

By: West, Royce

S.B. No. 642

A BILL TO BE ENTITLED

AN ACT

relating to registration and regulation of secondhand metal dealers and metal recycling entities; providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 1956, Occupations Code, is amended to read as follows:

CHAPTER 1956. SECONDHAND [~~SALES TO~~] METAL DEALERS AND METAL RECYCLING ENTITIES

SECTION 2. Chapter 1956, Occupations Code, is amended by amending Subchapter A and adding Subchapters A-1, A-2, and A-3 to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS [~~SALE OF ALUMINUM, BRONZE, OR COPPER OR BRASS MATERIAL TO SECONDHAND METAL DEALERS~~]

Sec. 1956.001. DEFINITIONS. In this chapter [~~subchapter~~]:

(1) "Aluminum material" means a product made from aluminum, an aluminum alloy, or an aluminum by-product. The term includes an aluminum beer keg but does not include another type of aluminum can used to contain a food or beverage.

(2) "Bronze material" means:

(A) a cemetery vase, receptacle, or memorial made from bronze;

(B) bronze statuary; or

(C) material readily identifiable as bronze.

(3) "Commission" means the Public Safety Commission.

1 (4) "Director" means the public safety director.

2 (5) "Copper or brass material" means:

3 (A) insulated or noninsulated copper wire or
4 cable of the type used by a public utility or common carrier that
5 consists of at least 50 percent copper; or

6 (B) a copper or brass item of a type commonly used
7 in construction or by a public utility.

8 (6) [~~4~~] "Department" means the Texas Department of
9 Public Safety.

10 (7) "Metal recycling entity" means a business that is
11 predominantly engaged in:

12 (A) performing the manufacturing process by
13 which scrap, used, or obsolete ferrous or nonferrous metal is
14 converted into raw material products consisting of prepared grades
15 and having an existing or potential economic value, by a method
16 other than the exclusive use of hand tools, including processing,
17 sorting, cutting, classifying, cleaning, baling, wrapping,
18 shredding, shearing, or changing the physical form of that metal;
19 or

20 (B) the use of raw material products described
21 under Paragraph (A) in the manufacture of producer or consumer
22 goods.

23 (8) [~~5~~] "Personal identification document" means:

24 (A) a driver's license;

25 (B) a military identification card;

26 (C) a passport issued by the United States or by
27 another country and recognized by the United States; or

1 (D) a personal identification certificate issued
2 by the department under Section 521.101, Transportation Code, or a
3 corresponding card or certificate issued by another state.

4 (9) [~~6~~] "Regulated material" means:

- 5 (A) aluminum material;
- 6 (B) bronze material; [~~or~~]
- 7 (C) copper or brass material; or
- 8 (D) regulated metal.

9 (10) "Regulated metal" means metal items regulated
10 under this chapter in accordance with department rules, including:

- 11 (A) manhole covers;
- 12 (B) guardrails;
- 13 (C) compressed cylinders;
- 14 (D) beer kegs made from metal other than
15 aluminum;
- 16 (E) historical markers or cemetery vases,
17 receptacles, or memorials made from metal other than aluminum;
- 18 (F) unused rebar;
- 19 (G) street signs;
- 20 (H) drain gates;
- 21 (I) safes;
- 22 (J) communication, transmission, and service
23 wire or cable;
- 24 (K) condensing or evaporator coils for heating or
25 air conditioning units;
- 26 (L) electric light poles, including the fixtures
27 and hardware;

1 (M) stainless steel containers designed to hold
2 propane for fueling forklifts; and

3 (N) metal railroad equipment, including tie
4 plates, switch plates, e-clips, and rail tie functions.

5 (11) [~~7~~] "Secondhand metal dealer" means:

6 (A) an auto wrecker, a scrap metal processor, or
7 another person or organization that purchases, collects, or
8 solicits regulated material; or

9 (B) a person who operates or maintains a scrap
10 metal yard or other place in which scrap metal or cast-off regulated
11 material is collected or kept for shipment, sale, or transfer.

12 Sec. 1956.002. EXCEPTION. This chapter [~~subchapter~~] does
13 not apply to a purchase of regulated material from a manufacturing,
14 industrial, or other commercial vendor that sells regulated
15 material in the ordinary course of the vendor's business.

