

AN ACT

relating to the regulation of metal recycling entities; providing penalties.

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

SECTION 1. Subdivision (10), Section 1956.001, Occupations Code, is amended to read as follows:

(10) "Regulated metal" means:

(A) manhole covers;

(B) guardrails;

(C) metal cylinders designed to contain compressed air, oxygen, gases, or liquids;

(D) beer kegs made from metal other than aluminum;

(E) historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;

(F) unused rebar;

(G) street signs;

(H) drain gates;

(I) safes;

(J) communication, transmission, and service wire or cable;

(K) condensing or evaporator coils for central heating or air conditioning units;

(L) utility structures, including the fixtures

1 and hardware;

2 (M) aluminum or stainless steel containers
3 designed to hold propane for fueling forklifts; ~~and~~

4 (N) metal railroad equipment, including tie
5 plates, signal houses, control boxes, signs, signals, traffic
6 devices, traffic control devices, traffic control signals, switch
7 plates, e-clips, and rail tie functions;

8 (O) catalytic converters not attached to a
9 vehicle;

10 (P) fire hydrants;

11 (Q) metal bleachers or other seating facilities
12 used in recreational areas or sporting arenas;

13 (R) any metal item clearly and conspicuously
14 marked with any form of the name, initials, or logo of a
15 governmental entity, utility, cemetery, or railroad;

16 (S) insulated utility, communications, or
17 electrical wire that has been burned in whole or in part to remove
18 the insulation;

19 (T) backflow valves; and

20 (U) metal in the form of commonly recognized
21 products of the industrial metals recycling process, including
22 bales, briquettes, billets, sows, ingots, pucks, and chopped or
23 shredded metals.

24 SECTION 2. The heading to Section 1956.003, Occupations
25 Code, is amended to read as follows:

26 Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY.

27 SECTION 3. Section 1956.003, Occupations Code, is amended

1 by adding Subsections (a-1), (a-2), (f), (f-1), (f-2), and (g) to
2 read as follows:

3 (a-1) A county, municipality, or other political
4 subdivision may require the record of purchase described under
5 Section 1956.033 to contain a clear and legible thumbprint of a
6 seller of regulated material.

7 (a-2) A county, municipality, or other political
8 subdivision that, as authorized under Subsection (a), requires a
9 metal recycling entity to report to the county, municipality, or
10 political subdivision information relating to a sale of regulated
11 material shall:

12 (1) include in any contract entered into by the
13 county, municipality, or political subdivision relating to the
14 reporting of the information a provision that:

15 (A) requires any contractor, subcontractor, or
16 third party that has access to, comes into possession of, or
17 otherwise obtains information relating to a sale of regulated
18 material to maintain the confidentiality of all information
19 received, including the name of the seller, the price paid for a
20 purchase of regulated material, and the quantity of regulated
21 material purchased; and

22 (B) allows the county, municipality, or
23 political subdivision to terminate the contract of any contractor,
24 subcontractor, or third party that violates the confidentiality
25 provision required by Paragraph (A); and

26 (2) investigate a complaint alleging that a
27 contractor, subcontractor, or third party has failed to maintain

1 the confidentiality of information relating to a sale of regulated
2 material.

3 (f) A person commits an offense if the person owns or
4 operates a metal recycling entity and does not hold a license or
5 permit required by a county, municipality, or other political
6 subdivision as authorized under Subsection (b). An offense under
7 this subsection is a Class B misdemeanor unless it is shown on the
8 trial of the offense that the person has been previously convicted
9 under this subsection, in which event the offense is a Class A
10 misdemeanor.

11 (f-1) It is an exception to the application of Subsection
12 (f) that:

13 (1) the person held a license or permit issued by the
14 appropriate county, municipality, or other political subdivision
15 at one point during the 12-month period preceding the date of the
16 alleged offense; and

17 (2) the person obtains or submits an application for
18 the appropriate license or permit not later than the 15th day after
19 the date the person receives notice from the appropriate county,
20 municipality, or other political subdivision informing the person
21 that the metal recycling entity is operating without the required
22 license or permit.

23 (f-2) This subsection and Subsection (f-1) expire March 1,
24 2013.

