

ESSB 5312 - H COMM AMD

By Committee on Public Safety & Emergency Preparedness

ADOPTED AND ENGROSSED 4/4/07

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 commercial mobile radio services, cable, electric, water, natural gas,
19 or other utility, or railroad; unused or undamaged building
20 construction materials consisting of copper pipe, tubing, or wiring, or
21 aluminum wire, siding, downspouts, or gutters; aluminum or stainless
22 steel fence panels made from one inch tubing, forty-two inches high
23 with four inch gaps; aluminum decking, bleachers, or risers; historical
24 markers; statue plaques; grave markers and funeral vases; or
25 agricultural irrigation wheels, sprinkler heads, 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 "Nonferrous metal property" does not include precious metals.

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

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

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

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

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

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

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

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

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

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

2 (c) The name of the employee representing the scrap metal business
3 in the transaction;

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

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

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

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

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

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

25 "I, the undersigned, affirm under penalty of law that the property
26 that is subject to this transaction is not to the best of my knowledge
27 stolen property."

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

32 (3) The record and declaration required under this section must be
33 open to the inspection of any commissioned law enforcement officer of
34 the state or any of its political subdivisions at all times during the
35 ordinary hours of business, or at reasonable times if ordinary hours of
36 business are not kept, and must be maintained wherever that business is
37 conducted for one year following the date of the transaction.

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

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

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

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

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

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

34 (a) The full name of the commercial enterprise or commercial
35 account;

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

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

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

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

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

13 (c) The signature of the person delivering the property to the
14 scrap metal business.

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

27 (2) If the scrap metal business has good cause to believe that any
28 nonferrous metal property or commercial metal property in his or her
29 possession has been previously lost or stolen, the scrap metal business
30 shall promptly report that fact to the applicable commissioned law
31 enforcement officer of the state, the chief of police, or the county's
32 chief law enforcement officer, together with the name of the owner, if
33 known, and the date when and the name of the person from whom it was
34 received.

35 NEW SECTION. **Sec. 6.** PRESERVING EVIDENCE OF METAL THEFT. (1)
36 Following notification, either verbally or in writing, from a

1 commissioned law enforcement officer of the state or any of its
2 political subdivisions that an item of nonferrous metal property or
3 commercial metal property has been reported as stolen, a scrap metal
4 business shall hold that property intact and safe from alteration,
5 damage, or commingling, and shall place an identifying tag or other
6 suitable identification upon the property. The scrap metal business
7 shall hold the property for a period of time as directed by the
8 applicable law enforcement agency up to a maximum of ten business days.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;

1 (2) Vehicle wreckers or hulk haulers licensed under chapter 46.79
2 or 46.80 RCW;

3 (3) Persons in the business of operating an automotive repair
4 facility as defined under RCW 46.71.011; and

5 (4) Persons in the business of buying or selling empty food and
6 beverage containers, including metal food and beverage containers.

7 NEW SECTION. **Sec. 10.** A new section is added to chapter 9.94A RCW
8 to read as follows:

9 (1) In a prosecution for theft in the first or second degree, the
10 prosecution may file a special allegation of disproportionate impact
11 when sufficient admissible evidence exists, which, when considered with
12 the most plausible, reasonably foreseeable defense that could be raised
13 under the evidence, would justify a finding by a reasonable and
14 objective fact-finder that the damage to the victim greatly exceeds the
15 value of the stolen property.

16 (2) Once a special allegation has been made under this section, the
17 state has the burden to prove beyond a reasonable doubt that the damage
18 to the victim greatly exceeds the value of the stolen property. If a
19 jury is had, the jury shall, if it finds the defendant guilty, also
20 find a special verdict as to whether the damage to the victim greatly
21 exceeds the value of the stolen property. If no jury is had, the court
22 shall make a finding of fact as to whether the damage to the victim
23 greatly exceeds the value of the stolen property.

24 (3) For the purposes of this section, damage to the victim greatly
25 exceeds the value of the stolen property when the replacement cost of
26 the stolen item is more than three times the value of the stolen item,
27 or the theft of the item creates a public hazard.