16 [Sections 1956.003-1956.010 reserved for expansion]

17 SUBCHAPTER A-1. POWERS AND DUTIES

18 Sec. 1956.011. ADMINISTRATION OF CHAPTER. The department
19 shall administer this chapter.

20 Sec. 1956.012. DEPARTMENT STAFF. The department may employ
21 administrative and clerical staff as necessary to carry out this
22 chapter.

23 Sec. 1956.013. RULES. The commission shall adopt rules as
24 necessary to administer this chapter, including rules:

25 (1) establishing minimum requirements for:

26 (A) registration under this chapter; and

27 (B) suspending, denying, or revoking a

1 certificate of registration; and

2 (2) adopting forms required by this chapter.

3 Sec. 1956.014. FEES. The commission by rule shall
4 prescribe fees in reasonable amounts sufficient to cover the costs
5 of administering this chapter, including fees for:

6 (1) an initial application for a certificate of
7 registration;

8 (2) issuance of a certificate of registration;

9 (3) issuance of a renewal certificate of registration;

10 and

11 (4) issuance of a duplicate certificate of
12 registration or duplicate renewal certificate of registration.

13 Sec. 1956.015. RULES REGARDING ADVERTISING OR COMPETITIVE
14 BIDDING. (a) The commission may not adopt rules restricting
15 advertising or competitive bidding by a registrant except to
16 prohibit false, misleading, or deceptive practices.

17 (b) In rules to prohibit false, misleading, or deceptive
18 practices, the commission may not include a rule that:

19 (1) restricts the use of any medium for advertising;

20 (2) restricts the use of a registrant's personal
21 appearance or voice in an advertisement;

22 (3) relates to the size or duration of an
23 advertisement by the registrant; or

24 (4) restricts the registrant's advertisement under a
25 trade name.

26 Sec. 1956.016. STATEWIDE REPORTING SYSTEM. (a) The
27 department shall establish a statewide reporting system to track

1 the sales of regulated metal reported to the department under
2 Section 1956.036.

3 (b) The department shall post a summary of the reports
4 provided to the department under Section 1956.036 on the
5 department's Internet website. The summary must include by county
6 or region the frequency with which a person presents regulated
7 materials for sale to a secondhand metal dealer or metal recycling
8 entity.

9 (c) Subsection (b) does not apply to regulated material sold
10 by a utility company, municipality, manufacturer, railroad,
11 cemetery, cable or satellite entity, or other business entity that
12 routinely has access to regulated metal.

13 [Sections 1956.017-1956.020 reserved for expansion]

14 SUBCHAPTER A-2. CERTIFICATE OF REGISTRATION

15 Sec. 1956.021. REGISTRATION REQUIRED. (a) A person may not
16 act as a secondhand metal dealer or represent to the public that the
17 person is a secondhand metal dealer unless the person is registered
18 under this chapter.

19 (b) A person may not act as a metal recycling entity or
20 represent to the public that the person is a metal recycling entity
21 unless the person is registered under this chapter.

22 Sec. 1956.022. ISSUANCE OF CERTIFICATE; QUALIFICATIONS.

23 (a) The department shall issue a certificate of registration to an
24 applicant who:

25 (1) applies and pays a registration fee; and

26 (2) presents any relevant evidence relating to the
27 applicant's qualifications as required by commission rule.

1 (b) The commission by rule may establish qualifications for
2 the holder of a certificate of registration under this chapter.

3 Sec. 1956.023. TERM OF CERTIFICATE. (a) A certificate of
4 registration is valid for two years after the date of issuance.

5 (b) The department shall adopt a system under which
6 certificates of registration expire and are renewed on various
7 dates.

8 (c) Not later than the 30th day before the date a person's
9 certificate of registration is scheduled to expire, the department
10 shall send written notice of the impending expiration to the person
11 at the person's last known address according to the records of the
12 department.

13 (d) A person whose certificate of registration has expired
14 may not make a representation for which a certificate of
15 registration is required under Section 1956.021 or perform
16 collections services until the certificate has been renewed.

