AN ACT Relating to protecting and recovering property owned by utilities, telecommunications companies, railroads, state agencies, political subdivisions of the state, construction firms, and other parties; adding a new chapter to Title 19 RCW; creating a new section; repealing RCW 9.91.110; and prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; 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, 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.

(4) "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, and unwanted electronic product, as that term is defined under RCW 70.95N.020. "Nonferrous metal property" does not include precious metals.

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

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

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

(8) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving 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.

(9) "Scrap metal recycling center" means a person with a current business license that is engaged in the business of purchasing or receiving nonferrous 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.

(10) "Scrap metal supplier" means a person with a current business license that is engaged in the business of purchasing or receiving 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.
(11) "Transaction" means a pledge, or the purchase of, or the trade of any item of nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

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

(a) The signature of the person with whom the transaction is made;
(b) The time, date, location, and value of the transaction;
(c) The name of the employee representing the scrap metal business in the transaction;
(d) The name, street address, and telephone number of the person with whom the transaction is made;
(e) The license plate number and state of issuance of the license plate on the motor vehicle used to deliver the nonferrous metal property subject to the transaction;
(f) A description of the motor vehicle used to deliver the nonferrous metal property subject to the transaction;
(g) The current driver's license number or other government-issued picture identification card number of the seller or a copy of the seller's government-issued picture identification card; and
(h) A description of the predominant types of nonferrous metal property subject to the transaction, including the property's classification code as provided in the institute of scrap recycling industries scrap specifications circular, 2006, and weight, quantity, or volume.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Any person 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 nonferrous metal property or commercial metal property in order to deceive a scrap metal business;

(2) Any scrap metal business to enter into a transaction to purchase or receive any nonferrous metal property 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;

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

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

(5) Any scrap metal business to enter into a transaction to purchase or receive nonferrous metal property or commercial metal property with anyone whom the scrap metal 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 ten years whether the person is acting in his or her own behalf or as the agent of another;

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

(7) Any scrap metal business to possess commercial metal property that was not lawfully purchased or received under the requirements of this chapter; or
(8) Any scrap metal business to engage in a series of transactions valued at less than thirty dollars with the same seller for the purposes of avoiding the requirements of section 3(4) of this act.

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

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

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

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

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

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

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

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

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

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

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

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