

HOUSE BILL REPORT

SHB 2858

As Amended by the Senate

Title: An act relating to expanding metal property provisions.

Brief Description: Expanding metal property provisions.

Sponsors: By House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Morrell, Warnick, Campbell, Hurst, Newhouse, O'Brien, Green, Kelley and Conway).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/28/08, 1/30/08 [DPS].

Floor Activity:

Passed House: 2/12/08, 97-0.

Senate Amended.

Passed Senate: 3/4/08, 47-0.

House Refused to Concur.

Senate Amended.

Passed Senate: 3/11/08, 49-0.

Brief Summary of Substitute Bill

- Requires scrap metal businesses to maintain and produce certain records relating to private metal transactions that involves catalytic converters.
- Prevents scrap metal businesses from paying cash for transactions involving private metal property valued at greater than \$30.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Hurst, Vice Chair; Pearson, Ranking Minority Member; Ross, Assistant Ranking Minority Member; Ahern, Goodman and Kirby.

Staff: Yvonne Walker (786-7841).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

In 2007 the Legislature passed Substitute Senate Bill 5312 that established new requirements for transactions between a scrap metal business and a member of the general public. Specific record keeping requirements for transactions involving non-ferrous metal property were established and such records were to be maintained for one year. The records that must be kept are:

- the signature of the person with whom the transaction is made;
- the time, date, location, and value of the transaction;
- the name of the employee representing the scrap metal business in the transaction;
- the name, street address, and telephone number of the person with whom the transaction is made;
- the license plate number and state of issuance of the license plate on the motor vehicle used to deliver the non-ferrous metal property;
- a description of the motor vehicle;
- the current driver's license number or other identification card number of the seller or a copy of the identification; and
- a description of the predominant types of non-ferrous metal property subject to the transaction, including the property's classification code.

A declaration requirement is also created for transactions involving non-ferrous metal property. The person selling the property must sign a declaration that the property is not stolen. A statement included on a receipt is sufficient to meet this requirement. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration.

The required records and the declaration must be open to inspection by law enforcement at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept.

A scrap metal business is prohibited from entering into a transaction to purchase or receive non-ferrous metal property unless the person can produce government-issued picture identification, including a valid driver's license or identification card issued by any state.

"Non-ferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

Commercial Metal Property

Specific requirements are also required when scrap metal businesses purchase or receive commercial metal property. No scrap metal business may purchase or receive commercial metal property unless the seller:

- has a commercial account with the scrap metal business;
- can prove ownership of the property by producing written documentation that the seller is the owner of the property; or
- can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

To establish a commercial account with a commercial enterprise, a scrap metal business must keep records with the commercial enterprise. The record must contain the name of the commercial enterprise, the business address and telephone number of the commercial enterprise, the full name of the person employed by the commercial enterprise who is authorized to designate an employee or agent to deliver metal property and commercial metal property, and a record of every purchase or receipt of metal property and commercial metal property from the commercial enterprise.

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, commercial mobile radio services, cable, electric, water, natural gas, or other utility, or railroad; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, down spouts, or gutters; aluminum or stainless steel fence panels; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; and agricultural irrigation wheels, sprinkler heads, and pipes.

Cash Transaction Requirements

Transactions involving non-ferrous metal property valued at greater than \$30 may not be made in cash or to anyone who does not provide a street address. Payment must be by non-transferable check no earlier than 10 days after the transaction.

Requests from Law Enforcement

If requested by law enforcement, a scrap metal business must provide records of the purchase or receipt of non-ferrous metal property and commercial metal property involving a specific individual, vehicle, or item of non-ferrous metal property or commercial metal property. The information must be transmitted within a specified time of not less than two business days. The information may be transmitted electronically, by fax, by computer, or by delivery of a computer disk subject to approval by law enforcement.

If the scrap metal business has good cause to believe that non-ferrous metal property or commercial metal property in his or her possession is lost or stolen, the scrap metal business must report to law enforcement.

Preserving Evidence of Metal Theft

After notice from law enforcement that an item of non-ferrous metal property or commercial metal property has been reported as stolen, a scrap metal business must tag and hold that property for a period of time directed by law enforcement up to a maximum of 10 business days.

