

1-1 By: West S.B. No. 642  
1-2 (In the Senate - Filed February 14, 2007; February 28, 2007,  
1-3 read first time and referred to Committee on Natural Resources;  
1-4 April 18, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 9, Nays 0; April 18, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 642 By: Brimer

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to registration and regulation of metal recycling  
1-11 entities; providing penalties.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Chapter 1956, Occupations Code,  
1-14 is amended to read as follows:

1-15 CHAPTER 1956. [~~SALES TO METAL DEALERS AND~~]  
1-16 METAL RECYCLING ENTITIES

1-17 SECTION 2. Chapter 1956, Occupations Code, is amended by  
1-18 amending Subchapter A and adding Subchapters A-1, A-2, and A-3 to  
1-19 read as follows:

1-20 SUBCHAPTER A. GENERAL PROVISIONS [~~SALE OF ALUMINUM, BRONZE, OR~~  
1-21 ~~COPPER OR BRASS MATERIAL TO SECONDHAND METAL DEALERS~~]

1-22 Sec. 1956.001. DEFINITIONS. In this chapter [~~subchapter~~]:

1-23 (1) "Aluminum material" means a product made from  
1-24 aluminum, an aluminum alloy, or an aluminum by-product. The term  
1-25 includes aluminum wiring and an aluminum beer keg but does not  
1-26 include another type of aluminum can used to contain a food or  
1-27 beverage.

1-28 (2) "Bronze material" means:

1-29 (A) a cemetery vase, receptacle, or memorial made  
1-30 from bronze;

1-31 (B) bronze statuary; or

1-32 (C) material readily identifiable as bronze,  
1-33 including bronze wiring.

1-34 (3) "Commission" means the Public Safety Commission.

1-35 (4) "Copper or brass material" means:

1-36 (A) insulated or noninsulated copper wire or  
1-37 cable of the type used by a public utility or common carrier that  
1-38 consists of at least 50 percent copper; [~~or~~]

1-39 (B) a copper or brass item of a type commonly used  
1-40 in construction or by a public utility; or

1-41 (C) copper pipe or copper tubing.

1-42 (5) [~~(4)~~] "Department" means the Texas Department of  
1-43 Public Safety.

1-44 (6) "Director" means the public safety director.

1-45 (7) "Metal recycling entity" means a business that is  
1-46 operated from a fixed location and is predominantly engaged in:

1-47 (A) performing the manufacturing process by  
1-48 which scrap, used, or obsolete ferrous or nonferrous metal is  
1-49 converted into raw material products consisting of prepared grades  
1-50 and having an existing or potential economic value, by a method that  
1-51 in part requires the use of powered tools and equipment, including  
1-52 processes that involve processing, sorting, cutting, classifying,  
1-53 cleaning, baling, wrapping, shredding, shearing, or changing the  
1-54 physical form of that metal;

1-55 (B) the use of raw material products described  
1-56 under Paragraph (A) in the manufacture of producer or consumer  
1-57 goods; or

1-58 (C) purchasing or otherwise acquiring scrap,  
1-59 used, or obsolete ferrous or nonferrous metals for the eventual use  
1-60 of the metal for the purposes described by Paragraph (A) or (B).

1-61 (8) [~~(5)~~] "Personal identification document" means:

1-62 (A) a driver's license;

1-63 (B) a military identification card;

2-1 (C) a passport issued by the United States or by  
2-2 another country and recognized by the United States; or

2-3 (D) a personal identification certificate issued  
2-4 by the department under Section 521.101, Transportation Code, or a  
2-5 corresponding card or certificate issued by another state.

2-6 (9) ~~[(6)]~~ "Regulated material" means:

- 2-7 (A) aluminum material;
- 2-8 (B) bronze material; ~~[or]~~
- 2-9 (C) copper or brass material; or
- 2-10 (D) regulated metal.

