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**ENGROSSED SUBSTITUTE HOUSE BILL 1251**

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**State of Washington**

**60th Legislature**

**2007 Regular Session**

**By** House Committee on Insurance, Financial Services & Consumer Protection (originally sponsored by Representatives Morrell, Haler, O'Brien, Skinner, Lantz, Hinkle, Upthegrove, Takko, Moeller, Wallace, Crouse, Campbell, Kristiansen, Wood, Pearson, Ross, Fromhold, McCoy, Williams, Kretz, Hurst, Green, Kenney, VanDeWege, Haigh, McCune, Grant, Darneille, Simpson, Dunn and Rolfes)

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; reenacting and amending RCW 9.94A.533; adding new sections to  
5 chapter 9.94A RCW; adding a new chapter to Title 19 RCW; creating a new  
6 section; repealing RCW 9.91.110; and prescribing 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 business and a commercial enterprise that is ongoing and properly  
13 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 wiring, or aluminum wire, siding, downspouts,  
7 or gutters; aluminum or stainless steel fence panels made from one inch  
8 tubing, forty-two inches high with four inch gaps; aluminum decking,  
9 bleachers, or risers; historical markers; statue plaques; grave markers  
10 and funeral vases; or agricultural irrigation wheels, sprinkler heads,  
11 and pipes.

12 (4) "Nonferrous metal property" means metal property for which the  
13 value of the metal property is derived from the property's content of  
14 copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys,  
15 and unwanted electronic product, as that term is defined under RCW  
16 70.95N.020. "Nonferrous metal property" does not include precious  
17 metals.

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

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

21 (7) "Scrap metal business" means a scrap metal supplier, scrap  
22 metal recycling center, and scrap metal processor.

23 (8) "Scrap metal processor" means a person with a current business  
24 license that conducts business from a permanent location, that is  
25 engaged in the business of purchasing or receiving metal property for  
26 the purpose of altering the metal in preparation for its use as  
27 feedstock in the manufacture of new products, and that maintains a  
28 hydraulic bailer, shearing device, or shredding device for recycling.

29 (9) "Scrap metal recycling center" means a person with a current  
30 business license that is engaged in the business of purchasing or  
31 receiving nonferrous metal property for the purpose of aggregation and  
32 sale to another scrap metal business and that maintains a fixed place  
33 of business within the state.

34 (10) "Scrap metal supplier" means a person with a current business  
35 license that is engaged in the business of purchasing or receiving  
36 nonferrous metal property for the purpose of aggregation and sale to a  
37 scrap metal recycling center or scrap metal processor and that does not  
38 maintain a fixed business location in the state.

1 (11) "Transaction" means a pledge, or the purchase of, or the trade  
2 of any item of nonferrous metal property by a scrap metal business  
3 from a member of the general public. "Transaction" does not include  
4 donations or the purchase or receipt of nonferrous metal property by a  
5 scrap metal business from a commercial enterprise, from another scrap  
6 metal business, or from a duly authorized employee or agent of the  
7 commercial enterprise or scrap metal business.

8 NEW SECTION. **Sec. 2.** RECORDS REQUIRED FOR PURCHASING NONFERROUS  
9 METAL PROPERTY FROM THE GENERAL PUBLIC. (1) At the time of a  
10 transaction, every scrap metal business doing business in this state  
11 shall produce wherever that business is conducted an accurate and  
12 legible record of each transaction involving nonferrous metal property.  
13 This record must be written in the English language, documented on a  
14 standardized form or in electronic form, and contain the following  
15 information:

- 16 (a) The signature of the person with whom the transaction is made;
- 17 (b) The time, date, location, and value of the transaction;
- 18 (c) The name of the employee representing the scrap metal business  
19 in the transaction;
- 20 (d) The name, street address, and telephone number of the person  
21 with whom the transaction is made;
- 22 (e) The license plate number and state of issuance of the license  
23 plate on the motor vehicle used to deliver the nonferrous metal  
24 property subject to the transaction;
- 25 (f) A description of the motor vehicle used to deliver the  
26 nonferrous metal property subject to the transaction;
- 27 (g) The current driver's license number or other government-issued  
28 picture identification card number of the seller or a copy of the  
29 seller's government-issued picture identification card; and
- 30 (h) A description of the predominant types of nonferrous metal  
31 property subject to the transaction, including the property's  
32 classification code as provided in the institute of scrap recycling  
33 industries scrap specifications circular, 2006, and weight, quantity,  
34 or volume.

