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; amending RCW 19.60.085; 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 dealer or scrap metal processor 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 insulated or noninsulated wiring, or aluminum
wire, siding, downspouts, or gutters; aluminum fence materials;
aluminum decking, bleachers, or risers; historical markers; statue
plaques; grave markers and funeral vases; agricultural implements,
including irrigation wheels, sprinkler heads and pipes; or electrical
conductors.

(4) "Metal property" means any item that contains metal for which
the value of the metal content of the item exceeds the commercial value
of the item itself, or which has reached the end of its useful life but
still has residual value due to its metal content. "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 dealer" means a person engaged in the business of
purchasing or receiving metal property for the purpose of aggregation
and sale to a scrap metal processor or another scrap metal dealer,
whether or not that person maintains a fixed place of business within
the state.

(8) "Scrap metal processor" means a person that conducts business
from a permanent location and 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.

(9) "Transaction" means a pledge, or the purchase of, or the trade
of any item of metal property by a scrap metal dealer or scrap metal
processor from a member of the general public. "Transaction" does not
include donations or the purchase or receipt of metal property by a
scrap metal dealer or scrap metal processor from a commercial
enterprise, from another scrap metal dealer or scrap metal processor,
or from a duly authorized employee or agent of the commercial
enterprise, scrap metal dealer, or scrap metal processor.
NEW SECTION. Sec. 2. RECORDS REQUIRED FOR PURCHASING METAL PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a transaction, every scrap metal dealer and scrap metal processor doing business in this state shall produce wherever that business is conducted an accurate and legible record of each transaction involving metal property. This record must be written in the English language, documented on a standardized form, as may be recommended by the local chief of police or a county chief law enforcement officer, 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 dealer or scrap metal processor in the transaction;
(d) The name, street address, and telephone number, including cell phone 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 metal property subject to the transaction;
(f) A description of the motor vehicle used to deliver the metal property subject to the transaction; and
(g) A description of the predominant types of metal property subject to the transaction, including manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the metal property, if any, and the property's weight, quantity, or volume.

(2) For every transaction that involves metal property valued at more than one hundred dollars, every scrap metal dealer and scrap metal processor doing business in the state shall require the person with whom a transaction is being made to sign a declaration. The declaration must be provided as a document separate from any other documents relating to the transaction and must be printed in type that is bold face, capitalized, underlined, or otherwise presented in a conspicuous manner. 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."

p. 3  SS7 5312
The declaration must include, in the seller's own handwriting, identification of the source of the metal property that is subject to the transaction, and must be signed and dated by the person with whom the transaction is being made. An employee of the scrap metal dealer or scrap metal processor 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 METAL PROPERTY FROM THE GENERAL PUBLIC. (1) No scrap metal dealer or scrap metal processor may enter into a transaction to purchase or receive 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 or two pieces of identification issued by a government agency, one of which must be descriptive of the person identified. A record of the identification required under this subsection must be maintained along with the record required under section 2 of this act.

(2) No scrap metal dealer or scrap metal processor may purchase or receive commercial metal property unless the seller: (a) Has a commercial account with the scrap metal dealer or scrap metal processor; (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 dealer or scrap metal processor 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 dealer or scrap metal processor that the wire was lawfully burned.

(4) No transaction involving metal property 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 dealer or scrap metal processor 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 dealer or scrap metal processor may purchase or
receive beer kegs from anyone except a manufacturer of beer kegs.

NEW SECTION. Sec. 4. RECORD FOR COMMERCIAL ACCOUNTS. (1) Every
scrap metal dealer and scrap metal processor must create and maintain
a permanent record with a commercial enterprise, including another
scrap metal dealer or scrap metal processor, 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 metal property and commercial
metal property to the scrap metal dealer or scrap metal processor.

(2) The record maintained by a scrap metal dealer and scrap metal
processor for a commercial account must document every purchase or
receipt of 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 dealer or scrap metal processor.

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 dealer and scrap metal
processor doing business in the state shall furnish a full, true, and
correct transcript of the records from the purchase or receipt of all
metal property and commercial metal property for such periods as may be
requested, through and including the preceding day. These transcripts
must be recorded on such forms as may be provided and in such format as
may be required by the chief of police or the county's chief law
enforcement officer within a specified time of not less than
twenty-four hours. This information may be transmitted 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 dealer or scrap metal 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 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 metal property or commercial
metal property has been reported as stolen, a scrap metal dealer and
scrap metal processor 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
dealer and scrap metal processor 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 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 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 metal property or commercial metal property;

(2) Any scrap metal dealer or scrap metal processor to purchase or receive any 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 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 dealer or scrap metal processor to enter into a transaction to purchase or receive metal property from any person under the age of eighteen years or any person under the influence of intoxicating liquor or drugs;

(5) Any scrap metal dealer or scrap metal processor to enter into a transaction to purchase or receive metal property with anyone whom the scrap metal dealer or scrap metal processor has been informed by a law enforcement agency to have been convicted of 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 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 dealer or scrap metal processor if that person is found to have known that the metal property subject to the transaction was stolen;
(7) Any scrap metal dealer or scrap metal processor to possess commercial metal property that was not lawfully purchased or received under the requirements of this chapter; or

(8) Any scrap metal dealer or scrap metal processor 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. 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, or nonmetal junk.

Sec. 9. RCW 19.60.085 and 2000 c 171 s 56 are each amended to read as follows:

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 giving an allowance for the trade-in or exchange of second-hand property on the purchase of other merchandise of the same kind of greater value; and
(4) Persons in the business of buying or selling empty food and beverage containers ((or ))\text{ metal property, or nonmetal junk.}

NEW SECTION. Sec. 10. Sections 1 through 8 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 persons or circumstances is not affected.

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