17 Sec. 1956.024. RENEWAL OF CERTIFICATE. (a) To renew a
18 certificate of registration, a person must submit an application
19 for renewal in the manner prescribed by the department.

20 (b) A person who is otherwise eligible to renew a
21 certificate of registration may renew an unexpired certificate by
22 paying the required renewal fee to the department before the
23 expiration date of the certificate.

24 (c) A person whose certificate of registration has been
25 expired for 90 days or less may renew the certificate by paying to
26 the department a renewal fee that is equal to 1-1/2 times the
27 normally required renewal fee.

1 (d) A person whose certificate of registration has been
2 expired for more than 90 days but less than one year may renew the
3 certificate by paying to the department a renewal fee that is equal
4 to two times the normally required renewal fee.

5 (e) A person whose certificate of registration has been
6 expired for one year or more may not renew the certificate. The
7 person may obtain a new certificate of registration by complying
8 with the requirements and procedures, including the examination
9 requirements, for an original certificate.

10 [Sections 1956.025-1956.030 reserved for expansion]

11 SUBCHAPTER A-3. PRACTICE BY CERTIFICATE HOLDERS

12 Sec. 1956.031 [~~1956.003~~]. NOTICE TO SELLERS. (a) A
13 secondhand metal dealer or metal recycling entity shall at all
14 times maintain in a prominent place in the dealer's or entity's
15 place of business, in open view to a seller of regulated material, a
16 notice in two-inch lettering that:

17 (1) includes the following language:

18 "A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL MUST
19 PRESENT SUFFICIENT IDENTIFICATION AND PROOF OF OWNERSHIP REQUIRED
20 BY STATE LAW." "WARNING: STATE LAW PROVIDES A CRIMINAL PENALTY FOR
21 A PERSON WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF
22 IDENTIFICATION OR OTHER FALSE INFORMATION TO A SECONDHAND METAL
23 DEALER OR METAL RECYCLING ENTITY WHILE ATTEMPTING TO SELL ANY
24 REGULATED MATERIAL."; and

25 (2) states the secondhand metal dealer's or metal
26 recycling facility's usual business hours.

27 (b) The notice required by this section may be contained on

1 a sign that contains another notice if the secondhand metal dealer
2 or metal recycling entity is required to display another notice
3 under applicable law.

4 Sec. 1956.032 [~~1956.004~~]. INFORMATION PROVIDED BY SELLER.

5 (a) A person attempting to sell regulated material to a secondhand
6 metal dealer or metal recycling entity shall:

7 (1) display to the secondhand metal dealer or metal
8 recycling entity the person's personal identification document or
9 sign a statement that the person does not possess such a document;
10 and

11 (2) either:

12 (A) present proof that the person is the legal
13 owner or is lawfully entitled to sell the regulated material; or

14 (B) sign a written statement provided by the
15 secondhand metal dealer or metal recycling entity that the person
16 is the legal owner of or is lawfully entitled to sell the regulated
17 material offered for sale.

18 (b) A person required by a municipality to prepare a signed
19 statement consisting of the information required by Subsection
20 (a)(1) or (2) may use the statement required by the municipality to
21 comply with Subsection (a)(1) or (2).

22 (c) The secondhand metal dealer or metal recycling entity or
23 the dealer's or entity's agent shall visually verify the accuracy of
24 the identification presented by the seller at the time of the
25 purchase of regulated material.

26 Sec. 1956.033 [~~1956.005~~]. RECORD OF PURCHASE. (a) Each [~~A~~]
27 secondhand metal dealer and metal recycling entity in this state

1 shall keep an accurate and legible written record of each purchase
2 made in the course of the dealer's or entity's business from an
3 individual of:

- 4 (1) copper or brass material in excess of 50 pounds;
- 5 (2) bronze material; [~~or~~]
- 6 (3) aluminum material in excess of 40 pounds; or
- 7 (4) regulated metal.

8 (b) The record must be in English and include:

- 9 (1) the place and date of the purchase;
- 10 (2) the name and address of each individual from whom
11 the regulated material is purchased or obtained;
- 12 (3) the identifying number of the seller's personal
13 identification document;
- 14 (4) a description made in accordance with the custom
15 of the trade of the type and quantity of regulated material
16 purchased; and
- 17 (5) the statement required by Section 1956.032(a)(2)
18 [~~1956.004(a)(2)~~].

