

**ESHB 1552 - S AMD 288**

By Senators Padden, Kline

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 twelve  
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 request by any commissioned law enforcement officer of the  
6 state or any of its political subdivisions, every scrap metal business  
7 shall furnish a full, true, and correct transcript of the records from  
8 the purchase or receipt of private metal property, nonferrous metal  
9 property, and commercial metal property involving only a (~~specific~~)  
10 specified individual, vehicle, or item of private metal property,  
11 nonferrous metal property, or commercial metal property. This  
12 information may be transmitted within a specified time of not less than  
13 two business days to the applicable law enforcement agency  
14 electronically, by facsimile transmission, or by modem or similar  
15 device, or by delivery of computer disk subject to the requirements of,  
16 and approval by, the chief of police or the county's chief law  
17 enforcement officer.

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

20 (3) If the scrap metal business has good cause to believe that any  
21 private metal property, nonferrous metal property, or commercial metal  
22 property in his or her possession has been previously lost or stolen,  
23 the scrap metal business shall promptly report that fact to the  
24 applicable commissioned law enforcement officer of the state, the chief  
25 of police, or the county's chief law enforcement officer, together with  
26 the name of the owner, if known, and the date when and the name of the  
27 person from whom it was received.

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

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

33 (1) Following notification(~~(, either verbally or)~~) in writing(~~(, )~~)  
34 from a commissioned law enforcement officer of the state or any of its  
35 political subdivisions that an item of private metal property,  
36 nonferrous metal property, or commercial metal property has been



1 reported as stolen, a scrap metal business shall hold that property  
2 intact and safe from alteration, damage, or commingling, and shall  
3 place an identifying tag or other suitable identification upon the  
4 property. The scrap metal business shall hold the property for a  
5 period of time as directed by the applicable law enforcement agency up  
6 to a maximum of ten business days.

7 (2) A commissioned law enforcement officer of the state or any of  
8 its political subdivisions shall not place on hold any item of private  
9 metal property, nonferrous metal property, or commercial metal property  
10 unless that law enforcement agency reasonably suspects that the  
11 property is a lost or stolen item. Any hold that is placed on the  
12 property must be removed within ten business days after the property on  
13 hold is determined not to be stolen or lost and the property must be  
14 returned to the owner or released.

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

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

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

23 (2) Any scrap metal business to enter into a transaction to  
24 purchase or receive any private metal property, nonferrous metal  
25 property, or commercial metal property where the manufacturer's make,  
26 model, or serial number, personal identification number, or identifying  
27 marks engraved or etched upon the property have been deliberately and  
28 conspicuously removed, altered, or obliterated;

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

32 (4) Any scrap metal business to enter into a transaction to  
33 purchase or receive private metal property, nonferrous metal property,  
34 or commercial metal property from any person under the age of eighteen  
35 years or any person who is discernibly under the influence of  
36 intoxicating liquor or drugs;

1 (5) Any scrap metal business to enter into a transaction to  
2 purchase or receive private metal property, nonferrous metal property,  
3 or commercial metal property with anyone whom the scrap metal business  
4 has been informed by a law enforcement agency to have been convicted of  
5 a crime involving drugs, burglary, robbery, theft, or possession of or  
6 receiving stolen property, manufacturing, delivering, or possessing  
7 with intent to deliver methamphetamine, or possession of ephedrine or  
8 any of its salts or isomers or salts of isomers, pseudoephedrine or any  
9 of its salts or isomers or salts of isomers, or anhydrous ammonia with  
10 intent to manufacture methamphetamine within the past (~~ten~~) four  
11 years whether the person is acting in his or her own behalf or as the  
12 agent of another;

13 (6) Any person to sign the declaration required under RCW  
14 19.290.020 knowing that the private metal property or nonferrous metal  
15 property subject to the transaction is stolen. The signature of a  
16 person on the declaration required under RCW 19.290.020 constitutes  
17 evidence of intent to defraud a scrap metal business if that person is  
18 found to have known that the private metal property or nonferrous metal  
19 property subject to the transaction was stolen;

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

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

26 (9) Any person to knowingly make a false or fictitious oral or  
27 written statement or to furnish or exhibit any false, fictitious, or  
28 misrepresented identification, with the intent to deceive a scrap metal  
29 business as to the actual seller of the scrap metal.

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

32 The provisions of this chapter do not apply to transactions  
33 involving metal from the components of vehicles acquired by vehicle  
34 wreckers, hulk haulers, or scrap processors licensed under chapter  
35 46.79 or 46.80 RCW, and acquired in accordance with those laws or  
36 transactions conducted by the following:

37 (1) Motor vehicle dealers licensed under chapter 46.70 RCW;

1           (2) (~~Metal from the components of vehicles acquired by vehicle~~  
2 ~~wreckers or hulk haulers licensed under chapter 46.79 or 46.80 RCW, and~~  
3 ~~acquired in accordance with those laws;~~

4           ~~(3))~~ Persons in the business of operating an automotive repair  
5 facility as defined under RCW 46.71.011; and

6           ~~((4))~~ (3) Persons in the business of buying or selling empty food  
7 and beverage containers, including metal food and beverage containers.

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

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

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

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

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

19           Application for a scrap metal license or renewal of a scrap metal  
20 license shall be made on a form for this purpose, furnished by the  
21 department of licensing, and shall be signed by the license holder or  
22 his or her authorized agent and shall include the following  
23 information:

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

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

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

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

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

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

8 (4) Any other information that the department of licensing may  
9 require.

