
SUBSTITUTE HOUSE BILL 1552

State of Washington

63rd Legislature

2013 Regular Session

By House Public Safety (originally sponsored by Representatives Goodman, Klippert, Freeman, Kirby, Morrell, Seaquist, Sullivan, Appleton, Ryu, Hunt, Stanford, Kochmar, Maxwell, Takko, Bergquist, Warnick, Manweller, Green, and Fey)

READ FIRST TIME 02/22/13.

1 AN ACT Relating to the reduction of metal theft; amending RCW
2 9A.48.100, 9A.56.030, 9A.56.040, 19.290.010, 19.290.020, 19.290.040,
3 19.290.070, 18.235.020, and 43.24.150; reenacting and amending RCW
4 9.94A.515; adding new sections to chapter 19.290 RCW; adding new
5 sections to chapter 43.43 RCW; creating new sections; and prescribing
6 penalties.

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

8 **Sec. 1.** RCW 9A.48.100 and 1984 c 273 s 4 are each amended to read
9 as follows:

10 For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive:

11 (1) "Physical damage", in addition to its ordinary meaning, shall
12 include the total or partial alteration, damage, obliteration, or
13 erasure of records, information, data, computer programs, or their
14 computer representations, which are recorded for use in computers or
15 the impairment, interruption, or interference with the use of such
16 records, information, data, or computer programs, or the impairment,
17 interruption, or interference with the use of any computer or services
18 provided by computers. "Physical damage" also includes any diminution

1 in the value of any property as the consequence of an act and the cost
2 to repair any physical damage;

3 (2) If more than one item of property is physically damaged as a
4 result of a common scheme or plan by a person and the physical damage
5 to the property would, when considered separately, constitute mischief
6 in the third degree because of value, then the value of the damages may
7 be aggregated in one count. If the sum of the value of all the
8 physical damages exceeds two hundred fifty dollars, the defendant may
9 be charged with and convicted of malicious mischief in the second
10 degree.

11 **Sec. 2.** RCW 9A.56.030 and 2012 c 233 s 2 are each amended to read
12 as follows:

13 (1) A person is guilty of theft in the first degree if he or she
14 commits theft of:

15 (a) Property or services which exceed(s) five thousand dollars in
16 value other than a firearm as defined in RCW 9.41.010;

17 (b) Property of any value, other than a firearm as defined in RCW
18 9.41.010 or a motor vehicle, taken from the person of another;

19 (c) A search and rescue dog, as defined in RCW 9.91.175, while the
20 search and rescue dog is on duty; or

21 (d) Commercial metal (~~wire, taken from a public service company,~~
22 ~~as defined in RCW 80.04.010, or a consumer-owned utility, as defined in~~
23 ~~RCW 19.280.020,)) property, nonferrous metal property, or private metal
24 property, as those terms are defined in RCW 19.290.010, and the costs
25 of the damage to the (~~public service company's or consumer-owned~~
26 ~~utility's)) owner's property exceed five thousand dollars in value.~~~~

27 (2) Theft in the first degree is a class B felony.

28 **Sec. 3.** RCW 9A.56.040 and 2012 c 233 s 3 are each amended to read
29 as follows:

30 (1) A person is guilty of theft in the second degree if he or she
31 commits theft of:

32 (a) Property or services which exceed(s) seven hundred fifty
33 dollars in value but does not exceed five thousand dollars in value,
34 other than a firearm as defined in RCW 9.41.010 or a motor vehicle;

35 (b) A public record, writing, or instrument kept, filed, or

1 deposited according to law with or in the keeping of any public office
2 or public servant;

3 (c) Commercial metal (~~((wire, taken from a public service company,~~
4 ~~as defined in RCW 80.04.010, or a consumer-owned utility, as defined in~~
5 ~~RCW 19.280.020,))~~ property, nonferrous metal property, or private metal
6 property, as those terms are defined in RCW 19.290.010, and the costs
7 of the damage to the (~~(public service company's or consumer-owned~~
8 ~~utility's))~~ owner's property exceed seven hundred fifty dollars but
9 does not exceed five thousand dollars in value; or

10 (d) An access device.

11 (2) Theft in the second degree is a class C felony.

12 **Sec. 4.** RCW 19.290.010 and 2008 c 233 s 1 are each amended to read
13 as follows:

14 The definitions in this section apply throughout this chapter
15 unless the context clearly requires otherwise.

16 (1) "Commercial account" means a relationship between a scrap metal
17 business and a commercial enterprise that is ongoing and properly
18 documented under RCW 19.290.030.

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

23 (3) "Commercial metal property" means: Utility access covers;
24 street light poles and fixtures; road and bridge guardrails; highway or
25 street signs; water meter covers; traffic directional and control
26 signs; traffic light signals; any metal property marked with the name
27 of a commercial enterprise, including but not limited to a telephone,
28 commercial mobile radio services, cable, electric, water, natural gas,
29 or other utility, or railroad; unused or undamaged building
30 construction materials consisting of copper pipe, tubing, or wiring, or
31 aluminum wire, siding, downspouts, or gutters; aluminum or stainless
32 steel fence panels made from one inch tubing, forty-two inches high
33 with four-inch gaps; aluminum decking, bleachers, or risers; historical
34 markers; statue plaques; grave markers and funeral vases; or
35 agricultural irrigation wheels, sprinkler heads, and pipes.

36 (4) "Nonferrous metal property" means metal property for which the

1 value of the metal property is derived from the property's content of
2 copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.
3 "Nonferrous metal property" does not include precious metals.

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

5 (6) "Private metal property" means catalytic converters, either
6 singly or in bundles, bales, or bulk, that have been removed from
7 vehicles for sale as a specific commodity.

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

10 (8) "Scrap metal business" means a scrap metal supplier, scrap
11 metal (~~(recycling center)~~) recycler, and scrap metal processor.

12 (9) "Scrap metal processor" means a person with a current business
13 license that conducts business from a permanent location, that is
14 engaged in the business of purchasing or receiving private metal
15 property, nonferrous metal property, and commercial metal property for
16 the purpose of altering the metal in preparation for its use as
17 feedstock in the manufacture of new products, and that maintains a
18 hydraulic bailer, shearing device, or shredding device for recycling.

19 (10) "Scrap metal (~~(recycling center)~~) recycler" means a person
20 with a current business license that is engaged in the business of
21 purchasing or receiving private metal property, nonferrous metal
22 property, and commercial metal property for the purpose of aggregation
23 and sale to another scrap metal business and that maintains a fixed
24 place of business within the state.

25 (11) "Scrap metal supplier" means a person with a current business
26 license that is engaged in the business of purchasing or receiving
27 private metal property or nonferrous metal property for the purpose of
28 aggregation and sale to a scrap metal (~~(recycling center)~~) recycler or
29 scrap metal processor and that does not maintain a fixed business
30 location in the state.

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

1 (13) "Engage in business" means conducting more than five
2 transactions in a twelve-month period.

3 (14) "Person" means an individual, domestic or foreign corporation,
4 limited liability corporation, partnership, trust, unincorporated
5 association, or other entity; an affiliate or associate of any such
6 person; or any two or more persons acting as a partnership, syndicate,
7 or other group for the purpose of acquiring, holding, or dispersing of
8 securities of a domestic or foreign corporation.

9 **Sec. 5.** RCW 19.290.020 and 2008 c 233 s 2 are each amended to read
10 as follows:

11 (1) At the time of a transaction, every scrap metal business doing
12 business in this state shall produce wherever that business is
13 conducted an accurate and legible record of each transaction involving
14 private metal property or nonferrous metal property. This record must
15 be written in the English language, documented on a standardized form
16 or in electronic form, and contain the following information:

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

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

19 (c) The name of the employee representing the scrap metal business
20 in the transaction;

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

23 (e) The license plate number and state of issuance of the license
24 plate on the motor vehicle used to deliver the private metal property
25 or nonferrous metal property subject to the transaction;

26 (f) A description of the motor vehicle used to deliver the private
27 metal property or nonferrous metal property subject to the transaction;

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

31 (h) A description of the predominant types of private metal
32 property or nonferrous metal property subject to the transaction,
33 (~~including the property's classification code as provided in~~)
34 utilizing the institute of scrap recycling industries' (~~scrap~~
35 specifications circular, 2006)) generally accepted terminology, and
36 including weight, quantity, or volume.