2-11 (10) "Regulated metal" means metal items regulated  
2-12 under this chapter in accordance with department rules, including:

- 2-13 (A) manhole covers;
- 2-14 (B) guardrails;
- 2-15 (C) compressed cylinders;
- 2-16 (D) beer kegs made from metal other than  
2-17 aluminum;
- 2-18 (E) historical markers or cemetery vases,  
2-19 receptacles, or memorials made from metal other than aluminum;
- 2-20 (F) unused rebar;
- 2-21 (G) street signs;
- 2-22 (H) drain gates;
- 2-23 (I) safes;
- 2-24 (J) communication, transmission, and service  
2-25 wire or cable;
- 2-26 (K) condensing or evaporator coils for heating or  
2-27 air conditioning units;
- 2-28 (L) electric light poles, including the fixtures  
2-29 and hardware;
- 2-30 (M) aluminum or stainless steel containers  
2-31 designed to hold propane for fueling forklifts; and
- 2-32 (N) metal railroad equipment, including tie  
2-33 plates, signal houses, control boxes, signs, signals, traffic  
2-34 devices, traffic control devices, traffic control signals, switch  
2-35 plates, e-clips, and rail tie functions

2-36 ~~[(7) "Secondhand metal dealer" means:~~

2-37 ~~[(A) an auto wrecker, a scrap metal processor, or~~  
2-38 ~~another person or organization that purchases, collects, or~~  
2-39 ~~solicits regulated material; or~~

2-40 ~~[(B) a person who operates or maintains a scrap~~  
2-41 ~~metal yard or other place in which scrap metal or cast-off regulated~~  
2-42 ~~material is collected or kept for shipment, sale, or transfer].~~

2-43 Sec. 1956.002. EXCEPTION. This chapter ~~[subchapter]~~ does  
2-44 not apply to:

2-45 (1) a purchase of regulated material from a  
2-46 manufacturing, industrial, ~~[or other]~~ commercial, retail, or other  
2-47 seller ~~[vendor]~~ that sells regulated material in the ordinary  
2-48 course of the seller's ~~[vendor's]~~ business; or

2-49 (2) a purchase of regulated material by a manufacturer  
2-50 whose primary business is the manufacture of iron and steel  
2-51 products made from melting scrap iron and scrap steel.

2-52 Sec. 1956.003. LOCAL LAW. (a) A county, municipality, or  
2-53 political subdivision of this state may adopt a rule, charter, or  
2-54 ordinance or issue an order or impose standards that are more  
2-55 stringent than but do not conflict with this chapter or rules  
2-56 adopted under this chapter.

2-57 (b) A county, municipality, or political subdivision of  
2-58 this state may issue a license or permit to a business to allow the  
2-59 business to act as a metal recycling entity in that county or  
2-60 municipality.

2-61 (c) A county, municipality, or political subdivision of  
2-62 this state that issues a license or permit to a business as  
2-63 authorized under Subsection (b) shall submit to the department in  
2-64 the manner required by the department information on each business  
2-65 that is issued a license or permit.

2-66 [Sections 1956.004-1956.010 reserved for expansion]

2-67 SUBCHAPTER A-1. POWERS AND DUTIES

2-68 Sec. 1956.011. ADMINISTRATION OF CHAPTER. The department  
2-69 shall administer this chapter.

3-1 Sec. 1956.012. DEPARTMENT STAFF. The department may employ  
3-2 administrative and clerical staff as necessary to carry out this  
3-3 chapter.

3-4 Sec. 1956.013. RULES. The commission may adopt rules to  
3-5 administer this chapter, including rules:

3-6 (1) establishing minimum requirements for  
3-7 registration under this chapter; and

3-8 (2) adopting forms required by this chapter.

3-9 Sec. 1956.014. FEES. The commission by rule shall  
3-10 prescribe fees in reasonable amounts sufficient to cover the costs  
3-11 of administering this chapter, including fees for:

3-12 (1) an initial application for a certificate of  
3-13 registration;

3-14 (2) issuance of a certificate of registration;

3-15 (3) issuance of a renewal certificate of registration;  
3-16 and

3-17 (4) issuance of a duplicate certificate of  
3-18 registration or duplicate renewal certificate of registration.