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

12 The application, together with the required fee, shall be forwarded  
13 to the department of licensing. Upon receipt of the application the  
14 department shall, if the application is in order, issue a scrap metal  
15 license authorizing the processor, recycler, or supplier to do business  
16 as such and forward the fee to the state treasurer. Upon receiving the  
17 certificate, the owner shall cause it to be prominently displayed in  
18 the place of business, where it may be inspected by an investigating  
19 officer at any time. Every license must be issued in the name of the  
20 applicant and the holder thereof may not allow any other person to use  
21 the license.

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

24 Before issuing a scrap metal license to a scrap metal processor or  
25 scrap metal recycler, the department of licensing shall require the  
26 applicant to file with the department a surety bond in the amount of  
27 ten thousand dollars, running to the state of Washington, and executed  
28 by a surety company authorized to do business in the state of  
29 Washington. The bond shall be approved as to form by the attorney  
30 general and conditioned upon the licensee conducting the business in  
31 conformity with the provisions of this chapter. Except as prohibited  
32 elsewhere in this chapter, any person who has suffered loss or damage  
33 by reason of fraud or gross negligence, or an intentional or reckless  
34 violation of the terms of this chapter, or misrepresentation on the  
35 part of the scrap metal processor or recycler, may institute an action

1 for recovery against the licensee and surety upon the bond. However,  
2 the aggregate liability of the surety to all persons shall in no event  
3 exceed the amount of the bond.

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

6 A license issued on the scrap metal license application remains in  
7 force until suspended or revoked and may be renewed annually upon  
8 reapplication and upon payment of the required fee. A licensee who  
9 fails or neglects to renew the license before the assigned expiration  
10 date shall pay the fee for an original scrap metal license as provided  
11 in this chapter.

12 Whenever a scrap metal processor, recycler, or supplier ceases to  
13 do business as such or the license has been suspended or revoked, the  
14 licensee shall immediately surrender the license to the department of  
15 licensing.

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

18 The licensee shall obtain a special set of license plates in  
19 addition to the regular licenses and plates required for the operation  
20 of such vehicles. The special plates must be displayed on vehicles  
21 owned and/or operated by the licensee and used in the conduct of the  
22 business. The fee for these plates shall be five dollars for the  
23 original plates and two dollars for each additional set of plates  
24 bearing the same license number. A licensee with more than one  
25 licensed location in the state may use special plates bearing the same  
26 license number for vehicles operated out of any of the licensed  
27 locations.

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

30 The uniform regulation of business and professions act, chapter  
31 18.235 RCW, governs unlicensed practice, the issuance and denial of  
32 licenses, and the discipline of licensees under this chapter.

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

1           If a person whose scrap metal license has previously been canceled  
2 for cause by the department of licensing files an application for a  
3 license to conduct business as a scrap metal processor, recycler, or  
4 supplier, or if the department is of the opinion that the application  
5 is not filed in good faith or that the application is filed by some  
6 person as a subterfuge for the real person in interest whose license  
7 has previously been canceled for cause, the department may refuse to  
8 issue the person a license to conduct business as a scrap metal  
9 processor, recycler, or supplier.

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

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

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

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

19           The chiefs of police, the county sheriffs, and the Washington state  
20 patrol may make periodic inspection of the licensee's licensed premises  
21 and records provided for in this chapter during normal business hours,  
22 and furnish a certificate of inspection to the department of licensing  
23 in such manner as may be determined by the department. In any  
24 instance, an authorized representative of the department may make the  
25 inspection. Licensees are subject to unannounced periodic inspections,  
26 as described in this section.

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

29           The state of Washington hereby fully occupies and preempts the  
30 entire field of regulation of scrap metal processors, recyclers, or  
31 suppliers within the boundaries of the state. Any political  
32 subdivision in this state may enact or enforce only those laws and  
33 ordinances relating to the regulation of scrap metal processors,  
34 recyclers, or suppliers that are specifically authorized by state law  
35 and are consistent with this chapter. Nothing in this chapter is

1 intended to limit the authority of any political subdivision to impose  
2 generally applicable zoning, land use, permitting, general business  
3 licensing, environmental, and health and safety requirements or  
4 authorized business taxes upon scrap metal processors, recyclers, or  
5 suppliers within their jurisdictions. Local ordinances pertaining  
6 specifically to scrap metal processors, recyclers, or suppliers shall  
7 have the same or lesser penalty as provided for by state law. Local  
8 scrap metal laws and ordinances that are inconsistent with, more  
9 restrictive than, or exceed the requirements of state law shall not be  
10 enacted and are hereby preempted and repealed, regardless of the code,  
11 charter, or home rule status of such political subdivision.

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

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

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

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

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

- 31 (i) State that an order is sought pursuant to this subsection;  
32 (ii) Adequately specify the records, documents, or testimony; and  
33 (iii) Declare under oath that an investigation is being conducted  
34 for a lawfully authorized purpose related to an investigation within  
35 the department's authority and that the subpoenaed documents or  
36 testimony are reasonably related to an investigation within the  
37 department's authority.

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

5 (c) Any authorized representative of the director of the department  
6 of licensing may seek approval and a court may issue an order under  
7 this subsection without prior notice to any person, including the  
8 person to whom the subpoena is directed and the person who is the  
9 subject of an investigation.