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

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

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

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

21 **Sec. 6.** RCW 19.290.040 and 2008 c 233 s 4 are each amended to read
22 as follows:

23 (1) Every scrap metal business must create and maintain a permanent
24 record with a commercial enterprise, including another scrap metal
25 business, in order to establish a commercial account. That record, at
26 a minimum, must include the following information:

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

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

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

35 (2) The record maintained by a scrap metal business for a
36 commercial account must document every purchase or receipt of private
37 metal property, nonferrous metal property, and commercial metal

1 property from the commercial enterprise. The record must be maintained
2 for five years following the date of the purchase or receipt. The
3 documentation must include, at a minimum, the following information:

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

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

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

10 **Sec. 7.** RCW 19.290.070 and 2008 c 233 s 7 are each amended to read
11 as follows:

12 It is a gross misdemeanor under chapter 9A.20 RCW for:

13 (1) Any person to deliberately remove, alter, or obliterate any
14 manufacturer's make, model, or serial number, personal identification
15 number, or identifying marks engraved or etched upon an item of private
16 metal property, nonferrous metal property, or commercial metal property
17 in order to deceive a scrap metal business;

18 (2) Any scrap metal business to enter into a transaction to
19 purchase or receive any private metal property, nonferrous metal
20 property, or commercial metal property where the manufacturer's make,
21 model, or serial number, personal identification number, or identifying
22 marks engraved or etched upon the property have been deliberately and
23 conspicuously removed, altered, or obliterated;

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

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

32 (5) Any scrap metal business to enter into a transaction to
33 purchase or receive private metal property, nonferrous metal property,
34 or commercial metal property with anyone whom the scrap metal business
35 has been informed by a law enforcement agency to have been convicted of
36 a crime involving drugs, burglary, robbery, theft, or possession of or
37 receiving stolen property, manufacturing, delivering, or possessing

1 with intent to deliver methamphetamine, or possession of ephedrine or
2 any of its salts or isomers or salts of isomers, pseudoephedrine or any
3 of its salts or isomers or salts of isomers, or anhydrous ammonia with
4 intent to manufacture methamphetamine within the past (~~ten~~) four
5 years whether the person is acting in his or her own behalf or as the
6 agent of another;

7 (6) Any person to sign the declaration required under RCW
8 19.290.020 knowing that the private metal property or nonferrous metal
9 property subject to the transaction is stolen. The signature of a
10 person on the declaration required under RCW 19.290.020 constitutes
11 evidence of intent to defraud a scrap metal business if that person is
12 found to have known that the private metal property or nonferrous metal
13 property subject to the transaction was stolen;

14 (7) Any scrap metal business to possess private metal property or
15 commercial metal property that was not lawfully purchased or received
16 under the requirements of this chapter; (~~or~~)

17 (8) Any scrap metal business to engage in a series of transactions
18 valued at less than thirty dollars with the same seller for the
19 purposes of avoiding the requirements of RCW 19.290.030(4); or

20 (9) Any person to knowingly make a false or fictitious oral or
21 written statement to furnish or exhibit any false, fictitious, or
22 misrepresented identification, intended or likely to deceive the
23 purchaser of any scrap metal as to the actual seller of the scrap
24 metal.

25 NEW SECTION. Sec. 8. A new section is added to chapter 19.290 RCW
26 to read as follows:

27 (1) It is unlawful for a person to engage in the business of a
28 scrap metal processor, scrap metal recycler, or scrap metal supplier
29 without having first applied for and received a scrap metal license.

30 (2)(a) Except as provided in (b) of this subsection, a person or
31 firm engaged in the unlawful activity described in this section is
32 guilty of a gross misdemeanor.

33 (b) A second or subsequent offense is a class C felony.

34 NEW SECTION. Sec. 9. A new section is added to chapter 19.290 RCW
35 to read as follows:

36 Application for a scrap metal license or renewal of a scrap metal

1 license shall be made on a form for this purpose, furnished by the
2 department of licensing, and shall be signed by the license holder or
3 his or her authorized agent and shall include the following
4 information:

5 (1) Name and address of the person, firm, partnership, association,
6 limited liability company, or corporation under which name the business
7 is to be conducted;

8 (2) Names and residence address of all persons having an interest
9 in the business or, if the owner is a corporation, the names and
10 addresses of the officers thereof;

11 (3) Certificate of approval of the chief executive officer or chief
12 of police, or a designee, if the application is for a license within an
13 incorporated city or town or, in any unincorporated area, the county
14 legislative authority, the sheriff, or a designee, certifying that:

15 (a) The applicant has an established place of business at the
16 address shown on the application;

17 (b) There are no known environmental, building code, zoning, or
18 other land use regulation violations associated with the business being
19 located at the address; and

20 (c) In the case of a renewal of a scrap metal license, the
21 applicant is in compliance with this chapter: PROVIDED, That an
22 authorized representative of the department of licensing may make the
23 certification described in this section in any instance;

24 (4) Any other information that the department of licensing may
25 require.

26 NEW SECTION. **Sec. 10.** A new section is added to chapter 19.290
27 RCW to read as follows:

28 The application, together with the required fee, shall be forwarded
29 to the department of licensing. Upon receipt of the application the
30 department shall, if the application is in order, issue a scrap metal
31 license authorizing the processor, recycler, or supplier to do business
32 as such and forward the fee to the state treasurer. Upon receiving the
33 certificate, the owner shall cause it to be prominently displayed in
34 the place of business, where it may be inspected by an investigating
35 officer at any time. Every license must be issued in the name of the
36 applicant and the holder thereof may not allow any other person to use
37 the license.

1 NEW SECTION. **Sec. 11.** A new section is added to chapter 19.290
2 RCW to read as follows:

3 Before issuing a scrap metal license to a scrap metal processor or
4 scrap metal recycler, the department of licensing shall require the
5 applicant to file with the department a surety bond in the amount of
6 ten thousand dollars, running to the state of Washington, and executed
7 by a surety company authorized to do business in the state of
8 Washington. The bond shall be approved as to form by the attorney
9 general and conditioned upon the licensee conducting the business in
10 conformity with the provisions of this chapter. Any person who has
11 suffered any loss or damage by reason of fraud, carelessness, neglect,
12 violation of the terms of this chapter, or misrepresentation on the
13 part of the scrap metal processor or recycler, may institute an action
14 for recovery against the licensee and surety upon the bond. However,
15 the aggregate liability of the surety to all persons shall in no event
16 exceed the amount of the bond.

17 NEW SECTION. **Sec. 12.** A new section is added to chapter 19.290
18 RCW to read as follows:

19 A license issued on the scrap metal license application remains in
20 force until suspended or revoked and may be renewed annually upon
21 reapplication and upon payment of the required fee. A licensee who
22 fails or neglects to renew the license before the assigned expiration
23 date shall pay the fee for an original scrap metal license as provided
24 in this chapter.

25 Whenever a scrap metal processor, recycler, or supplier ceases to
26 do business as such or the license has been suspended or revoked, the
27 licensee shall immediately surrender the license to the department of
28 licensing.

29 NEW SECTION. **Sec. 13.** A new section is added to chapter 19.290
30 RCW to read as follows:

31 The licensee shall obtain a special set of license plates in
32 addition to the regular licenses and plates required for the operation
33 of such vehicles. The special plates must be displayed on vehicles
34 owned and/or operated by the licensee and used in the conduct of the
35 business. The fee for these plates shall be five dollars for the
36 original plates and two dollars for each additional set of plates

1 bearing the same license number. A licensee with more than one
2 licensed location in the state may use special plates bearing the same
3 license number for vehicles operated out of any of the licensed
4 locations.

5 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.290
6 RCW to read as follows:

7 The uniform regulation of business and professions act, chapter
8 18.235 RCW, governs unlicensed practice, the issuance and denial of
9 licenses, and the discipline of licensees under this chapter.

