

1-1 By: King, Flores, Hagenbuch S.B. No. 1646
1-2 (In the Senate - Filed February 26, 2025; March 11, 2025,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 April 10, 2025, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; April 10, 2025,
1-6 sent to printer.)

1-7	COMMITTEE VOTE			
1-8		Yea	Nay	Absent
1-9	Flores	X		PNV
1-10	Parker	X		
1-11	Hagenbuch	X		
1-12	Hinojosa of Hidalgo	X		
1-13	Huffman	X		
1-14	King			X
1-15	Miles	X		

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 1646 By: Flores

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to criminal conduct involving the theft or unauthorized
1-20 possession of copper or brass and to the sale of copper or brass
1-21 material to metal recycling entities; creating criminal offenses;
1-22 providing an administrative penalty.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 ARTICLE 1. CRIMINAL PENALTIES

1-25 SECTION 1.01. Section 423.0045(a)(1-a), Government Code,
1-26 is amended to read as follows:

1-27 (1-a) "Critical infrastructure facility" means:

1-28 (A) one of the following, if completely enclosed
1-29 by a fence or other physical barrier that is obviously designed to
1-30 exclude intruders, or if clearly marked with a sign or signs that
1-31 are posted on the property, are reasonably likely to come to the
1-32 attention of intruders, and indicate that entry is forbidden:

1-33 (i) a petroleum or alumina refinery;

1-34 (ii) an electrical power generating
1-35 facility, substation, switching station, or electrical control
1-36 center;

1-37 (iii) a chemical, polymer, or rubber
1-38 manufacturing facility;

1-39 (iv) a water intake structure, water
1-40 treatment facility, wastewater treatment plant, or pump station;

1-41 (v) a natural gas compressor station;

1-42 (vi) a liquid natural gas terminal or
1-43 storage facility;

1-44 (vii) a telecommunications central
1-45 switching office or any structure used as part of a system to
1-46 provide wired or wireless telecommunications services, cable or
1-47 video services, or Internet access services;

1-48 (viii) a port, a railroad switching yard, a
1-49 trucking terminal, or any other freight transportation facility;

1-50 (ix) a gas processing plant, including a
1-51 plant used in the processing, treatment, or fractionation of
1-52 natural gas;

1-53 (x) a transmission facility used by a
1-54 federally licensed radio or television station;

1-55 (xi) a steelmaking facility that uses an
1-56 electric arc furnace to make steel;

1-57 (xii) a dam that is classified as a high
1-58 hazard by the Texas Commission on Environmental Quality; or

1-59 (xiii) a concentrated animal feeding
1-60 operation, as defined by Section 26.048, Water Code; 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 1.02. Section 28.03(g), Penal Code, is amended by adding Subdivision (10) to read as follows:

(10) "Critical infrastructure facility" has the meaning assigned by Section 423.0045, Government Code, and includes 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.

SECTION 1.03. Section 28.03, Penal Code, is amended by adding Subsection (1) to read as follows:

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

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

(A) a critical infrastructure facility; or

(B) 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; and

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

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

(15) "Critical infrastructure facility" has the meaning assigned by Section 423.0045, Government Code, and includes 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.

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

SECTION 1.05. 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 Subsection (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 1.06. 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, "copper or brass material" has the meaning assigned by Section 1956.001(4)(A) or (B), Occupations Code.

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

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

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

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

(1) the owner of the material;

(2) a public utility or common carrier;

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

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

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

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

(7) 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;

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

(9) a person acting in the ordinary course of the person's business who lawfully acquires possession of the materials 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 71; or

(ii) an offense under Chapter 71; or

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

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

SECTION 1.07. 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, is reenacted and amended to read as follows:

(a) 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 one or more of the following:

4-1 (1) murder, capital murder, arson, aggravated
 4-2 robbery, robbery, burglary, theft, aggravated kidnapping,
 4-3 kidnapping, aggravated assault, aggravated sexual assault, sexual
 4-4 assault, continuous sexual abuse of young child or disabled
 4-5 individual, solicitation of a minor, forgery, deadly conduct,
 4-6 assault punishable as a Class A misdemeanor, burglary of a motor
 4-7 vehicle, or unauthorized use of a motor vehicle;
 4-8 (2) any gambling offense punishable as a Class A
 4-9 misdemeanor;
 4-10 (3) promotion of prostitution, aggravated promotion
 4-11 of prostitution, or compelling prostitution;
 4-12 (4) unlawful manufacture, transportation, repair, or
 4-13 sale of firearms or prohibited weapons;
 4-14 (5) unlawful manufacture, delivery, dispensation, or
 4-15 distribution of a controlled substance or dangerous drug, or
 4-16 unlawful possession of a controlled substance or dangerous drug:
 4-17 (A) through forgery, fraud, misrepresentation,
 4-18 or deception; or
 4-19 (B) with the intent to deliver the controlled
 4-20 substance or dangerous drug;
 4-21 (5-a) causing the unlawful delivery, dispensation, or
 4-22 distribution of a controlled substance or dangerous drug in
 4-23 violation of Subtitle B, Title 3, Occupations Code;
 4-24 (5-b) any unlawful possession with intent to deliver a
 4-25 controlled substance or dangerous drug;
 4-26 (5-c) ~~[(5-b)]~~ unlawful possession with intent to
 4-27 deliver a controlled substance listed in Penalty Group 1-B under
 4-28 Section 481.1022, Health and Safety Code;
 4-29 (6) any unlawful wholesale promotion or possession of
 4-30 any obscene material or obscene device with the intent to wholesale
 4-31 promote the same;
 4-32 (7) any offense under Subchapter B, Chapter 43,
 4-33 depicting or involving conduct by or directed toward a child
 4-34 younger than 18 years of age;
 4-35 (8) any felony offense under Chapter 32;
 4-36 (9) any offense under Chapter 36;
 4-37 (10) any offense under Chapter 34, 35, or 35A;
 4-38 (11) any offense under Section 37.11(a);
 4-39 (12) any offense under Chapter 20A;
 4-40 (13) any offense under Section 37.10;
 4-41 (14) any offense under Section 38.06, 38.07, 38.09, or
 4-42 38.11;
 4-43 (15) any offense under Section 42.10;
 4-44 (16) any offense under Section 46.06(a)(1) or 46.14;
 4-45 (17) any offense under Section 20.05, 20.06, or 20.07;
 4-46 (18) any offense under Section 16.02;
 4-47 (19) any offense punishable under Section 42.03(d) or
 4-48 (e);
 4-49 (20) ~~[(19)]~~ an offense under Section 28.03 that is
 4-50 punishable under Subsection (b)(4)(E) or (1) of that section;
 4-51 (21) ~~[(20)]~~ an offense under Section 31.21 or 31.22
 4-52 that is punishable under Subsection (d) or (e), respectively, of
 4-53 those sections ~~[that section]; [or]~~
 4-54 (22) ~~[(20)]~~ any offense classified as a felony under
 4-55 the Tax Code; or
 4-56 (23) ~~[(21)]~~ any offense under Section 545.420,
 4-57 Transportation Code.
 4-58 SECTION 1.08. Section 31.03(h)(8), Penal Code, is repealed.
 4-59 ARTICLE 2. REGULATION OF METAL RECYCLING ENTITIES
 4-60 SECTION 2.01. Subchapter A-1, Chapter 1956, Occupations
 4-61 Code, is amended by adding Section 1956.018 to read as follows:
 4-62 Sec. 1956.018. TRAINING ON IDENTIFYING CERTAIN REGULATED
 4-63 MATERIAL. (a) The department shall develop and make available to
 4-64 metal recycling entities educational and training materials to aid
 4-65 the entities in identifying copper or brass material as defined by
 4-66 Section 1956.131, including copper or brass material that may be
 4-67 stolen property.
 4-68 (b) The educational and training materials must be
 4-69 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.

SECTION 2.02. 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 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, 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; or

(2) any individual acting on behalf of the person described by Subdivision (1) who 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) A metal recycling entity shall 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) A record meets the requirements of Subsection (a) if it contains:

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

(d) 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) The commission by rule shall 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) The commission shall 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) must provide to a metal recycling entity to establish that the wire was salvaged from a fire.

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

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

(1) enter the premises of the entity; and

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

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

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

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

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

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

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

(c) 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) The commission may impose an administrative penalty under Subchapter R, Chapter 411, Government Code, on a metal recycling entity that:

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

(2) violates Section 1956.134.

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

ARTICLE 3. TRANSITIONS; EFFECTIVE DATE

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

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

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

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