

Amend SB 1273 (house committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly

SECTION _____. Section 1956.001(10), Occupations Code, is amended to read as follows:

- (10) "Regulated metal" means:
 - (A) manhole covers;
 - (B) guardrails;
 - (C) metal cylinders designed to contain compressed air, oxygen, gases, or liquids;
 - (D) beer kegs made from metal other than aluminum;
 - (E) historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;
 - (F) unused rebar;
 - (G) street signs;
 - (H) drain gates;
 - (I) safes;
 - (J) communication, transmission, and service wire or cable;
 - (K) condensing or evaporator coils, tubing, or rods for central heating or air conditioning units;
 - (L) utility structures, including the fixtures and hardware;
 - (M) aluminum or stainless steel containers designed to hold propane for fueling forklifts; ~~and~~
 - (N) metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions;
 - (O) catalytic converters not attached to a vehicle;
 - (P) fire hydrants;
 - (Q) metal bleachers or other seating facilities used in recreational areas or sporting arenas;
 - (R) any metal item clearly and conspicuously marked with any form of the name, initials, or logo of a

governmental entity, utility, cemetery, or railroad;

(S) insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation;

(T) backflow valves; and

(U) metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals.

SECTION _____. The heading to Section 1956.003, Occupations Code, is amended to read as follows:

Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY.

SECTION _____. Section 1956.003, Occupations Code, is amended by adding Subsections (a-1), (f), (g), and (h) to read as follows:

(a-1) A county, municipality, or political subdivision may require the record of purchase described under Section 1956.033 to contain a clear and legible thumbprint of a seller of regulated material.

(f) A county, municipality, or political subdivision that issues a license or permit authorized under Subsection (b) shall issue a notice to an owner or operator of a metal recycling entity operating without the license or permit informing the owner or operator that the entity is operating without the required license or permit and that the owner or operator may be subject to criminal penalties if the owner or operator does not submit an application for the appropriate license or permit before the 15th day after the date the notice is received.

(g) A person commits an offense if the person owns or operates a metal recycling entity and does not submit an application for the appropriate license or permit before the 15th day after the date of receiving a notice under Subsection (f).

(h) An offense under Subsection (g) is a Class A misdemeanor unless it is shown on the trial of the offense that the person has been previously convicted under Subsection (g), in which event the offense is a state jail felony.

SECTION _____. Section 1956.015(d), Occupations Code, is

amended to read as follows:

(d) Information provided under this section is not subject to disclosure under Chapter 552, Government Code. Except as provided by Subsection (b), the [The] department shall:

(1) maintain the confidentiality of information provided under this section; and

(2) require that any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information provided under this section shall maintain the confidentiality of the information provided under this section [that relates to the financial condition or business affairs of a metal recycling entity or that is otherwise commercially sensitive. The confidential information is not subject to disclosure under Chapter 552, Government Code].

SECTION _____. Subchapter A-1, Chapter 1956, Occupations Code, is amended by adding Section 1956.016 to read as follows:

Sec. 1956.016. REGISTRATION DATABASE. The department shall make available on its Internet website a publicly accessible list of all registered metal recycling entities.

SECTION _____. Section 1956.032, Occupations Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) Except as provided by Subsection (f), a person attempting to sell regulated material to a metal recycling entity shall:

(1) display to the metal recycling entity the person's personal identification document;

(2) provide to the metal recycling entity the make, model, and license plate number of the motor vehicle used to transport the regulated material and the name of the state issuing the license plate; and

(3) either:

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

(B) sign a written statement provided by the metal recycling entity that the person is the legal owner of or is

lawfully entitled to sell the regulated material offered for sale.

(g) Notwithstanding Section 1956.002, a person attempting to sell regulated material who represents that they are a metal recycling entity shall provide a copy of the certificate of registration issued under Section 1956.022 in addition to the information required under Subsection (a).

SECTION _____. Section 1956.033(b), Occupations Code, is amended to read as follows:

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

- (1) the place and date of the purchase;
- (2) the name and address of each individual from whom the regulated material is purchased or obtained;
- (3) the identifying number of the seller's personal identification document;
- (4) a description made in accordance with the custom of the trade of the type and quantity of regulated material purchased; and
- (5) the information required by Sections 1956.032(a)(2) and (3) [~~Section 1956.032(a)(3)~~].