10 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.290
11 RCW to read as follows:

12 If a person whose scrap metal license has previously been canceled
13 for cause by the department of licensing files an application for a
14 license to conduct business as a scrap metal processor, recycler, or
15 supplier, or if the department is of the opinion that the application
16 is not filed in good faith or that the application is filed by some
17 person as a subterfuge for the real person in interest whose license
18 has previously been canceled for cause, the department may refuse to
19 issue the person a license to conduct business as a scrap metal
20 processor, recycler, or supplier.

21 NEW SECTION. **Sec. 16.** A new section is added to chapter 19.290
22 RCW to read as follows:

23 (1) The director of licensing is hereby authorized to adopt
24 reasonable rules and regulations not in conflict with provisions hereof
25 for the proper operation and enforcement of this chapter.

26 (2) The director shall set all license and renewal fees in
27 accordance with RCW 43.24.086.

28 NEW SECTION. **Sec. 17.** A new section is added to chapter 19.290
29 RCW to read as follows:

30 The chiefs of police, the county sheriffs, and the Washington state
31 patrol may make periodic inspection of the licensee's licensed premises
32 and records provided for in this chapter during normal business hours,
33 and furnish a certificate of inspection to the department of licensing
34 in such manner as may be determined by the department. In any

1 instance, an authorized representative of the department may make the
2 inspection. Licensees are subject to unannounced periodic inspections,
3 as described in this section.

4 NEW SECTION. **Sec. 18.** A new section is added to chapter 19.290
5 RCW to read as follows:

6 The state of Washington hereby fully occupies and preempts the
7 entire field of regulation of scrap metal processors, recyclers, or
8 suppliers within the boundaries of the state. Any political
9 subdivision in this state may enact or enforce only those laws and
10 ordinances relating to the regulation of scrap metal processors,
11 recyclers, or suppliers that are specifically authorized by state law
12 and are consistent with this chapter. Nothing in this chapter is
13 intended to limit the authority of any political subdivision to impose
14 generally applicable zoning, land use, permitting, general business
15 licensing, environmental, and health and safety requirements or
16 authorized business taxes upon scrap metal processors, recyclers, or
17 suppliers within their jurisdictions. Local ordinances pertaining
18 specifically to scrap metal processors, recyclers, or suppliers shall
19 have the same or lesser penalty as provided for by state law. Local
20 scrap metal laws and ordinances that are inconsistent with, more
21 restrictive than, or exceed the requirements of state law shall not be
22 enacted and are hereby preempted and repealed, regardless of the code,
23 charter, or home rule status of such political subdivision.

24 NEW SECTION. **Sec. 19.** A new section is added to chapter 19.290
25 RCW to read as follows:

26 (1) In addition to the powers granted in chapter 18.235 RCW, the
27 department of licensing or its authorized agent may examine or subpoena
28 any persons, books, papers, records, data, vehicles, or metal property
29 bearing upon the investigation or proceeding under this chapter.

30 (2) The persons subpoenaed may be required to testify and produce
31 any books, papers, records, data, vehicles, or metal property that the
32 director of licensing deems relevant or material to the inquiry.

33 (3) The director of the department of licensing or an authorized
34 agent may administer an oath to the person required to testify, and a
35 person giving false testimony after the administration of the oath is
36 guilty of perjury in the first degree under RCW 9A.72.020.

1 (4)(a) Any authorized representative of the director of the
2 department of licensing may apply for and obtain a superior court order
3 approving and authorizing a subpoena in advance of its issuance. The
4 application may be made in the county where the subpoenaed person
5 resides or is found, or the county where the subpoenaed records or
6 documents are located, or in Thurston county. The application must:

7 (i) State that an order is sought pursuant to this subsection;
8 (ii) Adequately specify the records, documents, or testimony; and
9 (iii) Declare under oath that an investigation is being conducted
10 for a lawfully authorized purpose related to an investigation within
11 the department's authority and that the subpoenaed documents or
12 testimony are reasonably related to an investigation within the
13 department's authority.

14 (b) Where the application under this subsection is made to the
15 satisfaction of the court, the court must issue an order approving the
16 subpoena. An order under this subsection constitutes authority of law
17 for the agency to subpoena the records or testimony.

18 (c) Any authorized representative of the director of the department
19 of licensing may seek approval and a court may issue an order under
20 this subsection without prior notice to any person, including the
21 person to whom the subpoena is directed and the person who is the
22 subject of an investigation.

23 (5) Any records created or produced under this section are exempt
24 from disclosure under chapter 42.56 RCW.

25 NEW SECTION. **Sec. 20.** A new section is added to chapter 19.290
26 RCW to read as follows:

27 (1) The Washington metal theft prevention authority is established.

28 (a) The authority shall consist of the following members, appointed
29 by the governor:

30 (i) The executive director of the Washington association of
31 sheriffs and police chiefs, or the executive director's designee;

32 (ii) The chief of the Washington state patrol, or the chief's
33 designee;

34 (iii) Two police chiefs;

35 (iv) Two sheriffs;

36 (v) One prosecuting attorney;

1 (vi) A representative from the insurance industry who is
2 responsible for writing property and casualty liability insurance in
3 the state of Washington;

4 (vii) A representative from the metal recycling industry; and

5 (viii) A representative of a public utility.

6 (b) In addition, the authority may, where feasible, consult with
7 other governmental entities or individuals from the public and private
8 sector in carrying out its duties under this section.

9 (2) The Washington metal theft prevention authority shall initially
10 convene at the call of the executive director of the Washington
11 association of sheriffs and police chiefs, or the executive director's
12 designee, no later than the third Monday in January 2014. Subsequent
13 meetings of the authority shall be at the call of the chair or seven
14 members.

15 (a) The authority shall annually elect a chair and other such
16 officers as it deems appropriate from its membership.

17 (b) Members of the authority shall serve terms of four years each
18 on a staggered schedule to be established by the first authority. For
19 purposes of initiating a staggered schedule of terms, some members of
20 the first authority may initially serve two years and some members may
21 initially serve four years.

22 (3) The Washington metal theft prevention authority may obtain or
23 contract for staff services, including an executive director, and any
24 facilities and equipment as the authority requires to carry out its
25 duties.

26 (a) The director may enter into contracts with any public or
27 private organization to carry out the purposes of this section.

28 (b) The authority shall review and make recommendations to the
29 legislature and the governor regarding metal theft in Washington state.
30 In preparing the recommendations, the authority shall, at a minimum,
31 review the following issues:

32 (i) Determine the scope of the problem of metal theft, including
33 particular areas of the state where the problem is the greatest; annual
34 data reported by local law enforcement regarding the number of reported
35 thefts, investigations, recovered property, arrests, and convictions;
36 and an assessment of estimated funds needed to hire sufficient
37 investigators to respond to all reported thefts.

1 (ii) Analyze the various methods of combating the problem of metal
2 theft;

3 (iii) Develop and implement a plan of operation; and

4 (iv) Develop and implement a financial plan.

5 (c) The authority is not a law enforcement agency and may not
6 gather, collect, or disseminate intelligence information for the
7 purpose of investigating specific crimes or pursuing or capturing
8 specific perpetrators. Members of the authority may not exercise
9 general authority peace officer powers while acting in their capacity
10 as members of the authority, unless the exercise of peace officer
11 powers is necessary to prevent an imminent threat to persons or
12 property.

13 (d) The authority shall annually report its activities, findings,
14 and recommendations during the preceding year to the legislature by
15 December 31st.

16 (4) The governor may remove any member of the Washington metal
17 theft prevention authority for cause including, but not limited to,
18 neglect of duty, misconduct, malfeasance or misfeasance in office, or
19 upon written request of two-thirds of the members of the authority
20 under this chapter. Upon the death, resignation, or removal of a
21 member, the governor shall appoint a replacement to fill the remainder
22 of the unexpired term.

23 (5) Members of the Washington metal theft prevention authority who
24 are not public employees shall be compensated in accordance with RCW
25 43.03.250 and shall be reimbursed for travel expenses incurred in
26 carrying out the duties of the authority in accordance with RCW
27 43.03.050 and 43.03.060.