28 NEW SECTION. **Sec. 11.** A new section is added to chapter 9.94A RCW
29 to read as follows:

30 (1) In a prosecution for possessing stolen property in the first or
31 second degree, the prosecution may file a special allegation of
32 disproportionate impact when sufficient admissible evidence exists,
33 which, when considered with the most plausible, reasonably foreseeable
34 defense that could be raised under the evidence, would justify a
35 finding by a reasonable and objective fact-finder that the damage to

1 the victim from whom the property was stolen greatly exceeds the value
2 of the stolen property.

3 (2) Once a special allegation has been made under this section, the
4 state has the burden to prove beyond a reasonable doubt that the damage
5 to the victim from whom the property was stolen greatly exceeds the
6 value of the stolen property. If a jury is had, the jury shall, if it
7 finds the defendant guilty, also find a special verdict as to whether
8 the damage to the victim from whom the property was stolen greatly
9 exceeds the value of the stolen property. If no jury is had, the court
10 shall make a finding of fact as to whether the damage to the victim
11 from whom the property was stolen greatly exceeds the value of the
12 stolen property.

13 (3) For the purposes of this section, damage to the victim from
14 whom the property was stolen greatly exceeds the value of the stolen
15 property when the replacement cost of the stolen item is more than
16 three times the value of the stolen item, or the theft of the item
17 creates a public hazard.

18 **Sec. 12.** RCW 9.94A.533 and 2006 c 339 s 301 and 2006 c 123 s 1 are
19 each reenacted and amended to read as follows:

20 (1) The provisions of this section apply to the standard sentence
21 ranges determined by RCW 9.94A.510 or 9.94A.517.

22 (2) For persons convicted of the anticipatory offenses of criminal
23 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the
24 standard sentence range is determined by locating the sentencing grid
25 sentence range defined by the appropriate offender score and the
26 seriousness level of the completed crime, and multiplying the range by
27 seventy-five percent.

28 (3) The following additional times shall be added to the standard
29 sentence range for felony crimes committed after July 23, 1995, if the
30 offender or an accomplice was armed with a firearm as defined in RCW
31 9.41.010 and the offender is being sentenced for one of the crimes
32 listed in this subsection as eligible for any firearm enhancements
33 based on the classification of the completed felony crime. If the
34 offender is being sentenced for more than one offense, the firearm
35 enhancement or enhancements must be added to the total period of
36 confinement for all offenses, regardless of which underlying offense is
37 subject to a firearm enhancement. If the offender or an accomplice was

1 armed with a firearm as defined in RCW 9.41.010 and the offender is
2 being sentenced for an anticipatory offense under chapter 9A.28 RCW to
3 commit one of the crimes listed in this subsection as eligible for any
4 firearm enhancements, the following additional times shall be added to
5 the standard sentence range determined under subsection (2) of this
6 section based on the felony crime of conviction as classified under RCW
7 9A.28.020:

8 (a) Five years for any felony defined under any law as a class A
9 felony or with a statutory maximum sentence of at least twenty years,
10 or both, and not covered under (f) of this subsection;

11 (b) Three years for any felony defined under any law as a class B
12 felony or with a statutory maximum sentence of ten years, or both, and
13 not covered under (f) of this subsection;

14 (c) Eighteen months for any felony defined under any law as a class
15 C felony or with a statutory maximum sentence of five years, or both,
16 and not covered under (f) of this subsection;

17 (d) If the offender is being sentenced for any firearm enhancements
18 under (a), (b), and/or (c) of this subsection and the offender has
19 previously been sentenced for any deadly weapon enhancements after July
20 23, 1995, under (a), (b), and/or (c) of this subsection or subsection
21 (4)(a), (b), and/or (c) of this section, or both, all firearm
22 enhancements under this subsection shall be twice the amount of the
23 enhancement listed;

24 (e) Notwithstanding any other provision of law, all firearm
25 enhancements under this section are mandatory, shall be served in total
26 confinement, and shall run consecutively to all other sentencing
27 provisions, including other firearm or deadly weapon enhancements, for
28 all offenses sentenced under this chapter. However, whether or not a
29 mandatory minimum term has expired, an offender serving a sentence
30 under this subsection may be granted an extraordinary medical placement
31 when authorized under RCW 9.94A.728(4);

32 (f) The firearm enhancements in this section shall apply to all
33 felony crimes except the following: Possession of a machine gun,
34 possessing a stolen firearm, drive-by shooting, theft of a firearm,
35 unlawful possession of a firearm in the first and second degree, and
36 use of a machine gun in a felony;

37 (g) If the standard sentence range under this section exceeds the
38 statutory maximum sentence for the offense, the statutory maximum

1 sentence shall be the presumptive sentence unless the offender is a
2 persistent offender. If the addition of a firearm enhancement
3 increases the sentence so that it would exceed the statutory maximum
4 for the offense, the portion of the sentence representing the
5 enhancement may not be reduced.