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

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

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

20 (2) Each grant applicant shall:

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

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

25 (c) Design an enforcement program that best suits the specific  
26 metal theft problem in the jurisdiction or jurisdictions receiving the  
27 grant;

28 (d) Demonstrate community coordination focusing on prevention,  
29 intervention, and suppression; and

30 (e) Collect data on performance.

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

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



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

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

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

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

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

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

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

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

23 TABLE 2  
24 CRIMES INCLUDED WITHIN  
25 EACH SERIOUSNESS LEVEL

26	XVI	Aggravated Murder 1 (RCW
27		10.95.020)
28	XV	Homicide by abuse (RCW 9A.32.055)
29		Malicious explosion 1 (RCW
30		70.74.280(1))
31		Murder 1 (RCW 9A.32.030)
32	XIV	Murder 2 (RCW 9A.32.050)
33		Trafficking 1 (RCW 9A.40.100(1))
34	XIII	Malicious explosion 2 (RCW
35		70.74.280(2))

1 Malicious placement of an explosive 1  
2 (RCW 70.74.270(1))  
3 XII Assault 1 (RCW 9A.36.011)  
4 Assault of a Child 1 (RCW 9A.36.120)  
5 Malicious placement of an imitation  
6 device 1 (RCW 70.74.272(1)(a))  
7 Promoting Commercial Sexual Abuse  
8 of a Minor (RCW 9.68A.101)  
9 Rape 1 (RCW 9A.44.040)  
10 Rape of a Child 1 (RCW 9A.44.073)  
11 Trafficking 2 (RCW 9A.40.100(2))  
12 XI Manslaughter 1 (RCW 9A.32.060)  
13 Rape 2 (RCW 9A.44.050)  
14 Rape of a Child 2 (RCW 9A.44.076)  
15 Vehicular Homicide, by being under  
16 the influence of intoxicating liquor  
17 or any drug (RCW 46.61.520)  
18 X Child Molestation 1 (RCW 9A.44.083)  
19 Criminal Mistreatment 1 (RCW  
20 9A.42.020)  
21 Indecent Liberties (with forcible  
22 compulsion) (RCW  
23 9A.44.100(1)(a))  
24 Kidnapping 1 (RCW 9A.40.020)  
25 Leading Organized Crime (RCW  
26 9A.82.060(1)(a))  
27 Malicious explosion 3 (RCW  
28 70.74.280(3))  
29 Sexually Violent Predator Escape  
30 (RCW 9A.76.115)  
31 IX Abandonment of Dependent Person 1  
32 (RCW 9A.42.060)  
33 Assault of a Child 2 (RCW 9A.36.130)  
34 Explosive devices prohibited (RCW  
35 70.74.180)  
36 Hit and Run--Death (RCW  
37 46.52.020(4)(a))

1 Homicide by Watercraft, by being  
2 under the influence of intoxicating  
3 liquor or any drug (RCW  
4 79A.60.050)  
5 Inciting Criminal Profiteering (RCW  
6 9A.82.060(1)(b))  
7 Malicious placement of an explosive 2  
8 (RCW 70.74.270(2))  
9 Robbery 1 (RCW 9A.56.200)  
10 Sexual Exploitation (RCW 9.68A.040)  
11 VIII Arson 1 (RCW 9A.48.020)  
12 Commercial Sexual Abuse of a Minor  
13 (RCW 9.68A.100)  
14 Homicide by Watercraft, by the  
15 operation of any vessel in a  
16 reckless manner (RCW  
17 79A.60.050)  
18 Manslaughter 2 (RCW 9A.32.070)  
19 Promoting Prostitution 1 (RCW  
20 9A.88.070)  
21 Theft of Ammonia (RCW 69.55.010)  
22 Vehicular Homicide, by the operation  
23 of any vehicle in a reckless manner  
24 (RCW 46.61.520)  
25 VII Burglary 1 (RCW 9A.52.020)  
26 Child Molestation 2 (RCW 9A.44.086)  
27 Civil Disorder Training (RCW  
28 9A.48.120)  
29 Dealing in depictions of minor engaged  
30 in sexually explicit conduct 1  
31 (RCW 9.68A.050(1))  
32 Drive-by Shooting (RCW 9A.36.045)  
33 Homicide by Watercraft, by disregard  
34 for the safety of others (RCW  
35 79A.60.050)

1 Indecent Liberties (without forcible  
2 compulsion) (RCW 9A.44.100(1)  
3 (b) and (c))  
4 Introducing Contraband 1 (RCW  
5 9A.76.140)  
6 Malicious placement of an explosive 3  
7 (RCW 70.74.270(3))  
8 Negligently Causing Death By Use of a  
9 Signal Preemption Device (RCW  
10 46.37.675)  
11 Sending, bringing into state depictions  
12 of minor engaged in sexually  
13 explicit conduct 1 (RCW  
14 9.68A.060(1))  
15 Unlawful Possession of a Firearm in  
16 the first degree (RCW 9.41.040(1))  
17 Use of a Machine Gun in Commission  
18 of a Felony (RCW 9.41.225)  
19 Vehicular Homicide, by disregard for  
20 the safety of others (RCW  
21 46.61.520)  
22 VI Bail Jumping with Murder 1 (RCW  
23 9A.76.170(3)(a))  
24 Bribery (RCW 9A.68.010)  
25 Incest 1 (RCW 9A.64.020(1))  
26 Intimidating a Judge (RCW 9A.72.160)  
27 Intimidating a Juror/Witness (RCW  
28 9A.72.110, 9A.72.130)  
29 Malicious placement of an imitation  
30 device 2 (RCW 70.74.272(1)(b))  
31 Possession of Depictions of a Minor  
32 Engaged in Sexually Explicit  
33 Conduct 1 (RCW 9.68A.070(1))  
34 Rape of a Child 3 (RCW 9A.44.079)  
35 Theft of a Firearm (RCW 9A.56.300)  
36 Unlawful Storage of Ammonia (RCW  
37 69.55.020)

