

House Bill 1242
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Section 1956.001(8), Occupations Code, is amended to read as follows:

(8) "Personal identification document" means:

(A) a valid driver's license issued by a state in the United States;

(B) a United States military identification card; ~~or~~

(C) a personal identification certificate issued by the department under Section 521.101, Transportation Code, or a corresponding card or certificate issued by another state;

(D) a passport; or

(E) documentation issued by the United States agency responsible for citizenship and immigration that authorizes the person to be in the United States.

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SECTION 1. Sections 1956.001(8) and (10), Occupations Code, are amended to read as follows:

(8) "Personal identification document" means:

(A) a valid driver's license issued by a state in the United States;

(B) a United States military identification card; ~~or~~

(C) a personal identification certificate issued by the department under Section 521.101, Transportation Code, or a corresponding card or certificate issued by another state;

(D) a passport; or

(E) documentation issued by the United States agency responsible for citizenship and immigration that authorizes the person to be in the United States.

(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 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

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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. [FA1(1),(2)]

SECTION 2. Section 1956.060, Occupations Code, is amended to read as follows:
Sec. 1956.060. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED BY PERSON LICENSED UNDER TEXAS PAWNSHOP ACT. This subchapter does not apply to crafted precious metal acquired by a person or an employee of a person licensed under Chapter 371, Finance Code.

SECTION 3. Section 1956.062, Occupations Code, is amended by amending Subsection (c) and adding Subsection

SECTION 2. Section 1956.060, Occupations Code, is amended to read as follows:
Sec. 1956.060. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED BY PERSON LICENSED UNDER TEXAS PAWNSHOP ACT. This subchapter does not apply to crafted precious metal acquired by:
(1) a person licensed under Chapter 371, Finance Code;or
(2) an entity affiliated with a person licensed under Chapter 371, Finance Code, if the entity's recordkeeping practices satisfy the requirements of that chapter.

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(c-1) to read as follows:

(c) The dealer shall:

(1) record the identification [proposed seller's driver's license] number [or department personal identification certificate number on physical presentation] of the seller's personal identification document;

(2) visually verify the accuracy of the seller's personal identification document and make a copy of the document;

and

(3) obtain a digital or video photograph that accurately depicts each item of crafted precious metal purchased [license or personal identification certificate by the seller].

(c-1) The copy of the document and photograph described by Subsection (c) [record] must accompany the list.

SECTION 4. Subchapter B, Chapter 1956, Occupations Code, is amended by adding Section 1956.0631 to read as follows:

Sec. 1956.0631. PAYMENT FOR CRAFTED PRECIOUS METAL PURCHASED. A dealer may pay for a purchase of crafted precious metal only by check or prepaid debit card. If payment is by check, the names of the dealer and seller must be printed on the check. If payment is by prepaid debit card, the seller may not be liable for any fees charged by the issuer of the card.

SECTION 5. Section 1956.064, Occupations Code, is amended to read as follows:

Sec. 1956.064. REQUIRED RETENTION OF CRAFTED PRECIOUS METAL. (a) A dealer may not melt, deface, alter, or dispose of crafted precious metal that is the subject of a

SECTION 4. Same as House version.

SECTION 5. Same as House version.

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report required by this subchapter before the 21st ~~[14th]~~ day after the date the report is filed unless:

- (1) the peace officer to whom the report is submitted, for good cause, authorizes disposition of the metal; or
 - (2) ~~[the dealer obtains the name, address, and description of the buyer and retains a record of that information; or~~
 - ~~[(3)]~~ the dealer is a pawnbroker and the disposition is the redemption of pledged property by the pledgor.
- (b) A peace officer who has reasonable suspicion to believe that an item of crafted precious metal in the possession of a dealer is stolen may place the item on hold by issuing to the dealer a written notice that:
- (1) specifically identifies the item alleged to be stolen and subject to the hold; and
 - (2) informs the dealer of the requirements of Subsection (c).
- (c) On receiving the notice, the dealer may not melt, deface, alter, or dispose of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order. [A dealer who retains information under Subsection (a)(2) shall make that information available for inspection by any peace officer.]