6 (4) The following additional times shall be added to the standard
7 sentence range for felony crimes committed after July 23, 1995, if the
8 offender or an accomplice was armed with a deadly weapon other than a
9 firearm as defined in RCW 9.41.010 and the offender is being sentenced
10 for one of the crimes listed in this subsection as eligible for any
11 deadly weapon enhancements based on the classification of the completed
12 felony crime. If the offender is being sentenced for more than one
13 offense, the deadly weapon enhancement or enhancements must be added to
14 the total period of confinement for all offenses, regardless of which
15 underlying offense is subject to a deadly weapon enhancement. If the
16 offender or an accomplice was armed with a deadly weapon other than a
17 firearm as defined in RCW 9.41.010 and the offender is being sentenced
18 for an anticipatory offense under chapter 9A.28 RCW to commit one of
19 the crimes listed in this subsection as eligible for any deadly weapon
20 enhancements, the following additional times shall be added to the
21 standard sentence range determined under subsection (2) of this section
22 based on the felony crime of conviction as classified under RCW
23 9A.28.020:

24 (a) Two years for any felony defined under any law as a class A
25 felony or with a statutory maximum sentence of at least twenty years,
26 or both, and not covered under (f) of this subsection;

27 (b) One year for any felony defined under any law as a class B
28 felony or with a statutory maximum sentence of ten years, or both, and
29 not covered under (f) of this subsection;

30 (c) Six months for any felony defined under any law as a class C
31 felony or with a statutory maximum sentence of five years, or both, and
32 not covered under (f) of this subsection;

33 (d) If the offender is being sentenced under (a), (b), and/or (c)
34 of this subsection for any deadly weapon enhancements and the offender
35 has previously been sentenced for any deadly weapon enhancements after
36 July 23, 1995, under (a), (b), and/or (c) of this subsection or
37 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly

1 weapon enhancements under this subsection shall be twice the amount of
2 the enhancement listed;

3 (e) Notwithstanding any other provision of law, all deadly weapon
4 enhancements under this section are mandatory, shall be served in total
5 confinement, and shall run consecutively to all other sentencing
6 provisions, including other firearm or deadly weapon enhancements, for
7 all offenses sentenced under this chapter. However, whether or not a
8 mandatory minimum term has expired, an offender serving a sentence
9 under this subsection may be granted an extraordinary medical placement
10 when authorized under RCW 9.94A.728(4);

11 (f) The deadly weapon enhancements in this section shall apply to
12 all felony crimes except the following: Possession of a machine gun,
13 possessing a stolen firearm, drive-by shooting, theft of a firearm,
14 unlawful possession of a firearm in the first and second degree, and
15 use of a machine gun in a felony;

16 (g) If the standard sentence range under this section exceeds the
17 statutory maximum sentence for the offense, the statutory maximum
18 sentence shall be the presumptive sentence unless the offender is a
19 persistent offender. If the addition of a deadly weapon enhancement
20 increases the sentence so that it would exceed the statutory maximum
21 for the offense, the portion of the sentence representing the
22 enhancement may not be reduced.

23 (5) The following additional times shall be added to the standard
24 sentence range if the offender or an accomplice committed the offense
25 while in a county jail or state correctional facility and the offender
26 is being sentenced for one of the crimes listed in this subsection. If
27 the offender or an accomplice committed one of the crimes listed in
28 this subsection while in a county jail or state correctional facility,
29 and the offender is being sentenced for an anticipatory offense under
30 chapter 9A.28 RCW to commit one of the crimes listed in this
31 subsection, the following additional times shall be added to the
32 standard sentence range determined under subsection (2) of this
33 section:

34 (a) Eighteen months for offenses committed under RCW 69.50.401(2)
35 (a) or (b) or 69.50.410;

36 (b) Fifteen months for offenses committed under RCW 69.50.401(2)
37 (c), (d), or (e);

38 (c) Twelve months for offenses committed under RCW 69.50.4013.

