

ASSEMBLY BILL NO. 233—ASSEMBLYMEN OCEGUERA, KOIVISTO, OHRENSCHALL, BOBZIEN, CONKLIN; AIZLEY, ANDERSON, ARBERRY, ATKINSON, BUCKLEY, CARPENTER, CLABORN, DENIS, DONDERO LOOP, GOICOECHEA, HOGAN, HORNE, KIHUEN, LESLIE, MANENDO, MCCLAIN, SMITH AND SPIEGEL

MARCH 4, 2009

JOINT SPONSORS: SENATORS CEGAVSKE AND PARKS

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning scrap metal.
(BDR 54-53)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to scrap metal; enacting various requirements for transactions involving scrap metal and for persons involved in such transactions; providing that a person who removes, damages or destroys certain property to obtain scrap metal is guilty of a crime; increasing the penalty for stealing scrap metal under certain circumstances; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 **Sections 2 and 3** of this bill define the terms “scrap metal” and “scrap metal
- 2 processor.”
- 3 **Section 4** of this bill requires purchasers of scrap metal to hold current business
- 4 licenses from both the State and the appropriate city or county and to have
- 5 authorization to operate from the appropriate solid waste management authority.
- 6 **Section 5** of this bill requires scrap metal processors to maintain certain records
- 7 of all purchases of scrap metal by the scrap metal processors.



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Section 6 of this bill allows peace officers or investigators to place a hold on certain property in the possession of a scrap metal processor alleged to be related to criminal activity for a specified period during the investigation or prosecution.

Section 7 of this bill requires that payments for purchases of scrap metal with a value of \$150 or more by a scrap metal processor must be made by certain means and that a receipt containing certain specified information must be provided to the seller of the scrap metal. **Section 7** also allows only a single cash transaction of less than \$150 each day between a scrap metal processor and a seller.

Section 7.5 of this bill provides that a person who knowingly and willfully fails to comply with the provisions of **sections 5, 6 and 7** is: (1) for a first or second offense within a period of 5 years, guilty of a misdemeanor with varying terms of imprisonment and fines; and (2) for a third or subsequent offense within a period of 5 years, guilty of a category E felony.

Section 9 of this bill excludes scrap metal from the definition of "junk" under chapter 647 of NRS. (NRS 647.015) **Section 11** of this bill expands the crime of receiving property stolen from certain utilities and political subdivisions of the State, a category D felony, to include transactions involving scrap metal. (NRS 647.145)

Section 10 of this bill provides that chapter 647 of NRS does not prevent counties from licensing, taxing and regulating dealers in junk or scrap metal. (NRS 647.080)

Section 12 of this bill provides that a person who willfully or maliciously removes, damages or destroys utility property, agricultural infrastructure, construction sites or certain other property to obtain scrap metal is guilty of a misdemeanor if the value of the removal or damage of property is less than \$500 or a felony if the removal or damage is greater than \$500 or interrupts a service provided by utility property.

Existing law generally provides that a person commits petit larceny and is guilty of a misdemeanor if he steals property with a value of less than \$250. (NRS 205.240) Existing law also generally provides that a person commits grand larceny if he steals property with a value of \$250 or more. (NRS 205.220) A person who commits grand larceny is guilty of a category C felony if the value of the property is less than \$2,500 and is guilty of a category B felony if the value of the property is \$2,500 or more. (NRS 205.222)

Section 13 of this bill: (1) provides that, if the value of the scrap metal stolen within a period of 90 days is less than \$250, the person is guilty of a misdemeanor; (2) provides that, if the value of the scrap metal stolen within a period of 90 days is \$250 or more, the person is guilty of a category C or B felony with varying terms of imprisonment and fines, depending upon the value of the scrap metal stolen within the 90-day period; (3) requires the court to order a person who steals scrap metal to pay restitution; and (4) provides that the cost of repairing or replacing property damaged by the theft of scrap metal must be included in the value of the property that was stolen.

