

ESHB 1552 - S COMM AMD
By Committee on Law & Justice

NOT ADOPTED 04/16/2013

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 9A.48.100 and 1984 c 273 s 4 are each amended to read
4 as follows:

5 For the purposes of RCW 9A.48.070 through 9A.48.090 inclusive:

6 (1) "Physical damage", in addition to its ordinary meaning, shall
7 include the total or partial alteration, damage, obliteration, or
8 erasure of records, information, data, computer programs, or their
9 computer representations, which are recorded for use in computers or
10 the impairment, interruption, or interference with the use of such
11 records, information, data, or computer programs, or the impairment,
12 interruption, or interference with the use of any computer or services
13 provided by computers. "Physical damage" also includes any diminution
14 in the value of any property as the consequence of an act and the cost
15 to repair any physical damage;

16 (2) If more than one item of property is physically damaged as a
17 result of a common scheme or plan by a person and the physical damage
18 to the property would, when considered separately, constitute mischief
19 in the third degree because of value, then the value of the damages may
20 be aggregated in one count. If the sum of the value of all the
21 physical damages exceeds two hundred fifty dollars, the defendant may
22 be charged with and convicted of malicious mischief in the second
23 degree.

24 **Sec. 2.** RCW 9A.56.030 and 2012 c 233 s 2 are each amended to read
25 as follows:

26 (1) A person is guilty of theft in the first degree if he or she
27 commits theft of:

28 (a) Property or services which exceed(s) five thousand dollars in
29 value other than a firearm as defined in RCW 9.41.010;

1 (b) Property of any value, other than a firearm as defined in RCW
2 9.41.010 or a motor vehicle, taken from the person of another;

3 (c) A search and rescue dog, as defined in RCW 9.91.175, while the
4 search and rescue dog is on duty; or

5 (d) Commercial metal (~~((wire, taken from a public service company,~~
6 ~~as defined in RCW 80.04.010, or a consumer-owned utility, as defined in~~
7 ~~RCW 19.280.020,))~~ property, nonferrous metal property, or private metal
8 property, as those terms are defined in RCW 19.290.010, and the costs
9 of the damage to the (~~(public service company's or consumer-owned~~
10 ~~utility's))~~ owner's property exceed five thousand dollars in value.

11 (2) Theft in the first degree is a class B felony.

12 **Sec. 3.** RCW 9A.56.040 and 2012 c 233 s 3 are each amended to read
13 as follows:

14 (1) A person is guilty of theft in the second degree if he or she
15 commits theft of:

16 (a) Property or services which exceed(s) seven hundred fifty
17 dollars in value but does not exceed five thousand dollars in value,
18 other than a firearm as defined in RCW 9.41.010 or a motor vehicle;

19 (b) A public record, writing, or instrument kept, filed, or
20 deposited according to law with or in the keeping of any public office
21 or public servant;

22 (c) Commercial metal (~~((wire, taken from a public service company,~~
23 ~~as defined in RCW 80.04.010, or a consumer-owned utility, as defined in~~
24 ~~RCW 19.280.020,))~~ property, nonferrous metal property, or private metal
25 property, as those terms are defined in RCW 19.290.010, and the costs
26 of the damage to the (~~(public service company's or consumer-owned~~
27 ~~utility's))~~ owner's property exceed seven hundred fifty dollars but
28 does not exceed five thousand dollars in value; or

29 (d) An access device.

30 (2) Theft in the second degree is a class C felony.

31 **Sec. 4.** RCW 19.290.010 and 2008 c 233 s 1 are each amended to read
32 as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 (1) "Commercial account" means a relationship between a scrap metal

1 business and a commercial enterprise that is ongoing and properly
2 documented under RCW 19.290.030.

3 (2) "Commercial enterprise" means a corporation, partnership,
4 limited liability company, association, state agency, political
5 subdivision of the state, public corporation, or any other legal or
6 commercial entity.

7 (3) "Commercial metal property" means: Utility access covers;
8 street light poles and fixtures; road and bridge guardrails; highway or
9 street signs; water meter covers; traffic directional and control
10 signs; traffic light signals; any metal property marked with the name
11 of a commercial enterprise, including but not limited to a telephone,
12 commercial mobile radio services, cable, electric, water, natural gas,
13 or other utility, or railroad; unused or undamaged building
14 construction materials consisting of copper pipe, tubing, or wiring, or
15 aluminum wire, siding, downspouts, or gutters; aluminum or stainless
16 steel fence panels made from one inch tubing, forty-two inches high
17 with four-inch gaps; aluminum decking, bleachers, or risers; historical
18 markers; statue plaques; grave markers and funeral vases; or
19 agricultural irrigation wheels, sprinkler heads, and pipes.

20 (4) "Nonferrous metal property" means metal property for which the
21 value of the metal property is derived from the property's content of
22 copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.
23 "Nonferrous metal property" does not include precious metals.

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

25 (6) "Private metal property" means catalytic converters, either
26 singly or in bundles, bales, or bulk, that have been removed from
27 vehicles for sale as a specific commodity.

28 (7) "Record" means a paper, electronic, or other method of storing
29 information.

30 (8) "Scrap metal business" means a scrap metal supplier, scrap
31 metal (~~(recycling center)~~) recycler, and scrap metal processor.

32 (9) "Scrap metal processor" means a person with a current business
33 license that conducts business from a permanent location, that is
34 engaged in the business of purchasing or receiving private metal
35 property, nonferrous metal property, and commercial metal property for
36 the purpose of altering the metal in preparation for its use as
37 feedstock in the manufacture of new products, and that maintains a
38 hydraulic bailer, shearing device, or shredding device for recycling.

1 (10) "Scrap metal ((~~recycling center~~)) recycler" means a person
2 with a current business license that is engaged in the business of
3 purchasing or receiving private metal property, nonferrous metal
4 property, and commercial metal property for the purpose of aggregation
5 and sale to another scrap metal business and that maintains a fixed
6 place of business within the state.

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

13 (12) "Transaction" means a pledge, or the purchase of, or the trade
14 of any item of private metal property or nonferrous metal property by
15 a scrap metal business from a member of the general public.
16 "Transaction" does not include donations or the purchase or receipt of
17 private metal property or nonferrous metal property by a scrap metal
18 business from a commercial enterprise, from another scrap metal
19 business, or from a duly authorized employee or agent of the commercial
20 enterprise or scrap metal business.

21 (13) "Engage in business" means conducting more than five
22 transactions in a twelve-month period.

23 (14) "Person" means an individual, domestic or foreign corporation,
24 limited liability corporation, partnership, trust, unincorporated
25 association, or other entity; an affiliate or associate of any such
26 person; or any two or more persons acting as a partnership, syndicate,
27 or other group for the purpose of acquiring, holding, or dispersing of
28 securities of a domestic or foreign corporation.

29 **Sec. 5.** RCW 19.290.020 and 2008 c 233 s 2 are each amended to read
30 as follows:

31 (1) At the time of a transaction, every scrap metal business doing
32 business in this state shall produce wherever that business is
33 conducted an accurate and legible record of each transaction involving
34 private metal property or nonferrous metal property. This record must
35 be written in the English language, documented on a standardized form
36 or in electronic form, and contain the following information:

37 (a) The signature of the person with whom the transaction is made;

1 (b) The time, date, location, and value of the transaction;

2 (c) The name of the employee representing the scrap metal business
3 in the transaction;

4 (d) The name, street address, and telephone number of the person
5 with whom the transaction is made;

6 (e) The license plate number and state of issuance of the license
7 plate on the motor vehicle used to deliver the private metal property
8 or nonferrous metal property subject to the transaction;

9 (f) A description of the motor vehicle used to deliver the private
10 metal property or nonferrous metal property subject to the transaction;

11 (g) The current driver's license number or other government-issued
12 picture identification card number of the seller or a copy of the
13 seller's government-issued picture identification card; and

14 (h) A description of the predominant types of private metal
15 property or nonferrous metal property subject to the transaction,
16 (~~including the property's classification code as provided in~~)
17 utilizing the institute of scrap recycling industries' (~~scrap~~
18 ~~specifications circular, 2006~~) generally accepted terminology, and
19 including weight, quantity, or volume.

20 (2) For every transaction that involves private metal property or
21 nonferrous metal property, every scrap metal business doing business in
22 the state shall require the person with whom a transaction is being
23 made to sign a declaration. The declaration may be included as part of
24 the transactional record required under subsection (1) of this section,
25 or on a receipt for the transaction. The declaration must state
26 substantially the following:

27 "I, the undersigned, affirm under penalty of law that the property
28 that is subject to this transaction is not to the best of my knowledge
29 stolen property."

