

By: West

S.B. No. 208

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of metal recycling entities; providing an administrative penalty; creating a criminal offense.

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

SECTION 1. Section 1956.001, Occupations Code, is amended by amending Subdivision (6-a) and adding Subdivisions (6-b) and (6-c) to read as follows:

(6-a) "Explosive component" means any component of an explosive weapon containing or consisting of regulated material, including exploded or disassembled ammunition, munitions, shell casings, spin or fin stabilized projectiles, and shrapnel. The term does not include pellet ammunition, shotgun ammunition, or ammunition of .50 caliber or less that does not contain explosive powder.

(6-b) "Explosive weapon" means any explosive or incendiary device that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, including an explosive or incendiary bomb, grenade, rocket, or mine, or a device designed, made, or adapted for delivering or shooting an explosive or incendiary device or starting a fire in a time-delayed manner. The term includes exploded or unexploded ammunition, munition, blasting caps, anti-tank rounds, ordnances, or projectiles. The

1 term does not include pellet ammunition, shotgun ammunition, or
2 ammunition of .50 caliber or less that does not contain explosive
3 powder.

4 (6-c) "Lead material" means:

5 (A) a commercial grade lead battery, lead-acid
6 battery, or spiral cell battery; or

7 (B) a material or an item readily identifiable as
8 being made of or containing lead.

9 SECTION 2. Section 1956.015(a), Occupations Code, is
10 amended to read as follows:

11 (a) The department shall establish a statewide electronic
12 reporting system to track the sales of regulated metal reported to
13 the department under Section 1956.036. The department shall use
14 the system to track the sale or attempted sale of an explosive
15 component or an explosive weapon reported to the department under
16 Section 1956.036(f).

17 SECTION 3. Section 1956.036, Occupations Code, is amended
18 by adding Subsection (f) to read as follows:

19 (f) A metal recycling entity shall report to the department
20 by telephone, by e-mail, or through the department's Internet
21 website each sale or attempted sale to the entity of an explosive
22 component or explosive weapon as soon as possible after the sale or
23 attempted sale, but not later than the close of business on the
24 entity's first working day after the date of the sale or attempted
25 sale.

26 SECTION 4. Section 1956.040, Occupations Code, is amended
27 by adding Subsections (c-1), (c-2), (c-3), (c-4), (c-5), and (d-1)

1 to read as follows:

2 (c-1) A person commits an offense if the person knowingly
3 sells to a metal recycling entity:

- 4 (1) an explosive component; or
5 (2) an explosive weapon.

6 (c-2) A metal recycling entity commits an offense if the
7 entity knowingly buys:

- 8 (1) an explosive component; or
9 (2) an explosive weapon.

10 (c-3) Except as provided by Subsection (c-5), an offense
11 under Subsection (c-1)(1) or (c-2)(1) is a Class A misdemeanor.
12 Except as provided by Subsection (c-5), an offense under Subsection
13 (c-1)(2) or (c-2)(2) is a felony of the third degree.

14 (c-4) A metal recycling entity commits an offense if the
15 entity knowingly stores or allows to be stored on the entity's
16 premises an explosive component or explosive weapon. Except as
17 provided by Subsection (c-5), an offense under this subsection is a
18 Class A misdemeanor.

19 (c-5) An offense under Subsection (c-1), (c-2), or (c-4) is
20 a felony of the second degree if it is shown at the trial of the
21 offense that a person suffered death or serious bodily injury, as
22 defined by Section 1.07, Penal Code, as a result of the detonation
23 of an explosive component or explosive weapon.

24 (d-1) On conviction of an offense under Subsection (c-1),
25 (c-2), or (c-4), the court may order the defendant to make
26 restitution to:

- 27 (1) the state or a political subdivision of the state

1 for the costs incurred by the state or subdivision for responding to
2 the offense and any removal, cleaning, sanitizing, demolition,
3 reconstruction, or other treatment required as a result of the
4 offense; and

5 (2) the owner of any property damaged as a result of
6 the offense.

7 SECTION 5. Section 1956.041, Occupations Code, is amended
8 by amending Subsections (a) and (b) and adding Subsections (b-1)
9 and (f) to read as follows:

10 (a) The commission, after notice and an opportunity for a
11 hearing, may impose an administrative penalty on a person who
12 violates this subchapter or Subchapter A-2 or a rule or order of the
13 commission under this chapter [~~Section 1956.036~~].

14 (b) The amount of the administrative penalty may not exceed
15 \$1,000 for each violation. The aggregate penalty for multiple
16 violations may not exceed \$10,000. Each day a violation occurs or
17 continues to occur is a separate violation for the purpose of
18 imposing a penalty. In determining the amount of the
19 administrative penalty, the commission shall consider:

20 (1) the seriousness of the violation, including the
21 nature, circumstances, extent, and gravity of the violation;

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

23 (3) the history of previous violations;

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

25 (5) efforts to correct the violation; and

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

27 (b-1) The commission by rule shall adopt a standardized

1 penalty schedule for a violation based on the criteria listed in
2 Subsection (b).

3 (f) An administrative penalty collected under this section
4 shall be deposited in a special account in the general revenue fund
5 and may be appropriated only to the department.

6 SECTION 6. Section 1956.041, Occupations Code, as amended
7 by this Act, applies only to a violation committed on or after the
8 effective date of this Act. A violation committed before the
9 effective date of this Act is governed by the law in effect on the
10 date the violation was committed, and the former law is continued in
11 effect for that purpose.

12 SECTION 7. This Act takes effect September 1, 2017.