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HOUSE BILL 1552

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**By** Representatives Goodman, Klippert, Freeman, Kirby, Morrell, Seaquist, Sullivan, Appleton, Ryu, Hunt, Stanford, Kochmar, Maxwell, Takko, Bergquist, Warnick, Manweller, Green, and Fey

Read first time 01/30/13. Referred to Committee on Public Safety.

1 AN ACT Relating to the reduction of metal theft; amending RCW  
2 9A.48.100, 9A.56.030, 9A.56.040, 19.290.010, 19.290.020, 19.290.040,  
3 18.235.020, and 43.24.150; reenacting and amending RCW 9.94A.515;  
4 adding new sections to chapter 19.290 RCW; adding new sections to  
5 chapter 43.43 RCW; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

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

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

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

1 (2) If more than one item of property is physically damaged as a  
2 result of a common scheme or plan by a person and the physical damage  
3 to the property would, when considered separately, constitute mischief  
4 in the third degree because of value, then the value of the damages may  
5 be aggregated in one count. If the sum of the value of all the  
6 physical damages exceeds two hundred fifty dollars, the defendant may  
7 be charged with and convicted of malicious mischief in the second  
8 degree.

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

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

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

15 (b) Property of any value, other than a firearm as defined in RCW  
16 9.41.010 or a motor vehicle, taken from the person of another;

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

19 (d) Commercial metal (~~wire, taken from a public service company,~~  
20 ~~as defined in RCW 80.04.010, or a consumer-owned utility, as defined in~~  
21 ~~RCW 19.280.020,)) property, nonferrous metal property, or private metal  
22 property, as those terms are defined in RCW 19.290.010, and the costs  
23 of the damage to the (~~public service company's or consumer-owned~~  
24 ~~utility's)) owner's property exceed five thousand dollars in value.~~~~

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

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

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

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

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

1 (c) Commercial metal (~~((wire, taken from a public service company,~~  
2 ~~as defined in RCW 80.04.010, or a consumer-owned utility, as defined in~~  
3 ~~RCW 19.280.020,))~~ property, nonferrous metal property, or private metal  
4 property, as those terms are defined in RCW 19.290.010, and the costs  
5 of the damage to the (~~(public service company's or consumer-owned~~  
6 ~~utility's))~~ owner's property exceed seven hundred fifty dollars but  
7 does not exceed five thousand dollars in value; or

8 (d) An access device.

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

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

12 The definitions in this section apply throughout this chapter  
13 unless the context clearly requires otherwise.

14 (1) "Commercial account" means a relationship between a scrap metal  
15 business and a commercial enterprise that is ongoing and properly  
16 documented under RCW 19.290.030.

17 (2) "Commercial enterprise" means a corporation, partnership,  
18 limited liability company, association, state agency, political  
19 subdivision of the state, public corporation, or any other legal or  
20 commercial entity.

21 (3) "Commercial metal property" means: Utility access covers;  
22 street light poles and fixtures; road and bridge guardrails; highway or  
23 street signs; water meter covers; traffic directional and control  
24 signs; traffic light signals; any metal property marked with the name  
25 of a commercial enterprise, including but not limited to a telephone,  
26 commercial mobile radio services, cable, electric, water, natural gas,  
27 or other utility, or railroad; unused or undamaged building  
28 construction materials consisting of copper pipe, tubing, or wiring, or  
29 aluminum wire, siding, downspouts, or gutters; aluminum or stainless  
30 steel fence panels made from one inch tubing, forty-two inches high  
31 with four-inch gaps; aluminum decking, bleachers, or risers; historical  
32 markers; statue plaques; grave markers and funeral vases; or  
33 agricultural irrigation wheels, sprinkler heads, and pipes.

34 (4) "Nonferrous metal property" means metal property for which the  
35 value of the metal property is derived from the property's content of  
36 copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

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

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

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

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

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

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

16 (10) "Scrap metal (~~((recycling center))~~) recycler" means a person  
17 with a current business license that is engaged in the business of  
18 purchasing or receiving private metal property, nonferrous metal  
19 property, and commercial metal property for the purpose of aggregation  
20 and sale to another scrap metal business and that maintains a fixed  
21 place of business within the state.

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

28 (12) "Transaction" means a pledge, or the purchase of, or the trade  
29 of any item of private metal property or nonferrous metal property by  
30 a scrap metal business from a member of the general public.  
31 "Transaction" does not include donations or the purchase or receipt of  
32 private metal property or nonferrous metal property by a scrap metal  
33 business from a commercial enterprise, from another scrap metal  
34 business, or from a duly authorized employee or agent of the commercial  
35 enterprise or scrap metal business.

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

1       (14) "Person" means an individual, domestic or foreign corporation,  
2 limited liability corporation, partnership, trust, unincorporated  
3 association, or other entity; an affiliate or associate of any such  
4 person; or any two or more persons acting as a partnership, syndicate,  
5 or other group for the purpose of acquiring, holding, or dispersing of  
6 securities of a domestic or foreign corporation.

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

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

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

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

17       (c) The name of the employee representing the scrap metal business  
18 in the transaction;

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

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

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

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

29       (h) A description of the predominant types of private metal  
30 property or nonferrous metal property subject to the transaction,  
31 including the property's classification code as provided in the  
32 institute of scrap recycling industries scrap specifications circular,  
33 2006, and weight, quantity, or volume.

34       (2) For every transaction that involves private metal property or  
35 nonferrous metal property, every scrap metal business doing business in  
36 the state shall require the person with whom a transaction is being  
37 made to sign a declaration. The declaration may be included as part of

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

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

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

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

17 **Sec. 6.** RCW 19.290.040 and 2008 c 233 s 4 are each amended to read  
18 as follows:

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

23 (a) The full name of the commercial enterprise or commercial  
24 account;

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

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

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

- 1 (a) The time, date, and value of the property being purchased or  
2 received;
- 3 (b) A description of the predominant types of property being  
4 purchased or received; and
- 5 (c) The signature of the person delivering the property to the  
6 scrap metal business.