25 (g) Notwithstanding any other law, a county, municipality,
26 or other political subdivision must provide a minimum 30-day notice
27 followed by a public hearing prior to enacting a prohibition on the

1 sale or use of a recyclable product.

2 SECTION 4. Subchapter A, Chapter 1956, Occupations Code, is
3 amended by adding Section 1956.004 to read as follows:

4 Sec. 1956.004. CIVIL PENALTY. (a) A person who owns or
5 operates a metal recycling entity and does not hold a license or
6 permit required by a county, municipality, or other political
7 subdivision as authorized under Section 1956.003(b) is subject to a
8 civil penalty of not more than \$1,000 for each violation. In
9 determining the amount of the civil penalty, the court shall
10 consider:

11 (1) any other violations by the person; and

12 (2) the amount necessary to deter future violations.

13 (b) A district attorney, county attorney, or municipal
14 attorney may institute an action to collect the civil penalty
15 provided by this section.

16 (c) Each day a violation occurs or continues to occur is a
17 separate violation.

18 (d) The district attorney, county attorney, or municipal
19 attorney may recover reasonable expenses incurred in obtaining a
20 civil penalty under this section, including court costs, reasonable
21 attorney's fees, investigative costs, witness fees, and deposition
22 expenses.

23 (e) It is an exception to the application of this section
24 that:

25 (1) the person held a license or permit issued by the
26 appropriate county, municipality, or other political subdivision
27 at one point during the 12-month period preceding the date of the

1 alleged violation; and

2 (2) the person obtains or submits an application for
3 the appropriate license or permit not later than the 15th day after
4 the date the person receives notice from the appropriate county,
5 municipality, or other political subdivision informing the person
6 that the metal recycling entity is operating without the required
7 license or permit.

8 (f) This subsection and Subsection (e) expire March 1, 2013.

9 SECTION 5. Section 1956.015, Occupations Code, is amended
10 by amending Subsection (d) and adding Subsections (e) and (f) to
11 read as follows:

12 (d) Information provided under this section is not subject
13 to disclosure under Chapter 552, Government Code. The department
14 may use information provided under this section for law enforcement
15 purposes. Except as provided by this subsection, the department
16 shall maintain the confidentiality of all information provided
17 under this section, including the name of the seller, the price paid
18 for a purchase of regulated material, and the quantity of regulated
19 material purchased [~~that relates to the financial condition or~~
20 ~~business affairs of a metal recycling entity or that is otherwise~~
21 ~~commercially sensitive. The confidential information is not~~
22 ~~subject to disclosure under Chapter 552, Government Code].~~

23 (e) The department may enter into contracts relating to the
24 operation of the statewide electronic reporting system established
25 by this section. A contract under this subsection must:

26 (1) require that any contractor, subcontractor, or
27 third party that has access to, comes into possession of, or

1 otherwise obtains information provided under this section maintain
2 the confidentiality of all information provided under this section,
3 including the name of the seller, the price paid for a purchase of
4 regulated material, and the quantity of regulated material
5 purchased; and

6 (2) provide that the department may terminate the
7 contract of any contractor, subcontractor, or third party that
8 violates the confidentiality provision required by Subdivision
9 (1).

10 (f) The department shall investigate a complaint alleging
11 that a contractor, subcontractor, or third party has failed to
12 maintain the confidentiality of information relating to a sale of
13 regulated material.

14 SECTION 6. Subchapter A-1, Chapter 1956, Occupations Code,
15 is amended by adding Sections 1956.016 and 1956.017 to read as
16 follows:

17 Sec. 1956.016. REGISTRATION DATABASE. The department shall
18 make available on its Internet website a publicly accessible list
19 of all registered metal recycling entities. The list must contain
20 the following for each registered metal recycling entity:

- 21 (1) the entity's name;
22 (2) the entity's physical address; and
23 (3) the name of and contact information for a
24 representative of the entity.

25 Sec. 1956.017. ADVISORY COMMITTEE. (a) The department
26 shall establish an advisory committee to advise the department on
27 matters related to the department's regulation of metal recycling

1 entities under this chapter.