35 (2) For every transaction that involves nonferrous metal property,  
36 every scrap metal business doing business in the state shall require  
37 the person with whom a transaction is being made to sign a declaration.

1 The declaration may be included as part of the transactional record  
2 required under subsection (1) of this section, or on a receipt for the  
3 transaction. The declaration must state substantially the following:

4 "I, the undersigned, affirm under penalty of law that the property  
5 that is subject to this transaction is not to the best of my knowledge  
6 stolen property."

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

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

17 NEW SECTION. **Sec. 3.** REQUIREMENTS FOR PURCHASING OR RECEIVING  
18 NONFERROUS METAL PROPERTY FROM THE GENERAL PUBLIC. (1) No scrap metal  
19 business may enter into a transaction to purchase or receive nonferrous  
20 metal property from any person who cannot produce at least one piece of  
21 current government-issued picture identification, including a valid  
22 driver's license or identification card issued by any state.

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

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

34 (4) No transaction involving nonferrous metal property valued at  
35 greater than thirty dollars may be made in cash or with any person who  
36 does not provide a street address under the requirements of section 2  
37 of this act. For transactions valued at greater than thirty dollars,

1 the person with whom the transaction is being made may only be paid by  
2 a nontransferable check, mailed by the scrap metal business to a street  
3 address provided under section 2 of this act, no earlier than ten days  
4 after the transaction was made. A transaction occurs on the date  
5 provided in the record required under section 2 of this act.

6 (5) No scrap metal business may purchase or receive beer kegs from  
7 anyone except a manufacturer of beer kegs or licensed brewery.

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

13 (a) The full name of the commercial enterprise or commercial  
14 account;

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

17 (c) The full name of the person employed by the commercial  
18 enterprise who is authorized to deliver nonferrous metal property and  
19 commercial metal property to the scrap metal business.

20 (2) The record maintained by a scrap metal business for a  
21 commercial account must document every purchase or receipt of  
22 nonferrous metal property and commercial metal property from the  
23 commercial enterprise. The documentation must include, at a minimum,  
24 the following information:

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

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

29 (c) The signature of the person delivering the property to the  
30 scrap metal business.

31 NEW SECTION. **Sec. 5.** REPORTING TO LAW ENFORCEMENT. (1) Upon  
32 request by any commissioned law enforcement officer of the state or any  
33 of its political subdivisions, every scrap metal business shall furnish  
34 a full, true, and correct transcript of the records from the purchase  
35 or receipt of nonferrous metal property involving a specific  
36 individual, vehicle, or item of nonferrous metal property or commercial

1 metal property. This information may be transmitted within a specified  
2 time of not less than two business days to the applicable law  
3 enforcement agency electronically, by facsimile transmission, or by  
4 modem or similar device, or by delivery of computer disk subject to the  
5 requirements of, and approval by, the chief of police or the county's  
6 chief law enforcement officer.

7 (2) If the scrap metal business has good cause to believe that any  
8 nonferrous metal property or commercial metal property in his or her  
9 possession has been previously lost or stolen, the scrap metal business  
10 shall promptly report that fact to the applicable commissioned law  
11 enforcement officer of the state, the chief of police, or the county's  
12 chief law enforcement officer, together with the name of the owner, if  
13 known, and the date when and the name of the person from whom it was  
14 received.

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

25 (2) A commissioned law enforcement officer of the state or any of  
26 its political subdivisions shall not place on hold any item of  
27 nonferrous metal property or commercial metal property unless that law  
28 enforcement agency reasonably suspects that the property is a lost or  
29 stolen item. Any hold that is placed on the property must be removed  
30 within ten business days after the property on hold is determined not  
31 to be stolen or lost and the property must be returned to the owner or  
32 released.