Sections 17 and 19 of this bill amend existing law to apply certain provisions governing larceny to the new crime of larceny described in **section 13** of this bill involving scrap metal. (NRS 205.251, 205.980)



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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 647 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7.5, inclusive, of this act.

Sec. 2. 1. "Scrap metal" means:

(a) Nonferrous metals, scrap iron, stainless steel or other material or equipment which consists in whole or in part of metal and which is used in construction, agricultural operations, electrical power generation, transmission or distribution, cable, broadband or telecommunications transmission, railroad equipment, oil well rigs or any lights maintained by the State or a local government, including, without limitation, street lights, traffic-control devices, park lights or ballpark lights; and

(b) Catalytic converters.

2. The term does not include waste generated by a household, aluminum beverage containers, used construction scrap iron or materials consisting of a metal product in its original manufactured form which contains not more than 20 percent by weight nonferrous metal.

Sec. 3. "Scrap metal processor" means any person who:

1. Engages in the business of purchasing, trading, bartering or otherwise receiving scrap metal; or

2. Uses machinery and equipment for processing and manufacturing iron, steel or nonferrous scrap into prepared grades, and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap, not including precious metals, for sale for remelting purposes.

Sec. 4. A person shall not purchase scrap metal unless that person:

1. Possesses both a valid business license issued by the State pursuant to NRS 360.780 and a valid business license from the city or county, as applicable, in which the person purchases scrap metal; and

2. Has obtained all required authorizations to operate from, or is otherwise registered with, the solid waste management authority for the area in which the person purchases scrap metal.

Sec. 5. 1. Every scrap metal processor shall maintain in his place of business a book or other permanent record in which must be made, at the time of each purchase of scrap metal, a record of the purchase that contains:

(a) The date of the purchase.

(b) The name or other identification of the person or employee conducting the transaction on behalf of the scrap metal processor.



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(c) A copy of the seller's valid personal identification card or valid driver's license issued by a state or a copy of the seller's valid United States military identification card.

(d) The name, street, house number and date of birth listed on the identification provided pursuant to paragraph (c) and a physical description of the seller, including his gender, height, eye color and hair color.

(e) A photograph, video record or digital record of the seller.

(f) The fingerprint of the right index finger of the seller. If the seller's right index finger is not available, the scrap metal processor must obtain the fingerprint of one of the seller's remaining fingers and thumbs.

(g) The license number and general description of the vehicle delivering the scrap metal that is being purchased.

(h) A description of the scrap metal that is being purchased which is consistent with the standards published and commonly applied in the scrap metal industry.

(i) The price paid by the scrap metal processor for the scrap metal.

2. All records kept pursuant to subsection 1 must be legibly written in the English language, if applicable.

3. A scrap metal processor shall document each purchase of scrap metal with a photograph or video recording which must be retained on-site for not less than 60 days after the date of the purchase.

4. All scrap metal purchased by the scrap metal processor and the records created in accordance with subsection 1, including, but not limited to, any photographs or video recordings, must at all times during ordinary hours of business be open to the inspection of a prosecuting attorney or any peace officer.

Sec. 6. 1. A peace officer or investigator who is involved in the investigation or prosecution of criminal activity may place a written hold for not more than 7 business days on any property in the possession of a scrap metal processor that is related or allegedly related to the criminal activity. A hold pursuant to this section may be extended for an additional period of not more than 7 business days by a peace officer or investigator by providing written notice to the scrap metal processor.

2. While a hold is placed on property pursuant to this section, the scrap metal processor shall not remove or dispose of the property to any person other than the peace officer or investigator who placed the hold on the property. A peace officer or investigator who placed a hold on property may obtain custody of the property from the scrap metal processor if the peace officer or investigator:



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1 (a) Has obtained written authorization from the prosecuting
2 attorney which includes, without limitation, a description of the
3 property and an acknowledgment of the scrap metal processor's
4 interest in the property; and

5 (b) Provides a copy of the written authorization to the scrap
6 metal processor.