SECTION _____. Section 1956.034, Occupations Code, is amended to read as follows:

Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling entity shall preserve each record required by Sections 1956.032 and 1956.033 until the third anniversary of the date the record was made. The records must be kept in an easily retrievable format.

SECTION _____. Section 1956.036, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections [~~Subsection~~] (b) and (d), not later than 48 hours [~~the seventh day~~] after the [~~date of the~~] purchase or other acquisition of material for which a record is required under Section 1956.033, a metal recycling entity shall send an electronic transaction report to the department via the department's Internet website. The [~~by facsimile or electronic mail to or file with the department a~~] report must contain [~~containing~~] the information required to be recorded under Section 1956.033 [~~that section~~].

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

(1) not later than the close of business on the entity's first working day after the purchase date, notify the department by telephone; and

(2) not later than 48 hours [~~the fifth day~~] after the purchase [~~date~~], submit to the department electronically via the department's Internet website [~~mail to~~] or file with the department a report containing the information required to be recorded under Section 1956.033.

(d) A metal recycling entity may submit the transaction report required under Subsection (a) by facsimile if:

(1) the entity submits to the department annually:

(A) an application requesting an exception to the electronic reporting requirement; and

(B) an affidavit stating that the entity does not have an available and reliable means of submitting the transaction report electronically; and

(2) the department approves the entity's application under this subsection.

SECTION _____. Section 1956.037(a), Occupations Code, is amended to read as follows:

(a) A metal recycling entity may not dispose of, process, sell, or remove from the premises an item of regulated metal unless:

(1) the entity acquired the item more than five days [~~72 hours~~], excluding weekends and holidays, before the disposal, processing, sale, or removal; [~~or~~]

(2) the entity purchased the item from a manufacturing, industrial, commercial, retail, or other seller that sells regulated material in the ordinary course of its business; or

(3) the entity:

(A) acquired the item more than 72 hours, excluding weekends and holidays, before the disposal, processing, sale, or removal; and

(B) obtained a digital or video photograph of the seller of the regulated material and the regulated material purchased.

SECTION _____. Section 1956.038, Occupations Code, is amended to read as follows:

Sec. 1956.038. PROHIBITED ACTS. (a) A person may not, with the intent to deceive:

(1) display to a metal recycling entity a false or invalid personal identification document in connection with the person's attempted sale of regulated material;

(2) make a false, material statement or representation to a metal recycling entity in connection with:

(A) that person's execution of a written statement required by Section 1956.032(a)(3); or

(B) the entity's efforts to obtain the information required under Section 1956.033(b); [~~or~~]

(3) display or provide to a metal recycling entity any information required under Section 1956.032 that the person knows is false or invalid; or

(4) display another individual's personal identification document in connection with the sale of regulated material.

(b) A metal recycling entity may not pay more than:

(1) \$150 in cash for a purchase of regulated metal; or

(2) \$1,000 in cash for a purchase of regulated material, other than regulated metal.

(c) Notwithstanding Section 1956.003(a) or any other law, a county, municipality, or political subdivision may not adopt a rule, charter, or ordinance or issue an order or impose standards that limit the use of cash by a metal recycling entity in a manner more restrictive than that provided by Subsection (b), unless such a rule, charter, or ordinance was adopted before January 1, 2010.

SECTION _____. Section 1956.040, Occupations Code, is amended by amending Subsection (a) and adding Subsection (a-1) to read as follows:

(a) A person commits an offense if the person knowingly violates Section 1956.021, Section 1956.023(d), Section

1956.036(a), or Section 1956.038. An offense under this subsection is a Class A misdemeanor unless it is shown on trial of the offense that the person has previously been convicted of a violation of this subchapter, in which event the offense is a state jail felony.

(a-1) A person commits an offense if the person knowingly violates Section 1956.037 and has previously been found liable for a civil penalty under Section 1956.202(a-1). An offense under this subsection is a Class A misdemeanor unless it is shown on trial of the offense that the person has previously been convicted of a violation of this subchapter, in which event the offense is a state jail felony.