1 V Abandonment of Dependent Person 2  
2 (RCW 9A.42.070)  
3 Advancing money or property for  
4 extortionate extension of credit  
5 (RCW 9A.82.030)  
6 Bail Jumping with class A Felony  
7 (RCW 9A.76.170(3)(b))  
8 Child Molestation 3 (RCW 9A.44.089)  
9 Criminal Mistreatment 2 (RCW  
10 9A.42.030)  
11 Custodial Sexual Misconduct 1 (RCW  
12 9A.44.160)  
13 Dealing in Depictions of Minor  
14 Engaged in Sexually Explicit  
15 Conduct 2 (RCW 9.68A.050(2))  
16 Domestic Violence Court Order  
17 Violation (RCW 10.99.040,  
18 10.99.050, 26.09.300, 26.10.220,  
19 26.26.138, 26.50.110, 26.52.070,  
20 or 74.34.145)  
21 Driving While Under the Influence  
22 (RCW 46.61.502(6))  
23 Extortion 1 (RCW 9A.56.120)  
24 Extortionate Extension of Credit (RCW  
25 9A.82.020)  
26 Extortionate Means to Collect  
27 Extensions of Credit (RCW  
28 9A.82.040)  
29 Incest 2 (RCW 9A.64.020(2))  
30 Kidnapping 2 (RCW 9A.40.030)  
31 Perjury 1 (RCW 9A.72.020)  
32 Persistent prison misbehavior (RCW  
33 9.94.070)  
34 Physical Control of a Vehicle While  
35 Under the Influence (RCW  
36 46.61.504(6))

1 Possession of a Stolen Firearm (RCW  
2 9A.56.310)  
3 Rape 3 (RCW 9A.44.060)  
4 Rendering Criminal Assistance 1  
5 (RCW 9A.76.070)  
6 Sending, Bringing into State Depictions  
7 of Minor Engaged in Sexually  
8 Explicit Conduct 2 (RCW  
9 9.68A.060(2))  
10 Sexual Misconduct with a Minor 1  
11 (RCW 9A.44.093)  
12 Sexually Violating Human Remains  
13 (RCW 9A.44.105)  
14 Stalking (RCW 9A.46.110)  
15 Taking Motor Vehicle Without  
16 Permission 1 (RCW 9A.56.070)  
17 IV Arson 2 (RCW 9A.48.030)  
18 Assault 2 (RCW 9A.36.021)  
19 Assault 3 (of a Peace Officer with a  
20 Projectile Stun Gun) (RCW  
21 9A.36.031(1)(h))  
22 Assault by Watercraft (RCW  
23 79A.60.060)  
24 Bribing a Witness/Bribe Received by  
25 Witness (RCW 9A.72.090,  
26 9A.72.100)  
27 Cheating 1 (RCW 9.46.1961)  
28 Commercial Bribery (RCW 9A.68.060)  
29 Counterfeiting (RCW 9.16.035(4))  
30 Endangerment with a Controlled  
31 Substance (RCW 9A.42.100)  
32 Escape 1 (RCW 9A.76.110)  
33 Hit and Run--Injury (RCW  
34 46.52.020(4)(b))  
35 Hit and Run with Vessel--Injury  
36 Accident (RCW 79A.60.200(3))  
37 Identity Theft 1 (RCW 9.35.020(2))

1 Indecent Exposure to Person Under  
2 Age Fourteen (subsequent sex  
3 offense) (RCW 9A.88.010)  
4 Influencing Outcome of Sporting Event  
5 (RCW 9A.82.070)  
6 Malicious Harassment (RCW  
7 9A.36.080)  
8 Possession of Depictions of a Minor  
9 Engaged in Sexually Explicit  
10 Conduct 2 (RCW 9.68A.070(2))  
11 Residential Burglary (RCW  
12 9A.52.025)  
13 Robbery 2 (RCW 9A.56.210)  
14 Theft of Livestock 1 (RCW 9A.56.080)  
15 Threats to Bomb (RCW 9.61.160)  
16 Trafficking in Stolen Property 1 (RCW  
17 9A.82.050)  
18 Unlawful factoring of a credit card or  
19 payment card transaction (RCW  
20 9A.56.290(4)(b))  
21 Unlawful transaction of health  
22 coverage as a health care service  
23 contractor (RCW 48.44.016(3))  
24 Unlawful transaction of health  
25 coverage as a health maintenance  
26 organization (RCW 48.46.033(3))  
27 Unlawful transaction of insurance  
28 business (RCW 48.15.023(3))  
29 Unlicensed practice as an insurance  
30 professional (RCW 48.17.063(2))  
31 Use of Proceeds of Criminal  
32 Profiteering (RCW 9A.82.080 (1)  
33 and (2))