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

34 (3) The record and declaration required under this section must be
35 open to the inspection of any commissioned law enforcement officer of
36 the state or any of its political subdivisions at all times during the
37 ordinary hours of business, or at reasonable times if ordinary hours of

1 business are not kept, and must be maintained wherever that business is
2 conducted for (~~one~~) five years following the date of the transaction.

3 **Sec. 6.** RCW 19.290.030 and 2008 c 233 s 3 are each amended to read
4 as follows:

5 (1) No scrap metal business may enter into a transaction to
6 purchase or receive private metal property or nonferrous metal property
7 from any person who cannot produce at least one piece of current
8 government-issued picture identification, including a valid driver's
9 license or identification card issued by any state.

10 (2) No scrap metal business may purchase or receive private metal
11 property or commercial metal property unless the seller: (a) Has a
12 commercial account with the scrap metal business; (b) can prove
13 ownership of the property by producing written documentation that the
14 seller is the owner of the property; or (c) can produce written
15 documentation that the seller is an employee or agent authorized to
16 sell the property on behalf of a commercial enterprise.

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

21 (4)(a) No transaction involving private metal property or
22 nonferrous metal property (~~(valued at greater than thirty dollars)~~) may
23 be made in cash or with any person who does not provide a street
24 address under the requirements of RCW 19.290.020 except as described in
25 (b) of this subsection. (~~(For transactions valued at greater than~~
26 ~~thirty dollars,~~) The person with whom the transaction is being made
27 may only be paid by a nontransferable check, mailed by the scrap metal
28 business to a street address provided under RCW 19.290.020, no earlier
29 than (~~ten~~) three days after the transaction was made. A transaction
30 occurs on the date provided in the record required under RCW
31 19.290.020.

32 (b) A scrap metal business that is in compliance with this chapter
33 that digitally captures: (i) A copy of one piece of current
34 government-issued picture identification, including a current driver's
35 license or identification card issued by any state and (ii) either a
36 picture or video of either the material subject to the transaction in
37 the form received or the material subject to the transaction within the

1 vehicle which the material was transported to the scrap metal business,
2 may pay up to a maximum of thirty dollars in cash, stored value device,
3 or electronic funds transfer. The balance of the value of the
4 transaction may be made by nontransferable check, stored value device,
5 or electronic funds transfer at the time the transaction is made. A
6 scrap metal business's usage of video surveillance shall be sufficient
7 to comply with this subsection (4)(b)(ii) as long as the video captures
8 the material subject to the transaction. A digital image or picture
9 taken under this subsection must be available for two years from the
10 date of transaction, while a video recording must be available for
11 thirty days.

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

14 **Sec. 7.** RCW 19.290.040 and 2008 c 233 s 4 are each amended to read
15 as follows:

16 (1) Every scrap metal business must create and maintain a permanent
17 record with a commercial enterprise, including another scrap metal
18 business, in order to establish a commercial account. That record, at
19 a minimum, must include the following information:

20 (a) The full name of the commercial enterprise or commercial
21 account;

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

24 (c) The full name of the person employed by the commercial
25 enterprise who is authorized to deliver private metal property,
26 nonferrous metal property, and commercial metal property to the scrap
27 metal business.

28 (2) The record maintained by a scrap metal business for a
29 commercial account must document every purchase or receipt of private
30 metal property, nonferrous metal property, and commercial metal
31 property from the commercial enterprise. The record must be maintained
32 for three years following the date of the transfer or receipt. The
33 documentation must include, at a minimum, the following information:

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

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

1 (c) The signature of the person delivering the property to the
2 scrap metal business.

3 **Sec. 8.** RCW 19.290.050 and 2008 c 233 s 5 are each amended to read
4 as follows:

5 (1) Upon written request by any commissioned law enforcement
6 officer of the state or any of its political subdivisions, every scrap
7 metal business shall furnish a full, true, and correct transcript of
8 the records from the purchase or receipt of private metal property,
9 nonferrous metal property, and commercial metal property involving only
10 a (~~specific~~) specified individual, vehicle, or item of private metal
11 property, nonferrous metal property, or commercial metal property. Any
12 written request shall become an addition to the permanent records
13 required under RCW 19.290.020 or 19.290.040. This information may be
14 transmitted within a specified time of not less than two business days
15 to the applicable law enforcement agency electronically, by facsimile
16 transmission, or by modem or similar device, or by delivery of computer
17 disk subject to the requirements of, and approval by, the chief of
18 police or the county's chief law enforcement officer. A scrap metal
19 business shall not be required (a) to furnish a transcript of its
20 records for a specified time period without reference to a specified
21 individual, vehicle, or item of private metal property, nonferrous
22 metal property, or commercial metal property, or (b) to furnish any
23 requested transcript under this section to any party other than
24 directly to the applicable law enforcement agency, as required by this
25 section. For purposes of this subsection, the term "law enforcement
26 agency" does not include any third-party agency contracted by a law
27 enforcement agency or commercial for profit entity acting on behalf of
28 a law enforcement agency.

29 (2) Any records created or produced under this section are exempt
30 from disclosure under chapter 42.56 RCW.

31 (3) If the scrap metal business has good cause to believe that any
32 private metal property, nonferrous metal property, or commercial metal
33 property in his or her possession has been previously lost or stolen,
34 the scrap metal business shall promptly report that fact to the
35 applicable commissioned law enforcement officer of the state, the chief
36 of police, or the county's chief law enforcement officer, together with

1 the name of the owner, if known, and the date when and the name of the
2 person from whom it was received.

3 (4) Compliance with this section shall not give rise to or form the
4 basis of private civil liability on the part of a scrap metal business
5 or scrap metal recycler.

6 **Sec. 9.** RCW 19.290.060 and 2008 c 233 s 6 are each amended to read
7 as follows:

8 (1) Following notification(~~(, either verbally or)~~) in writing(~~(,)~~)
9 from a commissioned law enforcement officer of the state or any of its
10 political subdivisions that an item of private metal property,
11 nonferrous metal property, or commercial metal property has been
12 reported as stolen, a scrap metal business shall hold that property
13 intact and safe from alteration, damage, or commingling, and shall
14 place an identifying tag or other suitable identification upon the
15 property. The scrap metal business shall hold the property for a
16 period of time as directed by the applicable law enforcement agency up
17 to a maximum of ten business days.

18 (2) A commissioned law enforcement officer of the state or any of
19 its political subdivisions shall not place on hold any item of private
20 metal property, nonferrous metal property, or commercial metal property
21 unless that law enforcement agency reasonably suspects that the
22 property is a lost or stolen item. Any hold that is placed on the
23 property must be removed within ten business days after the property on
24 hold is determined not to be stolen or lost and the property must be
25 returned to the owner or released.

26 **Sec. 10.** RCW 19.290.070 and 2008 c 233 s 7 are each amended to
27 read as follows:

28 It is a gross misdemeanor under chapter 9A.20 RCW for:

29 (1) Any person to deliberately remove, alter, or obliterate any
30 manufacturer's make, model, or serial number, personal identification
31 number, or identifying marks engraved or etched upon an item of private
32 metal property, nonferrous metal property, or commercial metal property
33 in order to deceive a scrap metal business;

34 (2) Any scrap metal business to enter into a transaction to
35 purchase or receive any private metal property, nonferrous metal
36 property, or commercial metal property where the manufacturer's make,

1 model, or serial number, personal identification number, or identifying
2 marks engraved or etched upon the property have been deliberately and
3 conspicuously removed, altered, or obliterated;

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

7 (4) Any scrap metal business to enter into a transaction to
8 purchase or receive private metal property, nonferrous metal property,
9 or commercial metal property from any person under the age of eighteen
10 years or any person who is discernibly under the influence of
11 intoxicating liquor or drugs;

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

24 (6) Any person to sign the declaration required under RCW
25 19.290.020 knowing that the private metal property or nonferrous metal
26 property subject to the transaction is stolen. The signature of a
27 person on the declaration required under RCW 19.290.020 constitutes
28 evidence of intent to defraud a scrap metal business if that person is
29 found to have known that the private metal property or nonferrous metal
30 property subject to the transaction was stolen;

31 (7) Any scrap metal business to possess private metal property or
32 commercial metal property that was not lawfully purchased or received
33 under the requirements of this chapter; (~~or~~)

34 (8) Any scrap metal business to engage in a series of transactions
35 valued at less than thirty dollars with the same seller for the
36 purposes of avoiding the requirements of RCW 19.290.030(4); or

37 (9) Any person to knowingly make a false or fictitious oral or

1 written statement or to furnish or exhibit any false, fictitious, or
2 misrepresented identification, with the intent to deceive a scrap metal
3 business as to the actual seller of the scrap metal.