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

35 (1) Any person to deliberately remove, alter, or obliterate any  
36 manufacturer's make, model, or serial number, personal identification

1 number, or identifying marks engraved or etched upon an item of  
2 nonferrous metal property or commercial metal property in order to  
3 deceive a scrap metal business;

4 (2) Any scrap metal business to enter into a transaction to  
5 purchase or receive any nonferrous metal property or commercial metal  
6 property where the manufacturer's make, model, or serial number,  
7 personal identification number, or identifying marks engraved or etched  
8 upon the property have been deliberately and conspicuously removed,  
9 altered, or obliterated;

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

13 (4) Any scrap metal business to enter into a transaction to  
14 purchase or receive nonferrous metal property or commercial metal  
15 property from any person under the age of eighteen years or any person  
16 who is discernibly under the influence of intoxicating liquor or drugs;

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

28 (6) Any person to sign the declaration required under section 2 of  
29 this act knowing that the nonferrous metal property subject to the  
30 transaction is stolen. The signature of a person on the declaration  
31 required under section 2 of this act constitutes evidence of intent to  
32 defraud a scrap metal business if that person is found to have known  
33 that the nonferrous metal property subject to the transaction was  
34 stolen;

35 (7) Any scrap metal business to possess commercial metal property  
36 that was not lawfully purchased or received under the requirements of  
37 this chapter; or

1 (8) Any scrap metal business to engage in a series of transactions  
2 valued at less than thirty dollars with the same seller for the  
3 purposes of avoiding the requirements of section 3(4) of this act.

4 NEW SECTION. **Sec. 8.** CIVIL PENALTIES. (1) Each violation of the  
5 requirements of this chapter that are not subject to the criminal  
6 penalties under section 7 of this act shall be punishable, upon  
7 conviction, by a fine of not more than one thousand dollars.

8 (2) Within two years of being convicted of a violation of any of  
9 the requirements of this chapter that are not subject to the criminal  
10 penalties under section 7 of this act, each subsequent violation shall  
11 be punishable, upon conviction, by a fine of not more than two thousand  
12 dollars.

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

- 15 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;
- 16 (2) Vehicle wreckers or hulk haulers licensed under chapter 46.79  
17 or 46.80 RCW;
- 18 (3) Persons in the business of operating an automotive repair  
19 facility as defined under RCW 46.71.011; and
- 20 (4) Persons in the business of buying or selling empty food and  
21 beverage containers, including metal food and beverage containers.

22 NEW SECTION. **Sec. 10.** A new section is added to chapter 9.94A RCW  
23 to read as follows:

24 (1) In a prosecution for theft in the first or second degree, the  
25 prosecution may file a special allegation of disproportionate impact  
26 when sufficient admissible evidence exists, which, when considered with  
27 the most plausible, reasonably foreseeable defense that could be raised  
28 under the evidence, would justify a finding by a reasonable and  
29 objective fact-finder that the damage to the victim greatly exceeds the  
30 value of the stolen property.

31 (2) Once a special allegation has been made under this section, the  
32 state has the burden to prove beyond a reasonable doubt that the damage  
33 to the victim greatly exceeds the value of the stolen property. If a  
34 jury is had, the jury shall, if it finds the defendant guilty, also  
35 find a special verdict as to whether the damage to the victim greatly



1 exceeds the value of the stolen property. If no jury is had, the court  
2 shall make a finding of fact as to whether the damage to the victim  
3 greatly exceeds the value of the stolen property.

4 (3) For the purposes of this section, damage to the victim greatly  
5 exceeds the value of the stolen property when the replacement cost of  
6 the stolen item is more than three times the value of the stolen item,  
7 or the theft of the item creates a public hazard.

8 NEW SECTION. **Sec. 11.** A new section is added to chapter 9.94A RCW  
9 to read as follows:

10 (1) In a prosecution for possessing stolen property in the first or  
11 second degree, the prosecution may file a special allegation of  
12 disproportionate impact when sufficient admissible evidence exists,  
13 which, when considered with the most plausible, reasonably foreseeable  
14 defense that could be raised under the evidence, would justify a  
15 finding by a reasonable and objective fact-finder that the damage to  
16 the victim from whom the property was stolen greatly exceeds the value  
17 of the stolen property.

18 (2) Once a special allegation has been made under this section, the  
19 state has the burden to prove beyond a reasonable doubt that the damage  
20 to the victim from whom the property was stolen greatly exceeds the  
21 value of the stolen property. If a jury is had, the jury shall, if it  
22 finds the defendant guilty, also find a special verdict as to whether  
23 the damage to the victim from whom the property was stolen greatly  
24 exceeds the value of the stolen property. If no jury is had, the court  
25 shall make a finding of fact as to whether the damage to the victim  
26 from whom the property was stolen greatly exceeds the value of the  
27 stolen property.