3-19 Sec. 1956.015. STATEWIDE ELECTRONIC REPORTING SYSTEM. (a)  
3-20 The department shall establish a statewide electronic reporting  
3-21 system to track the sales of regulated metal reported to the  
3-22 department under Section 1956.036.

3-23 (b) The department shall post a summary of the reports  
3-24 provided to the department under Section 1956.036 on the  
3-25 department's Internet website. The summary must include by county  
3-26 or region the frequency with which a person presents regulated  
3-27 materials for sale to a metal recycling entity. The summary may not  
3-28 identify any person to which the metal recycling entity sells the  
3-29 regulated materials.

3-30 (c) Subsection (b) does not apply to regulated material sold  
3-31 by a utility company, municipality, manufacturer, railroad,  
3-32 cemetery, cable or satellite entity, or other business entity that  
3-33 routinely has access to regulated metal.

3-34 (d) The department shall maintain the confidentiality of  
3-35 information provided under this section that relates to the  
3-36 financial condition or business affairs of a metal recycling entity  
3-37 or that is otherwise commercially sensitive. The confidential  
3-38 information is not subject to disclosure under Chapter 552,  
3-39 Government Code.

3-40 [Sections 1956.016-1956.020 reserved for expansion]

3-41 SUBCHAPTER A-2. CERTIFICATE OF REGISTRATION

3-42 Sec. 1956.021. REGISTRATION REQUIRED. A person may not act  
3-43 as a metal recycling entity or represent to the public that the  
3-44 person is a metal recycling entity unless the person is registered  
3-45 under this chapter.

3-46 Sec. 1956.022. ISSUANCE OF CERTIFICATE; QUALIFICATIONS.

3-47 (a) The department shall issue a certificate of registration to an  
3-48 applicant who:

3-49 (1) applies and pays a registration fee; and

3-50 (2) presents any relevant evidence relating to the  
3-51 applicant's qualifications as required by commission rule.

3-52 (b) The commission by rule may establish qualifications for  
3-53 the holder of a certificate of registration under this chapter,  
3-54 which may include accepting copies of a license or permit issued by  
3-55 a county or municipality authorizing a metal recycling entity to  
3-56 conduct business in that county or municipality.

3-57 Sec. 1956.023. TERM OF CERTIFICATE. (a) A certificate of  
3-58 registration is valid for two years after the date of issuance.

3-59 (b) The department shall adopt a system under which  
3-60 certificates of registration expire and are renewed on various  
3-61 dates.

3-62 (c) Not later than the 45th day before the date a person's  
3-63 certificate of registration is scheduled to expire, the department  
3-64 shall send written notice of the impending expiration to the person  
3-65 at the person's last known address according to the records of the  
3-66 department.

3-67 (d) A person whose certificate of registration has expired  
3-68 may not make a representation for which a certificate of  
3-69 registration is required under Section 1956.021 or perform

4-1 collections services until the certificate has been renewed.

4-2 Sec. 1956.024. RENEWAL OF CERTIFICATE. (a) To renew a  
 4-3 certificate of registration, a person must submit an application  
 4-4 for renewal in the manner prescribed by the department.

4-5 (b) A person who is otherwise eligible to renew a  
 4-6 certificate of registration may renew an unexpired certificate by  
 4-7 paying the required renewal fee to the department before the  
 4-8 expiration date of the certificate.

4-9 (c) A person whose certificate of registration has been  
 4-10 expired for 90 days or less may renew the certificate by paying to  
 4-11 the department a renewal fee that is equal to 1-1/2 times the  
 4-12 normally required renewal fee.

4-13 (d) A person whose certificate of registration has been  
 4-14 expired for more than 90 days but less than one year may renew the  
 4-15 certificate by paying to the department a renewal fee that is equal  
 4-16 to two times the normally required renewal fee.

4-17 (e) A person whose certificate of registration has been  
 4-18 expired for one year or more may not renew the certificate. The  
 4-19 person may obtain a new certificate of registration by complying  
 4-20 with the requirements and procedures, including the examination  
 4-21 requirements, for an original certificate.