4 **Sec. 11.** RCW 19.290.090 and 2008 c 233 s 8 are each amended to
5 read as follows:

6 The provisions of this chapter do not apply to transactions
7 involving metal from the components of vehicles acquired by vehicle
8 wreckers, hulk haulers, or scrap processors licensed under chapter
9 46.79 or 46.80 RCW, and acquired in accordance with those laws or
10 transactions conducted by the following:

- 11 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;
- 12 (2) ~~((Metal from the components of vehicles acquired by vehicle~~
13 ~~wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW, and~~
14 ~~acquired in accordance with those laws;~~
- 15 ~~(3))~~ Persons in the business of operating an automotive repair
16 facility as defined under RCW 46.71.011; and
- 17 ~~((4))~~ (3) Persons in the business of buying or selling empty food
18 and beverage containers, including metal food and beverage containers.

19 NEW SECTION. **Sec. 12.** A new section is added to chapter 19.290
20 RCW to read as follows:

21 (1) It is unlawful for a person to engage in the business of a
22 scrap metal processor, scrap metal recycler, or scrap metal supplier
23 without having first applied for and received a scrap metal license.

24 (2)(a) Except as provided in (b) of this subsection, a person or
25 firm engaged in the unlawful activity described in this section is
26 guilty of a gross misdemeanor.

27 (b) A second or subsequent offense is a class C felony.

28 NEW SECTION. **Sec. 13.** A new section is added to chapter 19.290
29 RCW to read as follows:

30 Application for a scrap metal license or renewal of a scrap metal
31 license shall be made on a form for this purpose, furnished by the
32 department of licensing, and shall be signed by the license holder or
33 his or her authorized agent and shall include the following
34 information:

1 (1) Name and address of the person, firm, partnership, association,
2 limited liability company, or corporation under which name the business
3 is to be conducted;

4 (2) Names and residence address of all persons having an interest
5 in the business or, if the owner is a corporation, the names and
6 addresses of the officers thereof;

7 (3) Certificate of approval of the chief executive officer or chief
8 of police, or a designee, if the application is for a license within an
9 incorporated city or town or, in any unincorporated area, the county
10 legislative authority, the sheriff, or a designee, certifying that:

11 (a) The applicant has an established place of business at the
12 address shown on the application;

13 (b) There are no known environmental, building code, zoning, or
14 other land use regulation violations associated with the business being
15 located at the address; and

16 (c) In the case of a renewal of a scrap metal license, the
17 applicant is in compliance with this chapter: PROVIDED, That an
18 authorized representative of the department of licensing may make the
19 certification described in this section in any instance;

20 (4) Any other information that the department of licensing may
21 require.

22 NEW SECTION. **Sec. 14.** A new section is added to chapter 19.290
23 RCW to read as follows:

24 The application, together with the required fee, shall be forwarded
25 to the department of licensing. Upon receipt of the application the
26 department shall, if the application is in order, issue a scrap metal
27 license authorizing the processor, recycler, or supplier to do business
28 as such and forward the fee to the state treasurer. Upon receiving the
29 certificate, the owner shall cause it to be prominently displayed in
30 the place of business, where it may be inspected by an investigating
31 officer at any time. Every license must be issued in the name of the
32 applicant and the holder thereof may not allow any other person to use
33 the license.

34 NEW SECTION. **Sec. 15.** A new section is added to chapter 19.290
35 RCW to read as follows:

36 Before issuing a scrap metal license to a scrap metal processor or

1 scrap metal recycler, the department of licensing shall require the
2 applicant to file with the department a surety bond in the amount of
3 ten thousand dollars, running to the state of Washington, and executed
4 by a surety company authorized to do business in the state of
5 Washington. The bond shall be approved as to form by the attorney
6 general and conditioned upon the licensee conducting the business in
7 conformity with the provisions of this chapter. Except as prohibited
8 elsewhere in this chapter, any person who has suffered loss or damage
9 by reason of fraud or gross negligence, or an intentional or reckless
10 violation of the terms of this chapter, or misrepresentation on the
11 part of the scrap metal processor or recycler, may institute an action
12 for recovery against the licensee and surety upon the bond. However,
13 the aggregate liability of the surety to all persons shall in no event
14 exceed the amount of the bond.

15 NEW SECTION. **Sec. 16.** A new section is added to chapter 19.290
16 RCW to read as follows:

17 A license issued on the scrap metal license application remains in
18 force until suspended or revoked and may be renewed annually upon
19 reapplication and upon payment of the required fee. A licensee who
20 fails or neglects to renew the license before the assigned expiration
21 date shall pay the fee for an original scrap metal license as provided
22 in this chapter.

23 Whenever a scrap metal processor, recycler, or supplier ceases to
24 do business as such or the license has been suspended or revoked, the
25 licensee shall immediately surrender the license to the department of
26 licensing.

27 NEW SECTION. **Sec. 17.** A new section is added to chapter 19.290
28 RCW to read as follows:

29 The licensee shall obtain a special set of license plates in
30 addition to the regular licenses and plates required for the operation
31 of such vehicles. The special plates must be displayed on vehicles
32 owned and/or operated by the licensee and used in the conduct of the
33 business. The fee for these plates shall be five dollars for the
34 original plates and two dollars for each additional set of plates
35 bearing the same license number. A licensee with more than one

1 licensed location in the state may use special plates bearing the same
2 license number for vehicles operated out of any of the licensed
3 locations.

4 NEW SECTION. **Sec. 18.** A new section is added to chapter 19.290
5 RCW to read as follows:

6 The uniform regulation of business and professions act, chapter
7 18.235 RCW, governs unlicensed practice, the issuance and denial of
8 licenses, and the discipline of licensees under this chapter.

9 NEW SECTION. **Sec. 19.** A new section is added to chapter 19.290
10 RCW to read as follows:

11 If a person whose scrap metal license has previously been canceled
12 for cause by the department of licensing files an application for a
13 license to conduct business as a scrap metal processor, recycler, or
14 supplier, or if the department is of the opinion that the application
15 is not filed in good faith or that the application is filed by some
16 person as a subterfuge for the real person in interest whose license
17 has previously been canceled for cause, the department may refuse to
18 issue the person a license to conduct business as a scrap metal
19 processor, recycler, or supplier.

20 NEW SECTION. **Sec. 20.** A new section is added to chapter 19.290
21 RCW to read as follows:

22 (1) The director of licensing is hereby authorized to adopt
23 reasonable rules and regulations not in conflict with provisions hereof
24 for the proper operation and enforcement of this chapter.

25 (2) The director shall set all license and renewal fees in
26 accordance with RCW 43.24.086.

27 NEW SECTION. **Sec. 21.** A new section is added to chapter 19.290
28 RCW to read as follows:

29 The chiefs of police, the county sheriffs, and the Washington state
30 patrol may make periodic inspection of the licensee's licensed premises
31 and records provided for in this chapter during normal business hours,
32 and furnish a certificate of inspection to the department of licensing
33 in such manner as may be determined by the department. In any

1 instance, an authorized representative of the department may make the
2 inspection. Licensees are subject to unannounced periodic inspections,
3 as described in this section.

4 NEW SECTION. **Sec. 22.** A new section is added to chapter 19.290
5 RCW to read as follows:

6 The state of Washington hereby fully occupies and preempts the
7 entire field of regulation of scrap metal processors, recyclers, or
8 suppliers within the boundaries of the state. Any political
9 subdivision in this state may enact or enforce only those laws and
10 ordinances relating to the regulation of scrap metal processors,
11 recyclers, or suppliers that are specifically authorized by state law
12 and are consistent with this chapter. Nothing in this chapter is
13 intended to limit the authority of any political subdivision to impose
14 generally applicable zoning, land use, permitting, general business
15 licensing, environmental, and health and safety requirements or
16 authorized business taxes upon scrap metal processors, recyclers, or
17 suppliers within their jurisdictions. Local ordinances pertaining
18 specifically to scrap metal processors, recyclers, or suppliers shall
19 have the same or lesser penalty as provided for by state law. Local
20 scrap metal laws and ordinances that are inconsistent with, more
21 restrictive than, or exceed the requirements of state law shall not be
22 enacted and are hereby preempted and repealed, regardless of the code,
23 charter, or home rule status of such political subdivision.

