

By: Fletcher

H.B. No. 249

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of metal recycling entities; providing penalties.

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

SECTION 1. 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 for heating or air conditioning units;

(L) utility structures, including the fixtures

1 and hardware;

2 (M) aluminum or stainless steel containers  
3 designed to hold propane for fueling forklifts; ~~and~~

4 (N) metal railroad equipment, including tie  
5 plates, signal houses, control boxes, signs, signals, traffic  
6 devices, traffic control devices, traffic control signals, switch  
7 plates, e-clips, and rail tie functions;

8 (O) catalytic converters;

9 (P) backflow valves; and

10 (Q) fire hydrant operating nuts.

11 SECTION 2. Section 1956.032, Occupations Code, is amended  
12 to read as follows:

13 Sec. 1956.032. INFORMATION PROVIDED BY SELLER. (a) Except  
14 as provided by Subsection (f), a person attempting to sell  
15 regulated material to a metal recycling entity shall:

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

18 (2) provide to the metal recycling entity the make,  
19 model, and license plate number of the motor vehicle used to  
20 transport the regulated material; ~~and~~

21 (3) if the regulated material includes insulated wire  
22 that has been burned wholly or partly to remove the insulation,  
23 display to the metal recycling entity documentation from the fire  
24 department of a county, municipality, or other political  
25 subdivision stating that the material was salvaged from a fire in  
26 that county, municipality, or political subdivision; and

27 (4) either:

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

4 (B) sign a written statement provided by the  
5 metal recycling entity that the person is the legal owner of or is  
6 lawfully entitled to sell the regulated material offered for sale.

7 (b) A person required by a municipality to prepare a signed  
8 statement consisting of the information required by Subsection  
9 (a)(4) [~~(a)(3)~~] may use the statement required by the municipality  
10 to comply with Subsection (a)(4) [~~(a)(3)~~].

11 (c) The metal recycling entity or the entity's agent shall  
12 visually verify the accuracy of the personal identification  
13 document presented by the seller at the time of the purchase of  
14 regulated material and make a copy of the document [~~identification~~]  
15 to be maintained by the entity in the entity's records, except as  
16 otherwise provided by Subsection (f).

17 (d) If the personal identification document displayed under  
18 Subsection (a) was not issued by this state, the [~~The~~] metal  
19 recycling entity or the entity's agent shall obtain:

20 (1) a digital or video [~~for recordkeeping purposes~~  
21 ~~may~~] photograph that accurately depicts the seller's entire face,  
22 not including any hat; and

23 (2) a clear and legible fingerprint of an index finger  
24 of the seller.

25 (d-1) The metal recycling entity or the entity's agent for  
26 recordkeeping purposes may [~~and~~] obtain the name of the seller's  
27 employer.

(e) The metal recycling entity or the entity's agent for recordkeeping purposes may take a photograph of the motor vehicle of the seller in which the make, model, and license plate number of the motor vehicle are identifiable in lieu of the information required under Subsection (a)(4) [~~(a)(3)~~].

(f) The metal recycling entity is not required to make a copy of the identification as required under Subsection (c) or collect the information required under Subsection (a)(4) [~~(a)(3)~~] if:

(1) the seller signs the written statement as required under Subsection (a)(4) [~~(a)(3)~~];

(2) the seller has previously provided the information required under Subsection (a); and

(3) the previously provided information has not changed.

SECTION 3. Section 1956.033, Occupations Code, is amended to read as follows:

Sec. 1956.033. RECORD OF PURCHASE. (a) Each metal recycling entity in this state shall keep an accurate electronic record or an accurate and legible written record of each purchase of regulated material made in the course of the entity's business from an individual [~~of:~~

~~(1) copper or brass material,~~

~~(2) bronze material,~~

~~(3) aluminum material, or~~

~~(4) regulated metal].~~

(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 and a copy of the seller's personal identification document as required under Section 1956.032(d);

(4) a digital or video photograph that accurately depicts each item of regulated material purchased and a description made in accordance with the custom of the trade of the type and quantity of regulated material purchased; ~~and~~

(5) for each transaction listed in this subdivision, if the total amount of the transactions exceeds \$100, a digital or video photograph that accurately depicts the seller's motor vehicle and in which the make, model, and license plate number of the vehicle is identifiable:

(A) the purchase for which the record is being made;

(B) other purchases of regulated material from the seller made on the date of the purchase described by Paragraph (A); and

(C) purchases of regulated material from the seller made during the six-day period preceding the date of the purchase described by Paragraph (A);

(6) the information required by Section 1956.032(a)(4);

(7) a copy of the receipt issued to the seller under Section 1956.0331; and

1           (8) as applicable:

2                   (A) a copy of the documentation described by  
3 Section 1956.032(a)(3);

4                   (B) a copy of the photograph described by Section  
5 1956.032(d); and

6                   (C) a copy of the seller's fingerprint required  
7 by Section 1956.032(d) [~~1956.032(a)(3)~~].

8           SECTION 4. Subchapter A-3, Chapter 1956, Occupations Code,  
9 is amended by adding Sections 1956.0331 and 1956.0371 to read as  
10 follows:

11           Sec. 1956.0331. RECEIPT PROVIDED TO SELLER. A metal  
12 recycling entity shall provide to the seller at the time of purchase  
13 a receipt for the regulated material purchased. The receipt must  
14 include:

15                   (1) the date, time, and physical address of the  
16 transaction;

17                   (2) a description of the type and quantity of the  
18 regulated material purchased;

19                   (3) the weight of the regulated material purchased;  
20 and

21                   (4) the total dollar amount of the transaction.