4-22 [Sections 1956.025-1956.030 reserved for expansion]

4-23 SUBCHAPTER A-3. PRACTICE BY CERTIFICATE HOLDERS

4-24 Sec. 1956.031 [~~1956.003~~]. NOTICE TO SELLERS. (a) A metal  
 4-25 recycling entity [~~secondhand metal dealer~~] shall at all times  
 4-26 maintain in a prominent place in the entity's [~~dealer's~~] place of  
 4-27 business, in open view to a seller of regulated material, a notice  
 4-28 in two-inch lettering that:

4-29 (1) includes the following language:

4-30 "A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL MUST  
 4-31 PRESENT SUFFICIENT IDENTIFICATION AND WRITTEN PROOF OF OWNERSHIP  
 4-32 REQUIRED BY STATE LAW."

4-33 "WARNING: STATE LAW PROVIDES A CRIMINAL PENALTY FOR A PERSON  
 4-34 WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR  
 4-35 OTHER FALSE INFORMATION TO A METAL RECYCLING ENTITY [~~SECONDHAND~~  
 4-36 ~~METAL DEALER~~] WHILE ATTEMPTING TO SELL ANY REGULATED MATERIAL.";  
 4-37 and

4-38 (2) states the metal recycling entity's [~~secondhand~~  
 4-39 ~~metal dealer's~~] usual business hours.

4-40 (b) The notice required by this section may be contained on  
 4-41 a sign that contains another notice if the metal recycling entity  
 4-42 [~~secondhand metal dealer~~] is required to display another notice  
 4-43 under applicable law.

4-44 Sec. 1956.032 [~~1956.004~~]. INFORMATION PROVIDED BY SELLER.  
 4-45 (a) A person attempting to sell regulated material to a metal  
 4-46 recycling entity [~~secondhand metal dealer~~] shall:

4-47 (1) display to the metal recycling entity [~~secondhand~~  
 4-48 ~~metal dealer~~] the person's personal identification document [~~or~~  
 4-49 ~~sign a statement that the person does not possess such a document~~];  
 4-50 and

4-51 (2) either:

4-52 (A) present written documentation evidencing  
 4-53 that the person is the legal owner or is lawfully entitled to sell  
 4-54 the regulated material; or

4-55 (B) sign a written statement provided by the  
 4-56 metal recycling entity [~~secondhand metal dealer~~] that the person is  
 4-57 the legal owner of or is lawfully entitled to sell the regulated  
 4-58 material offered for sale.

4-59 (b) A person required by a municipality to prepare a signed  
 4-60 statement consisting of the information required by Subsection  
 4-61 (a)(2) [~~(a)(1) or (2)~~] may use the statement required by the  
 4-62 municipality to comply with Subsection (a)(2) [~~(a)(1) or (2)~~].

4-63 (c) The metal recycling entity [~~secondhand metal dealer~~] or  
 4-64 the entity's [~~dealer's~~] agent shall visually verify the accuracy of  
 4-65 the identification presented by the seller at the time of the  
 4-66 purchase of regulated material.

4-67 Sec. 1956.033 [~~1956.005~~]. RECORD OF PURCHASE. (a) Each  
 4-68 metal recycling entity [~~A secondhand metal dealer~~] in this state  
 4-69 shall keep an accurate electronic record or an accurate and legible

5-1 written record of each purchase made in the course of the entity's  
5-2 [~~dealer's~~] business from an individual of:

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

5-7 (b) The record must be in English and include:

- 5-8 (1) the place and date of the purchase;  
5-9 (2) the name and address of each individual from whom  
5-10 the regulated material is purchased or obtained;  
5-11 (3) the identifying number of the seller's personal  
5-12 identification document;  
5-13 (4) a description made in accordance with the custom  
5-14 of the trade of the type and quantity of regulated material  
5-15 purchased; and  
5-16 (5) the statement required by Section 1956.032(a)(2)  
5-17 [~~1956.004(a)(2)~~].