24 NEW SECTION. **Sec. 23.** A new section is added to chapter 19.290
25 RCW to read as follows:

26 (1) In addition to the powers granted in chapter 18.235 RCW, the
27 department of licensing or its authorized agent may examine or subpoena
28 any persons, books, papers, records, data, vehicles, or metal property
29 bearing upon the investigation or proceeding under this chapter.

30 (2) The persons subpoenaed may be required to testify and produce
31 any books, papers, records, data, vehicles, or metal property that the
32 director of licensing deems relevant or material to the inquiry.

33 (3) The director of the department of licensing or an authorized
34 agent may administer an oath to the person required to testify, and a
35 person giving false testimony after the administration of the oath is
36 guilty of perjury in the first degree under RCW 9A.72.020.

1 (4)(a) Any authorized representative of the director of the
2 department of licensing may apply for and obtain a superior court order
3 approving and authorizing a subpoena in advance of its issuance. The
4 application may be made in the county where the subpoenaed person
5 resides or is found, or the county where the subpoenaed records or
6 documents are located, or in Thurston county. The application must:

7 (i) State that an order is sought pursuant to this subsection;
8 (ii) Adequately specify the records, documents, or testimony; and
9 (iii) Declare under oath that an investigation is being conducted
10 for a lawfully authorized purpose related to an investigation within
11 the department's authority and that the subpoenaed documents or
12 testimony are reasonably related to an investigation within the
13 department's authority.

14 (b) Where the application under this subsection is made to the
15 satisfaction of the court, the court must issue an order approving the
16 subpoena. An order under this subsection constitutes authority of law
17 for the agency to subpoena the records or testimony.

18 (c) Any authorized representative of the director of the department
19 of licensing may seek approval and a court may issue an order under
20 this subsection without prior notice to any person, including the
21 person to whom the subpoena is directed and the person who is the
22 subject of an investigation.

23 (5) Any records created or produced under this section are exempt
24 from disclosure under chapter 42.56 RCW.

25 NEW SECTION. **Sec. 24.** A new section is added to chapter 36.28A
26 RCW to read as follows:

27 (1) When funded, the Washington association of sheriffs and police
28 chiefs shall establish a grant program to assist local law enforcement
29 agencies in the support of special enforcement emphasis targeting metal
30 theft. Grant applications shall be reviewed and awarded through peer
31 review panels. Grant applicants are encouraged to utilize
32 multijurisdictional efforts.

33 (2) Each grant applicant shall:

34 (a) Show a significant metal theft problem in the jurisdiction or
35 jurisdictions receiving the grant;

36 (b) Verify that grant awards are sufficient to cover increased
37 investigation, prosecution, and jail costs;

1 (c) Design an enforcement program that best suits the specific
2 metal theft problem in the jurisdiction or jurisdictions receiving the
3 grant;

4 (d) Demonstrate community coordination focusing on prevention,
5 intervention, and suppression; and

6 (e) Collect data on performance.

7 (3) The cost of administering the grants shall not exceed sixty
8 thousand dollars, or three percent of appropriated funding, whichever
9 is greater.

10 (4) Grant awards may not be used to supplant preexisting funding
11 sources for special enforcement targeting metal theft.

12 NEW SECTION. **Sec. 25.** A new section is added to chapter 19.290
13 RCW to read as follows:

14 (1) Law enforcement agencies may register with the scrap theft
15 alert system that is maintained and provided at no charge to users by
16 the institute of scrap recycling industries, incorporated, or its
17 successor organization, to receive alerts regarding thefts of private,
18 nonferrous, or commercial metal property in the relevant geographic
19 area.

20 (2) Any business licensed under this chapter shall:

21 (a) Sign up with the scrap theft alert system that is maintained
22 and provided at no charge to users by the institute of scrap recycling
23 industries, incorporated, or its successor organization, to receive
24 alerts regarding thefts of private, nonferrous, or commercial metal
25 property in the relevant geographic area;

26 (b) Download the scrap metal theft alerts generated by the scrap
27 theft alert system on a daily basis;

28 (c) Use the alerts to identify potentially stolen commercial metal
29 property, nonferrous metal property, and private metal property; and

30 (d) Maintain for ninety days copies of any theft alerts received
31 and downloaded pursuant to this section.

32 **Sec. 26.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are
33 each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN
EACH SERIOUSNESS LEVEL

XVI	Aggravated Murder 1 (RCW 10.95.020)
XV	Homicide by abuse (RCW 9A.32.055) Malicious explosion 1 (RCW 70.74.280(1)) Murder 1 (RCW 9A.32.030)
XIV	Murder 2 (RCW 9A.32.050) Trafficking 1 (RCW 9A.40.100(1))
XIII	Malicious explosion 2 (RCW 70.74.280(2)) Malicious placement of an explosive 1 (RCW 70.74.270(1))
XII	Assault 1 (RCW 9A.36.011) Assault of a Child 1 (RCW 9A.36.120) Malicious placement of an imitation device 1 (RCW 70.74.272(1)(a)) Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101) Rape 1 (RCW 9A.44.040) Rape of a Child 1 (RCW 9A.44.073) Trafficking 2 (RCW 9A.40.100(2))
XI	Manslaughter 1 (RCW 9A.32.060) Rape 2 (RCW 9A.44.050) Rape of a Child 2 (RCW 9A.44.076) Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)
X	Child Molestation 1 (RCW 9A.44.083) Criminal Mistreatment 1 (RCW 9A.42.020) Indecent Liberties (with forcible compulsion) (RCW 9A.44.100(1)(a))

1 Kidnapping 1 (RCW 9A.40.020)
2 Leading Organized Crime (RCW
3 9A.82.060(1)(a))
4 Malicious explosion 3 (RCW
5 70.74.280(3))
6 Sexually Violent Predator Escape
7 (RCW 9A.76.115)
8 IX Abandonment of Dependent Person 1
9 (RCW 9A.42.060)
10 Assault of a Child 2 (RCW 9A.36.130)
11 Explosive devices prohibited (RCW
12 70.74.180)
13 Hit and Run--Death (RCW
14 46.52.020(4)(a))
15 Homicide by Watercraft, by being
16 under the influence of intoxicating
17 liquor or any drug (RCW
18 79A.60.050)
19 Inciting Criminal Profiteering (RCW
20 9A.82.060(1)(b))
21 Malicious placement of an explosive 2
22 (RCW 70.74.270(2))
23 Robbery 1 (RCW 9A.56.200)
24 Sexual Exploitation (RCW 9.68A.040)
25 VIII Arson 1 (RCW 9A.48.020)
26 Commercial Sexual Abuse of a Minor
27 (RCW 9.68A.100)
28 Homicide by Watercraft, by the
29 operation of any vessel in a
30 reckless manner (RCW
31 79A.60.050)
32 Manslaughter 2 (RCW 9A.32.070)
33 Promoting Prostitution 1 (RCW
34 9A.88.070)
35 Theft of Ammonia (RCW 69.55.010)

1 Vehicular Homicide, by the operation
2 of any vehicle in a reckless manner
3 (RCW 46.61.520)

4 VII Burglary 1 (RCW 9A.52.020)
5 Child Molestation 2 (RCW 9A.44.086)
6 Civil Disorder Training (RCW
7 9A.48.120)
8 Dealing in depictions of minor engaged
9 in sexually explicit conduct 1
10 (RCW 9.68A.050(1))
11 Drive-by Shooting (RCW 9A.36.045)
12 Homicide by Watercraft, by disregard
13 for the safety of others (RCW
14 79A.60.050)
15 Indecent Liberties (without forcible
16 compulsion) (RCW 9A.44.100(1)
17 (b) and (c))
18 Introducing Contraband 1 (RCW
19 9A.76.140)
20 Malicious placement of an explosive 3
21 (RCW 70.74.270(3))
22 Negligently Causing Death By Use of a
23 Signal Preemption Device (RCW
24 46.37.675)
25 Sending, bringing into state depictions
26 of minor engaged in sexually
27 explicit conduct 1 (RCW
28 9.68A.060(1))
29 Unlawful Possession of a Firearm in
30 the first degree (RCW 9.41.040(1))
31 Use of a Machine Gun in Commission
32 of a Felony (RCW 9.41.225)
33 Vehicular Homicide, by disregard for
34 the safety of others (RCW
35 46.61.520)