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

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

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

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

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

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

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

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

29 (3) Certificate of approval of the chief of police or, in any  
30 unincorporated area, the sheriff certifying that:

31 (a) The applicant has an established place of business at the  
32 address shown on the application; and

33 (b) In the case of a renewal of a scrap metal license, the  
34 applicant is in compliance with this chapter: PROVIDED, That the above  
35 certification in any instance can be made by an authorized  
36 representative of the department of licensing;

1 (4) Documentation demonstrating that the business is in compliance  
2 with the terms of all applicable building code, zoning, and other land  
3 use regulatory ordinances.

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

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

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

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

20 Before issuing a scrap metal license to a scrap metal processor or  
21 scrap metal recycler, the department of licensing shall require the  
22 applicant to file with the department a surety bond in the amount of  
23 ten thousand dollars, running to the state of Washington, and executed  
24 by a surety company authorized to do business in the state of  
25 Washington. The bond shall be approved as to form by the attorney  
26 general and conditioned upon the licensee conducting the business in  
27 conformity with the provisions of this chapter. Any person who has  
28 suffered any loss or damage by reason of fraud, carelessness, neglect,  
29 violation of the terms of this chapter, or misrepresentation on the  
30 part of the scrap metal processor or recycler, may institute an action  
31 for recovery against the licensee and surety upon the bond. However,  
32 the aggregate liability of the surety to all persons shall in no event  
33 exceed the amount of the bond.

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



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

7 Whenever a scrap metal processor, recycler, or supplier ceases to  
8 do business as such or the license has been suspended or revoked, the  
9 licensee shall immediately surrender the license to the department of  
10 licensing.

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

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

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

25 The uniform regulation of business and professions act, chapter  
26 18.235 RCW, governs unlicensed practice, the issuance and denial of  
27 licenses, and the discipline of licensees under this chapter.

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

30 If a person whose scrap metal license has previously been canceled  
31 for cause by the department of licensing files an application for a  
32 license to conduct business as a scrap metal processor, recycler, or  
33 supplier, or if the department is of the opinion that the application  
34 is not filed in good faith or that the application is filed by some  
35 person as a subterfuge for the real person in interest whose license

1 has previously been canceled for cause, the department may refuse to  
2 issue the person a license to conduct business as a scrap metal  
3 processor, recycler, or supplier.

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

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

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

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

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

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

23 The state of Washington hereby fully occupies and preempts the  
24 entire field of regulation of scrap metal processors, recyclers, or  
25 suppliers within the boundaries of the state. Any political  
26 subdivision in this state may enact or enforce only those laws and  
27 ordinances relating to the regulation of scrap metal processors,  
28 recyclers, or suppliers that are specifically authorized by state law  
29 and are consistent with this chapter. Local ordinances shall have the  
30 same or lesser penalty as provided for by state law. Local laws and  
31 ordinances that are inconsistent with, more restrictive than, or exceed  
32 the requirements of state law shall not be enacted and are hereby  
33 preempted and repealed, regardless of the code, charter, or home rule  
34 status of such political subdivision.

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

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

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

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

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

20        (i) State that an order is sought pursuant to this subsection;  
21        (ii) Adequately specify the records, documents, or testimony; and  
22        (iii) Declare under oath that an investigation is being conducted  
23    for a lawfully authorized purpose related to an investigation within  
24    the department's authority and that the subpoenaed documents or  
25    testimony are reasonably related to an investigation within the  
26    department's authority.

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

31        (c) Any authorized representative of the director of the department  
32    of licensing may seek approval and a court may issue an order under  
33    this subsection without prior notice to any person, including the  
34    person to whom the subpoena is directed and the person who is the  
35    subject of an investigation.

36        (5) Any records created or produced under this section are exempt  
37    from disclosure under chapter 46.55 RCW.

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

3        (1) The Washington metal theft prevention authority is established.

4        (a) The authority shall consist of the following members, appointed  
5    by the governor:

6        (i) The executive director of the Washington association of  
7    sheriffs and police chiefs, or the executive director's designee;

8        (ii) The chief of the Washington state patrol, or the chief's  
9    designee;

10       (iii) Two police chiefs;

11       (iv) Two sheriffs;

12       (v) One prosecuting attorney;

13       (vi) A representative from the insurance industry who is  
14    responsible for writing property and casualty liability insurance in  
15    the state of Washington;

16       (vii) A representative from the metal recycling industry; and

17       (viii) A representative of a public utility.

18       (b) In addition, the authority may, where feasible, consult with  
19    other governmental entities or individuals from the public and private  
20    sector in carrying out its duties under this section.

21       (2) The Washington metal theft prevention authority shall initially  
22    convene at the call of the executive director of the Washington  
23    association of sheriffs and police chiefs, or the executive director's  
24    designee, no later than the third Monday in January 2014. Subsequent  
25    meetings of the authority shall be at the call of the chair or seven  
26    members.

27       (a) The authority shall annually elect a chair and other such  
28    officers as it deems appropriate from its membership.

29       (b) Members of the authority shall serve terms of four years each  
30    on a staggered schedule to be established by the first authority. For  
31    purposes of initiating a staggered schedule of terms, some members of  
32    the first authority may initially serve two years and some members may  
33    initially serve four years.

34       (3) The Washington metal theft prevention authority may obtain or  
35    contract for staff services, including an executive director, and any  
36    facilities and equipment as the authority requires to carry out its  
37    duties.

1 (a) The director may enter into contracts with any public or  
2 private organization to carry out the purposes of this section.