SECTION 6. Section 1956.069(a), Occupations Code, is amended to read as follows:

- (a) A dealer commits an offense if the dealer:
- (1) fails to make or permit inspection of a report as required by Section 1956.062 or 1956.063;
 - (2) violates ~~[disposes of crafted precious metal or fails to make a record available for inspection by a peace officer as required by]~~ Section 1956.0631 or 1956.064;
 - (3) fails to obtain or retain a statement as required by Section 1956.066;

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- (4) fails to file a registration statement as required by Section 1956.067; or
- (5) purchases an object in violation of Section 1956.068.

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

SECTION 8. This Act takes effect September 1, 2011.

No equivalent provision.

No equivalent provision.

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SECTION 7. Same as House version.

SECTION 8. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2011.
(b) Subsection (f), Section 1956.003, Section 1956.004, and Subsections (b) and (e), Section 1956.038, Occupations Code, as added by this Act, take effect March 1, 2012. [FA1(3)]

SECTION __. The heading to Section 1956.003, Occupations Code, is amended to read as follows:
Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY.
[FA1(4)]

SECTION __. Section 1956.003, Occupations Code, is amended by adding Subsections (a-1), (a-2), (f), (g), and (h) to read as follows:
(a-1) A county, municipality, or other political subdivision may require the record of purchase described under Section

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1956.033 to contain a clear and legible thumbprint of a seller of regulated material.

(a-2) A county, municipality, or other political subdivision that, as authorized under Subsection (a), requires a metal recycling entity to report to the county, municipality, or political subdivision information relating to a sale of regulated material shall:

(1) include in any contract entered into by the county, municipality, or political subdivision relating to the reporting of the information a provision that:

(A) requires any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information relating to a sale of regulated material to maintain the confidentiality of all information received, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and
(B) allows the county, municipality, or political subdivision to terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Paragraph (A); and

(2) investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

(f) A person commits an offense if the person owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Subsection (b). An offense under this subsection is a Class B misdemeanor unless it is shown on the trial of the offense that the person has been previously convicted under this subsection, in which event the offense is a Class A misdemeanor.

(g) It is an exception to the application of Subsection (f) that:

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- (1) the person held a license or permit issued by the appropriate county, municipality, or other political subdivision at one point during the 12-month period preceding the date of the alleged offense; and
- (2) the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice from the appropriate county, municipality, or other political subdivision informing the person that the metal recycling entity is operating without the required license or permit.
- (h) This subsection and Subsection (g) expire March 1, 2013. [FA1(4)]

No equivalent provision.

SECTION __. Subchapter A, Chapter 1956, Occupations Code, is amended by adding Section 1956.004 to read as follows:

Sec. 1956.004. CIVIL PENALTY. (a) A person who owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b) is subject to a civil penalty of not more than \$1,000 for each violation. In determining the amount of the civil penalty, the court shall consider:

- (1) any other violations by the person; and
- (2) the amount necessary to deter future violations.
- (b) A district attorney, county attorney, or municipal attorney may institute an action to collect the civil penalty provided by this section.
- (c) Each day a violation occurs or continues to occur is a separate violation.
- (d) The district attorney, county attorney, or municipal attorney may recover reasonable expenses incurred in

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obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(e) It is an exception to the application of this section that:

(1) the person held a license or permit issued by the appropriate county, municipality, or other political subdivision at one point during the 12-month period preceding the date of the alleged violation; and

(2) the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice from the appropriate county, municipality, or other political subdivision informing the person that the metal recycling entity is operating without the required license or permit.

(f) This subsection and Subsection (e) expire March 1, 2013.
[FA1(4)]

No equivalent provision.

SECTION __. Section 1956.015, Occupations Code, is amended by amending Subsection (d) and adding Subsections (e) and (f) to read as follows:

(d) Information provided under this section is not subject to disclosure under Chapter 552, Government Code. The department may use information provided under this section for law enforcement purposes. Except as provided by this subsection, the department shall maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased [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].