36 VI Bail Jumping with Murder 1 (RCW
37 9A.76.170(3)(a))

1 Bribery (RCW 9A.68.010)
2 Incest 1 (RCW 9A.64.020(1))
3 Intimidating a Judge (RCW 9A.72.160)
4 Intimidating a Juror/Witness (RCW
5 9A.72.110, 9A.72.130)
6 Malicious placement of an imitation
7 device 2 (RCW 70.74.272(1)(b))
8 Possession of Depictions of a Minor
9 Engaged in Sexually Explicit
10 Conduct 1 (RCW 9.68A.070(1))
11 Rape of a Child 3 (RCW 9A.44.079)
12 Theft of a Firearm (RCW 9A.56.300)
13 Unlawful Storage of Ammonia (RCW
14 69.55.020)
15 V Abandonment of Dependent Person 2
16 (RCW 9A.42.070)
17 Advancing money or property for
18 extortionate extension of credit
19 (RCW 9A.82.030)
20 Bail Jumping with class A Felony
21 (RCW 9A.76.170(3)(b))
22 Child Molestation 3 (RCW 9A.44.089)
23 Criminal Mistreatment 2 (RCW
24 9A.42.030)
25 Custodial Sexual Misconduct 1 (RCW
26 9A.44.160)
27 Dealing in Depictions of Minor
28 Engaged in Sexually Explicit
29 Conduct 2 (RCW 9.68A.050(2))
30 Domestic Violence Court Order
31 Violation (RCW 10.99.040,
32 10.99.050, 26.09.300, 26.10.220,
33 26.26.138, 26.50.110, 26.52.070,
34 or 74.34.145)
35 Driving While Under the Influence
36 (RCW 46.61.502(6))
37 Extortion 1 (RCW 9A.56.120)

1 Extortionate Extension of Credit (RCW
2 9A.82.020)
3 Extortionate Means to Collect
4 Extensions of Credit (RCW
5 9A.82.040)
6 Incest 2 (RCW 9A.64.020(2))
7 Kidnapping 2 (RCW 9A.40.030)
8 Perjury 1 (RCW 9A.72.020)
9 Persistent prison misbehavior (RCW
10 9.94.070)
11 Physical Control of a Vehicle While
12 Under the Influence (RCW
13 46.61.504(6))
14 Possession of a Stolen Firearm (RCW
15 9A.56.310)
16 Rape 3 (RCW 9A.44.060)
17 Rendering Criminal Assistance 1
18 (RCW 9A.76.070)
19 Sending, Bringing into State Depictions
20 of Minor Engaged in Sexually
21 Explicit Conduct 2 (RCW
22 9.68A.060(2))
23 Sexual Misconduct with a Minor 1
24 (RCW 9A.44.093)
25 Sexually Violating Human Remains
26 (RCW 9A.44.105)
27 Stalking (RCW 9A.46.110)
28 Taking Motor Vehicle Without
29 Permission 1 (RCW 9A.56.070)
30 IV Arson 2 (RCW 9A.48.030)
31 Assault 2 (RCW 9A.36.021)
32 Assault 3 (of a Peace Officer with a
33 Projectile Stun Gun) (RCW
34 9A.36.031(1)(h))
35 Assault by Watercraft (RCW
36 79A.60.060)

1 Bribing a Witness/Bribe Received by
2 Witness (RCW 9A.72.090,
3 9A.72.100)
4 Cheating 1 (RCW 9.46.1961)
5 Commercial Bribery (RCW 9A.68.060)
6 Counterfeiting (RCW 9.16.035(4))
7 Endangerment with a Controlled
8 Substance (RCW 9A.42.100)
9 Escape 1 (RCW 9A.76.110)
10 Hit and Run--Injury (RCW
11 46.52.020(4)(b))
12 Hit and Run with Vessel--Injury
13 Accident (RCW 79A.60.200(3))
14 Identity Theft 1 (RCW 9.35.020(2))
15 Indecent Exposure to Person Under
16 Age Fourteen (subsequent sex
17 offense) (RCW 9A.88.010)
18 Influencing Outcome of Sporting Event
19 (RCW 9A.82.070)
20 Malicious Harassment (RCW
21 9A.36.080)
22 Possession of Depictions of a Minor
23 Engaged in Sexually Explicit
24 Conduct 2 (RCW 9.68A.070(2))
25 Residential Burglary (RCW
26 9A.52.025)
27 Robbery 2 (RCW 9A.56.210)
28 Theft of Livestock 1 (RCW 9A.56.080)
29 Threats to Bomb (RCW 9.61.160)
30 Trafficking in Stolen Property 1 (RCW
31 9A.82.050)
32 Unlawful factoring of a credit card or
33 payment card transaction (RCW
34 9A.56.290(4)(b))
35 Unlawful transaction of health
36 coverage as a health care service
37 contractor (RCW 48.44.016(3))

1 Unlawful transaction of health
2 coverage as a health maintenance
3 organization (RCW 48.46.033(3))
4 Unlawful transaction of insurance
5 business (RCW 48.15.023(3))
6 Unlicensed practice as an insurance
7 professional (RCW 48.17.063(2))
8 Use of Proceeds of Criminal
9 Profiteering (RCW 9A.82.080 (1)
10 and (2))
11 Vehicular Assault, by being under the
12 influence of intoxicating liquor or
13 any drug, or by the operation or
14 driving of a vehicle in a reckless
15 manner (RCW 46.61.522)
16 Viewing of Depictions of a Minor
17 Engaged in Sexually Explicit
18 Conduct 1 (RCW 9.68A.075(1))
19 Willful Failure to Return from
20 Furlough (RCW 72.66.060)
21 III Animal Cruelty 1 (Sexual Conduct or
22 Contact) (RCW 16.52.205(3))
23 Assault 3 (Except Assault 3 of a Peace
24 Officer With a Projectile Stun
25 Gun) (RCW 9A.36.031 except
26 subsection (1)(h))
27 Assault of a Child 3 (RCW 9A.36.140)
28 Bail Jumping with class B or C Felony
29 (RCW 9A.76.170(3)(c))
30 Burglary 2 (RCW 9A.52.030)
31 Communication with a Minor for
32 Immoral Purposes (RCW
33 9.68A.090)
34 Criminal Gang Intimidation (RCW
35 9A.46.120)
36 Custodial Assault (RCW 9A.36.100)

1 Cyberstalking (subsequent conviction
2 or threat of death) (RCW
3 9.61.260(3))
4 Escape 2 (RCW 9A.76.120)
5 Extortion 2 (RCW 9A.56.130)
6 Harassment (RCW 9A.46.020)
7 Intimidating a Public Servant (RCW
8 9A.76.180)
9 Introducing Contraband 2 (RCW
10 9A.76.150)
11 Malicious Injury to Railroad Property
12 (RCW 81.60.070)
13 Mortgage Fraud (RCW 19.144.080)
14 Negligently Causing Substantial Bodily
15 Harm By Use of a Signal
16 Preemption Device (RCW
17 46.37.674)
18 Organized Retail Theft 1 (RCW
19 9A.56.350(2))
20 Perjury 2 (RCW 9A.72.030)
21 Possession of Incendiary Device (RCW
22 9.40.120)
23 Possession of Machine Gun or Short-
24 Barreled Shotgun or Rifle (RCW
25 9.41.190)
26 Promoting Prostitution 2 (RCW
27 9A.88.080)
28 Retail Theft with Extenuating
29 Circumstances 1 (RCW
30 9A.56.360(2))
31 Securities Act violation (RCW
32 21.20.400)
33 Tampering with a Witness (RCW
34 9A.72.120)
35 Telephone Harassment (subsequent
36 conviction or threat of death)
37 (RCW 9.61.230(2))

1 Theft of Livestock 2 (RCW 9A.56.083)
2 Theft with the Intent to Resell 1 (RCW
3 9A.56.340(2))
4 Trafficking in Stolen Property 2 (RCW
5 9A.82.055)
6 Unlawful Hunting of Big Game 1
7 (RCW 77.15.410(3)(b))
8 Unlawful Imprisonment (RCW
9 9A.40.040)
10 Unlawful possession of firearm in the
11 second degree (RCW 9A.41.040(2))
12 Unlawful Taking of Endangered Fish
13 or Wildlife 1 (RCW
14 77.15.120(3)(b))
15 Unlawful Trafficking in Fish, Shellfish,
16 or Wildlife 1 (RCW
17 77.15.260(3)(b))
18 Unlawful Use of a Nondesignated
19 Vessel (RCW 77.15.530(4))
20 Vehicular Assault, by the operation or
21 driving of a vehicle with disregard
22 for the safety of others (RCW
23 46.61.522)
24 Willful Failure to Return from Work
25 Release (RCW 72.65.070)
26 II Commercial Fishing Without a License
27 1 (RCW 77.15.500(3)(b))
28 Computer Trespass 1 (RCW
29 9A.52.110)
30 Counterfeiting (RCW 9.16.035(3))
31 Engaging in Fish Dealing Activity
32 Unlicensed 1 (RCW 77.15.620(3))
33 Escape from Community Custody
34 (RCW 72.09.310)
35 Failure to Register as a Sex Offender
36 (second or subsequent offense)
37 (RCW 9A.44.132)