28 (3) For the purposes of this section, damage to the victim from  
29 whom the property was stolen greatly exceeds the value of the stolen  
30 property when the replacement cost of the stolen item is more than  
31 three times the value of the stolen item, or the theft of the item  
32 creates a public hazard.

33 **Sec. 12.** RCW 9.94A.533 and 2006 c 339 s 301 and 2006 c 123 s 1 are  
34 each reenacted and amended to read as follows:

35 (1) The provisions of this section apply to the standard sentence  
36 ranges determined by RCW 9.94A.510 or 9.94A.517.

1 (2) For persons convicted of the anticipatory offenses of criminal  
2 attempt, solicitation, or conspiracy under chapter 9A.28 RCW, the  
3 standard sentence range is determined by locating the sentencing grid  
4 sentence range defined by the appropriate offender score and the  
5 seriousness level of the completed crime, and multiplying the range by  
6 seventy-five percent.

7 (3) The following additional times shall be added to the standard  
8 sentence range for felony crimes committed after July 23, 1995, if the  
9 offender or an accomplice was armed with a firearm as defined in RCW  
10 9.41.010 and the offender is being sentenced for one of the crimes  
11 listed in this subsection as eligible for any firearm enhancements  
12 based on the classification of the completed felony crime. If the  
13 offender is being sentenced for more than one offense, the firearm  
14 enhancement or enhancements must be added to the total period of  
15 confinement for all offenses, regardless of which underlying offense is  
16 subject to a firearm enhancement. If the offender or an accomplice was  
17 armed with a firearm as defined in RCW 9.41.010 and the offender is  
18 being sentenced for an anticipatory offense under chapter 9A.28 RCW to  
19 commit one of the crimes listed in this subsection as eligible for any  
20 firearm enhancements, the following additional times shall be added to  
21 the standard sentence range determined under subsection (2) of this  
22 section based on the felony crime of conviction as classified under RCW  
23 9A.28.020:

24 (a) Five years for any felony defined under any law as a class A  
25 felony or with a statutory maximum sentence of at least twenty years,  
26 or both, and not covered under (f) of this subsection;

27 (b) Three years for any felony defined under any law as a class B  
28 felony or with a statutory maximum sentence of ten years, or both, and  
29 not covered under (f) of this subsection;

30 (c) Eighteen months for any felony defined under any law as a class  
31 C felony or with a statutory maximum sentence of five years, or both,  
32 and not covered under (f) of this subsection;

33 (d) If the offender is being sentenced for any firearm enhancements  
34 under (a), (b), and/or (c) of this subsection and the offender has  
35 previously been sentenced for any deadly weapon enhancements after July  
36 23, 1995, under (a), (b), and/or (c) of this subsection or subsection  
37 (4)(a), (b), and/or (c) of this section, or both, all firearm

1 enhancements under this subsection shall be twice the amount of the  
2 enhancement listed;

3 (e) Notwithstanding any other provision of law, all firearm  
4 enhancements under this section are mandatory, shall be served in total  
5 confinement, and shall run consecutively to all other sentencing  
6 provisions, including other firearm or deadly weapon enhancements, for  
7 all offenses sentenced under this chapter. However, whether or not a  
8 mandatory minimum term has expired, an offender serving a sentence  
9 under this subsection may be granted an extraordinary medical placement  
10 when authorized under RCW 9.94A.728(4);

11 (f) The firearm enhancements in this section shall apply to all  
12 felony crimes except the following: Possession of a machine gun,  
13 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
14 unlawful possession of a firearm in the first and second degree, and  
15 use of a machine gun in a felony;

16 (g) If the standard sentence range under this section exceeds the  
17 statutory maximum sentence for the offense, the statutory maximum  
18 sentence shall be the presumptive sentence unless the offender is a  
19 persistent offender. If the addition of a firearm enhancement  
20 increases the sentence so that it would exceed the statutory maximum  
21 for the offense, the portion of the sentence representing the  
22 enhancement may not be reduced.