7 3. Property received by a peace officer or investigator
8 pursuant to this section may be disposed of only in the manner set
9 forth in NRS 52.385 or 179.125 to 179.165, inclusive.

10 4. A peace officer or investigator who places a hold on
11 property pursuant to this section shall notify the scrap metal
12 processor in writing when the investigation or prosecution has
13 concluded or when the hold is no longer necessary, whichever
14 occurs sooner.

15 **Sec. 7. 1.** For each purchase of scrap metal with a value of
16 \$150 or more by a scrap metal processor, the scrap metal
17 processor must pay the seller only by check or electronic transfer
18 of money. For payments made by check to a seller who represents
19 a business, the check must be made payable to the business using
20 the name of the business. A scrap metal processor shall not
21 conduct more than one cash transaction of less than \$150 with the
22 same seller on the same day.

23 2. A scrap metal processor shall provide a receipt to the seller
24 on-site at the time of the purchase of scrap metal by the scrap
25 metal processor. The receipt must include, without limitation, the
26 following information:

27 (a) The date, time and place of the purchase;

28 (b) An identifying description and weight of the scrap metal
29 that is being purchased;

30 (c) The price paid by the scrap metal processor for the scrap
31 metal;

32 (d) A copy of the personal identification provided pursuant to
33 paragraph (c) of subsection 1 of section 5 of this act; and

34 (e) The license number of the vehicle delivering the scrap
35 metal that is being purchased.

36 **Sec. 7.5.** Unless a greater penalty is provided pursuant to
37 specific statute, a person who knowingly and willfully violates any
38 provision of section 5, 6 or 7 of this act:

39 1. For a first offense within a period of 5 years, is guilty of a
40 misdemeanor and shall be punished by a fine of not more than
41 \$500.

42 2. For a second offense within a period of 5 years, is guilty of
43 a misdemeanor and shall be punished by imprisonment in the
44 county jail for not more than 6 months and by a fine of not more
45 than \$1,000.



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1 **3. For a third or subsequent offense within a period of 5**
2 **years, is guilty of a category E felony and shall be punished as**
3 **provided in NRS 193.130.**

4 **Sec. 8.** NRS 647.010 is hereby amended to read as follows:

5 647.010 As used in this chapter, unless the context otherwise
6 requires, the words and terms defined in NRS 647.011 to 647.018,
7 inclusive, **and sections 2 and 3 of this act** have the meanings
8 ascribed to them in those sections.

9 **Sec. 9.** NRS 647.015 is hereby amended to read as follows:

10 647.015 "Junk" includes old iron, copper, brass, lead, zinc, tin,
11 steel and other metals, metallic cables, wires, ropes, cordage,
12 bottles, bagging, rags, rubber, paper, and all other secondhand, used
13 or castoff articles or material of any kind **H**, **but does not include**
14 **scrap metal.**

15 **Sec. 10.** NRS 647.080 is hereby amended to read as follows:

16 647.080 The provisions of this chapter do not impair the power
17 of cities **and counties** in this State to license, tax and regulate any
18 person, firm or corporation now engaged in or hereafter engaged in
19 the buying and selling of junk **H** **or scrap metal.**

20 **Sec. 11.** NRS 647.145 is hereby amended to read as follows:

21 647.145 1. Any **person, including, but not limited to, any**
22 **junk dealer , scrap metal processor** or secondhand dealer, or any
23 agent, employee or representative of a junk dealer **, scrap metal**
24 **processor** or secondhand dealer, who buys or receives any junk **or**
25 **scrap metal** which he knows or should reasonably know is
26 ordinarily used by and belongs to a **cable, broadband,**
27 **telecommunications,** telephone, telegraph, gas, water, electric or
28 transportation company or county, city or other political subdivision
29 of this State engaged in furnishing utility service, and who fails to
30 use ordinary care in determining whether the person selling or
31 delivering such junk **or scrap metal** has a legal right to do so, is
32 guilty of criminally receiving such property.

