

By: Guillen

H.B. No. 2210

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the regulation of metal recycling entities; imposing an  
3 administrative penalty.

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

5 SECTION 1. Section 1956.032, Occupations Code, is amended  
6 by adding Subsection (a-1) to read as follows:

7 (a-1) A person attempting to sell regulated material to a  
8 metal recycling entity shall sign a written statement provided by  
9 the metal recycling entity certifying that the person has not  
10 previously been convicted of an offense:

11 (1) under Section 31.03, Penal Code, if the property  
12 stolen was regulated material; or

13 (2) under another law of this state or of another  
14 jurisdiction involving the sale of regulated material.

15 SECTION 2. Section 1956.033(b), Occupations Code, is  
16 amended to read as follows:

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

18 (1) the place and date of the purchase;

19 (2) the name and address of the seller in possession of  
20 the regulated material purchased;

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

23 (4) a description made in accordance with the custom  
24 of the trade of the commodity type and quantity of regulated

1 material purchased;

2 (5) the information required by Sections  
3 [1956.032](#)(a)(2) and (3) and (a-1);

4 (6) as applicable:

5 (A) the identifying number of the seller's air  
6 conditioning and refrigeration contractor license displayed under  
7 Section [1956.032](#)(a)(4)(A);

8 (B) a copy of the seller's air conditioning and  
9 refrigeration technician registration displayed under Section  
10 [1956.032](#)(a)(4)(B);

11 (C) a copy of the documentation described by  
12 Section [1956.032](#)(a)(4)(C); or

13 (D) a copy of the documentation described by  
14 Section [1956.032](#)(a)(4)(D);

15 (7) if applicable, a copy of the documentation  
16 described by Section [1956.032](#)(a)(5); and

17 (8) a copy of the documentation described by Section  
18 [1956.032](#)(g).

19 SECTION 3. Section [1956.038](#), Occupations Code, is amended  
20 by amending Subsections (a), (b), and (c) and adding Subsection  
21 (b-1) to read as follows:

22 (a) A person may not, with the intent to deceive:

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

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

1 (A) that person's execution of a written  
2 statement required by Sections [~~Section~~] 1956.032(a)(3) and (a-1);  
3 or

4 (B) the entity's efforts to obtain the  
5 information required under Section 1956.033(b);

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

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

12 (b) A metal recycling entity may only [~~not~~] pay for a  
13 purchase of regulated material in the manner provided by Section  
14 1956.0381 [~~in cash if:~~

15 [~~(1) the entity does not hold a certificate of~~  
16 ~~registration under Subchapter A-2 and, if applicable, a license or~~  
17 ~~permit required by a county, municipality, or other political~~  
18 ~~subdivision as authorized under Section 1956.003(b); or~~

19 [~~(2) the entity has been prohibited by the department~~  
20 ~~from paying cash under Section 1956.036(e)].~~

21 (b-1) A metal recycling entity may not enter into more than  
22 one transaction for the purchase of regulated material from the  
23 same seller in a business day.

24 (c) A person may not sell or attempt to sell regulated  
25 material to a metal recycling entity if the person has been  
26 previously convicted of an offense:

27 (1) under Section 31.03, Penal Code, if the property

1 stolen was regulated material; or

2 (2) under another law of this state or of another  
3 jurisdiction involving the sale of regulated material  
4 ~~[Notwithstanding Section 1956.003(a) or any other law, a county,~~  
5 ~~municipality, or other political subdivision may not adopt or~~  
6 ~~enforce a rule, charter, or ordinance or issue an order or impose~~  
7 ~~standards that limit the use of cash by a metal recycling entity in~~  
8 ~~a manner more restrictive than that provided by Subsection (b)].~~

9 SECTION 4. Subchapter A-3, Chapter 1956, Occupations Code,  
10 is amended by adding Sections 1956.0381 and 1956.041 to read as  
11 follows:

12 Sec. 1956.0381. PAYMENT BY METAL RECYCLING ENTITY. (a)  
13 Except as provided by Subsection (c), a metal recycling entity may  
14 only pay for a purchase of regulated material by:

15 (1) check;

16 (2) money order; or

17 (3) direct deposit by electronic funds transfer.

18 (b) A metal recycling entity that pays for a purchase of  
19 regulated material by check or money order shall obtain a digital  
20 photograph or video recording that accurately depicts:

21 (1) the seller's entire face; and

22 (2) each type of regulated material purchased.

23 (c) For any sale of regulated material to a metal recycling  
24 entity in which the amount of the transaction is equal to or exceeds  
25 \$25, the metal recycling entity must pay the seller by mailing to  
26 the address located on the personal identification document  
27 provided by the seller under Section 1956.032:

1           (1) a check or money order made payable to the seller;

2 or

3           (2) a notice to the seller stating the time after which  
4 the seller may pick up at the metal recycling entity a check or  
5 money order made payable to the seller.

6           Sec. 1956.041. ADMINISTRATIVE PENALTY. (a) The  
7 commission, after notice and an opportunity for a hearing, may  
8 impose an administrative penalty on a person who violates Section  
9 1956.036.

10           (b) The amount of the administrative penalty may not exceed  
11 \$1,000. Each day a violation occurs or continues to occur is a  
12 separate violation for the purpose of imposing a penalty. In  
13 determining the amount of the administrative penalty, the  
14 commission shall consider:

15           (1) the seriousness of the violation, including the  
16 nature, circumstances, extent, and gravity of the violation;

17           (2) the economic harm caused by the violation;

18           (3) the history of previous violations;

19           (4) the amount necessary to deter a future violation;

20           (5) efforts to correct the violation; and

21           (6) any other matter that justice may require.

22           (c) The enforcement of the administrative penalty may be  
23 stayed during the time the order is under judicial review if the  
24 person pays the penalty to the clerk of the court or files a  
25 supersedeas bond with the court in the amount of the penalty. A  
26 person who cannot afford to pay the penalty or file the bond may  
27 stay the enforcement by filing an affidavit in the manner required

1 by the Texas Rules of Civil Procedure for a party who cannot afford  
2 to file security for costs, subject to the right of the commission  
3 to contest the affidavit as provided by those rules.

4 (d) The attorney general may sue to collect the  
5 administrative penalty.

6 (e) A proceeding to impose an administrative penalty is  
7 considered to be a contested case under Chapter 2001, Government  
8 Code.

9 SECTION 5. The following provisions of the Occupations Code  
10 are repealed:

11 (1) Section 1956.036(e); and

12 (2) Section 1956.038(d).

13 SECTION 6. Section 1956.041, Occupations Code, as added by  
14 this Act, applies only to a violation of Section 1956.036,  
15 Occupations Code, as amended by this Act, committed on or after the  
16 effective date of this Act. A violation committed before the  
17 effective date of this Act is governed by the law in effect on the  
18 date the violation was committed, and the former law is continued in  
19 effect for that purpose.

20 SECTION 7. This Act takes effect September 1, 2015.