28 (6) Any member serving in their official capacity on the Washington
29 metal theft prevention authority, or either their employer or
30 employers, or other entity that selected the members to serve, are
31 immune from a civil action based upon an act performed in good faith.

32 NEW SECTION. **Sec. 21.** A new section is added to chapter 19.290
33 RCW to read as follows:

34 (1) The Washington metal theft prevention authority account is
35 created in the state treasury, subject to appropriation. All receipts
36 from gifts, grants, bequests, devises, or other funds from public and
37 private sources to support the activities of the metal theft prevention

1 authority must be deposited into the account. Expenditures from the
2 account may be used only for activities relating to metal theft,
3 including education, prevention, law enforcement, investigation,
4 prosecution, and confinement.

5 (2) The authority shall allocate moneys appropriated from the
6 account to public agencies for the purpose of establishing,
7 maintaining, and supporting programs that are designed to prevent metal
8 theft, including:

9 (a) Financial support to prosecution agencies to increase the
10 effectiveness of metal theft prosecution;

11 (b) Financial support to a unit of local government or a team
12 consisting of units of local governments to increase the effectiveness
13 of metal theft enforcement;

14 (c) Financial support for the procurement of equipment and
15 technologies for use by law enforcement agencies for the purpose of
16 enforcing metal theft laws; and

17 (d) Financial support for programs that are designed to educate and
18 assist the public in the prevention of metal theft.

19 (3) The costs of administration shall not exceed ten percent of the
20 moneys in the account in any one year so that the greatest possible
21 portion of the moneys available to the authority is expended on
22 combating metal theft.

23 (4) Prior to awarding any moneys from the Washington metal theft
24 prevention authority account for metal theft enforcement, the metal
25 theft prevention authority must verify that the financial award
26 includes sufficient funding to cover proposed activities, which
27 include, but are not limited to:

28 (a) State, municipal, and county offender and juvenile confinement
29 costs;

30 (b) Administration costs;

31 (c) Law enforcement costs;

32 (d) Prosecutor costs; and

33 (e) Court costs, with a priority being given to ensuring that
34 sufficient funding is available to cover state, municipal, and county
35 offender and juvenile confinement costs.

36 (5) Moneys expended from the Washington metal theft prevention
37 authority account under subsection (2) of this section shall be used to

1 supplement, not supplant, other moneys that are available for metal
2 theft prevention.

3 (6) Grants provided under subsection (2) of this section constitute
4 reimbursement for purposes of RCW 43.135.060(1).

5 NEW SECTION. **Sec. 22.** A new section is added to chapter 19.290
6 RCW to read as follows:

7 Nothing in this chapter shall apply to metal and metal components
8 from vehicles owned by vehicle wreckers licensed pursuant to chapter
9 46.80 RCW.

10 NEW SECTION. **Sec. 23.** A new section is added to chapter 19.290
11 RCW to read as follows:

12 (1) Law enforcement agencies may register with the scrap theft
13 alert system that is maintained and provided at no charge to users by
14 the institute of scrap recycling industries, incorporated, or its
15 successor organization, to receive alerts regarding thefts of private,
16 nonferrous, or commercial metal property in the relevant geographic
17 area.

18 (2) Any business licensed under this chapter shall:

19 (a) Sign up with the scrap theft alert system that is maintained
20 and provided at no charge to users by the institute of scrap recycling
21 industries, incorporated, or its successor organization, to receive
22 alerts regarding thefts of private, nonferrous, or commercial metal
23 property in the relevant geographic area;

24 (b) Download the scrap metal theft alerts generated by the scrap
25 theft alert system on a daily basis;

26 (c) Use the alerts to identify potentially stolen commercial metal
27 property, nonferrous metal property, and private metal property; and

28 (d) Maintain for ninety days copies of any theft alerts received
29 and downloaded pursuant to this section.

30 **Sec. 24.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are
31 each reenacted and amended to read as follows:

32 TABLE2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

- 1
2
3 XVI Aggravated Murder 1 (RCW
4 10.95.020)
5 XV Homicide by abuse (RCW 9A.32.055)
6 Malicious explosion 1 (RCW
7 70.74.280(1))
8 Murder 1 (RCW 9A.32.030)
9 XIV Murder 2 (RCW 9A.32.050)
10 Trafficking 1 (RCW 9A.40.100(1))
11 XIII Malicious explosion 2 (RCW
12 70.74.280(2))
13 Malicious placement of an explosive 1
14 (RCW 70.74.270(1))
15 XII Assault 1 (RCW 9A.36.011)
16 Assault of a Child 1 (RCW 9A.36.120)
17 Malicious placement of an imitation
18 device 1 (RCW 70.74.272(1)(a))
19 Promoting Commercial Sexual Abuse
20 of a Minor (RCW 9.68A.101)
21 Rape 1 (RCW 9A.44.040)
22 Rape of a Child 1 (RCW 9A.44.073)
23 Trafficking 2 (RCW 9A.40.100(2))
24 XI Manslaughter 1 (RCW 9A.32.060)
25 Rape 2 (RCW 9A.44.050)
26 Rape of a Child 2 (RCW 9A.44.076)
27 Vehicular Homicide, by being under
28 the influence of intoxicating liquor
29 or any drug (RCW 46.61.520)
30 X Child Molestation 1 (RCW 9A.44.083)
31 Criminal Mistreatment 1 (RCW
32 9A.42.020)
33 Indecent Liberties (with forcible
34 compulsion) (RCW
35 9A.44.100(1)(a))
36 Kidnapping 1 (RCW 9A.40.020)

1 Leading Organized Crime (RCW
2 9A.82.060(1)(a))
3 Malicious explosion 3 (RCW
4 70.74.280(3))
5 Sexually Violent Predator Escape
6 (RCW 9A.76.115)
7 IX Abandonment of Dependent Person 1
8 (RCW 9A.42.060)
9 Assault of a Child 2 (RCW 9A.36.130)
10 Explosive devices prohibited (RCW
11 70.74.180)
12 Hit and Run--Death (RCW
13 46.52.020(4)(a))
14 Homicide by Watercraft, by being
15 under the influence of intoxicating
16 liquor or any drug (RCW
17 79A.60.050)
18 Inciting Criminal Profiteering (RCW
19 9A.82.060(1)(b))
20 Malicious placement of an explosive 2
21 (RCW 70.74.270(2))
22 Robbery 1 (RCW 9A.56.200)
23 Sexual Exploitation (RCW 9.68A.040)
24 VIII Arson 1 (RCW 9A.48.020)
25 Commercial Sexual Abuse of a Minor
26 (RCW 9.68A.100)
27 Homicide by Watercraft, by the
28 operation of any vessel in a
29 reckless manner (RCW
30 79A.60.050)
31 Manslaughter 2 (RCW 9A.32.070)
32 Promoting Prostitution 1 (RCW
33 9A.88.070)
34 Theft of Ammonia (RCW 69.55.010)
35 Vehicular Homicide, by the operation
36 of any vehicle in a reckless manner
37 (RCW 46.61.520)

1 VII Burglary 1 (RCW 9A.52.020)
2 Child Molestation 2 (RCW 9A.44.086)
3 Civil Disorder Training (RCW
4 9A.48.120)
5 Dealing in depictions of minor engaged
6 in sexually explicit conduct 1
7 (RCW 9.68A.050(1))
8 Drive-by Shooting (RCW 9A.36.045)
9 Homicide by Watercraft, by disregard
10 for the safety of others (RCW
11 79A.60.050)
12 Indecent Liberties (without forcible
13 compulsion) (RCW 9A.44.100(1)
14 (b) and (c))
15 Introducing Contraband 1 (RCW
16 9A.76.140)
17 Malicious placement of an explosive 3
18 (RCW 70.74.270(3))
19 Negligently Causing Death By Use of a
20 Signal Preemption Device (RCW
21 46.37.675)
22 Sending, bringing into state depictions
23 of minor engaged in sexually
24 explicit conduct 1 (RCW
25 9.68A.060(1))
26 Unlawful Possession of a Firearm in
27 the first degree (RCW 9.41.040(1))
28 Use of a Machine Gun in Commission
29 of a Felony (RCW 9.41.225)
30 Vehicular Homicide, by disregard for
31 the safety of others (RCW
32 46.61.520)
33 VI Bail Jumping with Murder 1 (RCW
34 9A.76.170(3)(a))
35 Bribery (RCW 9A.68.010)
36 Incest 1 (RCW 9A.64.020(1))
37 Intimidating a Judge (RCW 9A.72.160)

