

BILL ANALYSIS

Senate Research Center

S.B. 1646
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Criminal Justice
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

- Copper theft and fiber vandalism of telecommunications infrastructure has risen exponentially in Texas because the price of copper has risen 500 percent since 2000. One company alone faced 20 incidents a week in 2024 in Texas. The same company has seen a more than 60 percent increase in copper thefts in Texas from 2022–2024.
- Theft and vandalism of critical communications infrastructure are serious matters that disrupt essential services for our customers, public safety and the community at large.
- Copper cable thefts disrupt the flow of communications and connection to emergency services. This presents a risk to public safety and national security, as telecommunications networks are considered critical infrastructure.
- Public safety and district attorneys are seeking a solution similar to the catalytic converter legislation from last session.
- This legislation would protect critical infrastructure by combatting copper theft & fiber vandalism on telecommunications lines.

How the Bill Works

- Modernizes definition of critical infrastructure related to communications: Updates the current definition of critical infrastructure to ensure that all types of communications lines serving public safety and emergency communications equipment, and facilities are included.
- Bans unauthorized possession: Prohibits the possession of copper and brass materials used by utilities unless authorized.
 - Includes exceptions for authorized persons to possess certain regulated copper or brass materials.
 - Establishes the offense of "unauthorized possession of certain copper or brass material" by those who do not own the materials or possess them in the ordinary course of business.
- Strengthens penalties: Increases criminal penalties for intentional copper wire & fiber optic cuts that damage and negatively impact critical infrastructure - like emergency services.
 - Establishes a 3rd degree felony for impairing or interrupting critical infrastructure facilities or nearby related equipment or 911 systems or other emergency response facilities.
 - Increases the level of punishment if the copper material was unlawfully removed from a critical infrastructure facility or related support equipment or from a component of the 911 system or other emergency response facilities.
 - Establishes a state jail felony punishment for violations of the unauthorized possession prohibition, except that the provision sets 3rd degree felony punishment for violations in which the material was unlawfully removed from critical infrastructure facility or related support equipment or from a component of the 911 system or other emergency response facilities.
 - Establishes 3rd degree felony punishment for violations of the unauthorized possession prohibition if the actor has been previously convicted of the offense or a related offense involving the regulated materials, engages in conspiracy or organized criminal activity or possesses a firearm in connection with the offense.

- Establishes a separate offense for engaging in organized crime when violating the Criminal Mischief or Unauthorized Possession statutes related to the affected materials.
- Limits Purchasing: Prohibits a metal recycling entity (MRE) from purchasing the materials unless the seller is the owner or acquired the materials in the ordinary course of the seller's business.
 - Provides exceptions for authorized businesses.
 - Directs the Public Safety Commission to adopt rules for documenting the business type from which the materials are purchased.
- Increases reporting requirements: Requires MREs to adhere to additional reporting requirements to prevent illegal copper wire transactions.
 - Limits local governments from adding or altering recordkeeping requirements or restricting commerce in the affected materials. Maintains the authority of local governments to issue permits, impose fees, and inspect MREs' facilities.

Committee Substitute

- Corrects drafting errors, including changing the effective date to January 1, 2026, for DPS rules promulgation, and removing unrelated language added by the Legislative Council.
- Adds language requested by law enforcement to clarify that the bill does not limit their ability to use existing technology to track stolen goods.
- Clarifies that damages caused by copper thieves to fiber lines outside a facility's fence are subject to criminal penalties for critical infrastructure damage.
- Instructs DPS to develop additional training materials in collaboration with the Metal Recycling Entity Advisory Committee, Metal Recycling Entity trades, and communications companies.

S.B. 1646 amends current law relating to criminal conduct involving the theft, damage, or destruction of copper or brass or involving the unauthorized possession of certain copper or brass material, to transactions of metal recycling entities involving certain copper or brass material, to training on identifying certain copper or brass material, and to studying the effect of certain regulations on incidents of theft of copper or brass material; creates criminal offenses; increases criminal penalties; and provides an administrative penalty.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Safety Commission of Texas in SECTION 2.02 (Section 1956.134, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

ARTICLE 1. CRIMINAL PENALTIES

SECTION 1.01. Amends Section 28.03(g), Penal Code, by adding Subdivision (10) to define "critical infrastructure facility."

SECTION 1.02. Amends Section 28.03, Penal Code, by adding Subdivision (1), as follows:

(1) Provides that, notwithstanding Subsection (b) (relating to providing that certain offenses are certain misdemeanors or felonies), an offense under Section 28.03 (Criminal Mischief) is a felony of the third degree if the actor committed the offense by damaging or destroying a copper or brass component of a critical infrastructure facility or equipment or communication wires appurtenant to or connected to a copper or brass component of the facility or on which the facility depends to properly function, regardless of whether the equipment or communication wires are enclosed by a fence or other barrier, and the damage or destruction causes, wholly or partly, the impairment or interruption of the facility or the equipment or communication wires.

SECTION 1.03. Amends Section 31.01, Penal Code, by adding Subdivision (15) to define "critical infrastructure facility."