23 (4) The following additional times shall be added to the standard  
24 sentence range for felony crimes committed after July 23, 1995, if the  
25 offender or an accomplice was armed with a deadly weapon other than a  
26 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
27 for one of the crimes listed in this subsection as eligible for any  
28 deadly weapon enhancements based on the classification of the completed  
29 felony crime. If the offender is being sentenced for more than one  
30 offense, the deadly weapon enhancement or enhancements must be added to  
31 the total period of confinement for all offenses, regardless of which  
32 underlying offense is subject to a deadly weapon enhancement. If the  
33 offender or an accomplice was armed with a deadly weapon other than a  
34 firearm as defined in RCW 9.41.010 and the offender is being sentenced  
35 for an anticipatory offense under chapter 9A.28 RCW to commit one of  
36 the crimes listed in this subsection as eligible for any deadly weapon  
37 enhancements, the following additional times shall be added to the

1 standard sentence range determined under subsection (2) of this section  
2 based on the felony crime of conviction as classified under RCW  
3 9A.28.020:

4 (a) Two years for any felony defined under any law as a class A  
5 felony or with a statutory maximum sentence of at least twenty years,  
6 or both, and not covered under (f) of this subsection;

7 (b) One year for any felony defined under any law as a class B  
8 felony or with a statutory maximum sentence of ten years, or both, and  
9 not covered under (f) of this subsection;

10 (c) Six months for any felony defined under any law as a class C  
11 felony or with a statutory maximum sentence of five years, or both, and  
12 not covered under (f) of this subsection;

13 (d) If the offender is being sentenced under (a), (b), and/or (c)  
14 of this subsection for any deadly weapon enhancements and the offender  
15 has previously been sentenced for any deadly weapon enhancements after  
16 July 23, 1995, under (a), (b), and/or (c) of this subsection or  
17 subsection (3)(a), (b), and/or (c) of this section, or both, all deadly  
18 weapon enhancements under this subsection shall be twice the amount of  
19 the enhancement listed;

20 (e) Notwithstanding any other provision of law, all deadly weapon  
21 enhancements under this section are mandatory, shall be served in total  
22 confinement, and shall run consecutively to all other sentencing  
23 provisions, including other firearm or deadly weapon enhancements, for  
24 all offenses sentenced under this chapter. However, whether or not a  
25 mandatory minimum term has expired, an offender serving a sentence  
26 under this subsection may be granted an extraordinary medical placement  
27 when authorized under RCW 9.94A.728(4);

28 (f) The deadly weapon enhancements in this section shall apply to  
29 all felony crimes except the following: Possession of a machine gun,  
30 possessing a stolen firearm, drive-by shooting, theft of a firearm,  
31 unlawful possession of a firearm in the first and second degree, and  
32 use of a machine gun in a felony;

33 (g) If the standard sentence range under this section exceeds the  
34 statutory maximum sentence for the offense, the statutory maximum  
35 sentence shall be the presumptive sentence unless the offender is a  
36 persistent offender. If the addition of a deadly weapon enhancement  
37 increases the sentence so that it would exceed the statutory maximum

1 for the offense, the portion of the sentence representing the  
2 enhancement may not be reduced.

3 (5) The following additional times shall be added to the standard  
4 sentence range if the offender or an accomplice committed the offense  
5 while in a county jail or state correctional facility and the offender  
6 is being sentenced for one of the crimes listed in this subsection. If  
7 the offender or an accomplice committed one of the crimes listed in  
8 this subsection while in a county jail or state correctional facility,  
9 and the offender is being sentenced for an anticipatory offense under  
10 chapter 9A.28 RCW to commit one of the crimes listed in this  
11 subsection, the following additional times shall be added to the  
12 standard sentence range determined under subsection (2) of this  
13 section:

14 (a) Eighteen months for offenses committed under RCW 69.50.401(2)  
15 (a) or (b) or 69.50.410;

16 (b) Fifteen months for offenses committed under RCW 69.50.401(2)  
17 (c), (d), or (e);

18 (c) Twelve months for offenses committed under RCW 69.50.4013.

19 For the purposes of this subsection, all of the real property of a  
20 state correctional facility or county jail shall be deemed to be part  
21 of that facility or county jail.

22 (6) An additional twenty-four months shall be added to the standard  
23 sentence range for any ranked offense involving a violation of chapter  
24 69.50 RCW if the offense was also a violation of RCW 69.50.435 or  
25 9.94A.605. All enhancements under this subsection shall run  
26 consecutively to all other sentencing provisions, for all offenses  
27 sentenced under this chapter.