3 (b) The authority shall review and make recommendations to the  
4 legislature and the governor regarding metal theft in Washington state.  
5 In preparing the recommendations, the authority shall, at a minimum,  
6 review the following issues:

7 (i) Determine the scope of the problem of metal theft, including  
8 particular areas of the state where the problem is the greatest; annual  
9 data reported by local law enforcement regarding the number of reported  
10 thefts, investigations, recovered property, arrests, and convictions;  
11 and an assessment of estimated funds needed to hire sufficient  
12 investigators to respond to all reported thefts.

13 (ii) Analyze the various methods of combating the problem of metal  
14 theft;

15 (iii) Develop and implement a plan of operation; and

16 (iv) Develop and implement a financial plan.

17 (c) The authority is not a law enforcement agency and may not  
18 gather, collect, or disseminate intelligence information for the  
19 purpose of investigating specific crimes or pursuing or capturing  
20 specific perpetrators. Members of the authority may not exercise  
21 general authority peace officer powers while acting in their capacity  
22 as members of the authority, unless the exercise of peace officer  
23 powers is necessary to prevent an imminent threat to persons or  
24 property.

25 (d) The authority shall annually report its activities, findings,  
26 and recommendations during the preceding year to the legislature by  
27 December 31st.

28 (4) The governor may remove any member of the Washington metal  
29 theft prevention authority for cause including, but not limited to,  
30 neglect of duty, misconduct, malfeasance or misfeasance in office, or  
31 upon written request of two-thirds of the members of the authority  
32 under this chapter. Upon the death, resignation, or removal of a  
33 member, the governor shall appoint a replacement to fill the remainder  
34 of the unexpired term.

35 (5) Members of the Washington metal theft prevention authority who  
36 are not public employees shall be compensated in accordance with RCW  
37 43.03.250 and shall be reimbursed for travel expenses incurred in

1 carrying out the duties of the authority in accordance with RCW  
2 43.03.050 and 43.03.060.

3 (6) Any member serving in their official capacity on the Washington  
4 metal theft prevention authority, or either their employer or  
5 employers, or other entity that selected the members to serve, are  
6 immune from a civil action based upon an act performed in good faith.

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

9 (1) The Washington metal theft prevention authority account is  
10 created in the state treasury, subject to appropriation. All receipts  
11 from gifts, grants, bequests, devises, or other funds from public and  
12 private sources to support the activities of the metal theft prevention  
13 authority must be deposited into the account. Expenditures from the  
14 account may be used only for activities relating to metal theft,  
15 including education, prevention, law enforcement, investigation,  
16 prosecution, and confinement.

17 (2) The authority shall allocate moneys appropriated from the  
18 account to public agencies for the purpose of establishing,  
19 maintaining, and supporting programs that are designed to prevent metal  
20 theft, including:

21 (a) Financial support to prosecution agencies to increase the  
22 effectiveness of metal theft prosecution;

23 (b) Financial support to a unit of local government or a team  
24 consisting of units of local governments to increase the effectiveness  
25 of metal theft enforcement;

26 (c) Financial support for the procurement of equipment and  
27 technologies for use by law enforcement agencies for the purpose of  
28 enforcing metal theft laws; and

29 (d) Financial support for programs that are designed to educate and  
30 assist the public in the prevention of metal theft.

31 (3) The costs of administration shall not exceed ten percent of the  
32 moneys in the account in any one year so that the greatest possible  
33 portion of the moneys available to the authority is expended on  
34 combating metal theft.

35 (4) Prior to awarding any moneys from the Washington metal theft  
36 prevention authority account for metal theft enforcement, the metal

1 theft prevention authority must verify that the financial award  
2 includes sufficient funding to cover proposed activities, which  
3 include, but are not limited to:

4 (a) State, municipal, and county offender and juvenile confinement  
5 costs;

6 (b) Administration costs;

7 (c) Law enforcement costs;

8 (d) Prosecutor costs; and

9 (e) Court costs, with a priority being given to ensuring that  
10 sufficient funding is available to cover state, municipal, and county  
11 offender and juvenile confinement costs.

12 (5) Moneys expended from the Washington metal theft prevention  
13 authority account under subsection (2) of this section shall be used to  
14 supplement, not supplant, other moneys that are available for metal  
15 theft prevention.

16 (6) Grants provided under subsection (2) of this section constitute  
17 reimbursement for purposes of RCW 43.135.060(1).

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

20 Nothing in this chapter shall apply to metal and metal components  
21 from vehicles owned by vehicle wreckers licensed pursuant to chapter  
22 46.80 RCW.

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

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

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

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

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

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

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

7 **Sec. 23.** RCW 9.94A.515 and 2012 c 176 s 3 and 2012 c 162 s 1 are  
8 each reenacted and amended to read as follows:

9 TABLE 2

10 CRIMES INCLUDED WITHIN  
11 EACH SERIOUSNESS LEVEL

- 12 XVI Aggravated Murder 1 (RCW  
13 10.95.020)
- 14 XV Homicide by abuse (RCW 9A.32.055)  
15 Malicious explosion 1 (RCW  
16 70.74.280(1))  
17 Murder 1 (RCW 9A.32.030)
- 18 XIV Murder 2 (RCW 9A.32.050)  
19 Trafficking 1 (RCW 9A.40.100(1))
- 20 XIII Malicious explosion 2 (RCW  
21 70.74.280(2))  
22 Malicious placement of an explosive 1  
23 (RCW 70.74.270(1))
- 24 XII Assault 1 (RCW 9A.36.011)  
25 Assault of a Child 1 (RCW 9A.36.120)  
26 Malicious placement of an imitation  
27 device 1 (RCW 70.74.272(1)(a))  
28 Promoting Commercial Sexual Abuse  
29 of a Minor (RCW 9.68A.101)  
30 Rape 1 (RCW 9A.44.040)  
31 Rape of a Child 1 (RCW 9A.44.073)  
32 Trafficking 2 (RCW 9A.40.100(2))
- 33 XI Manslaughter 1 (RCW 9A.32.060)  
34 Rape 2 (RCW 9A.44.050)  
35 Rape of a Child 2 (RCW 9A.44.076)