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(e) The department may enter into contracts relating to the operation of the statewide electronic reporting system established by this section. A contract under this subsection must:

(1) require that any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information provided under this section maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(2) provide that the department may terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Subdivision (1).

(f) The department shall investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material. [FA1(4)]

No equivalent provision.

SECTION __. Subchapter A-1, Chapter 1956, Occupations Code, is amended by adding Sections 1956.016 and 1956.017 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. The list must contain the following for each registered metal recycling entity:

(1) the entity's name;

(2) the entity's physical address; and

(3) the name of and contact information for a representative of the entity.

Sec. 1956.017. ADVISORY COMMITTEE. (a) The

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department shall establish an advisory committee to advise the department on matters related to the department's regulation of metal recycling entities under this chapter.

(b) The advisory committee consists of 12 members appointed by the director as follows:

(1) one representative of the department;

(2) two representatives of local law enforcement agencies located in different municipalities, each with a population of 500,000 or more;

(3) two representatives of local law enforcement agencies located in different municipalities, each with a population of 200,000 or more but less than 500,000;

(4) one representative of a local law enforcement agency located in a municipality with a population of less than 200,000;

(5) four representatives of metal recycling entities; and

(6) two members who represent industries that are impacted by theft of regulated material.

(c) The director shall ensure that the members of the advisory committee reflect the diverse geographic regions of this state.

(d) The advisory committee shall elect a presiding officer from among its members to serve a two-year term. A member may serve more than one term as presiding officer.

(e) The advisory committee shall meet annually and at the call of the presiding officer or the director.

(f) An advisory committee member is not entitled to compensation or reimbursement of expenses.

(g) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

[FA1(4)]

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No equivalent provision.

SECTION __. The heading to Section 1956.032, Occupations Code, is amended to read as follows:
Sec. 1956.032. INFORMATION REGARDING
~~PROVIDED BY~~ SELLER. [FA1(4)]

No equivalent provision.

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, color, 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; and
(4) if the regulated material includes condensing or evaporator coils for central heating or air conditioning units, display to the metal recycling entity:
(A) the person's air conditioning and refrigeration contractor license issued under Subchapter F or G, Chapter 1302;
(B) the person's air conditioning and refrigeration technician registration issued under Subchapter K, Chapter 1302;
(C) a receipt, bill of sale, or other documentation showing that the seller purchased the coils the seller is attempting to

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sell; or

(D) a receipt, bill of sale, or other documentation showing that the seller has purchased a replacement central heating or air conditioning unit.

(g) Notwithstanding Section 1956.002, the metal recycling entity shall verify the registration of a person attempting to sell regulated material who represents that the person is a metal recycling entity as follows:

(1) by using the database described by Section 1956.016; or

(2) by obtaining from the person a copy of the person's certificate of registration issued under Section 1956.022 in addition to the information required under Subsection (a).

[FA1(4)]

No equivalent provision.

SECTION __. 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 the seller in possession of [~~each individual from whom~~] the regulated material [~~is~~] purchased [~~or obtained~~];

(3) the identifying number of the seller's personal identification document;

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- (4) a description made in accordance with the custom of the trade of the commodity type and quantity of regulated material purchased; ~~and~~
- (5) the information required by Sections 1956.032(a)(2) and (3);
- (6) as applicable:
- (A) the identifying number of the seller's air conditioning and refrigeration contractor license displayed under Section 1956.032(a)(4)(A);
- (B) a copy of the seller's air conditioning and refrigeration technician registration displayed under Section 1956.032(a)(4)(B);
- (C) a copy of the documentation described by Section 1956.032(a)(4)(C); or
- (D) a copy of the documentation described by Section 1956.032(a)(4)(D); and
- (7) a copy of the documentation described by Section 1956.032(g) [Section 1956.032(a)(3)]. [FA1(4)]

No equivalent provision.