1 Health Care False Claims (RCW
2 48.80.030)
3 Identity Theft 2 (RCW 9.35.020(3))
4 Improperly Obtaining Financial
5 Information (RCW 9.35.010)
6 Malicious Mischief 1 (RCW
7 9A.48.070)
8 Organized Retail Theft 2 (RCW
9 9A.56.350(3))
10 Possession of Stolen Property 1 (RCW
11 9A.56.150)
12 Possession of a Stolen Vehicle (RCW
13 9A.56.068)
14 Retail Theft with Extenuating
15 Circumstances 2 (RCW
16 9A.56.360(3))
17 Scrap Processing, Recycling, or
18 Supplying Without a License
19 (second or subsequent offense)
20 (section 12 of this act)
21 Theft 1 (RCW 9A.56.030)
22 Theft of a Motor Vehicle (RCW
23 9A.56.065)
24 Theft of Rental, Leased, or Lease-
25 purchased Property (valued at one
26 thousand five hundred dollars or
27 more) (RCW 9A.56.096(5)(a))
28 Theft with the Intent to Resell 2 (RCW
29 9A.56.340(3))
30 Trafficking in Insurance Claims (RCW
31 48.30A.015)
32 Unlawful factoring of a credit card or
33 payment card transaction (RCW
34 9A.56.290(4)(a))
35 Unlawful Participation of Non-Indians
36 in Indian Fishery (RCW
37 77.15.570(2))

1 Unlawful Practice of Law (RCW
2 2.48.180)
3 Unlicensed Practice of a Profession or
4 Business (RCW 18.130.190(7))
5 Unlawful Purchase or Use of a License
6 (RCW 77.15.650(3)(b))
7 Unlawful Trafficking in Fish, Shellfish,
8 or Wildlife 2 (RCW
9 77.15.260(3)(a))
10 Voyeurism (RCW 9A.44.115)
11 I Attempting to Elude a Pursuing Police
12 Vehicle (RCW 46.61.024)
13 False Verification for Welfare (RCW
14 74.08.055)
15 Forgery (RCW 9A.60.020)
16 Fraudulent Creation or Revocation of a
17 Mental Health Advance Directive
18 (RCW 9A.60.060)
19 Malicious Mischief 2 (RCW
20 9A.48.080)
21 Mineral Trespass (RCW 78.44.330)
22 Possession of Stolen Property 2 (RCW
23 9A.56.160)
24 Reckless Burning 1 (RCW 9A.48.040)
25 Spotlighting Big Game 1 (RCW
26 77.15.450(3)(b))
27 Suspension of Department Privileges 1
28 (RCW 77.15.670(3)(b))
29 Taking Motor Vehicle Without
30 Permission 2 (RCW 9A.56.075)
31 Theft 2 (RCW 9A.56.040)
32 Theft of Rental, Leased, or Lease-
33 purchased Property (valued at two
34 hundred fifty dollars or more but
35 less than one thousand five
36 hundred dollars) (RCW
37 9A.56.096(5)(b))

1 Transaction of insurance business
2 beyond the scope of licensure
3 (RCW 48.17.063)
4 Unlawful Fish and Shellfish Catch
5 Accounting (RCW
6 77.15.630(3)(b))
7 Unlawful Issuance of Checks or Drafts
8 (RCW 9A.56.060)
9 Unlawful Possession of Fictitious
10 Identification (RCW 9A.56.320)
11 Unlawful Possession of Instruments of
12 Financial Fraud (RCW 9A.56.320)
13 Unlawful Possession of Payment
14 Instruments (RCW 9A.56.320)
15 Unlawful Possession of a Personal
16 Identification Device (RCW
17 9A.56.320)
18 Unlawful Production of Payment
19 Instruments (RCW 9A.56.320)
20 Unlawful Release of Deleterious Exotic
21 Wildlife (RCW 77.15.250(2)(b))
22 Unlawful Trafficking in Food Stamps
23 (RCW 9.91.142)
24 Unlawful Use of Food Stamps (RCW
25 9.91.144)
26 Unlawful Use of Net to Take Fish 1
27 (RCW 77.15.580(3)(b))
28 Unlawful Use of Prohibited Aquatic
29 Animal Species (RCW
30 77.15.253(3))
31 Vehicle Prowl 1 (RCW 9A.52.095)
32 Violating Commercial Fishing Area or
33 Time 1 (RCW 77.15.550(3)(b))

34 NEW SECTION. **Sec. 27.** A new section is added to chapter 19.290
35 RCW to read as follows:

36 (1) The following personal property is subject to seizure and
37 forfeiture and no property right exists in them: All personal property

1 including, but not limited to, any item, object, tool, substance,
2 device, weapon, machine, vehicle of any kind, money, security, or
3 negotiable instrument, which the seizing agency proves by a
4 preponderance of the evidence was used or intended to be used by its
5 owner or the person in charge to knowingly or intentionally facilitate
6 the commission of, or to knowingly or intentionally abet the commission
7 of, a crime involving theft, trafficking, or unlawful possession of
8 commercial metal property, or which the seizing agency proves by a
9 preponderance of the evidence was knowingly or intentionally furnished
10 or was intended to be furnished by any person in the commission of, as
11 a result of, or as compensation for the commission of, a crime
12 involving theft, trafficking, or the unlawful possession of commercial
13 metal property, or which the property owner acquired in whole or in
14 part with proceeds traceable to a knowing or intentional commission of
15 a crime involving the theft, trafficking, or unlawful possession of
16 commercial metal property provided that such activity is not less than
17 a class C felony; except that:

18 (a) No vehicle used by any person as a common carrier in the
19 transaction of business as a common carrier is subject to forfeiture
20 under this section unless the seizing agency proves by a preponderance
21 of the evidence that the owner or other person in charge of the vehicle
22 is a consenting party or is privy to any crime involving theft,
23 trafficking, or the unlawful possession of commercial metal property;

24 (b) A forfeiture of property encumbered by a bona fide security
25 interest is subject to the interest of the secured party if the secured
26 party neither had actual or constructive knowledge of nor consented to
27 the commission of any crime involving the theft, trafficking, or
28 unlawful possession of commercial metal property; and

29 (c) A property owner's property is not subject to seizure if an
30 employee or agent of that property owner uses the property owner's
31 property to knowingly or intentionally facilitate the commission of, or
32 to knowingly or intentionally aid and abet the commission of, a crime
33 involving theft, trafficking, or unlawful possession of commercial
34 metal property, in violation of that property owner's instructions or
35 policies against such activity, and without the property owner's
36 knowledge or consent.

37 (2) The following real property is subject to seizure and
38 forfeiture and no property right exists in them: All real property,

1 including any right, title, and interest in the whole of any lot or
2 tract of land, and any appurtenances or improvements, that the seizing
3 agency proves by a preponderance of the evidence are being used with
4 the knowledge of the owner for the intentional commission of any crime
5 involving the theft, trafficking, or unlawful possession of commercial
6 metal property, or which have been acquired in whole or in part with
7 proceeds traceable to the commission of any crime involving the
8 trafficking, theft, or unlawful possession of commercial metal, if such
9 activity is not less than a class C felony and a substantial nexus
10 exists between the commission of the violation or crime and the real
11 property. However:

12 (a) No property may be forfeited pursuant to this subsection (2),
13 to the extent of the interest of an owner, by reason of any act or
14 omission committed or omitted without the owner's actual or
15 constructive knowledge; and further, a property owner's real property
16 is not subject to seizure if an employee or agent of that property
17 owner uses the property owner's real property to knowingly or
18 intentionally facilitate the commission of, or to knowingly or
19 intentionally aid and abet the commission of, a crime involving theft,
20 trafficking, or unlawful possession of commercial metal property, in
21 violation of that property owner's instructions or policies against
22 such activity, and without the property owner's knowledge or consent;
23 and

24 (b) A forfeiture of real property encumbered by a bona fide
25 security interest is subject to the interest of the secured party if
26 the secured party, neither had actual or constructive knowledge, nor
27 consented to the act or omission.

