whom a transaction is being made to sign a declaration.
25 The declaration may be included as part of the transactional record
26 required under subsection (1) of this section, or on a receipt for the
27 transaction. The declaration must state substantially the following:

28 "I, the undersigned, affirm under penalty of law that the property
29 that is subject to this transaction is not to the best of my knowledge
30 stolen property."

31 The declaration must be signed and dated by the person with whom
32 the transaction is being made. An employee of the scrap metal business
33 must witness the signing and dating of the declaration and sign the
34 declaration accordingly before any transaction may be consummated.

35 (3) The record and declaration required under this section must be
36 open to the inspection of any commissioned law enforcement officer of
37 the state or any of its political subdivisions at all times during the

1 ordinary hours of business, or at reasonable times if ordinary hours of
2 business are not kept, and must be maintained wherever that business is
3 conducted for one year following the date of the transaction.

4 NEW SECTION. **Sec. 3.** REQUIREMENTS FOR PURCHASING OR RECEIVING
5 NONFERROUS METAL PROPERTY FROM THE GENERAL PUBLIC. (1) No scrap metal
6 business may enter into a transaction to purchase or receive nonferrous
7 metal property from any person who cannot produce at least one piece of
8 current government-issued picture identification, including a valid
9 driver's license or identification card issued by any state.

10 (2) No scrap metal business may purchase or receive commercial
11 metal property unless the seller: (a) Has a commercial account with
12 the scrap metal business; (b) can prove ownership of the property by
13 producing written documentation that the seller is the owner of the
14 property; or (c) can produce written documentation that the seller is
15 an employee or agent authorized to sell the property on behalf of a
16 commercial enterprise.

17 (3) No scrap metal business may enter into a transaction to
18 purchase or receive metallic wire that was burned in whole or in part
19 to remove insulation unless the seller can produce written proof to the
20 scrap metal business that the wire was lawfully burned.

21 (4) No transaction involving nonferrous metal property valued at
22 greater than thirty dollars may be made in cash or with any person who
23 does not provide a street address under the requirements of section 2
24 of this act. For transactions valued at greater than thirty dollars,
25 the person with whom the transaction is being made may only be paid by
26 a nontransferable check, mailed by the scrap metal business to a street
27 address provided under section 2 of this act, no earlier than ten days
28 after the transaction was made. A transaction occurs on the date
29 provided in the record required under section 2 of this act.

30 (5) No scrap metal business may purchase or receive beer kegs from
31 anyone except a manufacturer of beer kegs or licensed brewery.

32 NEW SECTION. **Sec. 4.** RECORD FOR COMMERCIAL ACCOUNTS. (1) Every
33 scrap metal business must create and maintain a permanent record with
34 a commercial enterprise, including another scrap metal business, in
35 order to establish a commercial account. That record, at a minimum,
36 must include the following information:

1 (a) The full name of the commercial enterprise or commercial
2 account;

3 (b) The business address and telephone number of the commercial
4 enterprise or commercial account; and

5 (c) The full name of the person employed by the commercial
6 enterprise who is authorized to deliver nonferrous metal property and
7 commercial metal property to the scrap metal business.

8 (2) The record maintained by a scrap metal business for a
9 commercial account must document every purchase or receipt of
10 nonferrous metal property and commercial metal property from the
11 commercial enterprise. The documentation must include, at a minimum,
12 the following information:

13 (a) The time, date, and value of the property being purchased or
14 received;

15 (b) A description of the predominant types of property being
16 purchased or received; and

17 (c) The signature of the person delivering the property to the
18 scrap metal business.

19 NEW SECTION. **Sec. 5.** REPORTING TO LAW ENFORCEMENT. (1) Upon
20 request by any commissioned law enforcement officer of the state or any
21 of its political subdivisions, every scrap metal business shall furnish
22 a full, true, and correct transcript of the records from the purchase
23 or receipt of nonferrous metal property involving a specific
24 individual, vehicle, or item of nonferrous metal property or commercial
25 metal property. This information may be transmitted within a specified
26 time of not less than two business days to the applicable law
27 enforcement agency electronically, by facsimile transmission, or by
28 modem or similar device, or by delivery of computer disk subject to the
29 requirements of, and approval by, the chief of police or the county's
30 chief law enforcement officer.