1 Vehicular Assault, by being under the  
2 influence of intoxicating liquor or  
3 any drug, or by the operation or  
4 driving of a vehicle in a reckless  
5 manner (RCW 46.61.522)  
6 Viewing of Depictions of a Minor  
7 Engaged in Sexually Explicit  
8 Conduct 1 (RCW 9.68A.075(1))  
9 Willful Failure to Return from  
10 Furlough (RCW 72.66.060)  
11 III Animal Cruelty 1 (Sexual Conduct or  
12 Contact) (RCW 16.52.205(3))  
13 Assault 3 (Except Assault 3 of a Peace  
14 Officer With a Projectile Stun  
15 Gun) (RCW 9A.36.031 except  
16 subsection (1)(h))  
17 Assault of a Child 3 (RCW 9A.36.140)  
18 Bail Jumping with class B or C Felony  
19 (RCW 9A.76.170(3)(c))  
20 Burglary 2 (RCW 9A.52.030)  
21 Communication with a Minor for  
22 Immoral Purposes (RCW  
23 9.68A.090)  
24 Criminal Gang Intimidation (RCW  
25 9A.46.120)  
26 Custodial Assault (RCW 9A.36.100)  
27 Cyberstalking (subsequent conviction  
28 or threat of death) (RCW  
29 9.61.260(3))  
30 Escape 2 (RCW 9A.76.120)  
31 Extortion 2 (RCW 9A.56.130)  
32 Harassment (RCW 9A.46.020)  
33 Intimidating a Public Servant (RCW  
34 9A.76.180)  
35 Introducing Contraband 2 (RCW  
36 9A.76.150)



1 Malicious Injury to Railroad Property  
2 (RCW 81.60.070)  
3 Mortgage Fraud (RCW 19.144.080)  
4 Negligently Causing Substantial Bodily  
5 Harm By Use of a Signal  
6 Preemption Device (RCW  
7 46.37.674)  
8 Organized Retail Theft 1 (RCW  
9 9A.56.350(2))  
10 Perjury 2 (RCW 9A.72.030)  
11 Possession of Incendiary Device (RCW  
12 9.40.120)  
13 Possession of Machine Gun or Short-  
14 Barreled Shotgun or Rifle (RCW  
15 9.41.190)  
16 Promoting Prostitution 2 (RCW  
17 9A.88.080)  
18 Retail Theft with Extenuating  
19 Circumstances 1 (RCW  
20 9A.56.360(2))  
21 Securities Act violation (RCW  
22 21.20.400)  
23 Tampering with a Witness (RCW  
24 9A.72.120)  
25 Telephone Harassment (subsequent  
26 conviction or threat of death)  
27 (RCW 9.61.230(2))  
28 Theft of Livestock 2 (RCW 9A.56.083)  
29 Theft with the Intent to Resell 1 (RCW  
30 9A.56.340(2))  
31 Trafficking in Stolen Property 2 (RCW  
32 9A.82.055)  
33 Unlawful Hunting of Big Game 1  
34 (RCW 77.15.410(3)(b))  
35 Unlawful Imprisonment (RCW  
36 9A.40.040)

1 Unlawful possession of firearm in the  
2 second degree (RCW 9.41.040(2))  
3 Unlawful Taking of Endangered Fish  
4 or Wildlife 1 (RCW  
5 77.15.120(3)(b))  
6 Unlawful Trafficking in Fish, Shellfish,  
7 or Wildlife 1 (RCW  
8 77.15.260(3)(b))  
9 Unlawful Use of a Nondesignated  
10 Vessel (RCW 77.15.530(4))  
11 Vehicular Assault, by the operation or  
12 driving of a vehicle with disregard  
13 for the safety of others (RCW  
14 46.61.522)  
15 Willful Failure to Return from Work  
16 Release (RCW 72.65.070)  
17 II Commercial Fishing Without a License  
18 1 (RCW 77.15.500(3)(b))  
19 Computer Trespass 1 (RCW  
20 9A.52.110)  
21 Counterfeiting (RCW 9.16.035(3))  
22 Engaging in Fish Dealing Activity  
23 Unlicensed 1 (RCW 77.15.620(3))  
24 Escape from Community Custody  
25 (RCW 72.09.310)  
26 Failure to Register as a Sex Offender  
27 (second or subsequent offense)  
28 (RCW 9A.44.132)  
29 Health Care False Claims (RCW  
30 48.80.030)  
31 Identity Theft 2 (RCW 9.35.020(3))  
32 Improperly Obtaining Financial  
33 Information (RCW 9.35.010)  
34 Malicious Mischief 1 (RCW  
35 9A.48.070)  
36 Organized Retail Theft 2 (RCW  
37 9A.56.350(3))