28 (3) Property subject to forfeiture under this chapter may be seized
29 by any law enforcement officer of this state upon process issued by any
30 superior court having jurisdiction over the property. Seizure of real
31 property shall include the filing of a lis pendens by the seizing
32 agency. Real property seized under this section shall not be
33 transferred or otherwise conveyed until ninety days after seizure or
34 until a judgment of forfeiture is entered, whichever is later:
35 PROVIDED, That real property seized under this section may be
36 transferred or conveyed to any person or entity who acquires title by
37 foreclosure or deed in lieu of foreclosure of a security interest.
38 Seizure of personal property without process may be made if:

1 (a) The seizure is incident to an arrest or a search under a search
2 warrant; or

3 (b) The property subject to seizure has been the subject of a prior
4 judgment in favor of the state in a criminal injunction or forfeiture
5 proceeding.

6 (4) In the event of seizure pursuant to this section, proceedings
7 for forfeiture shall be deemed commenced by the seizure. The law
8 enforcement agency under whose authority the seizure was made shall
9 cause notice to be served within fifteen days following the seizure on
10 the owner of the property seized and the person in charge thereof and
11 any person having any known right or interest therein, including any
12 community property interest, of the seizure and intended forfeiture of
13 the seized property. Service of notice of seizure of real property
14 shall be made according to the rules of civil procedure. However, the
15 state may not obtain a default judgment with respect to real property
16 against a party who is served by substituted service absent an
17 affidavit stating that a good faith effort has been made to ascertain
18 if the defaulted party is incarcerated within the state, and that there
19 is no present basis to believe that the party is incarcerated within
20 the state. The notice of seizure of personal property may be served by
21 any method authorized by law or court rule including but not limited to
22 service by certified mail with return receipt requested. Service by
23 mail shall be deemed complete upon mailing within the fifteen day
24 period following the seizure. Notice of seizure in the case of
25 property subject to a security interest that has been perfected by
26 filing a financing statement in accordance with chapter 62A.9A RCW, or
27 a certificate of title shall be made by service upon the secured party
28 or the secured party's assignee at the address shown on the financing
29 statement or the certificate of title.

30 (5) If no person notifies the seizing law enforcement agency in
31 writing of the person's claim of ownership or right to possession of
32 items specified in subsection (1) of this section within forty-five
33 days of the seizure in the case of personal property and ninety days in
34 the case of real property, the item seized shall be deemed forfeited.
35 The community property interest in real property of a person whose
36 spouse or domestic partner committed a violation giving rise to seizure
37 of the real property may not be forfeited if the person did not
38 participate in the violation.

1 (6) If a person notifies the seizing law enforcement agency in
2 writing of the person's claim of ownership or right to possession of
3 the seized property within forty-five days of the seizure in the case
4 of personal property and ninety days in the case of real property, the
5 law enforcement agency shall give the person or persons a reasonable
6 opportunity to be heard as to the claim or right. The hearing shall be
7 before the chief law enforcement officer of the seizing agency or the
8 chief law enforcement officer's designee, except where the seizing
9 agency is a state agency as defined in RCW 34.12.020(4), the hearing
10 shall be before the chief law enforcement officer of the seizing agency
11 or an administrative law judge appointed under chapter 34.12 RCW,
12 except that any person asserting a claim or right may remove the matter
13 to a court of competent jurisdiction. Removal may only be accomplished
14 according to the rules of civil procedure. The person seeking removal
15 of the matter must serve process against the state, county, political
16 subdivision, or municipality that operates the seizing agency, and any
17 other party of interest, in accordance with RCW 4.28.080 or 4.92.020,
18 within forty-five days after the person seeking removal has notified
19 the seizing law enforcement agency of the person's claim of ownership
20 or right to possession. The court to which the matter is to be removed
21 shall be the district court when the aggregate value of the property is
22 within the jurisdictional limit set forth in RCW 3.66.020. A hearing
23 before the seizing agency and any appeal therefrom shall be under Title
24 34 RCW. In a court hearing between two or more claimants to the
25 property involved, the prevailing party shall be entitled to a judgment
26 for costs and reasonable attorneys' fees. The burden of producing
27 evidence shall be upon the person claiming to be the lawful owner or
28 the person claiming to have the lawful right to possession of the
29 property.

30 (7) At the hearing, the seizing agency has the burden of proof to
31 establish by a preponderance of the evidence that seized property is
32 subject to forfeiture, and that the use or intended use of the seized
33 property in connection with a crime pursuant to this section occurred
34 with the owner's actual or constructive knowledge or consent. The
35 person claiming to be the lawful owner or the person claiming to have
36 the lawful right to possession of the property has the burden of proof
37 to establish by a preponderance of the evidence that the person owns or
38 has a right to possess the seized property. The possession of bare

1 legal title is not sufficient to establish ownership of seized property
2 if the seizing agency proves by a preponderance of the evidence that
3 the person claiming ownership or right to possession is a nominal owner
4 and did not actually own or exert a controlling interest in the
5 property.

6 The seizing law enforcement agency shall promptly return the
7 property to the claimant upon a determination by the administrative law
8 judge or court that the claimant is the present lawful owner or is
9 lawfully entitled to possession of the property.

10 (8) When property is forfeited under this chapter, after satisfying
11 any court-ordered victim restitution, the seizing law enforcement
12 agency may:

13 (a) Retain it for official use or, upon application by any law
14 enforcement agency of this state, release such property to such agency;
15 or

16 (b) Sell that which is not required to be destroyed by law and
17 which is not harmful to the public.

18 (9)(a) Within one hundred twenty days after the entry of an order
19 of forfeiture, each seizing agency shall remit to, if known, the victim
20 of the crime involving the seized property, an amount equal to fifty
21 percent of the net proceeds of any property forfeited.

22 (b) Retained property and net proceeds not required to be paid to
23 victims shall be retained by the seizing law enforcement agency
24 exclusively for the expansion and improvement of law enforcement
25 activity. Money retained under this section may not be used to
26 supplant preexisting funding sources.

27 (c) The net proceeds of forfeited property is the value of the
28 forfeitable interest in the property after deducting the cost of
29 satisfying any bona fide security interest to which the property is
30 subject at the time of seizure; and in the case of sold property, after
31 deducting the cost of sale, including reasonable fees or commissions
32 paid to independent selling agents, and the cost of any valid
33 landlord's claim for damages.

34 (d) The value of sold forfeited property is the sale price. The
35 value of retained forfeited property is the fair market value of the
36 property at the time of seizure, determined when possible by reference
37 to an applicable commonly used index, such as the index used by the
38 department of licensing for valuation of motor vehicles. A seizing

1 agency may use, but need not use, an independent qualified appraiser to
2 determine the value of retained property. If an appraiser is used, the
3 value of the property appraised is net of the cost of the appraisal.
4 The value of destroyed property and retained firearms or illegal
5 property is zero.

6 (10) Upon the entry of an order of forfeiture of real property, the
7 court shall forward a copy of the order to the assessor of the county
8 in which the property is located. Orders for the forfeiture of real
9 property shall be entered by the superior court, subject to court
10 rules. Such an order shall be filed by the seizing agency in the
11 county auditor's records in the county in which the real property is
12 located.

13 NEW SECTION. **Sec. 28.** A new section is added to chapter 19.290
14 RCW to read as follows:

15 The provisions of this chapter shall be liberally construed to the
16 end that traffic in stolen private metal property or nonferrous metal
17 property may be prevented, and irresponsible, unreliable, or dishonest
18 persons may be prevented from engaging in the business of processing,
19 recycling, or supplying scrap metal in this state and reliable persons
20 may be encouraged to engage in businesses of processing, recycling, or
21 supplying scrap metal in this state.

22 **Sec. 29.** RCW 18.235.020 and 2010 c 179 s 18 are each amended to
23 read as follows:

24 (1) This chapter applies only to the director and the boards and
25 commissions having jurisdiction in relation to the businesses and
26 professions licensed under the chapters specified in this section.
27 This chapter does not apply to any business or profession not licensed
28 under the chapters specified in this section.