33 2. A person convicted of criminally receiving junk **or scrap**
34 **metal** is guilty of a category D felony and shall be punished as
35 provided in NRS 193.130.

36 **Sec. 12.** Chapter 202 of NRS is hereby amended by adding
37 thereto a new section to read as follows:

38 **1. A person who willfully and maliciously removes, damages**
39 **or destroys any utility property, agricultural infrastructure or**
40 **other agricultural property, lights maintained by the State or a**
41 **local government, construction site or existing structure to obtain**
42 **scrap metal shall be punished pursuant to the provisions of this**
43 **section.**



2. Except as otherwise provided in subsection 3, if the value of the property removed, damaged or destroyed as described in subsection 1 is:

(a) Less than \$500, a person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(b) Five hundred dollars or more, a person who violates the provisions of subsection 1 is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. If the removal, damage or destruction described in subsection 1 causes an interruption in the service provided by any utility property, a person who violates the provisions of subsection 1 is guilty of a category C felony and shall be punished as provided in NRS 193.130.

4. In addition to any other penalty, the court may order a person who violates the provisions of subsection 1 to pay restitution.

5. In determining the value of the property removed, damaged or destroyed as described in subsection 1, the cost of replacing or repairing the property or repairing the utility property, agricultural infrastructure, agricultural property, lights, construction site or existing structure, if necessary, must be added to the value of the property.

6. As used in this section:

(a) "Scrap metal" has the meaning ascribed to it in section 2 of this act.

(b) "Utility property" means any facility, equipment or other property owned, maintained or used by a company or a city, county or other political subdivision of this State to furnish cable television or other video service, broadband service, telecommunication service, telephone service, telegraph service, natural gas service, water service or electric service, regardless of whether the facility, property or equipment is currently used to furnish such service.

Sec. 13. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who intentionally steals, takes and carries away scrap metal with a value of less than \$250 within a period of 90 days is guilty of a misdemeanor.

2. A person who intentionally steals, takes and carries away scrap metal with a value of \$250 or more within a period of 90 days is guilty of:

(a) If the value of the property taken is less than \$2,500, a category C felony and shall be punished as provided in NRS 193.130; or



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(b) If the value of the property taken is \$2,500 or more, a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 10 years, and by a fine of not more than \$10,000.

3. In addition to any other penalty, the court shall order a person who violates the provisions of subsection 1 or 2 to pay restitution.

4. In determining the value of the property taken, the cost of repairing and, if necessary, replacing any property damaged by the theft of the scrap metal must be added to the value of the property.

5. As used in this section, "scrap metal" has the meaning ascribed to it in section 2 of this act.

Sec. 14. NRS 205.2175 is hereby amended to read as follows:

205.2175 As used in NRS 205.2175 to 205.2707, inclusive, *and section 13 of this act*, unless the context otherwise requires, the words and terms defined in NRS 205.218 to 205.2195, inclusive, have the meanings ascribed to them in those sections.

Sec. 15. NRS 205.2195 is hereby amended to read as follows:

205.2195 "Property" means:

1. Personal goods, personal property and motor vehicles;

2. Money, negotiable instruments and other items listed in NRS 205.260;

3. Livestock, domesticated animals and domesticated birds; and

4. Any other item of value, whether or not the item is listed in NRS 205.2175 to 205.2707, inclusive ~~H~~, *or section 13 of this act.*

Sec. 16. NRS 205.240 is hereby amended to read as follows:

205.240 1. Except as otherwise provided in NRS 205.220, 205.226, 205.228 and 475.105, a person commits petit larceny if the person:

(a) Intentionally steals, takes and carries away, leads away or drives away:

(1) Personal goods or property, with a value of less than \$250, owned by another person;

(2) Bedding, furniture or other property, with a value of less than \$250, which the person, as a lodger, is to use in or with his lodging and which is owned by another person; or

(3) Real property, with a value of less than \$250, that the person has converted into personal property by severing it from real property owned by another person.