2 (b) The advisory committee consists of 12 members appointed
3 by the director as follows:

4 (1) one representative of the department;

5 (2) two representatives of local law enforcement
6 agencies located in different municipalities, each with a
7 population of 500,000 or more;

8 (3) two representatives of local law enforcement
9 agencies located in different municipalities, each with a
10 population of 200,000 or more but less than 500,000;

11 (4) one representative of a local law enforcement
12 agency located in a municipality with a population of less than
13 200,000;

14 (5) four representatives of metal recycling entities;
15 and

16 (6) two members who represent industries that are
17 impacted by theft of regulated material.

18 (c) The director shall ensure that the members of the
19 advisory committee reflect the diverse geographic regions of this
20 state.

21 (d) The advisory committee shall elect a presiding officer
22 from among its members to serve a two-year term. A member may serve
23 more than one term as presiding officer.

24 (e) The advisory committee shall meet annually and at the
25 call of the presiding officer or the director.

26 (f) An advisory committee member is not entitled to
27 compensation or reimbursement of expenses.

1 (g) Chapter 2110, Government Code, does not apply to the
2 size, composition, or duration of the advisory committee or to the
3 appointment of the committee's presiding officer.

4 SECTION 7. The heading to Section 1956.032, Occupations
5 Code, is amended to read as follows:

6 Sec. 1956.032. INFORMATION REGARDING [~~PROVIDED BY~~] SELLER.

7 SECTION 8. Section 1956.032, Occupations Code, is amended
8 by amending Subsection (a) and adding Subsections (g) and (h) to
9 read as follows:

10 (a) Except as provided by Subsection (f), a person
11 attempting to sell regulated material to a metal recycling entity
12 shall:

13 (1) display to the metal recycling entity the person's
14 personal identification document;

15 (2) provide to the metal recycling entity the make,
16 model, color, and license plate number of the motor vehicle used to
17 transport the regulated material and the name of the state issuing
18 the license plate; [~~and~~]

19 (3) either:

20 (A) present written documentation evidencing
21 that the person is the legal owner or is lawfully entitled to sell
22 the regulated material; or

23 (B) sign a written statement provided by the
24 metal recycling entity that the person is the legal owner of or is
25 lawfully entitled to sell the regulated material offered for sale;

26 (4) if the regulated material includes condensing or
27 evaporator coils for central heating or air conditioning units,

1 display to the metal recycling entity:

2 (A) the person's air conditioning and
3 refrigeration contractor license issued under Subchapter F or G,
4 Chapter 1302;

5 (B) the person's air conditioning and
6 refrigeration technician registration issued under Subchapter K,
7 Chapter 1302;

8 (C) a receipt, bill of sale, or other
9 documentation showing that the seller purchased the coils the
10 seller is attempting to sell; or

11 (D) a receipt, bill of sale, or other
12 documentation showing that the seller has purchased a replacement
13 central heating or air conditioning unit; and

14 (5) if the regulated material includes insulated
15 communications wire that has been burned wholly or partly to remove
16 the insulation, display to the metal recycling entity documentation
17 acceptable under the rules adopted under Subsection (h) that states
18 that the material was salvaged from a fire.

19 (g) Notwithstanding Section 1956.002, the metal recycling
20 entity shall verify the registration of a person attempting to sell
21 regulated material who represents that the person is a metal
22 recycling entity as follows:

23 (1) by using the database described by Section
24 1956.016; or

25 (2) by obtaining from the person a copy of the person's
26 certificate of registration issued under Section 1956.022 in
27 addition to the information required under Subsection (a).

1 (h) The commission shall adopt rules establishing the type
2 of documentation that a seller of insulated communications wire
3 described by Subsection (a)(5) must provide to a metal recycling
4 entity to establish that the wire was salvaged from a fire.

5 SECTION 9. Section 1956.033, Occupations Code, is amended
6 to read as follows:

7 Sec. 1956.033. RECORD OF PURCHASE. (a) Each metal
8 recycling entity in this state shall keep an accurate electronic
9 record or an accurate and legible written record of each purchase of
10 regulated material made in the course of the entity's business from
11 an individual [~~of:~~

12 [~~(1) copper or brass material,~~

13 [~~(2) bronze material,~~

14 [~~(3) aluminum material, or~~

15 [~~(4) regulated metal~~].