1 Possession of Stolen Property 1 (RCW  
2 9A.56.150)  
3 Possession of a Stolen Vehicle (RCW  
4 9A.56.068)  
5 Retail Theft with Extenuating  
6 Circumstances 2 (RCW  
7 9A.56.360(3))  
8 Scrap Processing, Recycling, or  
9 Supplying Without a License  
10 (second or subsequent offense)  
11 (section 12 of this act)  
12 Theft 1 (RCW 9A.56.030)  
13 Theft of a Motor Vehicle (RCW  
14 9A.56.065)  
15 Theft of Rental, Leased, or Lease-  
16 purchased Property (valued at one  
17 thousand five hundred dollars or  
18 more) (RCW 9A.56.096(5)(a))  
19 Theft with the Intent to Resell 2 (RCW  
20 9A.56.340(3))  
21 Trafficking in Insurance Claims (RCW  
22 48.30A.015)  
23 Unlawful factoring of a credit card or  
24 payment card transaction (RCW  
25 9A.56.290(4)(a))  
26 Unlawful Participation of Non-Indians  
27 in Indian Fishery (RCW  
28 77.15.570(2))  
29 Unlawful Practice of Law (RCW  
30 2.48.180)  
31 Unlicensed Practice of a Profession or  
32 Business (RCW 18.130.190(7))  
33 Unlawful Purchase or Use of a License  
34 (RCW 77.15.650(3)(b))  
35 Unlawful Trafficking in Fish, Shellfish,  
36 or Wildlife 2 (RCW  
37 77.15.260(3)(a))

1 Voyeurism (RCW 9A.44.115)  
2 I Attempting to Elude a Pursuing Police  
3 Vehicle (RCW 46.61.024)  
4 False Verification for Welfare (RCW  
5 74.08.055)  
6 Forgery (RCW 9A.60.020)  
7 Fraudulent Creation or Revocation of a  
8 Mental Health Advance Directive  
9 (RCW 9A.60.060)  
10 Malicious Mischief 2 (RCW  
11 9A.48.080)  
12 Mineral Trespass (RCW 78.44.330)  
13 Possession of Stolen Property 2 (RCW  
14 9A.56.160)  
15 Reckless Burning 1 (RCW 9A.48.040)  
16 Spotlighting Big Game 1 (RCW  
17 77.15.450(3)(b))  
18 Suspension of Department Privileges 1  
19 (RCW 77.15.670(3)(b))  
20 Taking Motor Vehicle Without  
21 Permission 2 (RCW 9A.56.075)  
22 Theft 2 (RCW 9A.56.040)  
23 Theft of Rental, Leased, or Lease-  
24 purchased Property (valued at two  
25 hundred fifty dollars or more but  
26 less than one thousand five  
27 hundred dollars) (RCW  
28 9A.56.096(5)(b))  
29 Transaction of insurance business  
30 beyond the scope of licensure  
31 (RCW 48.17.063)  
32 Unlawful Fish and Shellfish Catch  
33 Accounting (RCW  
34 77.15.630(3)(b))  
35 Unlawful Issuance of Checks or Drafts  
36 (RCW 9A.56.060)

1 Unlawful Possession of Fictitious  
2 Identification (RCW 9A.56.320)  
3 Unlawful Possession of Instruments of  
4 Financial Fraud (RCW 9A.56.320)  
5 Unlawful Possession of Payment  
6 Instruments (RCW 9A.56.320)  
7 Unlawful Possession of a Personal  
8 Identification Device (RCW  
9 9A.56.320)  
10 Unlawful Production of Payment  
11 Instruments (RCW 9A.56.320)  
12 Unlawful Release of Deleterious Exotic  
13 Wildlife (RCW 77.15.250(2)(b))  
14 Unlawful Trafficking in Food Stamps  
15 (RCW 9.91.142)  
16 Unlawful Use of Food Stamps (RCW  
17 9.91.144)  
18 Unlawful Use of Net to Take Fish 1  
19 (RCW 77.15.580(3)(b))  
20 Unlawful Use of Prohibited Aquatic  
21 Animal Species (RCW  
22 77.15.253(3))  
23 Vehicle Prowl 1 (RCW 9A.52.095)  
24 Violating Commercial Fishing Area or  
25 Time 1 (RCW 77.15.550(3)(b))

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

28 (1) The following personal property is subject to seizure and  
29 forfeiture and no property right exists in them: All personal property  
30 including, but not limited to, any item, object, tool, substance,  
31 device, weapon, machine, vehicle of any kind, money, security, or  
32 negotiable instrument, which the seizing agency proves by a  
33 preponderance of the evidence was used or intended to be used by its  
34 owner or the person in charge to knowingly or intentionally facilitate  
35 the commission of, or to knowingly or intentionally abet the commission  
36 of, a crime involving theft, trafficking, or unlawful possession of  
37 commercial metal property, or which the seizing agency proves by a

1 preponderance of the evidence was knowingly or intentionally furnished  
2 or was intended to be furnished by any person in the commission of, as  
3 a result of, or as compensation for the commission of, a crime  
4 involving theft, trafficking, or the unlawful possession of commercial  
5 metal property, or which the property owner acquired in whole or in  
6 part with proceeds traceable to a knowing or intentional commission of  
7 a crime involving the theft, trafficking, or unlawful possession of  
8 commercial metal property provided that such activity is not less than  
9 a class C felony; except that:

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

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

21 (c) A property owner's property is not subject to seizure if an  
22 employee or agent of that property owner uses the property owner's  
23 property to knowingly or intentionally facilitate the commission of, or  
24 to knowingly or intentionally aid and abet the commission of, a crime  
25 involving theft, trafficking, or unlawful possession of commercial  
26 metal property, in violation of that property owner's instructions or  
27 policies against such activity, and without the property owner's  
28 knowledge or consent.