1 Vehicular Homicide, by being under  
2 the influence of intoxicating liquor  
3 or any drug (RCW 46.61.520)  
4 X Child Molestation 1 (RCW 9A.44.083)  
5 Criminal Mistreatment 1 (RCW  
6 9A.42.020)  
7 Indecent Liberties (with forcible  
8 compulsion) (RCW  
9 9A.44.100(1)(a))  
10 Kidnapping 1 (RCW 9A.40.020)  
11 Leading Organized Crime (RCW  
12 9A.82.060(1)(a))  
13 Malicious explosion 3 (RCW  
14 70.74.280(3))  
15 Sexually Violent Predator Escape  
16 (RCW 9A.76.115)  
17 IX Abandonment of Dependent Person 1  
18 (RCW 9A.42.060)  
19 Assault of a Child 2 (RCW 9A.36.130)  
20 Explosive devices prohibited (RCW  
21 70.74.180)  
22 Hit and Run--Death (RCW  
23 46.52.020(4)(a))  
24 Homicide by Watercraft, by being  
25 under the influence of intoxicating  
26 liquor or any drug (RCW  
27 79A.60.050)  
28 Inciting Criminal Profiteering (RCW  
29 9A.82.060(1)(b))  
30 Malicious placement of an explosive 2  
31 (RCW 70.74.270(2))  
32 Robbery 1 (RCW 9A.56.200)  
33 Sexual Exploitation (RCW 9.68A.040)  
34 VIII Arson 1 (RCW 9A.48.020)  
35 Commercial Sexual Abuse of a Minor  
36 (RCW 9.68A.100)

1 Homicide by Watercraft, by the  
2 operation of any vessel in a  
3 reckless manner (RCW  
4 79A.60.050)  
5 Manslaughter 2 (RCW 9A.32.070)  
6 Promoting Prostitution 1 (RCW  
7 9A.88.070)  
8 Theft of Ammonia (RCW 69.55.010)  
9 Vehicular Homicide, by the operation  
10 of any vehicle in a reckless manner  
11 (RCW 46.61.520)  
12 VII Burglary 1 (RCW 9A.52.020)  
13 Child Molestation 2 (RCW 9A.44.086)  
14 Civil Disorder Training (RCW  
15 9A.48.120)  
16 Dealing in depictions of minor engaged  
17 in sexually explicit conduct 1  
18 (RCW 9.68A.050(1))  
19 Drive-by Shooting (RCW 9A.36.045)  
20 Homicide by Watercraft, by disregard  
21 for the safety of others (RCW  
22 79A.60.050)  
23 Indecent Liberties (without forcible  
24 compulsion) (RCW 9A.44.100(1)  
25 (b) and (c))  
26 Introducing Contraband 1 (RCW  
27 9A.76.140)  
28 Malicious placement of an explosive 3  
29 (RCW 70.74.270(3))  
30 Negligently Causing Death By Use of a  
31 Signal Preemption Device (RCW  
32 46.37.675)  
33 Sending, bringing into state depictions  
34 of minor engaged in sexually  
35 explicit conduct 1 (RCW  
36 9.68A.060(1))

1 Unlawful Possession of a Firearm in  
2 the first degree (RCW 9A.41.040(1))  
3 Use of a Machine Gun in Commission  
4 of a Felony (RCW 9A.41.225)  
5 Vehicular Homicide, by disregard for  
6 the safety of others (RCW  
7 46.61.520)  
8 VI Bail Jumping with Murder 1 (RCW  
9 9A.76.170(3)(a))  
10 Bribery (RCW 9A.68.010)  
11 Incest 1 (RCW 9A.64.020(1))  
12 Intimidating a Judge (RCW 9A.72.160)  
13 Intimidating a Juror/Witness (RCW  
14 9A.72.110, 9A.72.130)  
15 Malicious placement of an imitation  
16 device 2 (RCW 70.74.272(1)(b))  
17 Possession of Depictions of a Minor  
18 Engaged in Sexually Explicit  
19 Conduct 1 (RCW 9.68A.070(1))  
20 Rape of a Child 3 (RCW 9A.44.079)  
21 Theft of a Firearm (RCW 9A.56.300)  
22 Unlawful Storage of Ammonia (RCW  
23 69.55.020)  
24 V Abandonment of Dependent Person 2  
25 (RCW 9A.42.070)  
26 Advancing money or property for  
27 extortionate extension of credit  
28 (RCW 9A.82.030)  
29 Bail Jumping with class A Felony  
30 (RCW 9A.76.170(3)(b))  
31 Child Molestation 3 (RCW 9A.44.089)  
32 Criminal Mistreatment 2 (RCW  
33 9A.42.030)  
34 Custodial Sexual Misconduct 1 (RCW  
35 9A.44.160)