16 (b) The record must be in English and include:

17 (1) the place and date of the purchase;

18 (2) the name and address of the seller in possession of
19 [~~each individual from whom~~] the regulated material [~~is~~] purchased
20 [~~or obtained~~];

21 (3) the identifying number of the seller's personal
22 identification document;

23 (4) a description made in accordance with the custom
24 of the trade of the commodity type and quantity of regulated
25 material purchased; [~~and~~]

26 (5) the information required by Sections
27 1956.032(a)(2) and (3);

1 (6) as applicable:

2 (A) the identifying number of the seller's air
3 conditioning and refrigeration contractor license displayed under
4 Section 1956.032(a)(4)(A);

5 (B) a copy of the seller's air conditioning and
6 refrigeration technician registration displayed under Section
7 1956.032(a)(4)(B);

8 (C) a copy of the documentation described by
9 Section 1956.032(a)(4)(C); or

10 (D) a copy of the documentation described by
11 Section 1956.032(a)(4)(D);

12 (7) if applicable, a copy of the documentation
13 described by Section 1956.032(a)(5); and

14 (8) a copy of the documentation described by Section
15 1956.032(g) [~~Section 1956.032(a)(3)~~].

16 SECTION 10. Subchapter A-3, Chapter 1956, Occupations Code,
17 is amended by adding Section 1956.0331 to read as follows:

18 Sec. 1956.0331. PHOTOGRAPH OR RECORDING REQUIREMENT FOR
19 REGULATED METAL TRANSACTION. (a) In addition to the requirements
20 of Sections 1956.032 and 1956.033, for each purchase by a metal
21 recycling entity of an item of regulated metal, the entity shall
22 obtain a digital photograph or video recording that accurately
23 depicts the seller's entire face and each type of regulated metal
24 purchased.

25 (b) A metal recycling entity shall preserve a photograph or
26 recording required under Subsection (a) as follows:

27 (1) for a video recording, until the 91st day after the

1 date of the transaction; and

2 (2) for a digital photograph, until the 181st day
3 after the date of the transaction.

4 (c) The photograph or recording must be made available for
5 inspection as provided by Section 1956.035 not later than 72 hours
6 after the time of purchase.

7 SECTION 11. Section 1956.034, Occupations Code, is amended
8 to read as follows:

9 Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling
10 entity shall preserve each record required by Sections 1956.032 and
11 1956.033 until the second [~~third~~] anniversary of the date the
12 record was made. The records must be kept in an easily retrievable
13 format and must be available for inspection as provided by Section
14 1956.035 not later than 72 hours after the time of purchase.

15 SECTION 12. Section 1956.035, Occupations Code, is amended
16 to read as follows:

17 Sec. 1956.035. INSPECTION OF RECORDS [~~BY PEACE OFFICER~~].

18 (a) On request, a metal recycling entity shall permit a peace
19 officer of this state, a representative of the department, or a
20 representative of a county, municipality, or other political
21 subdivision that issues a license or permit under Section
22 1956.003(b) to inspect, during the entity's usual business hours:

23 (1) a record required by Section 1956.033; [~~or~~]

24 (2) a digital photograph or video recording required
25 by Section 1956.0331; or

26 (3) regulated material in the entity's possession.

27 (b) The person seeking to inspect a record or material

1 ~~[inspecting officer]~~ shall:

2 (1) inform the entity of the officer's status as a
3 peace officer; or

4 (2) if the person is a representative of the
5 department or a representative of a county, municipality, or other
6 political subdivision, inform the entity of the person's status and
7 display to the entity an identification document or other
8 appropriate documentation establishing the person's status as a
9 representative of the department or of the appropriate county,
10 municipality, or political subdivision.

11 SECTION 13. Section 1956.036, Occupations Code, is amended
12 by amending Subsections (a) and (b) and adding Subsections (d) and
13 (e) to read as follows:

14 (a) Except as provided by Subsections ~~[Subsection]~~ (b) and
15 (d), not later than the close of business on a metal recycling
16 entity's second working ~~[seventh]~~ day after the date of the
17 purchase or other acquisition of material for which a record is
18 required under Section 1956.033, the ~~[a metal recycling]~~ entity
19 shall send an electronic transaction report to the department via
20 the department's Internet website. The ~~[by facsimile or electronic~~
21 ~~mail to or file with the department a]~~ report must contain
22 ~~[containing]~~ the information required to be recorded under Section
23 1956.033 ~~[that section]~~.