29 (2) The following real property is subject to seizure and  
30 forfeiture and no property right exists in them: All real property,  
31 including any right, title, and interest in the whole of any lot or  
32 tract of land, and any appurtenances or improvements, that the seizing  
33 agency proves by a preponderance of the evidence are being used with  
34 the knowledge of the owner for the intentional commission of any crime  
35 involving the theft, trafficking, or unlawful possession of commercial  
36 metal property, or which have been acquired in whole or in part with  
37 proceeds traceable to the commission of any crime involving the  
38 trafficking, theft, or unlawful possession of commercial metal, if such

1 activity is not less than a class C felony and a substantial nexus  
2 exists between the commission of the violation or crime and the real  
3 property. However:

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

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

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

31 (a) The seizure is incident to an arrest or a search under a search  
32 warrant; or

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

36 (4) In the event of seizure pursuant to this section, proceedings  
37 for forfeiture shall be deemed commenced by the seizure. The law  
38 enforcement agency under whose authority the seizure was made shall

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

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

31 (6) If a person notifies the seizing law enforcement agency in  
32 writing of the person's claim of ownership or right to possession of  
33 the seized property within forty-five days of the seizure in the case  
34 of personal property and ninety days in the case of real property, the  
35 law enforcement agency shall give the person or persons a reasonable  
36 opportunity to be heard as to the claim or right. The hearing shall be  
37 before the chief law enforcement officer of the seizing agency or the  
38 chief law enforcement officer's designee, except where the seizing



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

22 (7) At the hearing, the seizing agency has the burden of proof to  
23 establish by a preponderance of the evidence that seized property is  
24 subject to forfeiture, and that the use or intended use of the seized  
25 property in connection with a crime pursuant to this section occurred  
26 with the owner's actual or constructive knowledge or consent. The  
27 person claiming to be the lawful owner or the person claiming to have  
28 the lawful right to possession of the property has the burden of proof  
29 to establish by a preponderance of the evidence that the person owns or  
30 has a right to possess the seized property. The possession of bare  
31 legal title is not sufficient to establish ownership of seized property  
32 if the seizing agency proves by a preponderance of the evidence that  
33 the person claiming ownership or right to possession is a nominal owner  
34 and did not actually own or exert a controlling interest in the  
35 property.

36 The seizing law enforcement agency shall promptly return the  
37 property to the claimant upon a determination by the administrative law

1 judge or court that the claimant is the present lawful owner or is  
2 lawfully entitled to possession of the property.

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

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

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

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

15 (b) Retained property and net proceeds not required to be paid to  
16 victims shall be retained by the seizing law enforcement agency  
17 exclusively for the expansion and improvement of law enforcement  
18 activity. Money retained under this section may not be used to  
19 supplant preexisting funding sources.

20 (c) The net proceeds of forfeited property is the value of the  
21 forfeitable interest in the property after deducting the cost of  
22 satisfying any bona fide security interest to which the property is  
23 subject at the time of seizure; and in the case of sold property, after  
24 deducting the cost of sale, including reasonable fees or commissions  
25 paid to independent selling agents, and the cost of any valid  
26 landlord's claim for damages.

27 (d) The value of sold forfeited property is the sale price. The  
28 value of retained forfeited property is the fair market value of the  
29 property at the time of seizure, determined when possible by reference  
30 to an applicable commonly used index, such as the index used by the  
31 department of licensing for valuation of motor vehicles. A seizing  
32 agency may use, but need not use, an independent qualified appraiser to  
33 determine the value of retained property. If an appraiser is used, the  
34 value of the property appraised is net of the cost of the appraisal.  
35 The value of destroyed property and retained firearms or illegal  
36 property is zero.

37 (10) Upon the entry of an order of forfeiture of real property, the  
38 court shall forward a copy of the order to the assessor of the county

1 in which the property is located. Orders for the forfeiture of real  
2 property shall be entered by the superior court, subject to court  
3 rules. Such an order shall be filed by the seizing agency in the  
4 county auditor's records in the county in which the real property is  
5 located.

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

8 The provisions of this chapter shall be liberally construed to the  
9 end that traffic in stolen private metal property or nonferrous metal  
10 property may be prevented, and irresponsible, unreliable, or dishonest  
11 persons may be prevented from engaging in the business of processing,  
12 recycling, or supplying scrap metal in this state and reliable persons  
13 may be encouraged to engage in businesses of processing, recycling, or  
14 supplying scrap metal in this state.

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

17 (1) This chapter applies only to the director and the boards and  
18 commissions having jurisdiction in relation to the businesses and  
19 professions licensed under the chapters specified in this section.  
20 This chapter does not apply to any business or profession not licensed  
21 under the chapters specified in this section.