29 (2)(a) The director has authority under this chapter in relation to
30 the following businesses and professions:

- 31 (i) Auctioneers under chapter 18.11 RCW;
- 32 (ii) Bail bond agents and bail bond recovery agents under chapter
33 18.185 RCW;
- 34 (iii) Camping resorts' operators and salespersons under chapter
35 19.105 RCW;
- 36 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

1 (v) Cosmetologists, barbers, manicurists, and estheticians under
2 chapter 18.16 RCW;

3 (vi) Court reporters under chapter 18.145 RCW;

4 (vii) Driver training schools and instructors under chapter 46.82
5 RCW;

6 (viii) Employment agencies under chapter 19.31 RCW;

7 (ix) For hire vehicle operators under chapter 46.72 RCW;

8 (x) Limousines under chapter 46.72A RCW;

9 (xi) Notaries public under chapter 42.44 RCW;

10 (xii) Private investigators under chapter 18.165 RCW;

11 (xiii) Professional boxing, martial arts, and wrestling under
12 chapter 67.08 RCW;

13 (xiv) Real estate appraisers under chapter 18.140 RCW;

14 (xv) Real estate brokers and salespersons under chapters 18.85 and
15 18.86 RCW;

16 (xvi) Scrap metal processors, scrap metal recyclers, and scrap
17 metal suppliers under chapter 19.290 RCW;

18 (xvii) Security guards under chapter 18.170 RCW;

19 ~~((xvii))~~ (xviii) Sellers of travel under chapter 19.138 RCW;

20 ~~((xviii))~~ (xix) Timeshares and timeshare salespersons under
21 chapter 64.36 RCW;

22 ~~((xix))~~ (xx) Whitewater river outfitters under chapter 79A.60
23 RCW;

24 ~~((xx))~~ (xxi) Home inspectors under chapter 18.280 RCW;

25 ~~((xxi))~~ (xxii) Body artists, body piercers, and tattoo artists,
26 and body art, body piercing, and tattooing shops and businesses, under
27 chapter 18.300 RCW; and

28 ~~((xxii))~~ (xxiii) Appraisal management companies under chapter
29 18.310 RCW.

30 (b) The boards and commissions having authority under this chapter
31 are as follows:

32 (i) The state board ~~((of registration))~~ for architects established
33 in chapter 18.08 RCW;

34 (ii) The Washington state collection agency board established in
35 chapter 19.16 RCW;

36 (iii) The state board of registration for professional engineers
37 and land surveyors established in chapter 18.43 RCW governing licenses
38 issued under chapters 18.43 and 18.210 RCW;

1 (iv) The funeral and cemetery board established in chapter 18.39
2 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;

3 (v) The state board of licensure for landscape architects
4 established in chapter 18.96 RCW; and

5 (vi) The state geologist licensing board established in chapter
6 18.220 RCW.

7 (3) In addition to the authority to discipline license holders, the
8 disciplinary authority may grant or deny licenses based on the
9 conditions and criteria established in this chapter and the chapters
10 specified in subsection (2) of this section. This chapter also governs
11 any investigation, hearing, or proceeding relating to denial of
12 licensure or issuance of a license conditioned on the applicant's
13 compliance with an order entered under RCW 18.235.110 by the
14 disciplinary authority.

15 **Sec. 30.** RCW 43.24.150 and 2011 c 298 s 25 are each amended to
16 read as follows:

17 (1) The business and professions account is created in the state
18 treasury. All receipts from business or professional licenses,
19 registrations, certifications, renewals, examinations, or civil
20 penalties assessed and collected by the department from the following
21 chapters must be deposited into the account:

22 (a) Chapter 18.11 RCW, auctioneers;

23 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;

24 (c) Chapter 18.145 RCW, court reporters;

25 (d) Chapter 18.165 RCW, private investigators;

26 (e) Chapter 18.170 RCW, security guards;

27 (f) Chapter 18.185 RCW, bail bond agents;

28 (g) Chapter 18.280 RCW, home inspectors;

29 (h) Chapter 19.16 RCW, collection agencies;

30 (i) Chapter 19.31 RCW, employment agencies;

31 (j) Chapter 19.105 RCW, camping resorts;

32 (k) Chapter 19.138 RCW, sellers of travel;

33 (l) Chapter 42.44 RCW, notaries public;

34 (m) Chapter 64.36 RCW, timeshares;

35 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;

36 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;

37 (p) Chapter 79A.60 RCW, whitewater river outfitters; (~~and~~)

1 (q) Chapter 19.158 RCW, commercial telephone solicitation; and
2 (r) Chapter 19.290 RCW, scrap metal businesses.

3 Moneys in the account may be spent only after appropriation.
4 Expenditures from the account may be used only for expenses incurred in
5 carrying out these business and professions licensing activities of the
6 department. Any residue in the account must be accumulated and may not
7 revert to the general fund at the end of the biennium.

8 (2) The director must biennially prepare a budget request based on
9 the anticipated costs of administering the business and professions
10 licensing activities listed in subsection (1) of this section, which
11 must include the estimated income from these business and professions
12 fees.

13 NEW SECTION. **Sec. 31.** A new section is added to chapter 43.43 RCW
14 to read as follows:

15 (1) Beginning on July 1, 2014, when funded, the Washington
16 association of sheriffs and police chiefs shall implement and operate
17 an ongoing electronic statewide no-buy list database program.

18 (2) The database must be made available on a web site.

19 (3) The no-buy list database program shall allow for any scrap
20 metal business to enter a customer's name and date of birth into the
21 database. The database must determine if the customer pursuing the
22 transaction with the scrap metal business has been convicted in
23 Washington of any crime involving burglary, robbery, theft, or
24 possession of or receiving stolen property within the past four years.

25 (4) If the customer has been convicted of any crime involving
26 burglary, robbery, theft, or possession of or receiving stolen property
27 within the past four years despite whether the person was acting in his
28 or her own behalf or as the agent of another then, at a minimum, the
29 no-buy list database program must immediately send an alert to the
30 scrap metal business stating: (a) That the customer is listed on a
31 current no-buy list, (b) the four-year expiration period for the
32 customer's most recent crime listed, and (c) a notification that
33 entering into a transaction with the customer is prohibited under RCW
34 19.290.070.

35 NEW SECTION. **Sec. 32.** A new section is added to chapter 19.290
36 RCW to read as follows:

1 A scrap metal business shall, before completing any transaction
2 under this chapter, determine whether such customer is listed in the
3 Washington association of sheriffs and police chiefs no-buy list
4 database program established and made available under section 31 of
5 this act.

6 NEW SECTION. **Sec. 33.** A new section is added to chapter 43.43 RCW
7 to read as follows:

8 The Washington association of sheriffs and police chiefs shall not
9 be held liable for civil damages resulting from any act or omission in
10 carrying out the requirements of section 31 of this act other than an
11 act or omission constituting gross negligence or willful or wanton
12 misconduct.

13 NEW SECTION. **Sec. 34.** If specific funding for the purposes of
14 sections 31 through 33 of this act, referencing sections 31 through 33
15 of this act by bill or chapter number and section number, is not
16 provided by June 30, 2013, in the omnibus appropriations act, sections
17 31 through 33 of this act are null and void.

18 NEW SECTION. **Sec. 35.** Sections 12 through 21 and 23 of this act
19 take effect January 1, 2014.

20 NEW SECTION. **Sec. 36.** The director of the department of licensing
21 may take the necessary steps to ensure that sections 12 through 21 and
22 23 of this act are implemented on January 1, 2014."

ESHB 1552 - S COMM AMD
By Committee on Law & Justice

NOT ADOPTED 04/16/2013

23 On page 1, line 1 of the title, after "theft;" strike the remainder
24 of the title and insert "amending RCW 9A.48.100, 9A.56.030, 9A.56.040,
25 19.290.010, 19.290.020, 19.290.030, 19.290.040, 19.290.050, 19.290.060,
26 19.290.070, 19.290.090, 18.235.020, and 43.24.150; reenacting and

1 amending RCW 9.94A.515; adding new sections to chapter 19.290 RCW;
2 adding a new section to chapter 36.28A RCW; adding new sections to
3 chapter 43.43 RCW; creating new sections; prescribing penalties; and
4 providing an effective date."

EFFECT: The scrap metal business may pay up to \$30 using a stored value device or electronic funds transfer as well as cash. The balance, if over \$30, may be made at the time of the transaction using a stored value device or electronic funds transfer as well as by a nontransferable check. Records for commercial accounts must be maintained for 3 years instead of 5 years. A scrap metal business is not required to furnish bulk transcripts of all its transactions for a particular time period. Records of scrap metal transactions furnished to law enforcement are exempt from public disclosure. To recover from the bond, there must be a showing of fraud, gross negligence, or an intentional or reckless violation or misrepresentation on the part of the scrap metal business. Money received from the WASPC grant program may not be used to supplant preexisting funding sources for metal theft enforcement. Clarifies law enforcement request language.

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