22           Sec. 1956.0371. INSULATED WIRE. A metal recycling entity  
23 may not remove any insulation from wire acquired by the entity  
24 before the fifth day after the date the entity acquired the wire,  
25 excluding weekends and holidays.

26           SECTION 5. Section 1956.038, Occupations Code, is amended  
27 to read as follows:

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

3           (1) display to a metal recycling entity [~~a false or~~  
4 ~~invalid personal identification document~~] in connection with the  
5 person's attempted sale of regulated material:

6                   (A) a false or invalid personal identification  
7 document; or

8                   (B) a personal identification document that was  
9 issued to another person;

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

12                   (A) that person's execution of a written  
13 statement required by Section 1956.032(a)(4) [~~1956.032(a)(3)~~]; or

14                   (B) the entity's efforts to obtain the  
15 information required under Section 1956.033(b); or

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

19          (b) A metal recycling entity may not in any seven-day period  
20 pay to an individual seller cash for a purchase of regulated  
21 material in an amount that exceeds \$100. A metal recycling entity  
22 shall pay the amount that exceeds \$100 by check or money order  
23 mailed to the seller at the physical address provided by the seller.

24          SECTION 6. Section 1956.040, Occupations Code, is amended  
25 by adding Subsections (a-1), (a-2), (a-3), (a-4), and (b-1) and  
26 amending Subsection (b) to read as follows:

27          (a-1) A person commits an offense if the person knowingly:

1           (1) violates Section 1956.021; or

2           (2) operates a metal recycling entity and does not  
3 hold a license or permit required by a county, municipality, or  
4 other political subdivision as authorized under Section  
5 1956.003(b).

6           (a-2) A person commits an offense if the person knowingly  
7 violates Section 1956.034 or 1956.035.

8           (a-3) An offense under Subsection (a-1) is a Class B  
9 misdemeanor unless it is shown on trial of the offense that the  
10 person has previously been convicted under Subsection (a-1), in  
11 which event the offense is a Class A misdemeanor.

12           (a-4) An offense under Subsection (a-2) is a Class B  
13 misdemeanor.

14           (b) A person commits an offense if the person knowingly  
15 buys:

16           (1) stolen regulated material; or

17           (2) insulated wire that has been burned wholly or  
18 partly to remove the insulation, unless the seller of the wire  
19 presents to the person documentation from the fire department of a  
20 county, municipality, or other political subdivision stating that  
21 the material was salvaged from a fire in that county, municipality,  
22 or political subdivision.

23           (b-1) An offense under Subsection (b) [~~this subsection~~] is a  
24 Class A misdemeanor unless it is shown on trial of the offense that  
25 the person has previously been convicted under Subsection (b) [~~this~~  
26 subsection], in which event the offense is a state jail felony.

27           SECTION 7. Section 31.03(e), Penal Code, is amended to read



1 as follows:

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

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

6 (A) \$50; or

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

10 (2) a Class B misdemeanor if:

11 (A) the value of the property stolen is:

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

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

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

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

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

24 (C) the property stolen is a driver's license,  
25 commercial driver's license, or personal identification  
26 certificate issued by this state or another state;

27 (3) a Class A misdemeanor if the value of the property

1 stolen is \$500 or more but less than \$1,500;

2 (4) a state jail felony if:

3 (A) the value of the property stolen is \$1,500 or  
4 more but less than \$20,000, or the property is less than 10 head of  
5 sheep, swine, or goats or any part thereof under the value of  
6 \$20,000;

7 (B) regardless of value, the property is stolen  
8 from the person of another or from a human corpse or grave,  
9 including property that is a military grave marker;

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

12 (D) the value of the property stolen is less than  
13 \$1,500 and the defendant has been previously convicted two or more  
14 times of any grade of theft;

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

17 (F) the value of the property stolen is less than  
18 \$20,000 and the property stolen is regulated metal as that term is  
19 defined by Section 1956.001, Occupations Code ~~[insulated or~~  
20 ~~noninsulated tubing, rods, water gate stems, wire, or cable that~~  
21 ~~consists of at least 50 percent.~~

22 ~~[(i) aluminum,~~

23 ~~[(ii) bronze, or~~

24 ~~[(iii) copper];~~

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

1                   (A) cattle, horses, or exotic livestock or exotic  
2 fowl as defined by Section 142.001, Agriculture Code, stolen during  
3 a single transaction and having an aggregate value of less than  
4 \$100,000; or

5                   (B) 10 or more head of sheep, swine, or goats  
6 stolen during a single transaction and having an aggregate value of  
7 less than \$100,000;

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

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

12           SECTION 8. The change in law made by this Act applies only  
13 to an offense committed on or after the effective date of this Act.  
14 For purposes of this section, an offense is committed before the  
15 effective date of this Act if any element of the offense occurs  
16 before that date. An offense committed before the effective date of  
17 this Act is covered by the law in effect when the offense was  
18 committed, and the former law is continued in effect for that  
19 purpose.

20           SECTION 9. This Act takes effect September 1, 2011.