19 Sec. 1956.034 [~~1956.006~~]. PRESERVATION OF RECORDS. A
20 secondhand metal dealer or metal recycling entity shall preserve
21 each record required by Section 1956.033 [~~1956.005~~] until the third
22 anniversary of the date the record was made.

23 Sec. 1956.035 [~~1956.007~~]. INSPECTION OF RECORDS BY PEACE
24 OFFICER. (a) On request, a secondhand metal dealer or metal
25 recycling entity shall permit a peace officer of this state to
26 inspect, during the dealer's or entity's usual business hours:

- 27 (1) a record required by Section 1956.033 [~~1956.005~~];

1 or

2 (2) regulated material in the dealer's or entity's
3 possession.

4 (b) The inspecting officer shall inform the dealer or entity
5 of the officer's status as a peace officer.

6 Sec. 1956.036 [~~1956.008~~]. FURNISHING OF REPORT TO
7 DEPARTMENT. (a) Except as provided by Subsection (b), not later
8 than the seventh day after the date of the purchase or other
9 acquisition of material for which a record is required under
10 Section 1956.033 [~~1956.005~~], a secondhand metal dealer or metal
11 recycling entity shall mail to or file with the department a report
12 containing the information required to be recorded under that
13 section.

14 (b) If a secondhand metal dealer or metal recycling entity
15 purchases bronze material that is a cemetery vase, receptacle,
16 memorial, or statuary or a pipe that can reasonably be identified as
17 aluminum irrigation pipe, the dealer or entity shall:

18 (1) not later than the close of business on the
19 dealer's or entity's first working day after the purchase date,
20 orally notify the department; and

21 (2) not later than the fifth day after the purchase
22 date, mail to or file with the department a report containing the
23 information required to be recorded under Section 1956.033
24 [~~1956.005~~].

25 (c) Subsection (b) does not apply to a purchase from:

26 (1) the manufacturer or fabricator of the material or
27 pipe;

1 (2) a seller bearing a bill of sale for the material or
2 pipe; or

3 (3) the owner of the material or pipe.

4 Sec. 1956.037 [~~1956.009~~]. PLACEMENT OF ITEMS ON HOLD. (a) A
5 secondhand metal dealer or metal recycling entity may not dispose
6 of, process, sell, or remove from the premises an item of regulated
7 metal unless the dealer or entity acquired the item more than 72
8 hours before the disposal, processing, sale, or removal.

9 (b) A peace officer who has reasonable suspicion to believe
10 that an item of regulated material in the possession of a secondhand
11 metal dealer or metal recycling entity is stolen may place the item
12 on hold by issuing to the dealer or entity a written notice that:

13 (1) specifically identifies the item alleged to be
14 stolen and subject to the hold; and

15 (2) informs the dealer or entity of the requirements
16 of Subsection (c) [~~(b)~~].

17 (c) [~~(b)~~] On receiving the notice, the dealer or entity may
18 not process or remove from the dealer's or entity's premises the
19 identified item before the 60th [~~11th~~] day after the date the notice
20 is issued unless the hold is released at an earlier time in writing
21 by a peace officer of this state or a court order.

22 (d) [~~(c)~~] After the holding period expires, the dealer or
23 entity may dispose of the item unless disposition violates a court
24 order.

25 Sec. 1956.038 [~~1956.010~~]. PROHIBITED ACTS. A person may not,
26 with the intent to deceive:

27 (1) display to a secondhand metal dealer or metal

1 recycling entity a false or invalid personal identification
2 document in connection with the person's attempted sale of
3 regulated material; or

4 (2) make a false, material statement or representation
5 to a secondhand metal dealer or metal recycling entity in
6 connection with:

7 (A) that person's execution of a written
8 statement required by Section 1956.032(a)(1) or (2)
9 [~~1956.004(a)(1) or (2)~~]; or

10 (B) the dealer's or entity's efforts to obtain
11 the information required under Section 1956.033(b) [~~1956.005(b)~~].

