

FINAL BILL REPORT

ESSB 5312

C 377 L 07
Synopsis as Enacted

Brief Description: Addressing the issue of stolen metal property.

Sponsors: 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).

Senate Committee on Judiciary

House Committee on Public Safety & Emergency Preparedness

Background: Authorities have seen a substantial increase in the theft of scrap metal. Items such as catalytic converters on vehicles, cases from headstones and mausoleums, wire from construction sites, and manhole covers are stolen or damaged by thieves who remove scrap metal. In many cases, the scrap metal is melted down to facilitate its sale. Law enforcement has linked these thefts to those seeking money for drugs and other illegal activities.

It is currently a gross misdemeanor for any person to remove, alter, or obliterate a manufacturer's make, model, serial number, personal identification number, or identifying marks engraved upon an item of personal property. An item cannot be accepted for second-hand purchase where these markings have been removed, altered, or obliterated. It is a gross misdemeanor for a person to knowingly make, cause, or allow any false entry or misstatement of material information to be entered into any book, record, or writing required to be kept by law. This applies to pawnbrokers and second-dealers, not necessarily to recyclers.

Unfortunately, these crimes are not being pursued because the current statutes do not provide law enforcement the tools they need to investigate. Furthermore, those involved in the business of recycling, as opposed to pawnbrokers or second-hand dealers, do not necessarily fit within chapter 19 involving pawnbrokers and second-hand dealers. Rather, one statute, RCW 19.91.110, refers to "metal buyers" but provides very little guidance or regulation. It merely states that it is unlawful for any person or business engaged in buying or obtaining new or used metals without maintaining a permanent record of the transaction. This does not include those purchases made by or from a manufacturer of such metals. The statute defines "metals" as copper, copper wire, copper cable, copper pipe, copper sheets and tubing, copper bus, aluminum wire, brass pipe, lead, electrolytic nickel, and zinc. It requires the permanent record of the transaction to contain: a general description of the property; the type and quantity or weight; the name, address, driver's license number, and signature of the seller or person making delivery; and a description of any motor vehicle and the license number used in the delivery of the metal. This record must be retained by the purchaser for at least one year. A violation of this section is punishable by up to a \$500 fine and up to six months in jail. There is no classification for this crime.

Summary: The term "recycler" is defined. Recyclers doing business in this state must produce an accurate and legible record of information pertaining to the parties and items

involved in the transaction. The records must be open to inspection by law enforcement at all times during regular business hours and these records must be maintained for up to one year after the date of transaction.

Recyclers must require the party with whom a transaction is made to sign a declaration if the property involved is worth more than \$100.

Transactions involving metal property worth more than \$30 must be paid by nontransferable check no sooner than ten days after the transaction. Transactions involving metal property worth less than \$30 may be made in cash.

Once law enforcement notifies a recycler that they reasonably believe an item of metal property has been stolen, the recycler is required to hold that property for no more than ten business days from the date of notification.

It is a gross misdemeanor for any person to: (1) remove or alter a make, model, or serial number, personal identification number, or identifying marks engraved or etched upon metal property purchased or received in pledge; (2) accept for purchase any metal property where someone has removed or altered a make, model, or serial number, personal identification number, or identifying marks have been engraved or etched; (3) knowingly make or allow for a false entry to be made in any record required to be kept under this chapter; (4) receive metal property from someone under the age of 18 or under the influence of intoxicating liquor or drugs; (5) receive metal property from someone who is known to the recycler to have been convicted of burglary, robbery, theft, or possession of receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past ten years, whether the person is acting in his or her own behalf or as the agent of another; (6) sign the declaration required knowing that the metal property is stolen; (7) possess metal property not lawfully purchased or received; or (8) engage in a series of transaction valued at less than \$30 with the same seller to avoid record keeping requirements.

Civil penalties are imposed for violations not subject to the criminal penalties. The first violation carries a penalty of not more than \$1,000. Each subsequent violation, within a two year period, carries a fine of not more than \$2,000.

The provisions of this chapter do not apply to: motor vehicle dealers; vehicle wreckers or hulk haulers; automotive repair businesses; and those in the business of buying or selling empty food and beverage containers; including metal food and beverage containers, or nonmetal junk.

Votes on Final Passage:

Senate	48	0	
House	94	0	(House amended)
Senate			(Senate refused to concur)

Conference Committee

House	98	0
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Senate 46 0

Effective: July 22, 2007