
SUBSTITUTE SENATE BILL 5312

State of Washington

60th Legislature

2007 Regular Session

By Senate Committee on Judiciary (originally sponsored by Senators Tom, Holmquist, Kline, Roach, Kilmer, Marr, Sheldon, Morton, Pridemore, McCaslin, Berkey, Delvin, Shin, Rasmussen, Parlette and Stevens)

READ FIRST TIME 02/28/07.

1 AN ACT Relating to protecting and recovering property owned by
2 utilities, telecommunications companies, railroads, state agencies,
3 political subdivisions of the state, construction firms, and other
4 parties; amending RCW 19.60.085; adding a new chapter to Title 19 RCW;
5 creating a new section; repealing RCW 9.91.110; and prescribing
6 penalties.

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

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

11 (1) "Commercial account" means a relationship between a scrap metal
12 dealer or scrap metal processor and a commercial enterprise that is
13 ongoing and properly documented under section 3 of this act.

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

18 (3) "Commercial metal property" means: Utility access covers;
19 street light poles and fixtures; road and bridge guardrails; highway or

1 street signs; water meter covers; traffic directional and control
2 signs; traffic light signals; any metal property marked with the name
3 of a commercial enterprise, including but not limited to a telephone,
4 cable, electric, water, natural gas, or other utility, or railroad;
5 unused or undamaged building construction materials consisting of
6 copper pipe, tubing, or insulated or noninsulated wiring, or aluminum
7 wire, siding, downspouts, or gutters; aluminum fence materials;
8 aluminum decking, bleachers, or risers; historical markers; statue
9 plaques; grave markers and funeral vases; agricultural implements,
10 including irrigation wheels, sprinkler heads and pipes; or electrical
11 conductors.

12 (4) "Metal property" means any item that contains metal for which
13 the value of the metal content of the item exceeds the commercial value
14 of the item itself, or which has reached the end of its useful life but
15 still has residual value due to its metal content. "Metal property"
16 does not include precious metals.

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

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

20 (7) "Scrap metal dealer" means a person engaged in the business of
21 purchasing or receiving metal property for the purpose of aggregation
22 and sale to a scrap metal processor or another scrap metal dealer,
23 whether or not that person maintains a fixed place of business within
24 the state.

25 (8) "Scrap metal processor" means a person that conducts business
26 from a permanent location and that is engaged in the business of
27 purchasing or receiving metal property for the purpose of altering the
28 metal in preparation for its use as feedstock in the manufacture of new
29 products.

30 (9) "Transaction" means a pledge, or the purchase of, or the trade
31 of any item of metal property by a scrap metal dealer or scrap metal
32 processor from a member of the general public. "Transaction" does not
33 include donations or the purchase or receipt of metal property by a
34 scrap metal dealer or scrap metal processor from a commercial
35 enterprise, from another scrap metal dealer or scrap metal processor,
36 or from a duly authorized employee or agent of the commercial
37 enterprise, scrap metal dealer, or scrap metal processor.

1 NEW SECTION. **Sec. 2.** RECORDS REQUIRED FOR PURCHASING METAL
2 PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a transaction,
3 every scrap metal dealer and scrap metal processor doing business in
4 this state shall produce wherever that business is conducted an
5 accurate and legible record of each transaction involving metal
6 property. This record must be written in the English language,
7 documented on a standardized form, as may be recommended by the local
8 chief of police or a county chief law enforcement officer, or in
9 electronic form, and contain the following information:

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

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

12 (c) The name of the employee representing the scrap metal dealer or
13 scrap metal processor in the transaction;

14 (d) The name, street address, and telephone number, including cell
15 phone number, of the person with whom the transaction is made;

16 (e) The license plate number and state of issuance of the license
17 plate on the motor vehicle used to deliver the metal property subject
18 to the transaction;

19 (f) A description of the motor vehicle used to deliver the metal
20 property subject to the transaction; and

21 (g) A description of the predominant types of metal property
22 subject to the transaction, including manufacturer's make, model, or
23 serial number, personal identification number, or identifying marks
24 engraved or etched upon the metal property, if any, and the property's
25 weight, quantity, or volume.

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

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

1 The declaration must include, in the seller's own handwriting,
2 identification of the source of the metal property that is subject to
3 the transaction, and must be signed and dated by the person with whom
4 the transaction is being made. An employee of the scrap metal dealer
5 or scrap metal processor must witness the signing and dating of the
6 declaration and sign the declaration accordingly before any transaction
7 may be consummated.

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

14 NEW SECTION. **Sec. 3.** REQUIREMENTS FOR PURCHASING OR RECEIVING
15 METAL PROPERTY FROM THE GENERAL PUBLIC. (1) No scrap metal dealer or
16 scrap metal processor may enter into a transaction to purchase or
17 receive metal property from any person who cannot produce at least one
18 piece of current government-issued picture identification, including a
19 valid driver's license or identification card issued by any state or
20 two pieces of identification issued by a government agency, one of
21 which must be descriptive of the person identified. A record of the
22 identification required under this subsection must be maintained along
23 with the record required under section 2 of this act.