31 (2) If the scrap metal business has good cause to believe that any
32 nonferrous metal property or commercial metal property in his or her
33 possession has been previously lost or stolen, the scrap metal business
34 shall promptly report that fact to the applicable commissioned law
35 enforcement officer of the state, the chief of police, or the county's
36 chief law enforcement officer, together with the name of the owner, if

1 known, and the date when and the name of the person from whom it was
2 received.

3 NEW SECTION. **Sec. 6.** PRESERVING EVIDENCE OF METAL THEFT. (1)
4 Following notification, either verbally or in writing, from a
5 commissioned law enforcement officer of the state or any of its
6 political subdivisions that an item of nonferrous metal property or
7 commercial metal property has been reported as stolen, a scrap metal
8 business shall hold that property intact and safe from alteration,
9 damage, or commingling, and shall place an identifying tag or other
10 suitable identification upon the property. The scrap metal business
11 shall hold the property for a period of time as directed by the
12 applicable law enforcement agency up to a maximum of ten business days.

13 (2) A commissioned law enforcement officer of the state or any of
14 its political subdivisions shall not place on hold any item of
15 nonferrous metal property or commercial metal property unless that law
16 enforcement agency reasonably suspects that the property is a lost or
17 stolen item. Any hold that is placed on the property must be removed
18 within ten business days after the property on hold is determined not
19 to be stolen or lost and the property must be returned to the owner or
20 released.

21 NEW SECTION. **Sec. 7.** UNLAWFUL VIOLATIONS. It is a gross
22 misdemeanor under chapter 9A.20 RCW for:

23 (1) Any person to deliberately remove, alter, or obliterate any
24 manufacturer's make, model, or serial number, personal identification
25 number, or identifying marks engraved or etched upon an item of
26 nonferrous metal property or commercial metal property in order to
27 deceive a scrap metal business;

28 (2) Any scrap metal business to enter into a transaction to
29 purchase or receive any nonferrous metal property or commercial metal
30 property where the manufacturer's make, model, or serial number,
31 personal identification number, or identifying marks engraved or etched
32 upon the property have been deliberately and conspicuously removed,
33 altered, or obliterated;

34 (3) Any person to knowingly make, cause, or allow to be made any
35 false entry or misstatement of any material matter in any book, record,
36 or writing required to be kept under this chapter;

1 (4) Any scrap metal business to enter into a transaction to
2 purchase or receive nonferrous metal property or commercial metal
3 property from any person under the age of eighteen years or any person
4 who is discernibly under the influence of intoxicating liquor or drugs;

5 (5) Any scrap metal business to enter into a transaction to
6 purchase or receive nonferrous metal property or commercial metal
7 property with anyone whom the scrap metal business has been informed by
8 a law enforcement agency to have been convicted of a crime involving
9 drugs, burglary, robbery, theft, or possession of or receiving stolen
10 property, manufacturing, delivering, or possessing with intent to
11 deliver methamphetamine, or possession of ephedrine or any of its salts
12 or isomers or salts of isomers, pseudoephedrine or any of its salts or
13 isomers or salts of isomers, or anhydrous ammonia with intent to
14 manufacture methamphetamine within the past ten years whether the
15 person is acting in his or her own behalf or as the agent of another;

16 (6) Any person to sign the declaration required under section 2 of
17 this act knowing that the nonferrous metal property subject to the
18 transaction is stolen. The signature of a person on the declaration
19 required under section 2 of this act constitutes evidence of intent to
20 defraud a scrap metal business if that person is found to have known
21 that the nonferrous metal property subject to the transaction was
22 stolen;

23 (7) Any scrap metal business to possess commercial metal property
24 that was not lawfully purchased or received under the requirements of
25 this chapter; or

26 (8) Any scrap metal business to engage in a series of transactions
27 valued at less than thirty dollars with the same seller for the
28 purposes of avoiding the requirements of section 3(4) of this act.