1 Intimidating a Juror/Witness (RCW
2 9A.72.110, 9A.72.130)
3 Malicious placement of an imitation
4 device 2 (RCW 70.74.272(1)(b))
5 Possession of Depictions of a Minor
6 Engaged in Sexually Explicit
7 Conduct 1 (RCW 9.68A.070(1))
8 Rape of a Child 3 (RCW 9A.44.079)
9 Theft of a Firearm (RCW 9A.56.300)
10 Unlawful Storage of Ammonia (RCW
11 69.55.020)
12 V Abandonment of Dependent Person 2
13 (RCW 9A.42.070)
14 Advancing money or property for
15 extortionate extension of credit
16 (RCW 9A.82.030)
17 Bail Jumping with class A Felony
18 (RCW 9A.76.170(3)(b))
19 Child Molestation 3 (RCW 9A.44.089)
20 Criminal Mistreatment 2 (RCW
21 9A.42.030)
22 Custodial Sexual Misconduct 1 (RCW
23 9A.44.160)
24 Dealing in Depictions of Minor
25 Engaged in Sexually Explicit
26 Conduct 2 (RCW 9.68A.050(2))
27 Domestic Violence Court Order
28 Violation (RCW 10.99.040,
29 10.99.050, 26.09.300, 26.10.220,
30 26.26.138, 26.50.110, 26.52.070,
31 or 74.34.145)
32 Driving While Under the Influence
33 (RCW 46.61.502(6))
34 Extortion 1 (RCW 9A.56.120)
35 Extortionate Extension of Credit (RCW
36 9A.82.020)

1 Extortionate Means to Collect
2 Extensions of Credit (RCW
3 9A.82.040)
4 Incest 2 (RCW 9A.64.020(2))
5 Kidnapping 2 (RCW 9A.40.030)
6 Perjury 1 (RCW 9A.72.020)
7 Persistent prison misbehavior (RCW
8 9.94.070)
9 Physical Control of a Vehicle While
10 Under the Influence (RCW
11 46.61.504(6))
12 Possession of a Stolen Firearm (RCW
13 9A.56.310)
14 Rape 3 (RCW 9A.44.060)
15 Rendering Criminal Assistance 1
16 (RCW 9A.76.070)
17 Sending, Bringing into State Depictions
18 of Minor Engaged in Sexually
19 Explicit Conduct 2 (RCW
20 9.68A.060(2))
21 Sexual Misconduct with a Minor 1
22 (RCW 9A.44.093)
23 Sexually Violating Human Remains
24 (RCW 9A.44.105)
25 Stalking (RCW 9A.46.110)
26 Taking Motor Vehicle Without
27 Permission 1 (RCW 9A.56.070)
28 IV Arson 2 (RCW 9A.48.030)
29 Assault 2 (RCW 9A.36.021)
30 Assault 3 (of a Peace Officer with a
31 Projectile Stun Gun) (RCW
32 9A.36.031(1)(h))
33 Assault by Watercraft (RCW
34 79A.60.060)
35 Bribing a Witness/Bribe Received by
36 Witness (RCW 9A.72.090,
37 9A.72.100)

1 Cheating 1 (RCW 9.46.1961)
2 Commercial Bribery (RCW 9A.68.060)
3 Counterfeiting (RCW 9.16.035(4))
4 Endangerment with a Controlled
5 Substance (RCW 9A.42.100)
6 Escape 1 (RCW 9A.76.110)
7 Hit and Run--Injury (RCW
8 46.52.020(4)(b))
9 Hit and Run with Vessel--Injury
10 Accident (RCW 79A.60.200(3))
11 Identity Theft 1 (RCW 9.35.020(2))
12 Indecent Exposure to Person Under
13 Age Fourteen (subsequent sex
14 offense) (RCW 9A.88.010)
15 Influencing Outcome of Sporting Event
16 (RCW 9A.82.070)
17 Malicious Harassment (RCW
18 9A.36.080)
19 Possession of Depictions of a Minor
20 Engaged in Sexually Explicit
21 Conduct 2 (RCW 9.68A.070(2))
22 Residential Burglary (RCW
23 9A.52.025)
24 Robbery 2 (RCW 9A.56.210)
25 Theft of Livestock 1 (RCW 9A.56.080)
26 Threats to Bomb (RCW 9.61.160)
27 Trafficking in Stolen Property 1 (RCW
28 9A.82.050)
29 Unlawful factoring of a credit card or
30 payment card transaction (RCW
31 9A.56.290(4)(b))
32 Unlawful transaction of health
33 coverage as a health care service
34 contractor (RCW 48.44.016(3))
35 Unlawful transaction of health
36 coverage as a health maintenance
37 organization (RCW 48.46.033(3))

1 Unlawful transaction of insurance
2 business (RCW 48.15.023(3))
3 Unlicensed practice as an insurance
4 professional (RCW 48.17.063(2))
5 Use of Proceeds of Criminal
6 Profiteering (RCW 9A.82.080 (1)
7 and (2))
8 Vehicular Assault, by being under the
9 influence of intoxicating liquor or
10 any drug, or by the operation or
11 driving of a vehicle in a reckless
12 manner (RCW 46.61.522)
13 Viewing of Depictions of a Minor
14 Engaged in Sexually Explicit
15 Conduct 1 (RCW 9.68A.075(1))
16 Willful Failure to Return from
17 Furlough (RCW 72.66.060)
18 III Animal Cruelty 1 (Sexual Conduct or
19 Contact) (RCW 16.52.205(3))
20 Assault 3 (Except Assault 3 of a Peace
21 Officer With a Projectile Stun
22 Gun) (RCW 9A.36.031 except
23 subsection (1)(h))
24 Assault of a Child 3 (RCW 9A.36.140)
25 Bail Jumping with class B or C Felony
26 (RCW 9A.76.170(3)(c))
27 Burglary 2 (RCW 9A.52.030)
28 Communication with a Minor for
29 Immoral Purposes (RCW
30 9.68A.090)
31 Criminal Gang Intimidation (RCW
32 9A.46.120)
33 Custodial Assault (RCW 9A.36.100)
34 Cyberstalking (subsequent conviction
35 or threat of death) (RCW
36 9.61.260(3))
37 Escape 2 (RCW 9A.76.120)

1 Extortion 2 (RCW 9A.56.130)
2 Harassment (RCW 9A.46.020)
3 Intimidating a Public Servant (RCW
4 9A.76.180)
5 Introducing Contraband 2 (RCW
6 9A.76.150)
7 Malicious Injury to Railroad Property
8 (RCW 81.60.070)
9 Mortgage Fraud (RCW 19.144.080)
10 Negligently Causing Substantial Bodily
11 Harm By Use of a Signal
12 Preemption Device (RCW
13 46.37.674)
14 Organized Retail Theft 1 (RCW
15 9A.56.350(2))
16 Perjury 2 (RCW 9A.72.030)
17 Possession of Incendiary Device (RCW
18 9.40.120)
19 Possession of Machine Gun or Short-
20 Barreled Shotgun or Rifle (RCW
21 9.41.190)
22 Promoting Prostitution 2 (RCW
23 9A.88.080)
24 Retail Theft with Extenuating
25 Circumstances 1 (RCW
26 9A.56.360(2))
27 Securities Act violation (RCW
28 21.20.400)
29 Tampering with a Witness (RCW
30 9A.72.120)
31 Telephone Harassment (subsequent
32 conviction or threat of death)
33 (RCW 9.61.230(2))
34 Theft of Livestock 2 (RCW 9A.56.083)
35 Theft with the Intent to Resell 1 (RCW
36 9A.56.340(2))