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

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

36 (4) No transaction involving metal property may be made in cash or
37 with any person who does not provide a street address under the

1 requirements of section 2 of this act. For transactions valued at
2 greater than thirty dollars, the person with whom the transaction is
3 being made may only be paid by a nontransferable check, mailed by the
4 scrap metal dealer or scrap metal processor to a street address
5 provided under section 2 of this act, no earlier than ten days after
6 the transaction was made. A transaction occurs on the date provided in
7 the record required under section 2 of this act.

8 (5) No scrap metal dealer or scrap metal processor may purchase or
9 receive beer kegs from anyone except a manufacturer of beer kegs.

10 NEW SECTION. **Sec. 4.** RECORD FOR COMMERCIAL ACCOUNTS. (1) Every
11 scrap metal dealer and scrap metal processor must create and maintain
12 a permanent record with a commercial enterprise, including another
13 scrap metal dealer or scrap metal processor, in order to establish a
14 commercial account. That record, at a minimum, must include the
15 following information:

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

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

20 (c) The full name of the person employed by the commercial
21 enterprise who is authorized to deliver metal property and commercial
22 metal property to the scrap metal dealer or scrap metal processor.

23 (2) The record maintained by a scrap metal dealer and scrap metal
24 processor for a commercial account must document every purchase or
25 receipt of metal property and commercial metal property from the
26 commercial enterprise. The documentation must include, at a minimum,
27 the following information:

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

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

32 (c) The signature of the person delivering the property to the
33 scrap metal dealer or scrap metal processor.

34 NEW SECTION. **Sec. 5.** REPORTING TO LAW ENFORCEMENT. (1) Upon
35 request by any commissioned law enforcement officer of the state or any
36 of its political subdivisions, every scrap metal dealer and scrap metal

1 processor doing business in the state shall furnish a full, true, and
2 correct transcript of the records from the purchase or receipt of all
3 metal property and commercial metal property for such periods as may be
4 requested, through and including the preceding day. These transcripts
5 must be recorded on such forms as may be provided and in such format as
6 may be required by the chief of police or the county's chief law
7 enforcement officer within a specified time of not less than
8 twenty-four hours. This information may be transmitted to the
9 applicable law enforcement agency electronically, by facsimile
10 transmission, or by modem or similar device, or by delivery of computer
11 disk subject to the requirements of, and approval by, the chief of
12 police or the county's chief law enforcement officer.

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

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

32 (2) A commissioned law enforcement officer of the state or any of
33 its political subdivisions shall not place on hold any item of metal
34 property or commercial metal property unless that law enforcement
35 agency reasonably suspects that the property is a lost or stolen item.
36 Any hold that is placed on the property must be removed within ten

1 business days after the property on hold is determined not to be stolen
2 or lost and the property must be returned to the owner or released.

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

5 (1) Any person to remove, alter, or obliterate any manufacturer's
6 make, model, or serial number, personal identification number, or
7 identifying marks engraved or etched upon an item of metal property or
8 commercial metal property;

9 (2) Any scrap metal dealer or scrap metal processor to purchase or
10 receive any metal property or commercial metal property where the
11 manufacturer's make, model, or serial number, personal identification
12 number, or identifying marks engraved or etched upon the property have
13 been removed, altered, or obliterated;

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

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

21 (5) Any scrap metal dealer or scrap metal processor to enter into
22 a transaction to purchase or receive metal property with anyone whom
23 the scrap metal dealer or scrap metal processor has been informed by a
24 law enforcement agency to have been convicted of burglary, robbery,
25 theft, or possession of or receiving stolen property, manufacturing,
26 delivering, or possessing with intent to deliver methamphetamine, or
27 possession of ephedrine or any of its salts or isomers or salts of
28 isomers, pseudoephedrine or any of its salts or isomers or salts of
29 isomers, or anhydrous ammonia with intent to manufacture
30 methamphetamine within the past ten years whether the person is acting
31 in his or her own behalf or as the agent of another;

32 (6) Any person to sign the declaration required under section 2 of
33 this act knowing that the metal property subject to the transaction is
34 stolen. The signature of a person on the declaration required under
35 section 2 of this act constitutes evidence of intent to defraud a scrap
36 metal dealer or scrap metal processor if that person is found to have
37 known that the metal property subject to the transaction was stolen;

1 (7) Any scrap metal dealer or scrap metal processor to possess
2 commercial metal property that was not lawfully purchased or received
3 under the requirements of this chapter; or

4 (8) Any scrap metal dealer or scrap metal processor to engage in a
5 series of transactions valued at less than thirty dollars with the same
6 seller for the purposes of avoiding the requirements of section 3(4) of
7 this act.

8 NEW SECTION. **Sec. 8.** EXEMPTIONS. The provisions of this chapter
9 do not apply to transactions conducted by the following:

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

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

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

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

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

20 The provisions of this chapter do not apply to transactions
21 conducted by the following:

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

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

25 (3) Persons giving an allowance for the trade-in or exchange of
26 second-hand property on the purchase of other merchandise of the same
27 kind of greater value; and

28 (4) Persons in the business of buying or selling empty food and
29 beverage containers ((~~or~~)), metal property, or nonmetal junk.

30 NEW SECTION. **Sec. 10.** Sections 1 through 8 of this act constitute
31 a new chapter in Title 19 RCW.

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

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

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

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