SECTION __. Subchapter A-3, Chapter 1956, Occupations Code, is amended by adding Section 1956.0331 to read as follows:

Sec. 1956.0331. PHOTOGRAPH OR RECORDING REQUIREMENT FOR REGULATED METAL TRANSACTION. (a) In addition to the requirements of Sections 1956.032 and 1956.033, for each purchase by a metal recycling entity of an item of regulated metal, the entity shall obtain a digital photograph or video recording that accurately depicts the seller's entire face and each type of regulated metal purchased.

(b) A metal recycling entity shall preserve a photograph or recording required under Subsection (a) as follows:

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(1) for a video recording, until the 91st day after the date of the transaction; and
(2) for a digital photograph, until the 181st day after the date of the transaction.
(c) The photograph or recording must be made available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase. [FA1(4)]

No equivalent provision.

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 second ~~third~~ anniversary of the date the record was made. The records must be kept in an easily retrievable format and must be available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase. [FA1(4)]

No equivalent provision.

SECTION __. Section 1956.035, Occupations Code, is amended to read as follows:
Sec. 1956.035. INSPECTION OF RECORDS ~~[BY PEACE OFFICER]~~. (a) On request, a metal recycling entity shall permit a peace officer of this state, a representative of the department, or a representative of a county, municipality, or other political subdivision that issues a license or permit under Section 1956.003(b) to inspect, during the entity's usual business hours:
(1) a record required by Section 1956.033; ~~[or]~~
(2) a digital photograph or video recording required by Section 1956.0331; or
(3) regulated material in the entity's possession.

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(b) The person seeking to inspect a record or material
~~[inspecting officer]~~ shall:
(1) inform the entity of the officer's status as a peace officer;
or
(2) if the person is a representative of the department or a representative of a county, municipality, or other political subdivision, inform the entity of the person's status and display to the entity an identification document or other appropriate documentation establishing the person's status as a representative of the department or of the appropriate county, municipality, or political subdivision. [FA1(4)]

No equivalent provision.

SECTION __. Section 1956.036, Occupations Code, is amended by amending Subsections (a) and (b) and adding Subsections (d) and (e) to read as follows:
(a) Except as provided by Subsections ~~[Subsection]~~ (b) and (d), not later than the close of business on a metal recycling entity's second working ~~[seventh]~~ day after the date of the purchase or other acquisition of material for which a record is required under Section 1956.033, the ~~[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, by e-mail, or via the department's Internet website;

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and

(2) not later than the close of business on the entity's second working ~~[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.

(e) The department, after notice and an opportunity for a hearing, may prohibit a metal recycling entity from paying cash for a purchase of regulated material for a period determined by the department if the department finds that the entity has failed to comply with this section. [FA1(4)]

No equivalent provision.

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

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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 for a purchase of regulated material in cash if:
(1) the entity does not hold a certificate of registration under Subchapter A-2 and, if applicable, a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b); or
(2) the entity has been prohibited by the department from paying cash under Section 1956.036(e).
(c) Notwithstanding Section 1956.003(a) or any other law, a county, municipality, or other political subdivision may not adopt or enforce 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).
(d) Subsection (c) does not apply to a rule, charter, ordinance, or order of a county, municipality, or other political subdivision in effect on January 1, 2011.
(d-1) Not later than January 1, 2012, the department shall issue a notice to each known owner or operator of a metal recycling entity in this state informing the owner or operator of the requirement to obtain a certificate of registration under Subchapter A-2 and, if applicable, to obtain a license or permit required by a county, municipality, or other political subdivision under Section 1956.003. The notice must also state:

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(1) that the owner or operator shall submit an application for a certificate of registration and the appropriate license or permit required by a county, municipality, or other political subdivision on or before March 1, 2012; and

(2) the penalties under this chapter for failure to comply with Subdivision (1).

(d-2) This subsection and Subsection (d-1) expire March 1, 2012.

(e) The department or a county, municipality, or other political subdivision may bring an action in the county in which a metal recycling entity is located to enjoin the business operations of the owner or operator of the metal recycling entity for a period of not less than 30 days and not more than 90 days if the owner or operator has not submitted an application for a certificate of registration or the appropriate license or permit required by a county, municipality, or other political subdivision.