28 (7) An additional two years shall be added to the standard sentence  
29 range for vehicular homicide committed while under the influence of  
30 intoxicating liquor or any drug as defined by RCW 46.61.502 for each  
31 prior offense as defined in RCW 46.61.5055.

32 (8)(a) The following additional times shall be added to the  
33 standard sentence range for felony crimes committed on or after July 1,  
34 2006, if the offense was committed with sexual motivation, as that term  
35 is defined in RCW 9.94A.030. If the offender is being sentenced for  
36 more than one offense, the sexual motivation enhancement must be added  
37 to the total period of total confinement for all offenses, regardless  
38 of which underlying offense is subject to a sexual motivation

1 enhancement. If the offender committed the offense with sexual  
2 motivation and the offender is being sentenced for an anticipatory  
3 offense under chapter 9A.28 RCW, the following additional times shall  
4 be added to the standard sentence range determined under subsection (2)  
5 of this section based on the felony crime of conviction as classified  
6 under RCW 9A.28.020:

7 (i) Two years for any felony defined under the law as a class A  
8 felony or with a statutory maximum sentence of at least twenty years,  
9 or both;

10 (ii) Eighteen months for any felony defined under any law as a  
11 class B felony or with a statutory maximum sentence of ten years, or  
12 both;

13 (iii) One year for any felony defined under any law as a class C  
14 felony or with a statutory maximum sentence of five years, or both;

15 (iv) If the offender is being sentenced for any sexual motivation  
16 enhancements under (i), (ii), and/or (iii) of this subsection and the  
17 offender has previously been sentenced for any sexual motivation  
18 enhancements on or after July 1, 2006, under (i), (ii), and/or (iii) of  
19 this subsection, all sexual motivation enhancements under this  
20 subsection shall be twice the amount of the enhancement listed;

21 (b) Notwithstanding any other provision of law, all sexual  
22 motivation enhancements under this subsection are mandatory, shall be  
23 served in total confinement, and shall run consecutively to all other  
24 sentencing provisions, including other sexual motivation enhancements,  
25 for all offenses sentenced under this chapter. However, whether or not  
26 a mandatory minimum term has expired, an offender serving a sentence  
27 under this subsection may be granted an extraordinary medical placement  
28 when authorized under RCW 9.94A.728(4);

29 (c) The sexual motivation enhancements in this subsection apply to  
30 all felony crimes;

31 (d) If the standard sentence range under this subsection exceeds  
32 the statutory maximum sentence for the offense, the statutory maximum  
33 sentence shall be the presumptive sentence unless the offender is a  
34 persistent offender. If the addition of a sexual motivation  
35 enhancement increases the sentence so that it would exceed the  
36 statutory maximum for the offense, the portion of the sentence  
37 representing the enhancement may not be reduced;

1 (e) The portion of the total confinement sentence which the  
2 offender must serve under this subsection shall be calculated before  
3 any earned early release time is credited to the offender;

4 (f) Nothing in this subsection prevents a sentencing court from  
5 imposing a sentence outside the standard sentence range pursuant to RCW  
6 9.94A.535.

7 (9) An additional twelve months and one day shall be added to the  
8 standard sentence range for theft in the first or second degree when  
9 there has been a special verdict or finding that the damage to the  
10 victim greatly exceeds the value of the stolen property under section  
11 10 of this act.

12 (10) An additional twelve months and one day shall be added to the  
13 standard sentence range for possessing stolen property in the first or  
14 second degree when there has been a special verdict or finding that the  
15 damage to the victim from whom the property was stolen greatly exceeds  
16 the value of the stolen property under section 11 of this act.

17 NEW SECTION. Sec. 13. Sections 1 through 9 of this act constitute  
18 a new chapter in Title 19 RCW.

19 NEW SECTION. Sec. 14. RCW 9.91.110 (Metal buyers--Records of  
20 purchases--Penalty) and 1971 ex.s. c 302 s 18 are each repealed.

21 NEW SECTION. Sec. 15. Captions used in this act are not any part  
22 of the law.

23 NEW SECTION. Sec. 16. If any provision of this act or its  
24 application to any person or circumstance is held invalid, the  
25 remainder of the act or the application of the provision to other  
26 persons or circumstances is not affected.

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