5-18 Sec. 1956.034 [~~1956.006~~]. PRESERVATION OF RECORDS. A metal  
5-19 recycling entity [~~secondhand metal dealer~~] shall preserve each  
5-20 record required by Section 1956.033 [~~1956.005~~] until the third  
5-21 anniversary of the date the record was made.

5-22 Sec. 1956.035 [~~1956.007~~]. INSPECTION OF RECORDS BY PEACE  
5-23 OFFICER. (a) On request, a metal recycling entity [~~secondhand~~  
5-24 ~~metal dealer~~] shall permit a peace officer of this state to inspect,  
5-25 during the entity's [~~dealer's~~] usual business hours:

- 5-26 (1) a record required by Section 1956.033 [~~1956.005~~];

5-27 or

- 5-28 (2) regulated material in the entity's [~~dealer's~~]  
5-29 possession.

5-30 (b) The inspecting officer shall inform the entity [~~dealer~~]  
5-31 of the officer's status as a peace officer.

5-32 Sec. 1956.036 [~~1956.008~~]. FURNISHING OF REPORT TO  
5-33 DEPARTMENT. (a) Except as provided by Subsection (b), not later  
5-34 than the seventh day after the date of the purchase or other  
5-35 acquisition of material for which a record is required under  
5-36 Section 1956.033 [~~1956.005~~], a metal recycling entity [~~secondhand~~  
5-37 ~~metal dealer~~] shall mail to or file with the department a report  
5-38 containing the information required to be recorded under that  
5-39 section.

5-40 (b) If a metal recycling entity [~~secondhand metal dealer~~]  
5-41 purchases bronze material that is a cemetery vase, receptacle,  
5-42 memorial, or statuary or a pipe that can reasonably be identified as  
5-43 aluminum irrigation pipe, the entity [~~dealer~~] shall:

- 5-44 (1) not later than the close of business on the  
5-45 entity's [~~dealer's~~] first working day after the purchase date,  
5-46 [~~orally~~] notify the department; and

5-47 (2) not later than the fifth day after the purchase  
5-48 date, mail to or file with the department a report containing the  
5-49 information required to be recorded under Section 1956.033  
5-50 [~~1956.005~~].

5-51 (c) Subsection (b) does not apply to a purchase from:

- 5-52 (1) the manufacturer or fabricator of the material or  
5-53 pipe;

5-54 (2) a seller bearing a bill of sale for the material or  
5-55 pipe; or

- 5-56 (3) the owner of the material or pipe.

5-57 Sec. 1956.037 [~~1956.009~~]. PLACEMENT OF ITEMS ON HOLD.  
5-58 (a) A metal recycling entity may not dispose of, process, sell, or  
5-59 remove from the premises an item of regulated metal unless:

- 5-60 (1) the entity acquired the item more than 72 hours  
5-61 before the disposal, processing, sale, or removal; or

5-62 (2) the entity purchased the item from a  
5-63 manufacturing, industrial, commercial, retail, or other seller  
5-64 that sells regulated material in the ordinary course of its  
5-65 business.

5-66 (b) A peace officer who has reasonable suspicion to believe  
5-67 that an item of regulated material in the possession of a metal  
5-68 recycling entity [~~secondhand metal dealer~~] is stolen may place the  
5-69 item on hold by issuing to the entity [~~dealer~~] a written notice

6-1 that:

6-2 (1) specifically identifies the item alleged to be  
6-3 stolen and subject to the hold; and

6-4 (2) informs the entity [dealer] of the requirements of  
6-5 Subsection (c) [~~(b)~~].

6-6 (c) [~~(b)~~] On receiving the notice, the entity [dealer] may  
6-7 not, except as provided by Subsection (e), process or remove from  
6-8 the entity's [dealer's] premises the identified item before the  
6-9 60th [11th] day after the date the notice is issued unless the hold  
6-10 is released at an earlier time in writing by a peace officer of this  
6-11 state or a court order.

