

# SENATE BILL REPORT

## ESHB 2570

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As Reported by Senate Committee On:  
Judiciary, February 23, 2012

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

**Committee Activity:** Judiciary: 2/21/12, 2/23/12 [DPA, w/oRec].

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** Do pass as amended.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Hargrove, Kohl-Welles and Regala.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Carrell, Padden and Roach.

**Staff:** Juliana Roe (786-7438)

**Background:** 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 one 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.

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*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.*

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 who does not maintain a fixed business location in the state.

**Summary of Bill (Recommended Amendments):** The taskforce will consist of the following members:

- a representative of a national trade association that represents scrap metal recycling businesses;
- two representatives of scrap metal businesses, one from a business located in a city with a minimum population of more than 500,000, and one from a business located in a city with a population of less than 50,000;
- 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; and
- a crime victims' advocate.

The taskforce must consider the following issues:

- 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;
- 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;
- the role of local governments in policing and prosecuting theft of commercial and nonferrous property;
- restrictions on cash purchases of commercial and nonferrous metal property;
- private rights of action to prosecute theft of commercial and nonferrous metal property;
- registration or licensing of all scrap metal businesses;
- a no-buy list for commercial and nonferrous metal purchases; and

- the use and effectiveness of a scrap theft alert system, such as [www.scraptheftalert.com](http://www.scraptheftalert.com), offered as a no fee service by the Institute of Scrap Recycling Industries.

The taskforce 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.

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

Public service company means 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.

**EFFECT OF CHANGES MADE BY JUDICIARY COMMITTEE (Recommended Amendments):** One of the taskforce members is a representative of a scrap metal business located in a city with a maximum population of less than 500,000 rather than 50,000.

Consumer-owned utilities are included in the crimes of theft in the first and second degrees for damages caused by the theft of metal wire.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** Yes.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** PRO: Although we tried to curb metal theft in legislation passed in 2007, criminals are still finding ways to steal metal. They are breaking into utility sub stations and chopping church bells into fragments. We are hoping to sit the stakeholders down to address how to stop metal theft. Utilities have been losing hundreds of thousands of dollars in both theft and the damage caused by the theft and are left with having to pay for repairs caused by the theft. There is also a public safety issue. Criminals are climbing fences, cutting down utility poles and going over walls. There is a national scrap theft alert system that we want parties tied into.

We want the taskforce to look at the flow of the metal from theft to sale so as to enact legislation and subsequently monitor how the legislation works. We need to create long-term solutions with this taskforce.

Metal recycling brings in about \$77 billion in the U.S. on an annual basis. The 2007 legislation was based on scrap dealers being the bad guys. It did not solve the metal theft

problem. It focused on recyclers and paid no attention to the thieves. Metal recyclers are expected to keep records. They already maintain such documents and have since 1971. Current statutes provide for compliance with a no buy list. Only three police agencies in the state generate a no buy list out of 225 agencies.

**Persons Testifying:** PRO: Representative Goodman, prime sponsor; Rose Felician, Seattle City Light; Brenda White, Snohomish PUD; Grant Nelson, WA Rural Electric Co-Op Assn.; Brad Tower, Schnitzer Steel; Jay Sternoff, Institute of Scrap Recycling Industries.