Law enforcement is prohibited from placing a hold unless law enforcement reasonably suspects that the property is a lost or stolen item and any hold may be removed within 10 business days.

Criminal Penalties

It is a gross misdemeanor:

- to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of non-ferrous metal property or commercial metal property to deceive a scrap metal business;
- to purchase or receive any non-ferrous metal property or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated;
- to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any required book, record, or writing required to be kept;
- to enter into a transaction to purchase or receive metal property from any person under the age of 18 years or any person who is discernibly under the influence of intoxicating liquor or drugs;
- to enter into a transaction to purchase or receive metal property with anyone whom the scrap business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past 10 years whether the person is acting in his or her own behalf or as the agent of another;
- to sign the required declaration knowing that the non-ferrous metal property subject to the transaction is stolen;
- to possess commercial metal property that was not lawfully purchased or received; or
- to engage in a series of transactions valued at less than \$30 with the same seller to avoid the cash payment limitations.

Civil Penalties

Any other violation of the requirements is punishable by a fine of not more than \$1,000 for a first conviction and \$2,000 for subsequent convictions within two years of the first violation.

Exemptions

The following entities are exempt from all of the requirements that apply to scrap metal businesses: licensed motor vehicle dealers, licensed vehicle wreckers or hulk haulers, persons in the business of operating an automotive repair facility, and persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

Summary of Substitute Bill:

A new category of metal property is created called private metal property. Private metal property is defined as meaning catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

Scrap metal businesses entering into a transaction to purchase or receive private metal property from a member of the general public or a commercial enterprise is subject to the same record keeping requirements and penalties as those required for transactions involving non-ferrous metal property and commercial metal property. The records that must be kept, include but are not limited to: the name, date, and signature of the person with whom the transaction is made; the time, date, location, and value of the transaction; the name of the employee representing the scrap metal business in the transaction; the vehicle and license plate number of the vehicle used to deliver the private metal property; and a description of the property being purchased or received.

No scrap metal business may purchase or receive private metal property from a commercial enterprise unless that enterprise has a commercial account with the scrap metal business.

All required records must be open and available to law enforcement upon request. After notice from law enforcement that private metal property has been reported as stolen, a scrap metal business must tag and hold that property for the statutory maximum of time as directed by law enforcement.

Transactions involving private metal property valued at greater than \$30 may not be made in cash or to anyone who does not provide a street address. Similar to payments made for non-ferrous metal property, payment must be by non-transferable check no earlier than 10 days after the transaction.

EFFECT OF SENATE AMENDMENT(S):

Under "current" statute, the following entities are exempt from all of the reporting requirements that apply to scrap metal dealers and scrap metal processors: licensed motor vehicle dealers; licensed vehicle wreckers or hulk haulers; persons in the business of operating an automotive repair facility; and persons in the business of buying or selling empty food and beverage containers including metal food and beverage containers. The Senate amendment exempts "metal from the components of vehicles acquired by licensed vehicle wreckers or hulk haulers."

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Thieves are going directly into parking lots and cutting catalytic converters from automobiles, stealing, and reselling them. The cost for a replacing a catalytic converter can cost up to approximately \$1,200.

(In support with amendments) There may be some concern about a person taking a vehicle that had a catalytic converter still attached. In order to avoid this situation, an amendment to the bill should be made to define private metal property as meaning catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

(In support with concerns) There are very few licensed scrap metal recycling businesses who accept catalytic converters. The reason is because it is time consuming in order to get the metals separated and out of a catalytic converter. There are other businesses, outside of licensed scrap metal recyclers, who do accept catalytic converters. These are third party, fly by organizations, who are operating outside of the law.

(Opposed) None.

Persons Testifying: (In support) Representative Morrell, prime sponsor.

(In support with amendments) Brad Tower, Schnitzer Steel; and Gary Smith, Industry Business Association.

(In support with concerns) Chris Newbry, Institute of Scrap Recycling Industries.

Persons Signed In To Testify But Not Testifying: None.