(f) An action under Subsection (e) must be brought in the name of the state. If judgment is in favor of the state, the court shall:

(1) enjoin the owner or operator from maintaining or participating in the business of a metal recycling entity for a definite period of not less than 30 days and not more than 90 days, as determined by the court; and

(2) order that the place of business of the owner or operator be closed for the same period. [FA1(4)]

No equivalent provision.

SECTION __. Section 1956.040, Occupations Code, is amended by adding Subsections (a-1), (a-2), (a-3), and (a-4) to read as follows:

(a-1) A person commits an offense if the person knowingly violates Section 1956.021, 1956.023(d), 1956.036(a), or

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1956.039.

(a-2) An offense under Subsection (a-1) is a misdemeanor punishable by a fine not to exceed \$10,000, unless it is shown on trial of the offense that the person has previously been convicted of a violation of Subsection (a-1), in which event the offense is a state jail felony.

(a-3) It is an affirmative defense to prosecution of a violation of Section 1956.021 or 1956.023(d) that the person made a diligent effort to obtain or renew a certificate of registration at the time of the violation.

(a-4) A municipality or county may retain 10 percent of the money collected from a fine for a conviction of an offense under Subsection (a-1) as a service fee for that collection and the clerk of the court shall remit the remainder of the fine collected for conviction of an offense under Subsection (a-1) to the comptroller in the manner provided for the remission of fees to the comptroller under Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit proceeds received under this subsection to the credit of an account in the general revenue fund, and those proceeds may be appropriated only to the department and used to:

(1) finance the department's administration of Subchapters A, A-1, A-2, and A-3; and

(2) fund grants distributed under the prevention of scrap metal theft grant program established under Subchapter N, Chapter 411, Government Code. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (a), Section 1956.103, 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

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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. [FA1(4)]

No equivalent provision.

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:

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- (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. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (d), Section 1956.202, Occupations Code, is amended to read as follows:

(d) A civil penalty may not be assessed under this section for conduct described by Section 1956.021, 1956.023(d), 1956.036(a), 1956.038, or 1956.039. [FA1(4)]

No equivalent provision.

SECTION __. Chapter 411, Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. PREVENTION OF SCRAP METAL THEFT GRANT PROGRAM

Sec. 411.421. DEFINITION. In this subchapter, "regulated material" has the meaning assigned by Section 1956.001, Occupations Code.

Sec. 411.422. GRANTS TO FUND SCRAP METAL THEFT PREVENTION. (a) From fines collected and distributed to the department under Sections 1956.040(a-2) and (a-4), Occupations Code, the commission by rule shall establish and implement a grant program to provide funding to assist local law enforcement agencies in preventing the theft of regulated material.

(b) To be eligible for a grant, a recipient must be a local law enforcement agency that has established a program designed to prevent the theft of regulated material.

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(c) Rules adopted under this section must:
(1) include accountability measures for grant recipients and provisions for loss of eligibility for grant recipients that fail to comply with the measures; and
(2) require grant recipients to provide to the department information on program outcomes. [FA1(4)]

No equivalent provision.

SECTION __. Subsection (e), Section 31.03, 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;

(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; or

(C) the property stolen is a driver's license, commercial driver's license, or personal identification certificate issued by

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this state or another state;

(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 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, including property that is a military grave marker;

(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 tubing, rods, water gate stems, 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) 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) 10 or more head of sheep, swine, or goats stolen during a

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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. [FA1(4)]

No equivalent provision.

SECTION __. The enhancement of the punishment of an offense provided under Subsection (a-2), Section 1956.040, Occupations Code, as added by this Act, applies only to an offense committed on or after January 1, 2012. For purposes of this subsection, an offense is committed before January 1, 2012, if any element of the offense occurs before that date. An offense committed before January 1, 2012, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. [FA1(4)]

No equivalent provision.

SECTION __. Not later than January 1, 2012, the public safety director of the Department of Public Safety of the State of Texas shall appoint the members of the advisory committee established under Section 1956.017, Occupations Code, as added by this Act, and designate the time and place of the committee's first meeting. [FA1(4)]