12 Sec. 1956.039. HOURS OF OPERATION. A secondhand metal
13 dealer or metal recycling facility may not operate:

14 (1) more than 15 consecutive hours in one day; or

15 (2) later than 9 p.m.

16 Sec. 1956.0395 [~~1956.011~~]. CRIMINAL PENALTY. (a) A person
17 commits an offense if the person knowingly violates this subchapter
18 or Subchapter A-2.

19 (b) Except as provided by Subsection (c), an offense under
20 this section is a Class B misdemeanor.

21 (c) An offense under this section is a Class A misdemeanor
22 if the person has been convicted of a violation of this subchapter
23 within the 36 months preceding the date of the offense.

24 (d) On the conviction of a secondhand metal dealer or metal
25 recycling entity for an offense punishable under Subsection (c), a
26 court, in addition to imposing any other applicable penalty, may
27 order that the dealer or entity cease doing business as a secondhand

1 metal dealer or metal recycling entity for a period not to exceed 30
2 days from the date of the order for each violation that forms the
3 basis of the conviction.

4 SECTION 3. Chapter 1956, Occupations Code, is amended by
5 adding Subchapters D, E, and F to read as follows:

6 SUBCHAPTER D. DISCIPLINARY PROCEDURES

7 Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.

8 The department shall deny an application for a certificate of
9 registration, suspend or revoke a certificate of registration, or
10 reprimand a person who is registered under this chapter if the
11 person:

12 (1) obtains a certificate of registration by means of
13 fraud, misrepresentation, or concealment of a material fact;

14 (2) sells, barter, or offers to sell or barter a
15 certificate of registration;

16 (3) violates a rule adopted under this chapter; or

17 (4) violates Section 1956.021.

18 Sec. 1956.152. INVESTIGATION. The department shall
19 investigate:

20 (1) a person who engages in a practice that violates
21 this chapter; and

22 (2) each complaint filed with the department against a
23 person registered under this chapter.

24 Sec. 1956.153. HEARING. (a) A person whose application for
25 a certificate of registration is denied, whose certificate of
26 registration is suspended or revoked, or who is reprimanded is
27 entitled to a hearing before the department if the person submits to

1 the department a written request for the hearing.

2 (b) A hearing is governed by department rules for a
3 contested hearing and by Chapter 2001, Government Code.

4 Sec. 1956.154. EMERGENCY SUSPENSION. (a) The department
5 shall temporarily suspend the certificate of registration of a
6 certificate holder if the department determines from the evidence
7 or information presented to it that continued practice by the
8 certificate holder would constitute a continuing and imminent
9 threat to the public welfare.

10 (b) A certificate of registration may be suspended under
11 this section without notice or hearing on the complaint if:

12 (1) action is taken to initiate proceedings for a
13 hearing before the State Office of Administrative Hearings
14 simultaneously with the temporary suspension; and

15 (2) a hearing is held as soon as practicable under this
16 chapter and Chapter 2001, Government Code.

17 (c) The State Office of Administrative Hearings shall hold a
18 preliminary hearing not later than the 14th day after the date of
19 the temporary suspension to determine if there is probable cause to
20 believe that a continuing and imminent threat to the public welfare
21 still exists. A final hearing on the matter shall be held not later
22 than the 61st day after the date of the temporary suspension.

23 [Sections 1956.155-1956.200 reserved for expansion]

24 SUBCHAPTER E. ADMINISTRATIVE PENALTY

25 Sec. 1956.201. IMPOSITION OF PENALTY. The department may
26 assess an administrative penalty against a person who violates this
27 chapter or a rule adopted under this chapter.

1 Sec. 1956.202. AMOUNT OF PENALTY. (a) The amount of the
2 administrative penalty may not exceed \$1,000 for each violation.
3 Each day of a continuing violation is a separate violation.

4 (b) The amount shall be based on:

- 5 (1) the seriousness of the violation;
6 (2) the history of previous violations;
7 (3) the amount necessary to deter a future violation;
8 (4) efforts made to correct the violation; and
9 (5) any other matter that justice requires.

