

By: King

S.B. No. 1646

A BILL TO BE ENTITLED

AN ACT

1
2 relating to criminal conduct involving the theft or unauthorized
3 possession of copper or brass and to the sale of copper or brass
4 material to metal recycling entities; creating criminal offenses;
5 providing an administrative penalty.

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

7 ARTICLE 1. CRIMINAL PENALTIES

8 SECTION 1.01. Section [423.0045](#)(a)(1-a), Government Code,
9 is amended to read as follows:

10 (1-a) "Critical infrastructure facility" means:

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

16 (i) a petroleum or alumina refinery;

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

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

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

24 (v) a natural gas compressor station;

1 (vi) a liquid natural gas terminal or
2 storage facility;

3 (vii) a telecommunications central
4 switching office or any structure used as part of a system to
5 provide [~~wired or wireless~~] telecommunications services, cable
6 television services, or Internet access services;

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

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

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

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

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

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

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

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

24 (ii) an oil or gas drilling site;

25 (iii) a group of tanks used to store crude
26 oil, such as a tank battery;

27 (iv) an oil, gas, or chemical production

1 facility;

2 (v) an oil or gas wellhead; or

3 (vi) any oil and gas facility that has an
4 active flare.

5 SECTION 1.02. Section 28.03(g), Penal Code, is amended by
6 adding Subdivision (10) to read as follows:

7 (10) "Critical infrastructure facility" has the
8 meaning assigned by Section 423.0045, Government Code, and includes
9 any component of a system:

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

13 (B) that enables interoperable communications
14 between emergency services personnel, as defined by Section 22.01,
15 during an emergency or disaster.

16 SECTION 1.03. Section 28.03, Penal Code, is amended by
17 adding Subsection (l) to read as follows:

18 (l) Notwithstanding Subsection (b), an offense under this
19 section is a felony of the third degree if the actor committed the
20 offense by damaging or destroying a copper or brass component of a
21 critical infrastructure facility or of equipment appurtenant to the
22 facility or on which the facility depends to properly function, and
23 the damage or destruction causes, wholly or partly, the impairment
24 or interruption of the facility or that equipment.

25 SECTION 1.04. Section 31.01, Penal Code, is amended by
26 adding Subdivisions (15) and (16) to read as follows:

27 (15) "Critical infrastructure facility" has the

1 meaning assigned by Section 423.0045, Government Code, and includes
2 any component of a system:

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

6 (B) that enables interoperable communications
7 between emergency services personnel, as defined by Section 22.01,
8 during an emergency or disaster.

9 (16) "Firearm" has the meaning assigned by Section
10 46.01.

11 SECTION 1.05. Section 31.03, Penal Code, is amended by
12 adding Subsection (f-2) to read as follows:

13 (f-2) An offense described for purposes of punishment by
14 Subsection (e)(4)-(6) is increased to the next higher category of
15 offense if it is shown on the trial of the offense that:

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

17 (2) the actor committed the offense by unlawfully
18 appropriating the property from a critical infrastructure facility
19 or from equipment appurtenant to the facility or on which the
20 facility depends to properly function.

21 SECTION 1.06. Chapter 31, Penal Code, is amended by adding
22 Section 31.22 to read as follows:

23 Sec. 31.22. UNAUTHORIZED POSSESSION OF CERTAIN COPPER OR
24 BRASS MATERIAL. (a) In this section, "copper or brass material"
25 has the meaning assigned by Section 1956.001(4)(A) or (B),
26 Occupations Code.

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

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

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

5 (c) A person is presumed to be authorized to possess copper
6 or brass material if the person is:

7 (1) the owner of the material;

8 (2) a public utility or common carrier;

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

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

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

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

18 (7) a carrier-for-hire acting in the course and scope
19 of the carrier's business;

20 (8) a metal recycling entity registered under Chapter
21 1956, Occupations Code, and acting within the course and scope of
22 the entity's business;

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

1 (10) an agent for a person described by Subdivisions
2 (1)-(9) acting within the course and scope of the agent's authority
3 to act on behalf of the person.

4 (d) The presumption established under Subsection (c) does
5 not apply to a person who knows that the material was unlawfully
6 obtained.

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

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

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

13 (2) the person:

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

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

18 (i) an offense under Section 28.03 or
19 31.03;

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

22 (iii) an offense under Chapter 71;

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

25 (i) conspiracy under Section 15.02 to
26 commit an offense under Section 28.03, Section 31.03, or Chapter
27 71; or

1 (ii) an offense under Chapter 71; or
2 (D) possessed a firearm during the commission of
3 the offense.