1 Trafficking in Stolen Property 2 (RCW
2 9A.82.055)
3 Unlawful Hunting of Big Game 1
4 (RCW 77.15.410(3)(b))
5 Unlawful Imprisonment (RCW
6 9A.40.040)
7 Unlawful possession of firearm in the
8 second degree (RCW 9.41.040(2))
9 Unlawful Taking of Endangered Fish
10 or Wildlife 1 (RCW
11 77.15.120(3)(b))
12 Unlawful Trafficking in Fish, Shellfish,
13 or Wildlife 1 (RCW
14 77.15.260(3)(b))
15 Unlawful Use of a Nondesignated
16 Vessel (RCW 77.15.530(4))
17 Vehicular Assault, by the operation or
18 driving of a vehicle with disregard
19 for the safety of others (RCW
20 46.61.522)
21 Willful Failure to Return from Work
22 Release (RCW 72.65.070)
23 II Commercial Fishing Without a License
24 1 (RCW 77.15.500(3)(b))
25 Computer Trespass 1 (RCW
26 9A.52.110)
27 Counterfeiting (RCW 9.16.035(3))
28 Engaging in Fish Dealing Activity
29 Unlicensed 1 (RCW 77.15.620(3))
30 Escape from Community Custody
31 (RCW 72.09.310)
32 Failure to Register as a Sex Offender
33 (second or subsequent offense)
34 (RCW 9A.44.132)
35 Health Care False Claims (RCW
36 48.80.030)
37 Identity Theft 2 (RCW 9.35.020(3))

1 Improperly Obtaining Financial
2 Information (RCW 9.35.010)
3 Malicious Mischief 1 (RCW
4 9A.48.070)
5 Organized Retail Theft 2 (RCW
6 9A.56.350(3))
7 Possession of Stolen Property 1 (RCW
8 9A.56.150)
9 Possession of a Stolen Vehicle (RCW
10 9A.56.068)
11 Retail Theft with Extenuating
12 Circumstances 2 (RCW
13 9A.56.360(3))
14 Scrap Processing, Recycling, or
15 Supplying Without a License
16 (second or subsequent offense)
17 (section 8 of this act)
18 Theft 1 (RCW 9A.56.030)
19 Theft of a Motor Vehicle (RCW
20 9A.56.065)
21 Theft of Rental, Leased, or Lease-
22 purchased Property (valued at one
23 thousand five hundred dollars or
24 more) (RCW 9A.56.096(5)(a))
25 Theft with the Intent to Resell 2 (RCW
26 9A.56.340(3))
27 Trafficking in Insurance Claims (RCW
28 48.30A.015)
29 Unlawful factoring of a credit card or
30 payment card transaction (RCW
31 9A.56.290(4)(a))
32 Unlawful Participation of Non-Indians
33 in Indian Fishery (RCW
34 77.15.570(2))
35 Unlawful Practice of Law (RCW
36 2.48.180)

1 Unlicensed Practice of a Profession or
2 Business (RCW 18.130.190(7))
3 Unlawful Purchase or Use of a License
4 (RCW 77.15.650(3)(b))
5 Unlawful Trafficking in Fish, Shellfish,
6 or Wildlife 2 (RCW
7 77.15.260(3)(a))
8 Voyeurism (RCW 9A.44.115)
9 I Attempting to Elude a Pursuing Police
10 Vehicle (RCW 46.61.024)
11 False Verification for Welfare (RCW
12 74.08.055)
13 Forgery (RCW 9A.60.020)
14 Fraudulent Creation or Revocation of a
15 Mental Health Advance Directive
16 (RCW 9A.60.060)
17 Malicious Mischief 2 (RCW
18 9A.48.080)
19 Mineral Trespass (RCW 78.44.330)
20 Possession of Stolen Property 2 (RCW
21 9A.56.160)
22 Reckless Burning 1 (RCW 9A.48.040)
23 Spotlighting Big Game 1 (RCW
24 77.15.450(3)(b))
25 Suspension of Department Privileges 1
26 (RCW 77.15.670(3)(b))
27 Taking Motor Vehicle Without
28 Permission 2 (RCW 9A.56.075)
29 Theft 2 (RCW 9A.56.040)
30 Theft of Rental, Leased, or Lease-
31 purchased Property (valued at two
32 hundred fifty dollars or more but
33 less than one thousand five
34 hundred dollars) (RCW
35 9A.56.096(5)(b))

1 Transaction of insurance business
2 beyond the scope of licensure
3 (RCW 48.17.063)
4 Unlawful Fish and Shellfish Catch
5 Accounting (RCW
6 77.15.630(3)(b))
7 Unlawful Issuance of Checks or Drafts
8 (RCW 9A.56.060)
9 Unlawful Possession of Fictitious
10 Identification (RCW 9A.56.320)
11 Unlawful Possession of Instruments of
12 Financial Fraud (RCW 9A.56.320)
13 Unlawful Possession of Payment
14 Instruments (RCW 9A.56.320)
15 Unlawful Possession of a Personal
16 Identification Device (RCW
17 9A.56.320)
18 Unlawful Production of Payment
19 Instruments (RCW 9A.56.320)
20 Unlawful Release of Deleterious Exotic
21 Wildlife (RCW 77.15.250(2)(b))
22 Unlawful Trafficking in Food Stamps
23 (RCW 9.91.142)
24 Unlawful Use of Food Stamps (RCW
25 9.91.144)
26 Unlawful Use of Net to Take Fish 1
27 (RCW 77.15.580(3)(b))
28 Unlawful Use of Prohibited Aquatic
29 Animal Species (RCW
30 77.15.253(3))
31 Vehicle Prowl 1 (RCW 9A.52.095)
32 Violating Commercial Fishing Area or
33 Time 1 (RCW 77.15.550(3)(b))

34 NEW SECTION. **Sec. 25.** A new section is added to chapter 19.290
35 RCW to read as follows:

36 (1) The following personal property is subject to seizure and
37 forfeiture and no property right exists in them: All personal property

1 including, but not limited to, any item, object, tool, substance,
2 device, weapon, machine, vehicle of any kind, money, security, or
3 negotiable instrument, which the seizing agency proves by a
4 preponderance of the evidence was used or intended to be used by its
5 owner or the person in charge to knowingly or intentionally facilitate
6 the commission of, or to knowingly or intentionally abet the commission
7 of, a crime involving theft, trafficking, or unlawful possession of
8 commercial metal property, or which the seizing agency proves by a
9 preponderance of the evidence was knowingly or intentionally furnished
10 or was intended to be furnished by any person in the commission of, as
11 a result of, or as compensation for the commission of, a crime
12 involving theft, trafficking, or the unlawful possession of commercial
13 metal property, or which the property owner acquired in whole or in
14 part with proceeds traceable to a knowing or intentional commission of
15 a crime involving the theft, trafficking, or unlawful possession of
16 commercial metal property provided that such activity is not less than
17 a class C felony; except that:

18 (a) No vehicle used by any person as a common carrier in the
19 transaction of business as a common carrier is subject to forfeiture
20 under this section unless the seizing agency proves by a preponderance
21 of the evidence that the owner or other person in charge of the vehicle
22 is a consenting party or is privy to any crime involving theft,
23 trafficking, or the unlawful possession of commercial metal property;

24 (b) A forfeiture of property encumbered by a bona fide security
25 interest is subject to the interest of the secured party if the secured
26 party neither had actual or constructive knowledge of nor consented to
27 the commission of any crime involving the theft, trafficking, or
28 unlawful possession of commercial metal property; and

29 (c) A property owner's property is not subject to seizure if an
30 employee or agent of that property owner uses the property owner's
31 property to knowingly or intentionally facilitate the commission of, or
32 to knowingly or intentionally aid and abet the commission of, a crime
33 involving theft, trafficking, or unlawful possession of commercial
34 metal property, in violation of that property owner's instructions or
35 policies against such activity, and without the property owner's
36 knowledge or consent.