29 NEW SECTION. **Sec. 8.** CIVIL PENALTIES. (1) Each violation of the
30 requirements of this chapter that are not subject to the criminal
31 penalties under section 7 of this act shall be punishable, upon
32 conviction, by a fine of not more than one thousand dollars.

33 (2) Within two years of being convicted of a violation of any of
34 the requirements of this chapter that are not subject to the criminal
35 penalties under section 7 of this act, each subsequent violation shall
36 be punishable, upon conviction, by a fine of not more than two thousand
37 dollars.

1 NEW SECTION. **Sec. 9.** EXEMPTIONS. The provisions of this chapter
2 do not apply to transactions conducted by the following:

- 3 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;
- 4 (2) Vehicle wreckers or hulk haulers licensed under chapter 46.79
5 or 46.80 RCW;
- 6 (3) Persons in the business of operating an automotive repair
7 facility as defined under RCW 46.71.011; and
- 8 (4) Persons in the business of buying or selling empty food and
9 beverage containers, including metal food and beverage containers.

10 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
11 a new chapter in Title 19 RCW.

12 NEW SECTION. **Sec. 11.** RCW 9.91.110 (Metal buyers--Records of
13 purchases--Penalty) and 1971 ex.s. c 302 s 18 are each repealed.

14 NEW SECTION. **Sec. 12.** Captions used in this act are not any part
15 of the law.

16 NEW SECTION. **Sec. 13.** If any provision of this act or its
17 application to any person or circumstance is held invalid, the
18 remainder of the act or the application of the provision to other
19 persons or circumstances is not affected."

20 Correct the title.

EFFECT: (1) Imposes requirements on "scrap metal businesses"
instead of "scrap metal dealers" and "scrap metal processors." Defines
"scrap metal business" as a scrap metal supplier, scrap metal recycling
center, and scrap metal processor and contains corresponding
definitions of those terms.

(2) Modifies record keeping requirements so that a record of the
identification card number or a photocopy of the identification is
required instead of both. Modifies the requirement related to keeping
a description of the metal property to include certain classification
codes.

(3) Amends the declaration requirement. Requires the declaration
to be a separate document printed in bold, capitalized, underlined, or
otherwise conspicuous type. Requires, as part of the declaration, a
statement in the seller's own handwriting identifying the source of the

metal property. Requires an employee of the scrap metal dealer or scrap metal processor to witness the signing and dating of the declaration and sign the declaration. Removes language that allowed a statement on the back of a nontransferable check to satisfy the declaration requirement.

(4) Modifies the requirement related to beer kegs to also allow a scrap metal business to purchase and receive beer kegs from licensed breweries.

(5) Modifies the prohibition on transactions in cash to only apply to transactions involving property valued at \$30 or greater and includes corresponding penalties for engaging in a series of transactions valued at under \$30 to avoid the requirement.

(6) Provides that required records and the declaration must be open to inspection by law enforcement at all ordinary hours of business or at reasonable times if ordinary hours of business are not kept. Requires records to be maintained wherever that business is conducted for one year following the date of the transaction.

(7) Changes provisions related to reporting to law enforcement so that a scrap metal dealer or processor is required to provide records involving a specific individual, vehicle, or item of nonferrous or commercial metal property upon request on forms required by law enforcement. Includes a requirement that if the scrap metal dealer or processor has good cause to believe that any metal property or commercial metal property in his or her possession has been previously lost or stolen, the scrap metal dealer or scrap metal processor must report to law enforcement.

(8) Restores the tag and hold requirement so that, following notification from law enforcement, a scrap metal dealer or processor is required to tag and hold the property for up to a maximum of ten business days.

(9) Modifies the unlawful violations section to clarify that the violation for removing manufacturer's make or mark on metal is only a violation for deliberately doing so and to make it a violation to enter into a transaction with someone to whom the business has been informed by law enforcement has been convicted of a crime involving drugs, burglary, robbery, or theft.

(10) Creates additional civil penalties for violations of the requirements of the bill that are not specifically listed in the unlawful violations section.

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