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

7 SECTION 1.07. Section 71.02(a), Penal Code, as amended by
8 Chapters 269 (S.B. 224), 369 (H.B. 1442), 462 (S.B. 1900), 885 (H.B.
9 4635), and 910 (H.B. 6), Acts of the 88th Legislature, Regular
10 Session, 2023, is reenacted and amended to read as follows:

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

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

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

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

27 (4) unlawful manufacture, transportation, repair, or

1 sale of firearms or prohibited weapons;

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

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

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

9 (5-a) causing the unlawful delivery, dispensation, or
10 distribution of a controlled substance or dangerous drug in
11 violation of Subtitle B, Title 3, Occupations Code;

12 ~~[(5-b) any unlawful possession with intent to deliver a
13 controlled substance or dangerous drug;~~

14 ~~[(5-b) unlawful possession with intent to deliver a
15 controlled substance listed in Penalty Group 1-B under Section
16 [481.1022](#), Health and Safety Code.]~~

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

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

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

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

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

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

27 (12) any offense under Chapter [20A](#);

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

19 SECTION 1.08. Section 31.03(h)(8), Penal Code, is repealed.

20 ARTICLE 2. REGULATION OF METAL RECYCLING ENTITIES

21 SECTION 2.01. Chapter 1956, Occupations Code, is amended by

22 adding Subchapter C-2 to read as follows:

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

24 MATERIAL

25 Sec. 1956.131. DEFINITION. Notwithstanding Section

26 1956.001, in this subchapter, the term "copper or brass material"

27 does not include the material described by Section 1956.001(4)(C).

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,

1 retail, or other business that sells the material in the ordinary
2 course of the seller's business;

3 (G) a carrier-for-hire acting in the course and
4 scope of the carrier's business;

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

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

13 (2) any individual acting on behalf of the person
14 described by Subdivision (1) who has apparent authority to enter
15 into the transaction and is acting in the scope of that authority.

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

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

22 (b) A record meets the requirements of Subsection (a) if it
23 contains:

24 (1) a description of the volume of copper or brass
25 material purchased or otherwise acquired made in accordance with
26 the custom of the trade for the material that is the subject of the
27 transaction;

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

3 (3) the following, as applicable:

4 (A) the information printed on the material that
5 shows the manufacturer of the material, the date of manufacture of
6 the material, the identification code for the material, and the
7 type and size of the material; and

8 (B) any other information required by commission
9 rule for materials that are damaged to the extent that the
10 information described by Paragraph (A) is difficult to ascertain;
11 and

12 (4) the date of the transaction.

13 (c) A metal recycling entity shall preserve each record
14 required by this section until the second anniversary of the date
15 the record was made. The records must be maintained in an easily
16 retrievable format and must be available for inspection as provided
17 by Section 1956.135 not later than 72 hours after the time of
18 purchase or acquisition.

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

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

1 (f) A metal recycling entity commits an offense if the
2 entity intentionally or knowingly fails to maintain a record as
3 required by this section. An offense under this subsection is a
4 Class A misdemeanor.

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

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

11 (2) inspect a record required to be maintained by
12 Section 1956.134.

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

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

19 (2) alter or add to the recordkeeping requirements
20 provided by Section 1956.134.

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

23 (1) issue a license or permit as provided by Section
24 1956.003; or

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

26 Sec. 1956.137. ADMINISTRATIVE PENALTY. (a) The
27 commission may impose an administrative penalty under Subchapter R,

1 Chapter 411, Government Code, on a metal recycling entity that:

2 (1) violates Section 1956.133 due to the entity's
3 failure to exercise due diligence in purchasing or acquiring copper
4 or brass material; or

5 (2) violates Section 1956.134.

6 (b) The amount of the administrative penalty may not exceed
7 \$10,000.

8 ARTICLE 3. TRANSITIONS; EFFECTIVE DATE

9 SECTION 3.01. As soon as practicable after the effective
10 date of this Act, the Public Safety Commission shall adopt rules
11 necessary to implement Subchapter C-2, Chapter 1956, Occupations
12 Code, as added by this Act.

13 SECTION 3.02. The changes in law made by this Act to
14 Sections 28.03 and 71.02, Penal Code, apply only to an offense
15 committed on or after September 1, 2025. An offense committed
16 before September 1, 2025, is governed by the law in effect on the
17 date the offense was committed, and the former law is continued in
18 effect for that purpose. For purposes of this section, an offense
19 was committed before September 1, 2025, if any element of the
20 offense occurred before that date.

21 SECTION 3.03. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2025.