10 Sec. 1956.203. NOTICE OF VIOLATION AND PENALTY. If, after
11 investigation of a possible violation and the facts surrounding the
12 possible violation, the department determines that a violation
13 occurred, the department shall give written notice of the violation
14 to the person alleged to have committed the violation. The notice
15 must:

- 16 (1) include a brief summary of the alleged violation;
17 (2) state the amount of the proposed administrative
18 penalty based on the factors set forth in Section 1956.202(b); and
19 (3) inform the person of the person's right to a
20 hearing on the occurrence of the violation, the amount of the
21 penalty, or both.

22 Sec. 1956.204. PENALTY TO BE PAID OR HEARING REQUESTED. (a)
23 Not later than the 20th day after the date the person receives the
24 notice, the person may:

- 25 (1) accept the department's determination and proposed
26 administrative penalty; or
27 (2) make a written request for a hearing on that

1 determination.

2 (b) If the person accepts the department's determination,
3 the director or the director's designee by order shall approve the
4 determination and assess the proposed penalty.

5 Sec. 1956.205. HEARING. (a) If the person requests a
6 hearing in a timely manner, the department shall:

7 (1) set a hearing;

8 (2) give written notice of the hearing to the person;

9 and

10 (3) designate a hearings examiner to conduct the
11 hearing.

12 (b) The hearings examiner shall:

13 (1) make findings of fact and conclusions of law; and

14 (2) promptly issue to the director or the director's
15 designee a proposal for decision as to the occurrence of the
16 violation and the amount of any proposed administrative penalty.

17 Sec. 1956.206. DECISION. (a) Based on the findings of fact,
18 conclusions of law, and proposal for decision, the director or the
19 director's designee by order may determine that:

20 (1) a violation occurred and assess an administrative
21 penalty; or

22 (2) a violation did not occur.

23 (b) The department shall give notice of the order to the
24 person. The notice must include:

25 (1) separate statements of the findings of fact and
26 conclusions of law;

27 (2) the amount of any penalty assessed; and

1 (3) a statement of the person's right to judicial
2 review of the order.

3 Sec. 1956.207. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

4 (a) Not later than the 30th day after the date the order becomes
5 final, the person shall:

6 (1) pay the administrative penalty;

7 (2) pay the penalty and file a petition for judicial
8 review contesting the fact of the violation, the amount of the
9 penalty, or both; or

10 (3) without paying the penalty, file a petition for
11 judicial review contesting the fact of the violation, the amount of
12 the penalty, or both.

13 (b) Not later than the 30th day after the date the order is
14 final, a person who acts under Subsection (a)(3) may:

15 (1) stay enforcement of the penalty by:

16 (A) paying the penalty to the court for placement
17 in an escrow account; or

18 (B) giving to the court a supersedeas bond
19 approved by the court that:

20 (i) is for the amount of the penalty; and

21 (ii) is effective until judicial review of
22 the order is final; or

23 (2) request the court to stay enforcement of the
24 penalty by:

25 (A) filing with the court a sworn affidavit of
26 the person stating that the person is financially unable to pay the
27 penalty and is financially unable to give the supersedeas bond; and

1 (B) giving a copy of the affidavit to the
2 department by certified mail.

3 (c) If the department receives a copy of an affidavit under
4 Subsection (b)(2), the department may file with the court, not
5 later than the fifth day after the date the department receives the
6 copy, a contest to the affidavit.

7 (d) The court shall hold a hearing on the facts alleged in
8 the affidavit as soon as practicable and shall stay enforcement of
9 the penalty on finding that the alleged facts are true. The person
10 who files an affidavit has the burden of proving that the person is
11 financially unable to pay the amount of the penalty and to give a
12 supersedeas bond.

13 Sec. 1956.208. DETERMINATION BY COURT. (a) If the court
14 sustains the occurrence of the violation, the court may uphold or
15 reduce the amount of the administrative penalty and order the
16 person to pay the full or reduced penalty.

17 (b) If the court does not sustain the occurrence of the
18 violation, the court shall order that a penalty is not owed.