37 (2) The following real property is subject to seizure and
38 forfeiture and no property right exists in them: All real property,

1 including any right, title, and interest in the whole of any lot or
2 tract of land, and any appurtenances or improvements, that the seizing
3 agency proves by a preponderance of the evidence are being used with
4 the knowledge of the owner for the intentional commission of any crime
5 involving the theft, trafficking, or unlawful possession of commercial
6 metal property, or which have been acquired in whole or in part with
7 proceeds traceable to the commission of any crime involving the
8 trafficking, theft, or unlawful possession of commercial metal, if such
9 activity is not less than a class C felony and a substantial nexus
10 exists between the commission of the violation or crime and the real
11 property. However:

12 (a) No property may be forfeited pursuant to this subsection (2),
13 to the extent of the interest of an owner, by reason of any act or
14 omission committed or omitted without the owner's actual or
15 constructive knowledge;

16 (b) A forfeiture of real property encumbered by a bona fide
17 security interest is subject to the interest of the secured party if
18 the secured party, neither had actual or constructive knowledge, nor
19 consented to the act or omission.

20 (3) Property subject to forfeiture under this chapter may be seized
21 by any law enforcement officer of this state upon process issued by any
22 superior court having jurisdiction over the property. Seizure of real
23 property shall include the filing of a lis pendens by the seizing
24 agency. Real property seized under this section shall not be
25 transferred or otherwise conveyed until ninety days after seizure or
26 until a judgment of forfeiture is entered, whichever is later:
27 PROVIDED, That real property seized under this section may be
28 transferred or conveyed to any person or entity who acquires title by
29 foreclosure or deed in lieu of foreclosure of a security interest.
30 Seizure of personal property without process may be made if:

31 (a) The seizure is incident to an arrest or a search under a search
32 warrant; or

33 (b) The property subject to seizure has been the subject of a prior
34 judgment in favor of the state in a criminal injunction or forfeiture
35 proceeding.

36 (4) In the event of seizure pursuant to this section, proceedings
37 for forfeiture shall be deemed commenced by the seizure. The law
38 enforcement agency under whose authority the seizure was made shall

1 cause notice to be served within fifteen days following the seizure on
2 the owner of the property seized and the person in charge thereof and
3 any person having any known right or interest therein, including any
4 community property interest, of the seizure and intended forfeiture of
5 the seized property. Service of notice of seizure of real property
6 shall be made according to the rules of civil procedure. However, the
7 state may not obtain a default judgment with respect to real property
8 against a party who is served by substituted service absent an
9 affidavit stating that a good faith effort has been made to ascertain
10 if the defaulted party is incarcerated within the state, and that there
11 is no present basis to believe that the party is incarcerated within
12 the state. The notice of seizure of personal property may be served by
13 any method authorized by law or court rule including but not limited to
14 service by certified mail with return receipt requested. Service by
15 mail shall be deemed complete upon mailing within the fifteen day
16 period following the seizure. Notice of seizure in the case of
17 property subject to a security interest that has been perfected by
18 filing a financing statement in accordance with chapter 62A.9A RCW, or
19 a certificate of title shall be made by service upon the secured party
20 or the secured party's assignee at the address shown on the financing
21 statement or the certificate of title.

22 (5) If no person notifies the seizing law enforcement agency in
23 writing of the person's claim of ownership or right to possession of
24 items specified in subsection (1) of this section within forty-five
25 days of the seizure in the case of personal property and ninety days in
26 the case of real property, the item seized shall be deemed forfeited.
27 The community property interest in real property of a person whose
28 spouse or domestic partner committed a violation giving rise to seizure
29 of the real property may not be forfeited if the person did not
30 participate in the violation.

31 (6) If a person notifies the seizing law enforcement agency in
32 writing of the person's claim of ownership or right to possession of
33 the seized property within forty-five days of the seizure in the case
34 of personal property and ninety days in the case of real property, the
35 law enforcement agency shall give the person or persons a reasonable
36 opportunity to be heard as to the claim or right. The hearing shall be
37 before the chief law enforcement officer of the seizing agency or the
38 chief law enforcement officer's designee, except where the seizing

1 agency is a state agency as defined in RCW 34.12.020(4), the hearing
2 shall be before the chief law enforcement officer of the seizing agency
3 or an administrative law judge appointed under chapter 34.12 RCW,
4 except that any person asserting a claim or right may remove the matter
5 to a court of competent jurisdiction. Removal may only be accomplished
6 according to the rules of civil procedure. The person seeking removal
7 of the matter must serve process against the state, county, political
8 subdivision, or municipality that operates the seizing agency, and any
9 other party of interest, in accordance with RCW 4.28.080 or 4.92.020,
10 within forty-five days after the person seeking removal has notified
11 the seizing law enforcement agency of the person's claim of ownership
12 or right to possession. The court to which the matter is to be removed
13 shall be the district court when the aggregate value of the property is
14 within the jurisdictional limit set forth in RCW 3.66.020. A hearing
15 before the seizing agency and any appeal therefrom shall be under Title
16 34 RCW. In a court hearing between two or more claimants to the
17 property involved, the prevailing party shall be entitled to a judgment
18 for costs and reasonable attorneys' fees. The burden of producing
19 evidence shall be upon the person claiming to be the lawful owner or
20 the person claiming to have the lawful right to possession of the
21 property.

22 (7) At the hearing, the seizing agency has the burden of proof to
23 establish by a preponderance of the evidence that seized property is
24 subject to forfeiture, and that the use or intended use of the seized
25 property in connection with a crime pursuant to this section occurred
26 with the owner's actual or constructive knowledge or consent. The
27 person claiming to be the lawful owner or the person claiming to have
28 the lawful right to possession of the property has the burden of proof
29 to establish by a preponderance of the evidence that the person owns or
30 has a right to possess the seized property. The possession of bare
31 legal title is not sufficient to establish ownership of seized property
32 if the seizing agency proves by a preponderance of the evidence that
33 the person claiming ownership or right to possession is a nominal owner
34 and did not actually own or exert a controlling interest in the
35 property.

36 The seizing law enforcement agency shall promptly return the
37 property to the claimant upon a determination by the administrative law

1 judge or court that the claimant is the present lawful owner or is
2 lawfully entitled to possession of the property.

3 (8) When property is forfeited under this chapter, after satisfying
4 any court-ordered victim restitution, the seizing law enforcement
5 agency may:

6 (a) Retain it for official use or, upon application by any law
7 enforcement agency of this state, release such property to such agency;
8 or

9 (b) Sell that which is not required to be destroyed by law and
10 which is not harmful to the public.

11 (9)(a) Within one hundred twenty days after the entry of an order
12 of forfeiture, each seizing agency shall remit to, if known, the victim
13 of the crime involving the seized property, an amount equal to fifty
14 percent of the net proceeds of any property forfeited.

15 (b) Retained property and net proceeds not required to be paid to
16 victims shall be retained by the seizing law enforcement agency
17 exclusively for the expansion and improvement of law enforcement
18 activity. Money retained under this section may not be used to
19 supplant preexisting funding sources.

20 (c) The net proceeds of forfeited property is the value of the
21 forfeitable interest in the property after deducting the cost of
22 satisfying any bona fide security interest to which the property is
23 subject at the time of seizure; and in the case of sold property, after
24 deducting the cost of sale, including reasonable fees or commissions
25 paid to independent selling agents, and the cost of any valid
26 landlord's claim for damages.

27 (d) The value of sold forfeited property is the sale price. The
28 value of retained forfeited property is the fair market value of the
29 property at the time of seizure, determined when possible by reference
30 to an applicable commonly used index, such as the index used by the
31 department of licensing for valuation of motor vehicles. A seizing
32 agency may use, but need not use, an independent qualified appraiser to
33 determine the value of retained property. If an appraiser is used, the
34 value of the property appraised is net of the cost of the appraisal.
35 The value of destroyed property and retained firearms or illegal
36 property is zero.

37 (10) Upon the entry of an order of forfeiture of real property, the
38 court shall forward a copy of the order to the assessor of the county

1 in which the property is located. Orders for the forfeiture of real
2 property shall be entered by the superior court, subject to court
3 rules. Such an order shall be filed by the seizing agency in the
4 county auditor's records in the county in which the real property is
5 located.

6 NEW SECTION. **Sec. 26.** A new section is added to chapter 19.290
7 RCW to read as follows:

8 The provisions of this chapter shall be liberally construed to the
9 end that traffic in stolen private metal property or nonferrous metal
10 property may be prevented, and irresponsible, unreliable, or dishonest
11 persons may be prevented from engaging in the business of processing,
12 recycling, or supplying scrap metal in this state and reliable persons
13 may be encouraged to engage in businesses of processing, recycling, or
14 supplying scrap metal in this state.