(b) Intentionally steals, takes and carries away, leads away, drives away or entices away one or more domesticated animals or



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1 domesticated birds, with an aggregate value of less than \$250,
2 owned by another person.

3 2. ~~{A}~~ *Unless a greater penalty is provided pursuant to*
4 *section 13 of this act*, a person who commits petit larceny is guilty
5 of a misdemeanor. In addition to any other penalty, the court shall
6 order the person to pay restitution.

7 **Sec. 17.** NRS 205.251 is hereby amended to read as follows:

8 205.251 For the purposes of NRS 205.2175 to 205.2707,
9 inclusive ~~{H}~~, *and section 13 of this act*:

10 1. The value of property involved in a larceny offense shall be
11 deemed to be the highest value attributable to the property by any
12 reasonable standard.

13 2. The value of property involved in larceny offenses
14 committed by one or more persons pursuant to a scheme or
15 continuing course of conduct may be aggregated in determining the
16 grade of the larceny offenses.

17 **Sec. 18.** NRS 205.940 is hereby amended to read as follows:

18 205.940 1. Any person who in renting or leasing any
19 personal property obtains or retains possession of such personal
20 property by means of any false or fraudulent representation,
21 fraudulent concealment, false pretense or personation, trick, artifice
22 or device, including, but not limited to, a false representation as to
23 his name, residence, employment or operator's license, is guilty of
24 larceny and shall be punished as provided in NRS 205.2175 to
25 205.2707, inclusive ~~{H}~~, *and section 13 of this act*. It is a complete
26 defense to any civil action arising out of or involving the arrest or
27 detention of any person renting or leasing personal property that any
28 representation made by him in obtaining or retaining possession of
29 the personal property is contrary to the fact.

30 2. Any person who, after renting or leasing any personal
31 property under an agreement in writing which provides for the
32 return of the personal property to a particular place at a particular
33 time fails to return the personal property to such place within the
34 time specified, and who, with the intent to defraud the lessor or to
35 retain possession of such property without the lessor's permission,
36 thereafter fails to return such property to any place of business of
37 the lessor within 72 hours after a written demand for the return of
38 such property is made upon him by registered mail addressed to his
39 address as shown in the written agreement, or in the absence of such
40 address, to his last known place of residence, is guilty of larceny and
41 shall be punished as provided in NRS 205.2175 to 205.2707,
42 inclusive ~~{H}~~, *and section 13 of this act*. The failure to return the
43 personal property to the place specified in the agreement is prima
44 facie evidence of an intent to defraud the lessor or to retain
45 possession of such property without the lessor's permission. It is a



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1 complete defense to any civil action arising out of or involving the
2 arrest or detention of any person upon whom such demand was
3 made that he failed to return the personal property to any place of
4 business of the lessor within 20 days after such demand.

5 **Sec. 19.** NRS 205.980 is hereby amended to read as follows:

6 205.980 1. A person who is convicted of violating any
7 provision of NRS 205.060 or 205.2175 to 205.2707, inclusive, **or**
8 **section 13 of this act** is civilly liable for the value of any property
9 stolen and not recovered in its original condition. The value of the
10 property must be determined by its retail value or fair market value
11 at the time the crime was committed, whichever is greater.

12 2. A person who is convicted of any other crime involving
13 damage to property is civilly liable for the amount of damage done
14 to the property.

15 3. The prosecutor shall notify the victim concerning the
16 disposition of the criminal charges against the defendant within 30
17 days after the disposition. The notice must be sent to the last known
18 address of the victim.

19 4. An order of restitution signed by the judge in whose court
20 the conviction was entered shall be deemed a judgment against the
21 defendant for the purpose of collecting damages.

22 5. Nothing in this section prohibits a victim from recovering
23 additional damages from the defendant.

24 **Sec. 20.** This act becomes effective on July 1, 2009.