19 Sec. 1956.209. REMITTANCE OF PENALTY AND INTEREST. (a) If
20 after judicial review, the administrative penalty is reduced or not
21 imposed by the court, the court shall, after the judgment becomes
22 final:

23 (1) order that the appropriate amount, plus accrued
24 interest, be remitted to the person if the person paid the amount of
25 the penalty; or

26 (2) order the release of the bond in full if the
27 penalty is not imposed or order the release of the bond after the

1 person pays the penalty imposed if the person posted a supersedeas
2 bond.

3 (b) The interest paid under Subsection (a)(1) is the rate
4 charged on loans to depository institutions by the New York Federal
5 Reserve Bank. The interest shall be paid for the period beginning
6 on the date the penalty is paid and ending on the date the penalty is
7 remitted.

8 Sec. 1956.210. COLLECTION OF PENALTY. (a) In this section,
9 "reasonable expenses and costs" includes expenses incurred by the
10 department and the attorney general in the investigation,
11 initiation, or prosecution of an action, including reasonable
12 investigative costs, court costs, attorney's fees, witness fees,
13 and deposition expenses.

14 (b) If the person does not pay the amount of the
15 administrative penalty and the enforcement of the penalty is not
16 stayed, the department may refer the matter to the attorney general
17 for collection of the amount of the penalty.

18 (c) The department may assess reasonable expenses and costs
19 against a person in an administrative hearing if, as a result of the
20 hearing, an administrative penalty is assessed against the person.
21 The person shall pay expenses and costs assessed under this
22 subsection not later than the 30th day after the date the order of
23 the director or the director's designee requiring the payment of
24 expenses and costs is final. The department may refer the matter to
25 the attorney general for collection of expenses and costs.

26 (d) If the attorney general brings an action against a
27 person to enforce an administrative penalty assessed under this

1 chapter and the person is found liable for an administrative
2 penalty, the attorney general may recover, on behalf of the
3 attorney general and the department, reasonable expenses and costs.

4 Sec. 1956.211. ADMINISTRATIVE PROCEDURE. A proceeding for
5 the assessment of an administrative penalty under this subchapter
6 is subject to Chapter 2001, Government Code.

7 [Sections 1956.212-1956.250 reserved for expansion]

8 SUBCHAPTER F. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

9 Sec. 1956.251. ENFORCEMENT PROCEEDINGS; INJUNCTION. (a)
10 The department, the attorney general, or the district or county
11 attorney for the county in which an alleged violation of this
12 chapter occurs shall, on receipt of a verified complaint, bring an
13 appropriate administrative or judicial proceeding to enforce this
14 chapter or a rule adopted under this chapter.

15 (b) The attorney general or an attorney representing the
16 state may initiate an action for an injunction to prohibit a person
17 from violating this chapter or a rule adopted under this chapter.

18 Sec. 1956.252. CIVIL PENALTY. In addition to any other
19 remedy provided by law, including injunctive relief, a court may
20 impose a civil penalty for a violation of this chapter or a rule
21 adopted under this chapter.

22 SECTION 4. (a) Not later than January 1, 2008, the Public
23 Safety Commission shall adopt the rules necessary to implement the
24 changes in law made by this Act to Chapter 1956, Occupations Code.

25 (b) Not later than September 1, 2008, the Department of
26 Public Safety shall establish the statewide reporting system to
27 track the sales of regulated metal as required under Chapter 1956,

1 Occupations Code, as amended by this Act.

2 SECTION 5. Notwithstanding Section 1956.021, Occupations
3 Code, as added by this Act, a person is not required to hold a
4 certificate of registration as a secondhand metal dealer or metal
5 recycling entity under Chapter 1956, Occupations Code, as amended
6 by this Act, before September 1, 2008.

7 SECTION 6. The change in law made by this Act applies only
8 to an offense committed on or after the effective date of this Act.
9 An offense committed before that date is governed by the law in
10 effect when the offense was committed, and the former law is
11 continued in effect for that purpose. For purposes of this section,
12 an offense was committed before the effective date of this Act if
13 any element of the offense was committed before that date.

14 SECTION 7. (a) Except as provided by Subsection (b) of this
15 section, this Act takes effect September 1, 2007.

16 (b) Section 1956.0395, Occupations Code, as added by this
17 Act, and Subchapters D, E, and F, Occupations Code, as added by this
18 Act, take effect September 1, 2008.