24 (b) If a metal recycling entity purchases bronze material
25 that is a cemetery vase, receptacle, memorial, or statuary or a pipe
26 that can reasonably be identified as aluminum irrigation pipe, the
27 entity shall:

1 (1) not later than the close of business on the
2 entity's first working day after the purchase date, notify the
3 department by telephone, by e-mail, or via the department's
4 Internet website; and

5 (2) not later than the close of business on the
6 entity's second working [~~first~~] day after the purchase date, submit
7 to the department electronically via the department's Internet
8 website [~~mail to~~] or file with the department a report containing
9 the information required to be recorded under Section 1956.033.

10 (d) A metal recycling entity may submit the transaction
11 report required under Subsection (a) by facsimile if:

12 (1) the entity submits to the department annually:

13 (A) an application requesting an exception to the
14 electronic reporting requirement; and

15 (B) an affidavit stating that the entity does not
16 have an available and reliable means of submitting the transaction
17 report electronically; and

18 (2) the department approves the entity's application
19 under this subsection.

20 (e) The department, after notice and an opportunity for a
21 hearing, may prohibit a metal recycling entity from paying cash for
22 a purchase of regulated material for a period determined by the
23 department if the department finds that the entity has failed to
24 comply with this section.

25 SECTION 14. Subsection (a), Section 1956.037, Occupations
26 Code, is amended to read as follows:

27 (a) A metal recycling entity may not dispose of, process,

1 sell, or remove from the premises an item of regulated metal unless:

2 (1) the entity acquired the item more than:

3 (A) eight days, excluding weekends and holidays,
4 before the disposal, processing, sale, or removal, if the item is a
5 cemetery vase, receptacle, or memorial made from a regulated
6 material other than aluminum material; or

7 (B) 72 hours, excluding weekends and holidays,
8 before the disposal, processing, sale, or removal, if the item is
9 not an item described by Paragraph (A); or

10 (2) the entity purchased the item from a
11 manufacturing, industrial, commercial, retail, or other seller
12 that sells regulated material in the ordinary course of its
13 business.

14 SECTION 15. Section 1956.038, Occupations Code, is amended
15 to read as follows:

16 Sec. 1956.038. PROHIBITED ACTS. (a) A person may not,
17 with the intent to deceive:

18 (1) display to a metal recycling entity a false or
19 invalid personal identification document in connection with the
20 person's attempted sale of regulated material;

21 (2) make a false, material statement or representation
22 to a metal recycling entity in connection with:

23 (A) that person's execution of a written
24 statement required by Section 1956.032(a)(3); or

25 (B) the entity's efforts to obtain the
26 information required under Section 1956.033(b); [~~or~~]

27 (3) display or provide to a metal recycling entity any

1 information required under Section 1956.032 that the person knows
2 is false or invalid; or

3 (4) display another individual's personal
4 identification document in connection with the sale of regulated
5 material.

6 (b) A metal recycling entity may not pay for a purchase of
7 regulated material in cash if:

8 (1) the entity does not hold a certificate of
9 registration under Subchapter A-2 and, if applicable, a license or
10 permit required by a county, municipality, or other political
11 subdivision as authorized under Section 1956.003(b); or

12 (2) the entity has been prohibited by the department
13 from paying cash under Section 1956.036(e).

14 (c) Notwithstanding Section 1956.003(a) or any other law, a
15 county, municipality, or other political subdivision may not adopt
16 or enforce a rule, charter, or ordinance or issue an order or impose
17 standards that limit the use of cash by a metal recycling entity in
18 a manner more restrictive than that provided by Subsection (b).

19 (d) Subsection (c) does not apply to a rule, charter,
20 ordinance, or order of a county, municipality, or other political
21 subdivision in effect on January 1, 2011.

22 (d-1) Not later than January 1, 2012, the department shall
23 issue a notice to each known owner or operator of a metal recycling
24 entity in this state informing the owner or operator of the
25 requirement to obtain a certificate of registration under
26 Subchapter A-2 and, if applicable, to obtain a license or permit
27 required by a county, municipality, or other political subdivision

1 under Section 1956.003. The notice must also state:

2 (1) that the owner or operator shall submit an
3 application for a certificate of registration and the appropriate
4 license or permit required by a county, municipality, or other
5 political subdivision on or before March 1, 2012; and

6 (2) the penalties under this chapter for failure to
7 comply with Subdivision (1).