1 Dealing in Depictions of Minor  
2 Engaged in Sexually Explicit  
3 Conduct 2 (RCW 9.68A.050(2))  
4 Domestic Violence Court Order  
5 Violation (RCW 10.99.040,  
6 10.99.050, 26.09.300, 26.10.220,  
7 26.26.138, 26.50.110, 26.52.070,  
8 or 74.34.145)  
9 Driving While Under the Influence  
10 (RCW 46.61.502(6))  
11 Extortion 1 (RCW 9A.56.120)  
12 Extortionate Extension of Credit (RCW  
13 9A.82.020)  
14 Extortionate Means to Collect  
15 Extensions of Credit (RCW  
16 9A.82.040)  
17 Incest 2 (RCW 9A.64.020(2))  
18 Kidnapping 2 (RCW 9A.40.030)  
19 Perjury 1 (RCW 9A.72.020)  
20 Persistent prison misbehavior (RCW  
21 9.94.070)  
22 Physical Control of a Vehicle While  
23 Under the Influence (RCW  
24 46.61.504(6))  
25 Possession of a Stolen Firearm (RCW  
26 9A.56.310)  
27 Rape 3 (RCW 9A.44.060)  
28 Rendering Criminal Assistance 1  
29 (RCW 9A.76.070)  
30 Sending, Bringing into State Depictions  
31 of Minor Engaged in Sexually  
32 Explicit Conduct 2 (RCW  
33 9.68A.060(2))  
34 Sexual Misconduct with a Minor 1  
35 (RCW 9A.44.093)  
36 Sexually Violating Human Remains  
37 (RCW 9A.44.105)

1 Stalking (RCW 9A.46.110)  
2 Taking Motor Vehicle Without  
3 Permission 1 (RCW 9A.56.070)  
4 IV Arson 2 (RCW 9A.48.030)  
5 Assault 2 (RCW 9A.36.021)  
6 Assault 3 (of a Peace Officer with a  
7 Projectile Stun Gun) (RCW  
8 9A.36.031(1)(h))  
9 Assault by Watercraft (RCW  
10 79A.60.060)  
11 Bribing a Witness/Bribe Received by  
12 Witness (RCW 9A.72.090,  
13 9A.72.100)  
14 Cheating 1 (RCW 9A.46.1961)  
15 Commercial Bribery (RCW 9A.68.060)  
16 Counterfeiting (RCW 9A.16.035(4))  
17 Endangerment with a Controlled  
18 Substance (RCW 9A.42.100)  
19 Escape 1 (RCW 9A.76.110)  
20 Hit and Run--Injury (RCW  
21 46.52.020(4)(b))  
22 Hit and Run with Vessel--Injury  
23 Accident (RCW 79A.60.200(3))  
24 Identity Theft 1 (RCW 9A.35.020(2))  
25 Indecent Exposure to Person Under  
26 Age Fourteen (subsequent sex  
27 offense) (RCW 9A.88.010)  
28 Influencing Outcome of Sporting Event  
29 (RCW 9A.82.070)  
30 Malicious Harassment (RCW  
31 9A.36.080)  
32 Possession of Depictions of a Minor  
33 Engaged in Sexually Explicit  
34 Conduct 2 (RCW 9A.68A.070(2))  
35 Residential Burglary (RCW  
36 9A.52.025)  
37 Robbery 2 (RCW 9A.56.210)

1 Theft of Livestock 1 (RCW 9A.56.080)  
2 Threats to Bomb (RCW 9.61.160)  
3 Trafficking in Stolen Property 1 (RCW  
4 9A.82.050)  
5 Unlawful factoring of a credit card or  
6 payment card transaction (RCW  
7 9A.56.290(4)(b))  
8 Unlawful transaction of health  
9 coverage as a health care service  
10 contractor (RCW 48.44.016(3))  
11 Unlawful transaction of health  
12 coverage as a health maintenance  
13 organization (RCW 48.46.033(3))  
14 Unlawful transaction of insurance  
15 business (RCW 48.15.023(3))  
16 Unlicensed practice as an insurance  
17 professional (RCW 48.17.063(2))  
18 Use of Proceeds of Criminal  
19 Profiteering (RCW 9A.82.080 (1)  
20 and (2))  
21 Vehicular Assault, by being under the  
22 influence of intoxicating liquor or  
23 any drug, or by the operation or  
24 driving of a vehicle in a reckless  
25 manner (RCW 46.61.522)  
26 Viewing of Depictions of a Minor  
27 Engaged in Sexually Explicit  
28 Conduct 1 (RCW 9.68A.075(1))  
29 Willful Failure to Return from  
30 Furlough (RCW 72.66.060)  
31 III Animal Cruelty 1 (Sexual Conduct or  
32 Contact) (RCW 16.52.205(3))  
33 Assault 3 (Except Assault 3 of a Peace  
34 Officer With a Projectile Stun  
35 Gun) (RCW 9A.36.031 except  
36 subsection (1)(h))  
37 Assault of a Child 3 (RCW 9A.36.140)

1 Bail Jumping with class B or C Felony  
2 (RCW 9A.76.170(3)(c))  
3 Burglary 2 (RCW 9A.52.030)  
4 Communication with a Minor for  
5 Immoral Purposes (RCW  
6 9.68A.090)  
7 Criminal Gang Intimidation (RCW  
8 9A.46.120)  
9 Custodial Assault (RCW 9A.36.100)  
10 Cyberstalking (subsequent conviction  
11 or threat of death) (RCW  
12 9.61.260(3))  
13 Escape 2 (RCW 9A.76.120)  
14 Extortion 2 (RCW 9A.56.130)  
15 Harassment (RCW 9A.46.020)  
16 Intimidating a Public Servant (RCW  
17 9A.76.180)  
18 Introducing Contraband 2 (RCW  
19 9A.76.150)  
20 Malicious Injury to Railroad Property  
21 (RCW 81.60.070)  
22 Mortgage Fraud (RCW 19.144.080)  
23 Negligently Causing Substantial Bodily  
24 Harm By Use of a Signal  
25 Preemption Device (RCW  
26 46.37.674)  
27 Organized Retail Theft 1 (RCW  
28 9A.56.350(2))  
29 Perjury 2 (RCW 9A.72.030)  
30 Possession of Incendiary Device (RCW  
31 9.40.120)  
32 Possession of Machine Gun or Short-  
33 Barreled Shotgun or Rifle (RCW  
34 9.41.190)  
35 Promoting Prostitution 2 (RCW  
36 9A.88.080)