6-12 (d) [~~(e)~~] After the holding period expires, the entity  
6-13 [dealer] may dispose of the item unless disposition violates a  
6-14 court order.

6-15 (e) If a hold is placed on a purchase of regulated material,  
6-16 a metal recycling entity may not dispose of, process, sell, or  
6-17 remove from the premises any item from the purchased material  
6-18 unless the hold on the material is released.

6-19 Sec. 1956.038 [1956.010]. PROHIBITED ACTS. A person may  
6-20 not, with the intent to deceive:

6-21 (1) display to a metal recycling entity [secondhand  
6-22 metal dealer] a false or invalid personal identification document  
6-23 in connection with the person's attempted sale of regulated  
6-24 material; or

6-25 (2) make a false, material statement or representation  
6-26 to a metal recycling entity [secondhand metal dealer] in connection  
6-27 with:

6-28 (A) that person's execution of a written  
6-29 statement required by Section 1956.032(a)(2) [1956.004(a)(1) or  
6-30 (2)]; or

6-31 (B) the entity's [dealer's] efforts to obtain the  
6-32 information required under Section 1956.033(b) [1956.005(b)].

6-33 Sec. 1956.039. HOURS FOR PURCHASING MATERIAL. (a) Subject  
6-34 to Subsection (b), a county, municipality, or political subdivision  
6-35 may establish the hours during which a metal recycling entity may  
6-36 purchase regulated material.

6-37 (b) A metal recycling entity may not purchase from the  
6-38 general public regulated material:

6-39 (1) more than 15 consecutive hours in one day; or

6-40 (2) later than 9 p.m.

6-41 [~~Sec. 1956.011. CRIMINAL PENALTY. (a) A person commits an~~  
6-42 ~~offense if the person knowingly violates this subchapter.~~

6-43 [~~(b) Except as provided by Subsection (c), an offense under~~  
6-44 ~~this section is a Class B misdemeanor.~~

6-45 [~~(c) An offense under this section is a Class A misdemeanor~~  
6-46 ~~if the person has been convicted of a violation of this subchapter~~  
6-47 ~~within the 36 months preceding the date of the offense.~~

6-48 [~~(d) On the conviction of a secondhand metal dealer for an~~  
6-49 ~~offense punishable under Subsection (c), a court, in addition to~~  
6-50 ~~imposing any other applicable penalty, may order that the dealer~~  
6-51 ~~cease doing business as a secondhand metal dealer for a period not~~  
6-52 ~~to exceed 30 days from the date of the order for each violation that~~  
6-53 ~~forms the basis of the conviction.]~~

6-54 SECTION 3. Chapter 1956, Occupations Code, is amended by  
6-55 adding Subchapters D and E to read as follows:

6-56 SUBCHAPTER D. DISCIPLINARY PROCEDURES

6-57 Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.  
6-58 The department shall deny an application for a certificate of  
6-59 registration, suspend or revoke a certificate of registration, or  
6-60 reprimand a person who is registered under this chapter if the  
6-61 person:

6-62 (1) obtains a certificate of registration by means of  
6-63 fraud, misrepresentation, or concealment of a material fact;

6-64 (2) sells, barter, or offers to sell or barter a  
6-65 certificate of registration;

6-66 (3) violates a rule adopted under this chapter; or

6-67 (4) violates Section 1956.021.

6-68 Sec. 1956.152. INVESTIGATION. Within the limits of  
6-69 available resources, the department may investigate:

7-1 (1) a person who engages in a practice that violates  
7-2 this chapter; and

7-3 (2) a complaint filed with the department against a  
7-4 person registered under this chapter.

7-5 Sec. 1956.153. HEARING. (a) A person whose application  
7-6 for a certificate of registration is denied, whose certificate of  
7-7 registration is suspended or revoked, or who is reprimanded is  
7-8 entitled to a hearing before the department if the person submits to  
7-9 the department a written request for the hearing.

7-10 (b) A hearing is governed by department rules for a  
7-11 contested hearing and by Chapter 2001, Government Code.

7-12 [Sections 1956.154-1956.200 reserved for expansion]

7-13 SUBCHAPTER E. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

7-14 Sec. 1956.201. ENFORCEMENT PROCEEDINGS; INJUNCTION.

7-15 (a) The department, the attorney general, or the district, county,  
7-16 or city attorney for the county or municipality in which an alleged  
7-17 violation of this chapter occurs may, on receipt of a verified  
7-18 complaint, bring an appropriate administrative or judicial  
7-19 proceeding to enforce this chapter or a rule adopted under this  
7-20 chapter.

7-21 (b) The attorney general or an attorney representing the  
7-22 state may initiate an action for an injunction to prohibit a person  
7-23 from violating this chapter or a rule adopted under this chapter.

7-24 Sec. 1956.202. CIVIL PENALTY. (a) A person who violates  
7-25 this chapter or a rule adopted under this chapter is liable to this  
7-26 state for a civil penalty of not more than \$1,000 for each  
7-27 violation.

7-28 (b) The amount of the penalty shall be based on:

7-29 (1) the seriousness of the violation;

7-30 (2) the history of previous violations;

7-31 (3) the amount necessary to deter a future violation;

7-32 and

7-33 (4) any other matter that justice may require.

7-34 (c) The attorney general may sue to collect a civil penalty  
7-35 under this section. In the suit the attorney general may recover,  
7-36 on behalf of the state, the reasonable expenses incurred in  
7-37 obtaining the penalty, including investigation and court costs,  
7-38 reasonable attorney's fees, witness fees, and other expenses.

7-39 Sec. 1956.203. CRIMINAL PENALTY. (a) A person commits an  
7-40 offense if the person knowingly violates this subchapter or  
7-41 Subchapter A-2 or A-3.

7-42 (b) Except as provided by Subsection (c), an offense under  
7-43 this section is a Class B misdemeanor.

7-44 (c) An offense under this section is a Class A misdemeanor  
7-45 if the person has been convicted of a violation of this subchapter  
7-46 within the 36 months preceding the date of the offense.

7-47 (d) On the conviction of a metal recycling entity for an  
7-48 offense punishable under Subsection (c), a court, in addition to  
7-49 imposing any other applicable penalty, may order that the entity  
7-50 cease doing business as a metal recycling entity for a period not to  
7-51 exceed 30 days from the date of the order for each violation that  
7-52 forms the basis of the conviction.

7-53 SECTION 4. Subdivision (1), Section 1956.101, Occupations  
7-54 Code, is repealed.

7-55 SECTION 5. (a) Not later than January 1, 2008, the Public  
7-56 Safety Commission shall adopt the rules necessary to implement the  
7-57 changes in law made by this Act to Chapter 1956, Occupations Code.

7-58 (b) Not later than April 1, 2008, the Department of Public  
7-59 Safety of the State of Texas shall establish the statewide  
7-60 reporting system to track the sales of regulated metal as required  
7-61 under Chapter 1956, Occupations Code, as amended by this Act.

7-62 SECTION 6. Notwithstanding Section 1956.021, Occupations  
7-63 Code, as added by this Act, a person is not required to hold a  
7-64 certificate of registration as a metal recycling entity under  
7-65 Chapter 1956, Occupations Code, as amended by this Act, before  
7-66 April 1, 2008.

7-67 SECTION 7. The change in law made by this Act applies only  
7-68 to an offense committed on or after the effective date of this Act.  
7-69 An offense committed before that date is governed by the law in

8-1 effect when the offense was committed, and the former law is  
8-2 continued in effect for that purpose. For purposes of this section,  
8-3 an offense was committed before the effective date of this Act if  
8-4 any element of the offense was committed before that date.

8-5 SECTION 8. (a) Except as provided by Subsection (b) of this  
8-6 section, this Act takes effect September 1, 2007.

8-7 (b) Subchapters D and E, Chapter 1956, Occupations Code, as  
8-8 added by this Act, take effect April 1, 2008.

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