15 **Sec. 27.** RCW 18.235.020 and 2010 c 179 s 18 are each amended to
16 read as follows:

17 (1) This chapter applies only to the director and the boards and
18 commissions having jurisdiction in relation to the businesses and
19 professions licensed under the chapters specified in this section.
20 This chapter does not apply to any business or profession not licensed
21 under the chapters specified in this section.

22 (2)(a) The director has authority under this chapter in relation to
23 the following businesses and professions:

24 (i) Auctioneers under chapter 18.11 RCW;

25 (ii) Bail bond agents and bail bond recovery agents under chapter
26 18.185 RCW;

27 (iii) Camping resorts' operators and salespersons under chapter
28 19.105 RCW;

29 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

30 (v) Cosmetologists, barbers, manicurists, and estheticians under
31 chapter 18.16 RCW;

32 (vi) Court reporters under chapter 18.145 RCW;

33 (vii) Driver training schools and instructors under chapter 46.82
34 RCW;

35 (viii) Employment agencies under chapter 19.31 RCW;

36 (ix) For hire vehicle operators under chapter 46.72 RCW;

- 1 (x) Limousines under chapter 46.72A RCW;
- 2 (xi) Notaries public under chapter 42.44 RCW;
- 3 (xii) Private investigators under chapter 18.165 RCW;
- 4 (xiii) Professional boxing, martial arts, and wrestling under
5 chapter 67.08 RCW;
- 6 (xiv) Real estate appraisers under chapter 18.140 RCW;
- 7 (xv) Real estate brokers and salespersons under chapters 18.85 and
8 18.86 RCW;
- 9 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
10 metal suppliers under chapter 19.290 RCW;
- 11 (xvii) Security guards under chapter 18.170 RCW;
- 12 (~~(xvii)~~) (xviii) Sellers of travel under chapter 19.138 RCW;
- 13 (~~(xviii)~~) (xix) Timeshares and timeshare salespersons under
14 chapter 64.36 RCW;
- 15 (~~(xix)~~) (xx) Whitewater river outfitters under chapter 79A.60
16 RCW;
- 17 (~~(xx)~~) (xxi) Home inspectors under chapter 18.280 RCW;
- 18 (~~(xxi)~~) (xxii) Body artists, body piercers, and tattoo artists,
19 and body art, body piercing, and tattooing shops and businesses, under
20 chapter 18.300 RCW; and
- 21 (~~(xxii)~~) (xxiii) Appraisal management companies under chapter
22 18.310 RCW.
- 23 (b) The boards and commissions having authority under this chapter
24 are as follows:
- 25 (i) The state board (~~(of registration)~~) for architects established
26 in chapter 18.08 RCW;
- 27 (ii) The Washington state collection agency board established in
28 chapter 19.16 RCW;
- 29 (iii) The state board of registration for professional engineers
30 and land surveyors established in chapter 18.43 RCW governing licenses
31 issued under chapters 18.43 and 18.210 RCW;
- 32 (iv) The funeral and cemetery board established in chapter 18.39
33 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
- 34 (v) The state board of licensure for landscape architects
35 established in chapter 18.96 RCW; and
- 36 (vi) The state geologist licensing board established in chapter
37 18.220 RCW.

1 (3) In addition to the authority to discipline license holders, the
2 disciplinary authority may grant or deny licenses based on the
3 conditions and criteria established in this chapter and the chapters
4 specified in subsection (2) of this section. This chapter also governs
5 any investigation, hearing, or proceeding relating to denial of
6 licensure or issuance of a license conditioned on the applicant's
7 compliance with an order entered under RCW 18.235.110 by the
8 disciplinary authority.

9 **Sec. 28.** RCW 43.24.150 and 2011 c 298 s 25 are each amended to
10 read as follows:

11 (1) The business and professions account is created in the state
12 treasury. All receipts from business or professional licenses,
13 registrations, certifications, renewals, examinations, or civil
14 penalties assessed and collected by the department from the following
15 chapters must be deposited into the account:

- 16 (a) Chapter 18.11 RCW, auctioneers;
- 17 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 18 (c) Chapter 18.145 RCW, court reporters;
- 19 (d) Chapter 18.165 RCW, private investigators;
- 20 (e) Chapter 18.170 RCW, security guards;
- 21 (f) Chapter 18.185 RCW, bail bond agents;
- 22 (g) Chapter 18.280 RCW, home inspectors;
- 23 (h) Chapter 19.16 RCW, collection agencies;
- 24 (i) Chapter 19.31 RCW, employment agencies;
- 25 (j) Chapter 19.105 RCW, camping resorts;
- 26 (k) Chapter 19.138 RCW, sellers of travel;
- 27 (l) Chapter 42.44 RCW, notaries public;
- 28 (m) Chapter 64.36 RCW, timeshares;
- 29 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- 30 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- 31 (p) Chapter 79A.60 RCW, whitewater river outfitters; (~~and~~)
- 32 (q) Chapter 19.158 RCW, commercial telephone solicitation; and
- 33 (r) Chapter 19.290 RCW, scrap metal businesses.

34 Moneys in the account may be spent only after appropriation.
35 Expenditures from the account may be used only for expenses incurred in
36 carrying out these business and professions licensing activities of the

1 department. Any residue in the account must be accumulated and may not
2 revert to the general fund at the end of the biennium.

3 (2) The director must biennially prepare a budget request based on
4 the anticipated costs of administering the business and professions
5 licensing activities listed in subsection (1) of this section, which
6 must include the estimated income from these business and professions
7 fees.

8 NEW SECTION. **Sec. 29.** A new section is added to chapter 43.43 RCW
9 to read as follows:

10 (1) Beginning on July 1, 2014, when funded, the Washington
11 association of sheriffs and police chiefs shall implement and operate
12 an ongoing electronic statewide no-buy list database program.

13 (2) The database must be made available on a web site.

14 (3) The no-buy list database program shall allow for any scrap
15 metal business to enter a customer's name and date of birth into the
16 database. The database must determine if the customer pursuing the
17 transaction with the scrap metal business has been convicted in
18 Washington of any crime involving burglary, robbery, theft, or
19 possession of or receiving stolen property within the past four years.

20 (4) If the customer has been convicted of any crime involving
21 burglary, robbery, theft, or possession of or receiving stolen property
22 within the past four years despite whether the person was acting in his
23 or her own behalf or as the agent of another then, at a minimum, the
24 no-buy list database program must immediately send an alert to the
25 scrap metal business stating: (a) That the customer is listed on a
26 current no-buy list, (b) the four-year expiration period for the
27 customer's most recent crime listed, and (c) a notification that
28 entering into a transaction with the customer is prohibited under RCW
29 19.290.070.

30 NEW SECTION. **Sec. 30.** A new section is added to chapter 19.290
31 RCW to read as follows:

32 A scrap metal business shall, before completing any transaction
33 under this chapter, determine whether such customer is listed in the
34 Washington association of sheriffs and police chiefs no-buy list
35 database program established and made available under section 29 of
36 this act.

1 NEW SECTION. **Sec. 31.** A new section is added to chapter 43.43 RCW
2 to read as follows:

3 The Washington association of sheriffs and police chiefs shall not
4 be held liable for civil damages resulting from any act or omission in
5 carrying out the requirements of section 29 of this act other than an
6 act or omission constituting gross negligence or willful or wanton
7 misconduct.

8 NEW SECTION. **Sec. 32.** If specific funding for the purposes of
9 sections 20 and 21 of this act, referencing sections 20 and 21 of this
10 act by bill or chapter number and section number, is not provided by
11 June 30, 2013, in the omnibus appropriations act, sections 20 and 21 of
12 this act are null and void.

13 NEW SECTION. **Sec. 33.** If specific funding for the purposes of
14 sections 29 through 31 of this act, referencing sections 29 through 31
15 of this act by bill or chapter number and section number, is not
16 provided by June 30, 2013, in the omnibus appropriations act, sections
17 29 through 31 of this act are null and void.

--- END ---