1 Retail Theft with Extenuating  
2 Circumstances 1 (RCW  
3 9A.56.360(2))  
4 Securities Act violation (RCW  
5 21.20.400)  
6 Tampering with a Witness (RCW  
7 9A.72.120)  
8 Telephone Harassment (subsequent  
9 conviction or threat of death)  
10 (RCW 9.61.230(2))  
11 Theft of Livestock 2 (RCW 9A.56.083)  
12 Theft with the Intent to Resell 1 (RCW  
13 9A.56.340(2))  
14 Trafficking in Stolen Property 2 (RCW  
15 9A.82.055)  
16 Unlawful Hunting of Big Game 1  
17 (RCW 77.15.410(3)(b))  
18 Unlawful Imprisonment (RCW  
19 9A.40.040)  
20 Unlawful possession of firearm in the  
21 second degree (RCW 9.41.040(2))  
22 Unlawful Taking of Endangered Fish  
23 or Wildlife 1 (RCW  
24 77.15.120(3)(b))  
25 Unlawful Trafficking in Fish, Shellfish,  
26 or Wildlife 1 (RCW  
27 77.15.260(3)(b))  
28 Unlawful Use of a Nondesignated  
29 Vessel (RCW 77.15.530(4))  
30 Vehicular Assault, by the operation or  
31 driving of a vehicle with disregard  
32 for the safety of others (RCW  
33 46.61.522)  
34 Willful Failure to Return from Work  
35 Release (RCW 72.65.070)  
36 II Commercial Fishing Without a License  
37 1 (RCW 77.15.500(3)(b))



1 Computer Trespass 1 (RCW  
2 9A.52.110)  
3 Counterfeiting (RCW 9.16.035(3))  
4 Engaging in Fish Dealing Activity  
5 Unlicensed 1 (RCW 77.15.620(3))  
6 Escape from Community Custody  
7 (RCW 72.09.310)  
8 Failure to Register as a Sex Offender  
9 (second or subsequent offense)  
10 (RCW 9A.44.132)  
11 Health Care False Claims (RCW  
12 48.80.030)  
13 Identity Theft 2 (RCW 9.35.020(3))  
14 Improperly Obtaining Financial  
15 Information (RCW 9.35.010)  
16 Malicious Mischief 1 (RCW  
17 9A.48.070)  
18 Organized Retail Theft 2 (RCW  
19 9A.56.350(3))  
20 Possession of Stolen Property 1 (RCW  
21 9A.56.150)  
22 Possession of a Stolen Vehicle (RCW  
23 9A.56.068)  
24 Retail Theft with Extenuating  
25 Circumstances 2 (RCW  
26 9A.56.360(3))  
27 Scrap Processing, Recycling, or  
28 Supplying Without a License  
29 (second or subsequent offense)  
30 (section 7 of this act)  
31 Theft 1 (RCW 9A.56.030)  
32 Theft of a Motor Vehicle (RCW  
33 9A.56.065)  
34 Theft of Rental, Leased, or Lease-  
35 purchased Property (valued at one  
36 thousand five hundred dollars or  
37 more) (RCW 9A.56.096(5)(a))

1 Theft with the Intent to Resell 2 (RCW  
2 9A.56.340(3))  
3 Trafficking in Insurance Claims (RCW  
4 48.30A.015)  
5 Unlawful factoring of a credit card or  
6 payment card transaction (RCW  
7 9A.56.290(4)(a))  
8 Unlawful Participation of Non-Indians  
9 in Indian Fishery (RCW  
10 77.15.570(2))  
11 Unlawful Practice of Law (RCW  
12 2.48.180)  
13 Unlicensed Practice of a Profession or  
14 Business (RCW 18.130.190(7))  
15 Unlawful Purchase or Use of a License  
16 (RCW 77.15.650(3)(b))  
17 Unlawful Trafficking in Fish, Shellfish,  
18 or Wildlife 2 (RCW  
19 77.15.260(3)(a))  
20 Voyeurism (RCW 9A.44.115)  
21 I Attempting to Elude a Pursuing Police  
22 Vehicle (RCW 46.61.024)  
23 False Verification for Welfare (RCW  
24 74.08.055)  
25 Forgery (RCW 9A.60.020)  
26 Fraudulent Creation or Revocation of a  
27 Mental Health Advance Directive  
28 (RCW 9A.60.060)  
29 Malicious Mischief 2 (RCW  
30 9A.48.080)  
31 Mineral Trespass (RCW 78.44.330)  
32 Possession of Stolen Property 2 (RCW  
33 9A.56.160)  
34 Reckless Burning 1 (RCW 9A.48.040)  
35 Spotlighting Big Game 1 (RCW  
36 77.15.450(3)(b))

1 Suspension of Department Privileges 1  
2 (RCW 77.15.670(3)(b))  
3 Taking Motor Vehicle Without  
4 Permission 2 (RCW 9A.56.075)  
5 Theft 2 (RCW 9A.56.040)  
6 Theft of Rental, Leased, or Lease-  
7 purchased Property (valued at two  
8 hundred fifty dollars or more but  
9 less than one thousand five  
10 hundred dollars) (RCW  
11 9A.56.096(5)(b))  
12 Transaction of insurance business  
13 beyond the scope of licensure  
14 (RCW 48.17.063)  
15 Unlawful Fish and Shellfish Catch  
16 Accounting (RCW  
17 77.15.630(3)(b))  
18 Unlawful Issuance of Checks or Drafts  
19 (RCW 9A.56.060)  
20 Unlawful Possession of Fictitious  
21 Identification (RCW 9A.56.320)  
22 Unlawful Possession of Instruments of  
23 Financial Fraud (RCW 9A.56.320)  
24 Unlawful Possession of Payment  
25 Instruments (RCW 9A.56.320)  
26 Unlawful Possession of a Personal  
27 Identification Device (RCW  
28 9A.56.320)  
29 Unlawful Production of Payment  
30 Instruments (RCW 9A.56.320)  
31 Unlawful Release of Deleterious Exotic  
32 Wildlife (RCW 77.15.250(2)(b))  
33 Unlawful Trafficking in Food Stamps  
34 (RCW 9.91.142)  
35 Unlawful Use of Food Stamps (RCW  
36 9.91.144)

