

ESSB 5312 - H COMM AMD

By Committee on Public Safety & Emergency Preparedness

ADOPTED 04/04/2007

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 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.** Sections 1 through 9 of this act constitute  
8 a new chapter in Title 19 RCW.

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10 purchases--Penalty) and 1971 ex.s. c 302 s 18 are each repealed.

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

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

17 Correct the title.

EFFECT: (1) Provides that metal property marked with the name of  
a commercial mobile radio services entity is "commercial metal  
property."

(2) Modifies the definitions section as follows:

(a) Removes the reference to "unwanted electronic product" from the  
definition of nonferrous metal property.

(b) Clarifies a reference to nonferrous metal property in the  
definition of scrap metal processor.

(c) Includes entities engaged in the business of purchasing or  
receiving commercial metal property in the definition of scrap metal  
processor and scrap metal recycling center.

(3) Applies the requirement related to providing records to law  
enforcement to records from the purchase or receipt of commercial metal  
property (instead of just nonferrous metal property).

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