

HOUSE BILL REPORT

ESHB 2570

As Passed Legislature

Title: An act relating to metal property theft.

Brief Description: Addressing metal property theft.

Sponsors: House Committee on Public Safety & Emergency Preparedness (originally sponsored by Representatives Goodman, Hurst and Ross).

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/25/12, 1/31/12 [DPS].

Floor Activity:

Passed House: 2/13/12, 94-3.

Senate Amended.

Passed Senate: 3/2/12, 49-0.

Passed House: 3/5/12, 92-6.

Passed Legislature.

Brief Summary of Engrossed Substitute Bill

- Creates a task force to formulate suggestions for state policy regarding regulation of commercial and nonferrous metal property theft.
- Amends the offenses of Theft in the first and second degree so that theft of metal wire from a public service company is a class B felony, Theft in the first degree, if the cost of the damage is over \$5,000 and a class C felony, Theft in the second degree, if the cost of the damage is over \$750 but not over \$5,000.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 11 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

Staff: Sarah Koster (786-7303).

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:

Businesses relating to metal property are regulated under Title 19, chapter 290 RCW.

"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, downspouts, or gutters; aluminum or stainless steel fence panels made from 1 inch tubing, 42 inches high with 4 inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.

"Nonferrous 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. "Nonferrous metal property" does not include precious metals.

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

Summary of Engrossed Substitute Bill:

Task Force Responsibilities and Composition.

The task force will consist of the following members:

- scrap metal businesses;
- two investor-owned utilities, one with a service area predominately on the eastern side of the Cascades and one with a service area predominately on the western side of the Cascades;
- a consumer-owned utility;
- a municipally owned utility;
- representatives of the broadband and cable, wireless, wireline, and AM/FM radio telecommunications industry;
- a representative of the Washington State Emergency Communications Committee;
- a representative of the Washington Department of Transportation;
- a representative of the Washington State Prosecutors Association;
- a representative of the Washington State Patrol;
- a representative from a city with a population of less than 500,000;
- a representative from a city with a population of more than 500,000;
- a representative of a law enforcement agency, appointed by the Washington Council of Police and Sheriffs;
- a representative from the Washington Association of Sheriffs and Police Chiefs;
- a representative from a county appointed by the Washington State Association of Counties;
- a representative from the Washington State Farm Bureau;

- a representative of a national trade association regarding electrical contractors;
- a representative of a national trade association regarding plumbing contractors; and
- a crime victims' advocate.

The task force must consider the following issues:

1. penalties, both criminal and civil, for theft of commercial and nonferrous metal property including, but not limited to, issues such as categorization of crimes, trespass, organized commercial metal property theft, and aggregation of crimes;
2. valuation in the criminal prosecution of theft of commercial and nonferrous metal property, where the actual damages of the theft may greatly exceed the value of the stolen property;
3. the role of local governments in policing and prosecuting theft of commercial and nonferrous property;
4. restrictions on cash purchases of commercial and nonferrous metal property;
5. private rights of action to prosecute theft of commercial and nonferrous metal property;
6. registration or licensing of all scrap metal businesses;
7. a no-buy list for commercial and nonferrous metal purchases; and
8. the use and effectiveness of a scrap theft alert system, such as www.scraptheftalert.com, offered as a no fee service by the Institute of Scrap Recycling Industries.

The task force must meet quarterly through the end of 2014 and make a preliminary report to the Legislature by December 31, 2012. Members must seek funding for their expenses from their respective agencies within existing resources.

Changes to Criminal Statutes.

Theft of metal wire from a public service company or a consumer owned utility constitutes Theft in the first degree, a class B felony, if the costs of the damage to the company or utility's property exceeds \$5,000. The same theft constitutes Theft in the second degree, a class C felony, if the costs of the damage to the company or utility's property exceeds \$750 but not \$5,000.

"Public service company" is defined in RCW 8.04.010 to include every gas company, electrical company, telecommunications company, and water company. Ownership or operation of a cogeneration facility does not, by itself, make a company or person a public service company.

"Consumer-owned utility" is defined in RCW 19.280.020 to include a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, a mutual corporation or association formed under chapter 24.06 RCW, a port district formed under Title 53 RCW, or a water-sewer district formed under Title 57 RCW, that is engaged in the business of distributing electricity to one or more retail electric customers in the state.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) Metal theft is a growing problem and needs all involved stakeholders to come together and collaborate on a solution to address the problem effectively. Metal theft from utilities is extremely expensive and often creates dangerous situations for utility workers and the public at large. In 2010, 97 percent of utilities suffered from metal theft, with a valuation of \$50 million, not including the costs of repairs and interruptions in service. The task force should include a crime victims' advocate and the Washington State Farm Bureau. There have been legislative attempts to resolve this problem in the past, but they have not been effective enough. Cooperation may yield a better solution.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor; Nancy Atwood, Puget Sound Energy; Brenda White, Snohomish County Public Utility District; Karla Salp, Washington Coalition of Crime Victim Advocates; Jay Steinoff, Institute of Scrap Recycling Industries, Inc.; and Brad Tower, Schnitzer Steel.

Persons Signed In To Testify But Not Testifying: None.