1 Unlawful Use of Net to Take Fish 1  
2 (RCW 77.15.580(3)(b))  
3 Unlawful Use of Prohibited Aquatic  
4 Animal Species (RCW  
5 77.15.253(3))  
6 Vehicle Prowl 1 (RCW 9A.52.095)  
7 Violating Commercial Fishing Area or  
8 Time 1 (RCW 77.15.550(3)(b))

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

11 (1) The following personal property is subject to seizure and  
12 forfeiture and no property right exists in them: All personal property  
13 including, but not limited to, any item, object, tool, substance,  
14 device, weapon, machine, vehicle of any kind, money, security, or  
15 negotiable instrument, which was used or intended to be used to  
16 facilitate the commission of, or in aiding or abetting in the  
17 commission of, any violation of RCW 19.290.070 or any crime involving  
18 theft, trafficking, or unlawful possession of commercial metal  
19 property, or which was furnished or was intended to be furnished by any  
20 person in the commission of, as a result of, or as compensation for the  
21 commission of, any violation of RCW 19.290.070 or any crime involving  
22 theft, trafficking, or the unlawful possession of commercial metal  
23 property, or which was acquired in whole or in part with proceeds  
24 traceable to the commission of any violation of RCW 19.290.070 or any  
25 crime involving the theft, trafficking, or unlawful possession of  
26 commercial metal property; except that:

27 (a) No vehicle used by any person as a common carrier in the  
28 transaction of business as a common carrier is subject to forfeiture  
29 under this section unless the seizing agency proves by a preponderance  
30 of the evidence that the owner or other person in charge of the vehicle  
31 is a consenting party or is privy to a violation of RCW 19.290.070 or  
32 any crime involving theft, trafficking, or the unlawful possession of  
33 commercial metal property; and

34 (b) A forfeiture of property encumbered by a bona fide security  
35 interest is subject to the interest of the secured party if the secured  
36 party neither had actual or constructive knowledge of nor consented to

1 the commission of any violation of RCW 19.290.070 or any crime  
2 involving the theft, trafficking, or unlawful possession of commercial  
3 metal property.

4 (2) The following real property is subject to seizure and  
5 forfeiture and no property right exists in them: All real property,  
6 including any right, title, and interest in the whole of any lot or  
7 tract of land, and any appurtenances or improvements, that are being  
8 used with the knowledge of the owner for the commission of any  
9 violation of RCW 19.290.070 or any crime involving the theft,  
10 trafficking, or unlawful possession of commercial metal property, or  
11 which have been acquired in whole or in part with proceeds traceable to  
12 the commission of any violation of RCW 19.290.070 or any crime  
13 involving the trafficking, theft, or unlawful possession of commercial  
14 metal, if such activity is not less than a class C felony and a  
15 substantial nexus exists between the commission of the violation or  
16 crime and the real property. However:

17 (a) No property may be forfeited pursuant to this subsection (2),  
18 to the extent of the interest of an owner, by reason of any act or  
19 omission committed or omitted without the owner's actual or  
20 constructive knowledge;

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

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

36 (a) The seizure is incident to an arrest or a search under a search  
37 warrant;

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

4 (c) A law enforcement officer has probable cause to believe that  
5 the property is directly dangerous to health or safety; or

6 (d) The law enforcement officer has probable cause to believe that  
7 the property was used or is intended to be used in the commission of  
8 any violation of RCW 19.290.070 or any crime involving theft,  
9 trafficking, or the unlawful possession of commercial metal property.

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

34 (5) If no person notifies the seizing law enforcement agency in  
35 writing of the person's claim of ownership or right to possession of  
36 items specified in subsection (1) of this section within forty-five  
37 days of the seizure in the case of personal property and ninety days in  
38 the case of real property, the item seized shall be deemed forfeited.

1 The community property interest in real property of a person whose  
2 spouse or domestic partner committed a violation giving rise to seizure  
3 of the real property may not be forfeited if the person did not  
4 participate in the violation.

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

34 (7) At the hearing, the seizing agency has the burden of proof to  
35 establish by a preponderance of the evidence that seized property is  
36 subject to forfeiture. The person claiming to be the lawful owner or  
37 the person claiming to have the lawful right to possession of the  
38 property has the burden of proof to establish by a preponderance of the

1 evidence that the person owns or has a right to possess the seized  
2 property; and that the use or intended use of the seized property  
3 occurred with neither the owner's actual or constructive knowledge nor  
4 consent. The possession of bare legal title is not sufficient to  
5 establish ownership of seized property if the seizing agency proves by  
6 a preponderance of the evidence that the person claiming ownership or  
7 right to possession is a nominal owner and did not actually own or  
8 exert a controlling interest in the property.

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

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

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

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

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

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

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

37 (d) The value of sold forfeited property is the sale price. The  
38 value of retained forfeited property is the fair market value of the



1 property at the time of seizure, determined when possible by reference  
2 to an applicable commonly used index, such as the index used by the  
3 department of licensing for valuation of motor vehicles. A seizing  
4 agency may use, but need not use, an independent qualified appraiser to  
5 determine the value of retained property. If an appraiser is used, the  
6 value of the property appraised is net of the cost of the appraisal.  
7 The value of destroyed property and retained firearms or illegal  
8 property is zero.