SECTION 1.04. Amends Section 31.03, Penal Code, by adding Subsection (f-2), as follows:

(f-2) Provides that an offense described for purposes of punishment by certain subsections of Section 31.03 (Theft) is increased to the next higher category of offense if it is shown on the trial of the offense that:

(1) the property stolen was copper or brass; and

(2) the actor committed the offense by unlawfully appropriating the property from a critical infrastructure facility or from equipment or communication wires appurtenant to or connected to the facility or on which the facility depends to properly function, regardless of whether the equipment or communication wires are enclosed by a fence or other barrier.

SECTION 1.05. Amends Chapter 31, Penal Code, by adding Section 31.22, as follows:

Sec. 31.22. UNAUTHORIZED POSSESSION OF CERTAIN COPPER OR BRASS MATERIAL. (a) Defines "copper or brass material" and "firearm."

(b) Provides that a person commits an offense if the person intentionally or knowingly possesses copper or brass material and is not a person who is authorized under Subsection (c) to possess the copper or brass material.

(c) Provides that, subject to Subsection (d), a person is authorized to possess copper or brass material if the person meets certain criteria.

(d) Provides that Subsection (c) does not apply to a person who knows that the copper or brass material was unlawfully obtained.

(e) Provides that, except as provided by Subsection (f), an offense under this section is a state jail felony.

(f) Provides that an offense under this section is a felony of the third degree if it is shown on the trial of the offense that:

(1) the copper or brass material was unlawfully obtained from a critical infrastructure facility; or

(2) the person has been previously convicted of an offense under this section; has been previously convicted of certain offenses with respect to copper or brass material; in connection with the offense, engaged in conduct with respect to copper or brass material constituting certain offenses or conspiracies to commit an offense; or possessed a firearm during the commission of the offense.

(g) Authorizes the actor, if conduct constituting an offense under this section also constitutes an offense under any other law, to be prosecuted under this section, the other law, or both.

SECTION 1.06. Reenacts Section 71.02(a), Penal Code, as amended by Chapters 269 (S.B. 224), 369 (H.B. 1442), 462 (S.B. 1900), 885 (H.B. 4635), and 910 (H.B. 6), Acts of the 88th Legislature, Regular Session, 2023, and amends it, as follows:

(a) Provides that a person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang or foreign terrorist organization, the person commits or conspires to commit certain offenses, including an offense under Section 28.03 that is punishable

under certain provisions of that section, including Subsection (l), or an offense under Section 31.22 that is punishable under Subsection (e) of that section. Makes nonsubstantive changes.

ARTICLE 2. REGULATION OF METAL RECYCLING ENTITIES

SECTION 2.01. Amends Section 1956.001(4), Occupations Code, to redefine "copper or brass material."

SECTION 2.02. Amends Subchapter A-1, Chapter 1956, Occupations Code, by adding Section 1956.018, as follows:

Sec. 1956.018. TRAINING ON IDENTIFYING CERTAIN COPPER OR BRASS MATERIAL. (a) Requires the Department of Public Safety of the State of Texas (DPS) to develop and make available to metal recycling entities educational and training materials to aid the entities in identifying copper or brass material as defined by Section 1956.131, including copper or brass material that may be stolen property.

(b) Requires that the educational and training materials be developed in coordination with certain entities.

(c) Requires the representatives described by Subsection (b)(3) (relating to requiring that the educational and training materials be developed in coordination with representatives of the communications industries that deploy materials composed of copper or brass material), for purposes of developing the educational and training materials under Subsection (a), to provide examples to DPS of copper or brass material as defined by Section 1956.131.

SECTION 2.03. Amends Subchapter A-1, Chapter 1956, Occupations Code, by adding Section 1956.019, as follows:

Sec. 1956.019. STUDY ON EFFECT OF REGULATIONS ON INCIDENTS OF THEFT OF COPPER OR BRASS MATERIAL. (a) Requires DPS, at least once every three years, to conduct a study on the effect that the implementation of Subchapter C-2 and similar laws has had on the incidents of theft of copper or brass material and the manner and extent to which metal recycling entities are coordinating and cooperating with law enforcement agencies and prosecutors to assist in preventing and prosecuting that theft.

(b) Requires DPS to make available on DPS' publicly accessible Internet website a written report on the study conducted under Subsection (a).

SECTION 2.04. Amends Chapter 1956, Occupations Code, by adding Subchapter C-2, as follows:

SUBCHAPTER C-2. TRANSACTIONS INVOLVING CERTAIN COPPER OR BRASS MATERIAL

Sec. 1956.131. DEFINITION. Defines "copper or brass material."

Sec. 1956.132. APPLICABILITY; EFFECT OF LAW. (a) Provides that, notwithstanding any other provision of Chapter 1956 (Metal Recycling Entities), this subchapter applies to the purchase or acquisition, from a person described by Section 1956.002(1) (relating to providing that Chapter 1956 does not apply to a purchase of regulated material from certain entities), of copper or brass material.

(b) Provides that this subchapter does not affect any requirement under Subchapter A-3 (Practice by Certificate Holders), including any requirement applicable to the purchase or acquisition of copper or brass material from a person not described by Section 1956.002(1).

Sec. 1956.133. LIMITATION ON PURCHASING OR OTHERWISE ACQUIRING CERTAIN COPPER OR BRASS MATERIAL. Prohibits a metal recycling entity from purchasing or otherwise acquiring copper or brass material from a person described by Section 1956.002(1), unless each of the following is satisfied:

- (1) the person selling the copper or brass material to the metal recycling entity acquired it in the ordinary course of the person's business, including in the ordinary course of business of certain entities; or
- (2) any individual acting on behalf of the person described by Subdivision (1) has apparent authority to enter into the transaction and is acting in the scope of that authority.

Sec. 1956.134. CERTAIN RECORDS REQUIRED WHEN PURCHASING OR OTHERWISE ACQUIRING CERTAIN COPPER OR BRASS MATERIAL; OFFENSE.

(a) Requires a metal recycling entity to maintain an accurate record of each transaction in which the entity purchases or otherwise acquires copper or brass material from a person described by Section 1956.133.

(b) Provides that a record meets the requirements of Subsection (a) if it contains:

- (1) a description of the weight of copper or brass material purchased or otherwise acquired made in accordance with the custom of the trade for the material that is the subject of the transaction;
- (2) the business name of the person from whom the copper or brass material was purchased or otherwise acquired;
- (3) if the copper or brass material includes insulated communications wire that has been burned wholly or partly to remove the insulation, documentation acceptable under the rules adopted under Subsection (f) that states that the material was salvaged from a fire; and
- (4) the date of the transaction.

(c) Requires a metal recycling entity to preserve each record required by this section until the second anniversary of the date the record was made. Requires that the records be maintained in an easily retrievable format and be available for inspection as provided by Section 1956.135 not later than 72 hours after the time of purchase or acquisition.

(d) Provides that a record containing the information described by Subsection (b) that is maintained in accordance with other law or as a routine business practice satisfies the requirements of Subsection (a).

(e) Requires the Public Safety Commission (commission) by rule to prescribe the method by which a metal recycling entity is required to document in a record required by this section the type of seller, including a seller listed in Section 1956.133, from which the entity purchased or acquired copper or brass material.

(f) Requires the commission to adopt rules establishing the type of documentation that a person described by Section 1956.133 who sells insulated communications wire described by Subsection (b)(3) is required to provide to a metal recycling entity to establish that the wire was salvaged from a fire.

(g) Provides that a metal recycling entity commits an offense if the entity intentionally or knowingly fails to maintain a record as required by this section. Provides that an offense under this subsection is a Class A misdemeanor.

Sec. 1956.135. INSPECTION OF RECORDS. Requires a metal recycling facility, on request, to permit a peace officer, a representative of DPS, or a representative of a county, municipality, or other political subdivision that issues a license or permit under Section 1956.003(b) (relating to authorizing a political subdivision of this state to issue a permit to a business to allow the business to act as a metal recycling entity in that county or municipality), during the entity's usual business hours, to enter the premises of the entity and inspect a record required to be maintained by Section 1956.134.

Sec. 1956.136. EFFECT ON LOCAL LAW. (a) Prohibits a county, municipality, or political subdivision of this state, notwithstanding Section 1956.003 from:

(1) with respect to copper or brass material, restricting the purchase, acquisition, sale, transfer, or possession of the material by a person described by Section 1956.133; or

(2) altering or adding to the recordkeeping requirements provided by Section 1956.134.

(b) Provides that Subsection (a) does not affect the authority of a county, municipality, or political subdivision of this state to issue a license or permit as provided by Section 1956.003 (Local Law; Criminal Penalty) or inspect a record as provided by Section 1956.135.

(c) Provides that Subsection (a)(2) does not affect a municipal ordinance in effect on March 1, 2025, to the extent the ordinance requires a metal recycling entity to submit records, in addition to any records required by Section 1956.134, to a searchable online database that is used by law enforcement to identify and locate damaged or stolen property and any individuals who may be associated with the damaged or stolen property.

Sec. 1956.137. ADMINISTRATIVE PENALTY. (a) Authorizes the commission to impose an administrative penalty under Subchapter R (Administrative Penalty), Chapter 411 (Department of Public Safety of the State of Texas), Government Code, on a metal recycling entity that violates Section 1956.133 due to the entity's failure to exercise due diligence in purchasing or acquiring copper or brass material or violates Section 1956.134.

(b) Prohibits the amount of the administrative penalty from exceeding \$10,000.

ARTICLE 3. TRANSITIONS; EFFECTIVE DATE

SECTION 3.01. Requires the commission, not later than January 1, 2026, to adopt rules necessary to implement the changes in law made by this Act to Chapter 1956, Occupations Code.

SECTION 3.02. Requires DPS, not later than September 1, 2028, to complete the initial study required by Section 1956.019, Occupations Code, as added by this Act.

SECTION 3.03. Makes application of Sections 28.03 and 71.02 (Engaging in Organized Criminal Activity), Penal Code, as amended by this Act, prospective to September 1, 2025.

SECTION 3.04. Effective date: upon passage or September 1, 2025.