8 (d-2) This subsection and Subsection (d-1) expire March 1,
9 2012.

10 (e) The department or a county, municipality, or other
11 political subdivision may bring an action in the county in which a
12 metal recycling entity is located to enjoin the business operations
13 of the owner or operator of the metal recycling entity for a period
14 of not less than 30 days and not more than 90 days if the owner or
15 operator has not submitted an application for a certificate of
16 registration or the appropriate license or permit required by a
17 county, municipality, or other political subdivision.

18 (f) An action under Subsection (e) must be brought in the
19 name of the state. If judgment is in favor of the state, the court
20 shall:

21 (1) enjoin the owner or operator from maintaining or
22 participating in the business of a metal recycling entity for a
23 definite period of not less than 30 days and not more than 90 days,
24 as determined by the court; and

25 (2) order that the place of business of the owner or
26 operator be closed for the same period.

27 SECTION 16. Section 1956.040, Occupations Code, is amended

1 by adding Subsections (a-1), (a-2), (a-3), (a-4), and (b-1) and
2 amending Subsection (b) to read as follows:

3 (a-1) A person commits an offense if the person knowingly
4 violates Section 1956.021, 1956.023(d), 1956.036(a), or 1956.039.

5 (a-2) An offense under Subsection (a-1) is a misdemeanor
6 punishable by a fine not to exceed \$10,000, unless it is shown on
7 trial of the offense that the person has previously been convicted
8 of a violation of Subsection (a-1), in which event the offense is a
9 state jail felony.

10 (a-3) It is an affirmative defense to prosecution of a
11 violation of Section 1956.021 or 1956.023(d) that the person made a
12 diligent effort to obtain or renew a certificate of registration at
13 the time of the violation.

14 (a-4) A municipality or county may retain 10 percent of the
15 money collected from a fine for a conviction of an offense under
16 Subsection (a-1) as a service fee for that collection and the clerk
17 of the court shall remit the remainder of the fine collected for
18 conviction of an offense under Subsection (a-1) to the comptroller
19 in the manner provided for the remission of fees to the comptroller
20 under Subchapter B, Chapter 133, Local Government Code. The
21 comptroller shall deposit proceeds received under this subsection
22 to the credit of an account in the general revenue fund, and those
23 proceeds may be appropriated only to the department and used to:

24 (1) finance the department's administration of
25 Subchapters A, A-1, A-2, and A-3; and

26 (2) fund grants distributed under the prevention of
27 scrap metal theft grant program established under Subchapter N,

1 Chapter 411, Government Code.

2 (b) A person commits an offense if the person knowingly
3 buys:

4 (1) stolen regulated material; or

5 (2) insulated communications wire that has been burned
6 wholly or partly to remove the insulation, unless the wire is
7 accompanied by documentation acceptable under the rules adopted
8 under Section 1956.032(h) that states that the material was
9 salvaged from a fire.

10 (b-1) An offense under Subsection (b) [~~this subsection~~] is a
11 Class A misdemeanor unless it is shown on trial of the offense that
12 the person has previously been convicted under Subsection (b) [~~this~~
13 ~~subsection~~], in which event the offense is a state jail felony.

14 SECTION 17. Subsection (a), Section 1956.103, Occupations
15 Code, is amended to read as follows:

16 (a) A person may not sell or otherwise transfer to a metal
17 recycling entity:

18 (1) a lead-acid battery, fuel tank, or PCB-containing
19 capacitor that is included with another type of scrap, used, or
20 obsolete metal without first obtaining from the metal recycling
21 entity a written and signed acknowledgment that the scrap, used, or
22 obsolete metal includes one or more lead-acid batteries, fuel
23 tanks, or PCB-containing capacitors;

24 (2) any of the following items that contain or enclose
25 a lead-acid battery, fuel tank, or PCB-containing capacitor or of
26 which a lead-acid battery, fuel tank, or PCB-containing capacitor
27 is a part:

- 1 (A) a motor vehicle;
- 2 (B) a motor vehicle that has been junked,
3 flattened, dismantled, or changed so that it has lost its character
4 as a motor vehicle;
- 5 (C) an appliance; or
- 6 (D) any other item of scrap, used, or obsolete
7 metal; [~~or~~]
- 8 (3) a motor vehicle or a motor vehicle that has been
9 junked, flattened, dismantled, or changed so that it has lost its
10 character as a motor vehicle if the motor vehicle includes,
11 contains, or encloses a tire or scrap tire; or
- 12 (4) a metal alcoholic beverage keg, regardless of
13 condition, unless the seller is the manufacturer of the keg, the
14 brewer or distiller of the beverage that was contained in the keg,
15 or an authorized representative of the manufacturer, brewer, or
16 distiller.

17 SECTION 18. Section 1956.151, Occupations Code, is amended
18 to read as follows:

19 Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION.
20 The department shall deny an application for a certificate of
21 registration, suspend or revoke a certificate of registration, or
22 reprimand a person who is registered under this chapter if the
23 person:

- 24 (1) obtains a certificate of registration by means of
25 fraud, misrepresentation, or concealment of a material fact;
- 26 (2) sells, barter, or offers to sell or barter a
27 certificate of registration;

1 (3) violates a provision of this chapter or a rule
2 adopted under this chapter; or

3 (4) violates Section 1956.021.

4 SECTION 19. Subsection (d), Section 1956.202, Occupations
5 Code, is amended to read as follows:

6 (d) A civil penalty may not be assessed under this section
7 for conduct described by Section 1956.021, 1956.023(d),
8 1956.036(a), 1956.038, or 1956.039.

9 SECTION 20. Chapter 411, Government Code, is amended by
10 adding Subchapter N to read as follows:

11 SUBCHAPTER N. PREVENTION OF SCRAP METAL THEFT GRANT PROGRAM

12 Sec. 411.421. DEFINITION. In this subchapter, "regulated
13 material" has the meaning assigned by Section 1956.001, Occupations
14 Code.

15 Sec. 411.422. GRANTS TO FUND SCRAP METAL THEFT PREVENTION.

16 (a) From fines collected and distributed to the department under
17 Sections 1956.040(a-2) and (a-4), Occupations Code, the commission
18 by rule shall establish and implement a grant program to provide
19 funding to assist local law enforcement agencies in preventing the
20 theft of regulated material.

21 (b) To be eligible for a grant, a recipient must be a local
22 law enforcement agency that has established a program designed to
23 prevent the theft of regulated material.

24 (c) Rules adopted under this section must:

25 (1) include accountability measures for grant
26 recipients and provisions for loss of eligibility for grant
27 recipients that fail to comply with the measures; and

1 (2) require grant recipients to provide to the
2 department information on program outcomes.

3 SECTION 21. Subsection (e), Section 31.03, Penal Code, is
4 amended to read as follows:

5 (e) Except as provided by Subsection (f), an offense under
6 this section is:

7 (1) a Class C misdemeanor if the value of the property
8 stolen is less than:

9 (A) \$50; or

10 (B) \$20 and the defendant obtained the property
11 by issuing or passing a check or similar sight order in a manner
12 described by Section 31.06;

13 (2) a Class B misdemeanor if:

14 (A) the value of the property stolen is:

15 (i) \$50 or more but less than \$500; or

16 (ii) \$20 or more but less than \$500 and the
17 defendant obtained the property by issuing or passing a check or
18 similar sight order in a manner described by Section 31.06;

19 (B) the value of the property stolen is less
20 than:

21 (i) \$50 and the defendant has previously
22 been convicted of any grade of theft; or

23 (ii) \$20, the defendant has previously been
24 convicted of any grade of theft, and the defendant obtained the
25 property by issuing or passing a check or similar sight order in a
26 manner described by Section 31.06; or

27 (C) the property stolen is a driver's license,

1 commercial driver's license, or personal identification
2 certificate issued by this state or another state;

3 (3) a Class A misdemeanor if the value of the property
4 stolen is \$500 or more but less than \$1,500;

5 (4) a state jail felony if:

6 (A) the value of the property stolen is \$1,500 or
7 more but less than \$20,000, or the property is less than 10 head of
8 sheep, swine, or goats or any part thereof under the value of
9 \$20,000;