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

24 (i) Auctioneers under chapter 18.11 RCW;

25 (ii) Bail bond agents and bail bond recovery agents under chapter  
26 18.185 RCW;

27 (iii) Camping resorts' operators and salespersons under chapter  
28 19.105 RCW;

29 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

30 (v) Cosmetologists, barbers, manicurists, and estheticians under  
31 chapter 18.16 RCW;

32 (vi) Court reporters under chapter 18.145 RCW;

33 (vii) Driver training schools and instructors under chapter 46.82  
34 RCW;

35 (viii) Employment agencies under chapter 19.31 RCW;

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

1 (x) Limousines under chapter 46.72A RCW;  
2 (xi) Notaries public under chapter 42.44 RCW;  
3 (xii) Private investigators under chapter 18.165 RCW;  
4 (xiii) Professional boxing, martial arts, and wrestling under  
5 chapter 67.08 RCW;  
6 (xiv) Real estate appraisers under chapter 18.140 RCW;  
7 (xv) Real estate brokers and salespersons under chapters 18.85 and  
8 18.86 RCW;  
9 (xvi) Scrap metal processors, scrap metal recyclers, and scrap  
10 metal suppliers under chapter 19.290 RCW;  
11 (xvii) Security guards under chapter 18.170 RCW;  
12 (~~(xvii)~~) (xviii) Sellers of travel under chapter 19.138 RCW;  
13 (~~(xviii)~~) (xix) Timeshares and timeshare salespersons under  
14 chapter 64.36 RCW;  
15 (~~(xix)~~) (xx) Whitewater river outfitters under chapter 79A.60  
16 RCW;  
17 (~~(xx)~~) (xxi) Home inspectors under chapter 18.280 RCW;  
18 (~~(xxi)~~) (xxii) Body artists, body piercers, and tattoo artists,  
19 and body art, body piercing, and tattooing shops and businesses, under  
20 chapter 18.300 RCW; and  
21 (~~(xxii)~~) (xxiii) Appraisal management companies under chapter  
22 18.310 RCW.  
23 (b) The boards and commissions having authority under this chapter  
24 are as follows:  
25 (i) The state board (~~(of registration)~~) for architects established  
26 in chapter 18.08 RCW;  
27 (ii) The Washington state collection agency board established in  
28 chapter 19.16 RCW;  
29 (iii) The state board of registration for professional engineers  
30 and land surveyors established in chapter 18.43 RCW governing licenses  
31 issued under chapters 18.43 and 18.210 RCW;  
32 (iv) The funeral and cemetery board established in chapter 18.39  
33 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;  
34 (v) The state board of licensure for landscape architects  
35 established in chapter 18.96 RCW; and  
36 (vi) The state geologist licensing board established in chapter  
37 18.220 RCW.

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

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

11 (1) The business and professions account is created in the state  
12 treasury. All receipts from business or professional licenses,  
13 registrations, certifications, renewals, examinations, or civil  
14 penalties assessed and collected by the department from the following  
15 chapters must be deposited into the account:

- 16 (a) Chapter 18.11 RCW, auctioneers;
- 17 (b) Chapter 18.16 RCW, cosmetologists, barbers, and manicurists;
- 18 (c) Chapter 18.145 RCW, court reporters;
- 19 (d) Chapter 18.165 RCW, private investigators;
- 20 (e) Chapter 18.170 RCW, security guards;
- 21 (f) Chapter 18.185 RCW, bail bond agents;
- 22 (g) Chapter 18.280 RCW, home inspectors;
- 23 (h) Chapter 19.16 RCW, collection agencies;
- 24 (i) Chapter 19.31 RCW, employment agencies;
- 25 (j) Chapter 19.105 RCW, camping resorts;
- 26 (k) Chapter 19.138 RCW, sellers of travel;
- 27 (l) Chapter 42.44 RCW, notaries public;
- 28 (m) Chapter 64.36 RCW, timeshares;
- 29 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- 30 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- 31 (p) Chapter 79A.60 RCW, whitewater river outfitters; (~~and~~)
- 32 (q) Chapter 19.158 RCW, commercial telephone solicitation; and
- 33 (r) Chapter 19.290 RCW, scrap metal businesses.

34 Moneys in the account may be spent only after appropriation.  
35 Expenditures from the account may be used only for expenses incurred in  
36 carrying out these business and professions licensing activities of the

1 department. Any residue in the account must be accumulated and may not  
2 revert to the general fund at the end of the biennium.

3 (2) The director must biennially prepare a budget request based on  
4 the anticipated costs of administering the business and professions  
5 licensing activities listed in subsection (1) of this section, which  
6 must include the estimated income from these business and professions  
7 fees.

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

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

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

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

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

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

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

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

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

8        NEW SECTION.    **Sec. 34.** If one million five hundred thousand  
9 dollars for the purposes of this act, referencing this act by bill or  
10 chapter number, is not provided by June 30, 2013, in the omnibus  
11 appropriations act, this act is null and void.

12        NEW SECTION.    **Sec. 35.** Sections 12 through 23 of this act take  
13 effect January 1, 2014.

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

**ESHB 1552** - S AMD  
By Senators Padden, Kline

**ADOPTED 04/16/2013**

17        On page 1, line 1 of the title, after "theft;" strike the remainder  
18 of the title and insert "amending RCW 9A.48.100, 9A.56.030, 9A.56.040,  
19 19.290.010, 19.290.020, 19.290.030, 19.290.040, 19.290.050, 19.290.060,  
20 19.290.070, 19.290.090, 18.235.020, and 43.24.150; reenacting and  
21 amending RCW 9.94A.515; adding new sections to chapter 19.290 RCW;  
22 adding a new section to chapter 36.28A RCW; adding new sections to  
23 chapter 43.43 RCW; creating new sections; prescribing penalties; and  
24 providing an effective date."

EFFECT:    "Engage in business" means conducting more than twelve,

rather than more than five, transactions in a twelve-month period. 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. 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. Makes the bill null and void if not funded in the budget.

--- END ---