SECTION _____. Section 1956.103(a), Occupations Code, is amended to read as follows:

(a) A person may not sell or otherwise transfer to a metal recycling entity:

(1) a lead-acid battery, fuel tank, or PCB-containing capacitor that is included with another type of scrap, used, or obsolete metal without first obtaining from the metal recycling entity a written and signed acknowledgment that the scrap, used, or obsolete metal includes one or more lead-acid batteries, fuel tanks, or PCB-containing capacitors;

(2) any of the following items that contain or enclose a lead-acid battery, fuel tank, or PCB-containing capacitor or of which a lead-acid battery, fuel tank, or PCB-containing capacitor is a part:

(A) a motor vehicle;

(B) a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle;

(C) an appliance; or

(D) any other item of scrap, used, or obsolete metal; ~~or~~

(3) a motor vehicle or a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle if the motor vehicle includes, contains, or encloses a tire or scrap tire; or

(4) a metal alcoholic beverage keg, regardless of

condition, unless the seller is the manufacturer of the keg, the brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller.

SECTION _____. Section 1956.151, Occupations Code, is amended to read as follows:

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

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

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

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

(4) violates Section 1956.021.

SECTION _____. Section 1956.202, Occupations Code, is amended by amending Subsections (a) and (d) and adding Subsection (a-1) to read as follows:

(a) Except as provided by Subsections (a-1) and [Subsection] (d), a person who violates this chapter or a rule adopted under this chapter is liable to this state for a civil penalty of not more than \$1,000 for each violation.

(a-1) A person who violates Section 1956.037 is liable to this state for a civil penalty of not more than \$10,000 for each violation.

(d) A civil penalty may not be assessed under this section for conduct described by Section 1956.021, Section 1956.023(d), Section 1956.036(a), or Section 1956.038.

SECTION _____. Section 31.03(e), Penal Code, is amended to read as follows:

(e) Except as provided by Subsection (f), an offense under this section is:

(1) a Class C misdemeanor if the value of the property stolen is less than:

(A) \$50; or

(B) \$20 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(2) a Class B misdemeanor if:

(A) the value of the property stolen is:

(i) \$50 or more but less than \$500; or

(ii) \$20 or more but less than \$500 and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06; or

(B) the value of the property stolen is less than:

(i) \$50 and the defendant has previously been convicted of any grade of theft; or

(ii) \$20, the defendant has previously been convicted of any grade of theft, and the defendant obtained the property by issuing or passing a check or similar sight order in a manner described by Section 31.06;

(3) a Class A misdemeanor if the value of the property stolen is \$500 or more but less than \$1,500;

(4) a state jail felony if:

(A) the value of the property stolen is \$1,500 or more but less than \$20,000, or the property is less than 10 head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, or any part thereof under the value of \$20,000, or less than 100 head of sheep, swine, or goats or any part thereof under the value of \$20,000;

(B) regardless of value, the property is stolen from the person of another or from a human corpse or grave;

(C) the property stolen is a firearm, as defined by Section 46.01;

(D) the value of the property stolen is less than \$1,500 and the defendant has been previously convicted two or more times of any grade of theft;

(E) the property stolen is an official ballot or official carrier envelope for an election; or

(F) the value of the property stolen is less than

\$20,000 and the property stolen is [~~insulated or noninsulated wire or cable that consists of at least 50 percent~~]:

- (i) aluminum;
- (ii) bronze; [~~or~~]
- (iii) copper; or
- (iv) brass;

(5) a felony of the third degree if the value of the property stolen is \$20,000 or more but less than \$100,000, or the property is:

(A) 10 or more head of cattle, horses, or exotic livestock or exotic fowl as defined by Section 142.001, Agriculture Code, stolen during a single transaction and having an aggregate value of less than \$100,000; or

(B) 100 or more head of sheep, swine, or goats stolen during a single transaction and having an aggregate value of less than \$100,000;

(6) a felony of the second degree if the value of the property stolen is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the value of the property stolen is \$200,000 or more.

SECTION _____. Section 1956.014(d), Occupations Code, is repealed.

SECTION _____. (a) Notwithstanding Subsection (c) of this section, the change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

(c) The enhancement of the punishment of an offense provided under Section 1956.003(h), Occupations Code, as added by this Act, applies only to an offense committed on or after January 1, 2010. For purposes of this subsection, an offense is committed before January 1, 2010, if any element of the offense occurs before that date. An offense committed before January 1, 2010, is covered by

the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION _____. This Act takes effect September 1, 2009.