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

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

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

25 **Sec. 26.** RCW 18.235.020 and 2010 c 179 s 18 are each amended to  
26 read as follows:

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

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

- 34 (i) Auctioneers under chapter 18.11 RCW;
- 35 (ii) Bail bond agents and bail bond recovery agents under chapter  
36 18.185 RCW;

1 (iii) Camping resorts' operators and salespersons under chapter  
2 19.105 RCW;

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

4 (v) Cosmetologists, barbers, manicurists, and estheticians under  
5 chapter 18.16 RCW;

6 (vi) Court reporters under chapter 18.145 RCW;

7 (vii) Driver training schools and instructors under chapter 46.82  
8 RCW;

9 (viii) Employment agencies under chapter 19.31 RCW;

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

11 (x) Limousines under chapter 46.72A RCW;

12 (xi) Notaries public under chapter 42.44 RCW;

13 (xii) Private investigators under chapter 18.165 RCW;

14 (xiii) Professional boxing, martial arts, and wrestling under  
15 chapter 67.08 RCW;

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

17 (xv) Real estate brokers and salespersons under chapters 18.85 and  
18 18.86 RCW;

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

21 (xvii) Security guards under chapter 18.170 RCW;

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

23 (~~(xviii)~~) (xix) Timeshares and timeshare salespersons under  
24 chapter 64.36 RCW;

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

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

28 (~~(xxi)~~) (xxii) Body artists, body piercers, and tattoo artists,  
29 and body art, body piercing, and tattooing shops and businesses, under  
30 chapter 18.300 RCW; and

31 (~~(xxii)~~) (xxiii) Appraisal management companies under chapter  
32 18.310 RCW.

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

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

37 (ii) The Washington state collection agency board established in  
38 chapter 19.16 RCW;

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

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

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

8 (vi) The state geologist licensing board established in chapter  
9 18.220 RCW.

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

18 **Sec. 27.** RCW 43.24.150 and 2011 c 298 s 25 are each amended to  
19 read as follows:

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

25 (a) Chapter 18.11 RCW, auctioneers;

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

27 (c) Chapter 18.145 RCW, court reporters;

28 (d) Chapter 18.165 RCW, private investigators;

29 (e) Chapter 18.170 RCW, security guards;

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

31 (g) Chapter 18.280 RCW, home inspectors;

32 (h) Chapter 19.16 RCW, collection agencies;

33 (i) Chapter 19.31 RCW, employment agencies;

34 (j) Chapter 19.105 RCW, camping resorts;

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

36 (l) Chapter 42.44 RCW, notaries public;

37 (m) Chapter 64.36 RCW, timeshares;

- 1 (n) Chapter 67.08 RCW, boxing, martial arts, and wrestling;
- 2 (o) Chapter 18.300 RCW, body art, body piercing, and tattooing;
- 3 (p) Chapter 79A.60 RCW, whitewater river outfitters; (~~and~~)
- 4 (q) Chapter 19.158 RCW, commercial telephone solicitation; and
- 5 (r) Chapter 19.290 RCW, scrap metal businesses.

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

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

16 NEW SECTION. Sec. 28. A new section is added to chapter 43.43 RCW  
17 to read as follows:

18 (1) Beginning on July 1, 2014, the Washington association of  
19 sheriffs and police chiefs shall implement and operate an ongoing  
20 electronic statewide no-buy list database program.

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

22 (3) The no-buy list database program shall allow for any secondhand  
23 dealer, secondhand precious metal dealer, pawnbrokers, and scrap metal  
24 business to enter a customer's name and date of birth into the  
25 database. The database must determine if the customer pursuing the  
26 transaction with the secondhand dealer, secondhand precious metal  
27 dealer, pawnbroker, or scrap metal business has been convicted in  
28 Washington of any crime involving burglary, robbery, theft, or  
29 possession of or receiving stolen property within the past ten years.

30 (4) If the customer has been convicted of any crime involving  
31 burglary, robbery, theft, or possession of or receiving stolen property  
32 within the past ten years despite whether the person was acting in his  
33 or her own behalf or as the agent of another then, at a minimum:

34 (a) The no-buy list database program must immediately send an alert  
35 to the secondhand dealer, secondhand precious metal dealer, pawnbroker,  
36 or scrap metal business stating: (i) That the customer is listed on a  
37 current no-buy list, (ii) the ten-year expiration period for the

1 customer's most recent crime listed, and (iii) a notification that, for  
2 a scrap metal business, entering into a transaction with the customer  
3 is prohibited under RCW 19.290.070 and, for a secondhand dealer,  
4 secondhand precious metal dealer, or pawnbroker, receiving any property  
5 from the customer is prohibited under RCW 19.60.066; and

6 (b) The program must automatically send an immediate electronic  
7 notification to the local law enforcement agency located nearest to the  
8 secondhand dealer, secondhand precious metal dealer, pawnbroker, or  
9 scrap metal business that notifies the law enforcement agency that a  
10 customer listed on a current no-buy list recently tried to pursue a  
11 transaction with the secondhand dealer, secondhand precious metal  
12 dealer, pawnbroker, or scrap metal business and that the current  
13 transaction may involve stolen property.

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

16 A scrap metal business shall, before completing any transaction  
17 under this chapter, determine whether such customer is listed in the  
18 Washington state patrol's no-buy list database program established and  
19 made available under section 28 of this act.

20 NEW SECTION. **Sec. 30.** A new section is added to chapter 43.43 RCW  
21 to read as follows:

22 The Washington association of sheriffs and police chiefs shall not  
23 be held liable for civil damages resulting from any act or omission in  
24 carrying out the requirements of section 28 of this act other than an  
25 act or omission constituting gross negligence or willful or wanton  
26 misconduct.

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