1 For the purposes of this subsection, all of the real property of a
2 state correctional facility or county jail shall be deemed to be part
3 of that facility or county jail.

4 (6) An additional twenty-four months shall be added to the standard
5 sentence range for any ranked offense involving a violation of chapter
6 69.50 RCW if the offense was also a violation of RCW 69.50.435 or
7 9.94A.605. All enhancements under this subsection shall run
8 consecutively to all other sentencing provisions, for all offenses
9 sentenced under this chapter.

10 (7) An additional two years shall be added to the standard sentence
11 range for vehicular homicide committed while under the influence of
12 intoxicating liquor or any drug as defined by RCW 46.61.502 for each
13 prior offense as defined in RCW 46.61.5055.

14 (8)(a) The following additional times shall be added to the
15 standard sentence range for felony crimes committed on or after July 1,
16 2006, if the offense was committed with sexual motivation, as that term
17 is defined in RCW 9.94A.030. If the offender is being sentenced for
18 more than one offense, the sexual motivation enhancement must be added
19 to the total period of total confinement for all offenses, regardless
20 of which underlying offense is subject to a sexual motivation
21 enhancement. If the offender committed the offense with sexual
22 motivation and the offender is being sentenced for an anticipatory
23 offense under chapter 9A.28 RCW, the following additional times shall
24 be added to the standard sentence range determined under subsection (2)
25 of this section based on the felony crime of conviction as classified
26 under RCW 9A.28.020:

27 (i) Two years for any felony defined under the law as a class A
28 felony or with a statutory maximum sentence of at least twenty years,
29 or both;

30 (ii) Eighteen months for any felony defined under any law as a
31 class B felony or with a statutory maximum sentence of ten years, or
32 both;

33 (iii) One year for any felony defined under any law as a class C
34 felony or with a statutory maximum sentence of five years, or both;

35 (iv) If the offender is being sentenced for any sexual motivation
36 enhancements under (i), (ii), and/or (iii) of this subsection and the
37 offender has previously been sentenced for any sexual motivation

1 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of
2 this subsection, all sexual motivation enhancements under this
3 subsection shall be twice the amount of the enhancement listed;

4 (b) Notwithstanding any other provision of law, all sexual
5 motivation enhancements under this subsection are mandatory, shall be
6 served in total confinement, and shall run consecutively to all other
7 sentencing provisions, including other sexual motivation enhancements,
8 for all offenses sentenced under this chapter. However, whether or not
9 a mandatory minimum term has expired, an offender serving a sentence
10 under this subsection may be granted an extraordinary medical placement
11 when authorized under RCW 9.94A.728(4);

12 (c) The sexual motivation enhancements in this subsection apply to
13 all felony crimes;

14 (d) If the standard sentence range under this subsection exceeds
15 the statutory maximum sentence for the offense, the statutory maximum
16 sentence shall be the presumptive sentence unless the offender is a
17 persistent offender. If the addition of a sexual motivation
18 enhancement increases the sentence so that it would exceed the
19 statutory maximum for the offense, the portion of the sentence
20 representing the enhancement may not be reduced;

21 (e) The portion of the total confinement sentence which the
22 offender must serve under this subsection shall be calculated before
23 any earned early release time is credited to the offender;

24 (f) Nothing in this subsection prevents a sentencing court from
25 imposing a sentence outside the standard sentence range pursuant to RCW
26 9.94A.535.

27 (9) An additional twelve months and one day shall be added to the
28 standard sentence range for theft in the first or second degree when
29 there has been a special verdict or finding under section 10 of this
30 act that the damage to the victim greatly exceeds the value of the
31 stolen property.

32 (10) An additional twelve months and one day shall be added to the
33 standard sentence range for possessing stolen property in the first or
34 second degree when there has been a special verdict or finding under
35 section 11 of this act that the damage to the victim from whom the
36 property was stolen greatly exceeds the value of the stolen property.

1 NEW SECTION. **Sec. 13.** Sections 1 through 9 of this act constitute
2 a new chapter in Title 19 RCW.

3 NEW SECTION. **Sec. 14.** RCW 9.91.110 (Metal buyers--Records of
4 purchases--Penalty) and 1971 ex.s. c 302 s 18 are each repealed.

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

7 NEW SECTION. **Sec. 16.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected."

11 Correct the title.

--- END ---