10 (B) regardless of value, the property is stolen
11 from the person of another or from a human corpse or grave,
12 including property that is a military grave marker;

13 (C) the property stolen is a firearm, as defined
14 by Section 46.01;

15 (D) the value of the property stolen is less than
16 \$1,500 and the defendant has been previously convicted two or more
17 times of any grade of theft;

18 (E) the property stolen is an official ballot or
19 official carrier envelope for an election; or

20 (F) the value of the property stolen is less than
21 \$20,000 and the property stolen is [~~insulated or noninsulated~~
22 ~~tubing, rods, water gate stems, wire, or cable that consists of at~~
23 ~~least 50 percent~~]:

24 (i) aluminum;

25 (ii) bronze; [~~or~~]

26 (iii) copper; or

27 (iv) brass;

1 (5) a felony of the third degree if the value of the
2 property stolen is \$20,000 or more but less than \$100,000, or the
3 property is:

4 (A) cattle, horses, or exotic livestock or exotic
5 fowl as defined by Section 142.001, Agriculture Code, stolen during
6 a single transaction and having an aggregate value of less than
7 \$100,000; or

8 (B) 10 or more head of sheep, swine, or goats
9 stolen during a single transaction and having an aggregate value of
10 less than \$100,000;

11 (6) a felony of the second degree if the value of the
12 property stolen is \$100,000 or more but less than \$200,000; or

13 (7) a felony of the first degree if the value of the
14 property stolen is \$200,000 or more.

15 SECTION 22. (a) Except as provided by Subsection (b) of
16 this section, the change in law made by this Act applies only to an
17 offense committed on or after September 1, 2011. An offense
18 committed before September 1, 2011, is governed by the law in effect
19 on the date the offense was committed, and the former law is
20 continued in effect for that purpose.

21 (b) Subdivision (2), Subsection (b), Section 1956.040,
22 Occupations Code, as added by this Act, applies only to an offense
23 committed on or after January 1, 2012. An offense committed before
24 January 1, 2012, is governed by the law in effect on the date the
25 offense was committed, and the former law is continued in effect for
26 that purpose.

27 (c) For purposes of this section, an offense was committed

1 before the applicable date if any element of the offense occurred
2 before that date.

3 (d) The enhancement of the punishment of an offense provided
4 under Subsection (a-2), Section 1956.040, Occupations Code, as
5 added by this Act, applies only to an offense committed on or after
6 January 1, 2012. For purposes of this subsection, an offense is
7 committed before January 1, 2012, if any element of the offense
8 occurs before that date. An offense committed before January 1,
9 2012, is covered by the law in effect when the offense was
10 committed, and the former law is continued in effect for that
11 purpose.

12 (e) Not later than January 1, 2012, the public safety
13 director of the Department of Public Safety of the State of Texas
14 shall appoint the members of the advisory committee established
15 under Section 1956.017, Occupations Code, as added by this Act, and
16 designate the time and place of the committee's first meeting.

17 (f) Not later than December 1, 2011, the Public Safety
18 Commission shall adopt rules to implement Subsection (h), Section
19 1956.032, Occupations Code, as added by this Act.

20 SECTION 23. (a) Except as provided by Subsections (b) and
21 (c) of this section, this Act takes effect September 1, 2011.

22 (b) Subsection (f), Section 1956.003, Section 1956.004, and
23 Subsections (b) and (e), Section 1956.038, Occupations Code, as
24 added by this Act, take effect March 1, 2012.

25 (c) Subdivision (5), Subsection (a), Section 1956.032, and
26 Subdivision (2), Subsection (b), Section 1956.040, Occupations
27 Code, as added by this Act, take effect January 1, 2012.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 694 passed the Senate on April 12, 2011, by the following vote: Yeas 31, Nays 0; May 26, 2011, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2011, House granted request of the Senate; May 29, 2011, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 694 passed the House, with amendments, on May 24, 2011, by the following vote: Yeas 106, Nays 29, three present not voting; May 27, 2011, House granted request of the Senate for appointment of Conference Committee; May 29, 2011, House adopted Conference Committee Report by the following vote: Yeas 119, Nays 21, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor