

By: King, et al. S.B. No. 1646  
(Hefner, Rose, Geren, Lopez of Bexar, Patterson)

Substitute the following for S.B. No. 1646:

By: Hefner C.S.S.B. No. 1646

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to criminal conduct involving the theft, damage, or  
3 destruction of copper or brass or involving the unauthorized  
4 possession of certain copper or brass material, to transactions of  
5 metal recycling entities involving certain copper or brass  
6 material, to training on identifying certain copper or brass  
7 material, and to studying the effect of certain regulations on  
8 incidents of theft of copper or brass material; creating criminal  
9 offenses; increasing criminal penalties; providing an  
10 administrative penalty.

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

12 ARTICLE 1. CRIMINAL PENALTIES

13 SECTION 1.01. Section 28.03(g), Penal Code, is amended by  
14 adding Subdivision (10) to read as follows:

15 (10) "Critical infrastructure facility" has the  
16 meaning assigned by Section 31.01.

17 SECTION 1.02. Section 28.03, Penal Code, is amended by  
18 adding Subsection (1) to read as follows:

19 (1) Notwithstanding Subsection (b), an offense under this  
20 section is a felony of the third degree if:

21 (1) the actor committed the offense by damaging or  
22 destroying a copper or brass component of:

23 (A) a critical infrastructure facility; or

24 (B) equipment or communication wires appurtenant

1 to or connected to the facility or on which the facility depends to  
2 properly function, regardless of whether the equipment or  
3 communication wires are enclosed by a fence or other barrier; and

4 (2) the damage or destruction causes, wholly or  
5 partly, the impairment or interruption of the facility or the  
6 equipment or communication wires.

7 SECTION 1.03. Section 31.01, Penal Code, is amended by  
8 adding Subdivision (15) to read as follows:

9 (15) "Critical infrastructure facility" means:

10 (A) one of the following, if completely enclosed  
11 by a fence or other physical barrier that is obviously designed to  
12 exclude intruders, or if clearly marked with a sign or signs that  
13 are posted on the property, are reasonably likely to come to the  
14 attention of intruders, and indicate that entry is forbidden:

15 (i) a petroleum or alumina refinery;

16 (ii) an electrical power generating  
17 facility, substation, switching station, or electrical control  
18 center;

19 (iii) a chemical, polymer, or rubber  
20 manufacturing facility;

21 (iv) a water intake structure, water  
22 treatment facility, wastewater treatment plant, or pump station;

23 (v) a natural gas compressor station;

24 (vi) a liquid natural gas terminal or  
25 storage facility;

26 (vii) a telecommunications central  
27 switching office or any structure used as part of a system to

provide wired or wireless telecommunications services, cable or video services, or Internet access services;

(viii) a port, a railroad switching yard, a trucking terminal, or any other freight transportation facility;

(ix) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas;

(x) a transmission facility used by a federally licensed radio or television station;

(xi) a steelmaking facility that uses an electric arc furnace to make steel;

(xii) a dam that is classified as a high hazard by the Texas Commission on Environmental Quality;

(xiii) a concentrated animal feeding operation, as defined by Section 26.048, Water Code; or

(xiv) any component of a system:

(a) on which a 9-1-1 service, as defined by Section 771.001, Health and Safety Code, depends to properly function; or

(b) that enables interoperable communications between emergency services personnel, as defined by Section 22.01, during an emergency or disaster; or

(B) if enclosed by a fence or other physical barrier obviously designed to exclude intruders:

(i) any portion of an aboveground oil, gas, or chemical pipeline;

(ii) an oil or gas drilling site;

- (iii) a group of tanks used to store crude oil, such as a tank battery;
- (iv) an oil, gas, or chemical production facility;
- (v) an oil or gas wellhead; or
- (vi) any oil and gas facility that has an active flare.

SECTION 1.04. Section 31.03, Penal Code, is amended by adding Subsection (f-2) to read as follows:

(f-2) An offense described for purposes of punishment by Subsections (e)(4)-(6) 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. Chapter 31, Penal Code, is amended by adding Section 31.22 to read as follows:

Sec. 31.22. UNAUTHORIZED POSSESSION OF CERTAIN COPPER OR BRASS MATERIAL. (a) In this section:

(1) "Copper or brass material" has the meaning assigned by Section 1956.001(4)(A) or (B), Occupations Code.

(2) "Firearm" has the meaning assigned by Section 46.01.

1        (b) A person commits an offense if the person:

2                (1) intentionally or knowingly possesses copper or  
3 brass material; and

4                (2) is not a person who is authorized under Subsection  
5 (c) to possess the copper or brass material.

6        (c) Subject to Subsection (d), a person is authorized to  
7 possess copper or brass material if the person is:

8                (1) the owner of the material;

9                (2) a public utility or common carrier;

10               (3) a telecommunications provider as defined by  
11 Section 51.002, Utilities Code;

12               (4) a cable service provider as defined by Section  
13 66.002, Utilities Code;

14               (5) a video service provider as defined by Section  
15 66.002, Utilities Code;

16               (6) a manufacturing, industrial, commercial, retail,  
17 or other business that sells the material in the ordinary course of  
18 the seller's business;

19               (7) a carrier-for-hire acting in the course and scope  
20 of the carrier's business with a bill of lading or a contract  
21 verifying transport information;

22               (8) a metal recycling entity registered under Chapter  
23 1956, Occupations Code, and acting within the course and scope of  
24 the entity's business;

25               (9) a person acting in the ordinary course of the  
26 person's business who lawfully acquires possession of the materials  
27 during construction, remodeling, demolition, or salvage of a

building or other structure in which the materials were installed  
or contained; or

(10) an agent for a person described by Subdivisions  
(1)-(9) acting within the course and scope of the agent's authority  
to act on behalf of the person.

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

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

(f) 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:

(A) has been previously convicted of an offense  
under this section;

(B) has been previously convicted of any of the  
following offenses with respect to copper or brass material:

(i) an offense under Section 28.03 or  
31.03;

(ii) conspiracy under Section 15.02 to  
commit an offense under Section 28.03 or 31.03; or

(iii) an offense under Chapter 71;

(C) in connection with the offense, engaged in  
conduct with respect to copper or brass material constituting:

(i) conspiracy under Section 15.02 to  
commit an offense under Section 28.03, Section 31.03, or Chapter

1 71; or

2 (ii) an offense under Chapter 71; or

3 (D) possessed a firearm during the commission of  
4 the offense.

5 (g) If conduct constituting an offense under this section  
6 also constitutes an offense under any other law, the actor may be  
7 prosecuted under this section, the other law, or both.

8 SECTION 1.06. Section 71.02(a), Penal Code, as amended by  
9 Chapters 269 (S.B. 224), 369 (H.B. 1442), 462 (S.B. 1900), 885 (H.B.  
10 4635), and 910 (H.B. 6), Acts of the 88th Legislature, Regular  
11 Session, 2023, is reenacted and amended to read as follows:

12 (a) A person commits an offense if, with the intent to  
13 establish, maintain, or participate in a combination or in the  
14 profits of a combination or as a member of a criminal street gang or  
15 foreign terrorist organization, the person commits or conspires to  
16 commit one or more of the following:

17 (1) murder, capital murder, arson, aggravated  
18 robbery, robbery, burglary, theft, aggravated kidnapping,  
19 kidnapping, aggravated assault, aggravated sexual assault, sexual  
20 assault, continuous sexual abuse of young child or disabled  
21 individual, solicitation of a minor, forgery, deadly conduct,  
22 assault punishable as a Class A misdemeanor, burglary of a motor  
23 vehicle, or unauthorized use of a motor vehicle;

24 (2) any gambling offense punishable as a Class A  
25 misdemeanor;

26 (3) promotion of prostitution, aggravated promotion  
27 of prostitution, or compelling prostitution;

1           (4) unlawful manufacture, transportation, repair, or  
2 sale of firearms or prohibited weapons;

3           (5) unlawful manufacture, delivery, dispensation, or  
4 distribution of a controlled substance or dangerous drug, or  
5 unlawful possession of a controlled substance or dangerous drug:

6                 (A) through forgery, fraud, misrepresentation,  
7 or deception; or

8                 (B) with the intent to deliver the controlled  
9 substance or dangerous drug;

10           (5-a) causing the unlawful delivery, dispensation, or  
11 distribution of a controlled substance or dangerous drug in  
12 violation of Subtitle B, Title 3, Occupations Code;

13           (5-b) any unlawful possession with intent to deliver a  
14 controlled substance or dangerous drug;

15           (5-c) [~~(5-b)~~] unlawful possession with intent to  
16 deliver a controlled substance listed in Penalty Group 1-B under  
17 Section [481.1022](#), Health and Safety Code;

18           (6) any unlawful wholesale promotion or possession of  
19 any obscene material or obscene device with the intent to wholesale  
20 promote the same;

21           (7) any offense under Subchapter [B](#), Chapter [43](#),  
22 depicting or involving conduct by or directed toward a child  
23 younger than 18 years of age;

24           (8) any felony offense under Chapter [32](#);

25           (9) any offense under Chapter [36](#);

26           (10) any offense under Chapter [34](#), [35](#), or [35A](#);

27           (11) any offense under Section [37.11\(a\)](#);



- 1 (12) any offense under Chapter 20A;  
2 (13) any offense under Section 37.10;  
3 (14) any offense under Section 38.06, 38.07, 38.09, or  
4 38.11;  
5 (15) any offense under Section 42.10;  
6 (16) any offense under Section 46.06(a)(1) or 46.14;  
7 (17) any offense under Section 20.05, 20.06, or 20.07;  
8 (18) any offense under Section 16.02;  
9 (19) any offense punishable under Section 42.03(d) or  
10 (e);  
11 (20) [~~(19)~~] an offense under Section 28.03 that is  
12 punishable under Subsection (b)(4)(E) or (1) of that section;  
13 (21) [~~(20)~~] an offense under:  
14 (A) Section 31.21 that is punishable under  
15 Subsection (d) of that section; or  
16 (B) Section 31.22 that is punishable under  
17 Subsection (e) of that section;  
18 (22) [~~(20)~~] any offense classified as a felony under  
19 the Tax Code; or  
20 (23) [~~(21)~~] any offense under Section 545.420,  
21 Transportation Code.

22 ARTICLE 2. REGULATION OF METAL RECYCLING ENTITIES

23 SECTION 2.01. Section 1956.001(4), Occupations Code, is  
24 amended to read as follows:

- 25 (4) "Copper or brass material" means:  
26 (A) a power inverter, bus bar, or insulated or  
27 noninsulated copper wire or cable that contains copper or an alloy

of copper or zinc and is of the type used by:

(i) a public utility or common carrier;

(ii) a telecommunications provider as defined by Section 51.002, Utilities Code;

(iii) a cable service provider as defined by Section 66.002, Utilities Code; or

(iv) a video service provider as defined by Section 66.002, Utilities Code;

(B) a copper or brass item of a type commonly used in construction or by:

(i) a public utility;

(ii) a telecommunications provider as defined by Section 51.002, Utilities Code;

(iii) a cable service provider as defined by Section 66.002, Utilities Code; or

(iv) a video service provider as defined by Section 66.002, Utilities Code; or

(C) copper pipe or copper tubing.

SECTION 2.02. Subchapter A-1, Chapter 1956, Occupations Code, is amended by adding Section 1956.018 to read as follows:

Sec. 1956.018. TRAINING ON IDENTIFYING CERTAIN COPPER OR BRASS MATERIAL. (a) The department shall 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) The educational and training materials must be

developed in coordination with:

(1) the advisory committee established under Section  
1956.017;

(2) trade associations representing metal recycling  
entities;

(3) representatives of the communications industries  
that deploy materials composed of copper or brass material;

(4) representatives of law enforcement agencies and  
the offices of prosecuting attorneys; and

(5) other interested stakeholders.

(c) For purposes of developing the educational and training  
materials under Subsection (a), the representatives described by  
Subsection (b)(3) shall provide examples to the department of  
copper or brass material as defined by Section 1956.131.

SECTION 2.03. Subchapter [A-1](#), Chapter [1956](#), Occupations  
Code, is amended by adding Section 1956.019 to read as follows:

Sec. 1956.019. STUDY ON EFFECT OF REGULATIONS ON INCIDENTS  
OF THEFT OF COPPER OR BRASS MATERIAL. (a) At least once every three  
years, the department shall conduct a study on:

(1) 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

(2) 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) The department shall make available on the department's

publicly accessible Internet website a written report on the study conducted under Subsection (a).

SECTION 2.04. Chapter 1956, Occupations Code, is amended by adding Subchapter C-2 to read as follows:

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

Sec. 1956.131. DEFINITION. Notwithstanding Section 1956.001, in this subchapter, the term "copper or brass material" does not include:

(1) the material described by Section 1956.001(4)(B) or (C); or

(2) common household insulated or noninsulated copper wire or cable.

Sec. 1956.132. APPLICABILITY; EFFECT OF LAW.

(a) Notwithstanding any other provision of this chapter, this subchapter applies to the purchase or acquisition, from a person described by Section 1956.002(1), of copper or brass material.

(b) This subchapter does not affect any requirement under Subchapter A-3, 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. A metal recycling entity may not purchase or otherwise acquire 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 any of the following entities:

(A) a business that owns the copper or brass material;

(B) a public utility or common carrier;

(C) a telecommunications provider as defined by Section 51.002, Utilities Code;

(D) a cable service provider as defined by Section 66.002, Utilities Code;

(E) a video service provider as defined by Section 66.002, Utilities Code;

(F) a manufacturing, industrial, commercial, retail, or other business that sells the material in the ordinary course of the seller's business;

(G) a carrier-for-hire acting in the course and scope of the carrier's business with a bill of lading or a contract verifying transport information;

(H) a metal recycling entity registered under this chapter acting within the course and scope of the entity's business; or

(I) a person acting in the ordinary course of the person's business who lawfully acquires possession of the materials during the construction, remodeling, demolition, or salvage of a building or other structure in which the materials were installed or contained; and

(2) any individual acting on behalf of the person

1 described by Subdivision (1) has apparent authority to enter into  
2 the transaction and is acting in the scope of that authority.

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

5 (a) A metal recycling entity shall maintain an accurate record of  
6 each transaction in which the entity purchases or otherwise  
7 acquires copper or brass material from a person described by  
8 Section 1956.133.

9 (b) A record meets the requirements of Subsection (a) if it  
10 contains:

11 (1) a description of the weight of copper or brass  
12 material purchased or otherwise acquired made in accordance with  
13 the custom of the trade for the material that is the subject of the  
14 transaction;

15 (2) the business name of the person from whom the  
16 copper or brass material was purchased or otherwise acquired;

17 (3) if the copper or brass material includes insulated  
18 communications wire that has been burned wholly or partly to remove  
19 the insulation, documentation acceptable under the rules adopted  
20 under Subsection (f) that states that the material was salvaged  
21 from a fire; and

22 (4) the date of the transaction.

23 (c) A metal recycling entity shall preserve each record  
24 required by this section until the second anniversary of the date  
25 the record was made. The records must be maintained in an easily  
26 retrievable format and must be available for inspection as provided  
27 by Section 1956.135 not later than 72 hours after the time of

1 purchase or acquisition.

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

6 (e) The commission by rule shall prescribe the method by  
7 which a metal recycling entity is required to document in a record  
8 required by this section the type of seller, including a seller  
9 listed in Section 1956.133, from which the entity purchased or  
10 acquired copper or brass material.

11 (f) The commission shall adopt rules establishing the type  
12 of documentation that a person described by Section 1956.133 who  
13 sells insulated communications wire described by Subsection (b)(3)  
14 must provide to a metal recycling entity to establish that the wire  
15 was salvaged from a fire.

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

20 Sec. 1956.135. INSPECTION OF RECORDS. On request, a metal  
21 recycling entity shall permit a peace officer, a representative of  
22 the department, or a representative of a county, municipality, or  
23 other political subdivision that issues a license or permit under  
24 Section 1956.003(b) to, during the entity's usual business hours:

25 (1) enter the premises of the entity; and

26 (2) inspect a record required to be maintained by  
27 Section 1956.134.

1       Sec. 1956.136. EFFECT ON LOCAL LAW. (a) Notwithstanding  
2 Section 1956.003, a county, municipality, or political subdivision  
3 of this state may not:

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

7               (2) alter or add to the recordkeeping requirements  
8 provided by Section 1956.134.

9       (b) Subsection (a) does not affect the authority of a  
10 county, municipality, or political subdivision of this state to:

11               (1) issue a license or permit as provided by Section  
12 1956.003; or

13               (2) inspect a record as provided by Section 1956.135.

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

21       Sec. 1956.137. ADMINISTRATIVE PENALTY. (a) The  
22 commission may impose an administrative penalty under Subchapter R,  
23 Chapter 411, Government Code, on a metal recycling entity that:

24               (1) violates Section 1956.133 due to the entity's  
25 failure to exercise due diligence in purchasing or acquiring copper  
26 or brass material; or

27               (2) violates Section 1956.134.



1        (b) The amount of the administrative penalty may not exceed  
2        \$10,000.

3                    ARTICLE 3. TRANSITIONS; EFFECTIVE DATE

4            SECTION 3.01. Not later than January 1, 2026, the Public  
5        Safety Commission shall adopt rules necessary to implement the  
6        changes in law made by this Act to Chapter 1956, Occupations Code.

7            SECTION 3.02. Not later than September 1, 2028, the  
8        Department of Public Safety of the State of Texas shall complete the  
9        initial study required by Section 1956.019, Occupations Code, as  
10       added by this Act.

11          SECTION 3.03. The changes in law made by this Act to the  
12       Penal Code apply only to an offense committed on or after September  
13       1, 2025. An offense committed before September 1, 2025, is governed  
14       by the law in effect on the date the offense was committed, and the  
15       former law is continued in effect for that purpose. For purposes of  
16       this section, an offense was committed before September 1, 2025, if  
17       any element of the offense occurred before that date.

18          SECTION 3.04. This Act takes effect immediately if it  
19       receives a vote of two-thirds of all the members elected to each  
20       house, as provided by Section 39, Article III, Texas Constitution.  
21       If this Act does not receive the vote necessary for immediate  
22       effect, this Act takes effect September 1, 2025.