

Assembly Bill No. 503—Committee
on Government Affairs

CHAPTER.....

AN ACT relating to governmental administration; prohibiting certain acts related to critical infrastructure or used utility wire; establishing requirements relating to transactions involving used utility wire; providing penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law makes it a gross misdemeanor to knowingly burn stolen metallic wire to remove insulation. (NRS 202.180) **Section 1** of this bill sets forth penalties for a person who willfully tampers with or willfully removes, damages or destroys any critical infrastructure.

Section 3 of this bill provides that it is unlawful for a person to possess used utility wire unless the person is a certain type of business that may reasonably generate, possess or sell used utility wire or the person possesses documentation proving lawful ownership or possession. **Section 4** of this bill prohibits a person from purchasing used utility wire for any purpose unless the seller is a business that may reasonably generate, possess or sell used utility wire or the seller establishes lawful ownership or possession of the used utility wire by providing certain documentation. **Section 5** of this bill provides that a person who commits the offense created by **section 3** or who violates the provisions of **section 4** is guilty of a degree of felonious conduct consistent with the weight of used utility wire involved in the crime.

Existing law provides that, under certain circumstances, a person may not sue any political subdivisions for any injury, wrongful death or other damage incurred by the person while committing certain crimes. (NRS 41.0334) **Section 5.5** of this bill revises the list of crimes to include the new crime created by **section 1**.

Existing law provides certain restrictions on the purchase or receipt by a junk dealer of metallic wire that has been burned in whole or in part to remove insulation. (NRS 647.035) **Sections 14 and 15** of this bill make these restrictions apply instead to the purchase or receipt by a junk dealer of used utility wire.

Existing law provides certain restrictions on the sale and purchase of scrap metal and used catalytic converters in this State. (NRS 647.092-647.099). **Sections 12 and 13** of this bill exclude used utility wire from the definition of “scrap metal” but include persons who purchase, trade, barter or otherwise receive used utility wire in the definition of “scrap metal processor.” **Section 8** of this bill prohibits a scrap metal processor from purchasing or receiving used utility wire from any person other than certain businesses that may reasonably generate, possess or sell used utility wire and persons who provide documentation to establish lawful ownership or possession of used utility wire. **Section 10** of this bill provides certain restrictions on the manner by which a scrap metal processor may purchase used utility wire that are substantially similar to the restrictions under existing law on the manner by which a scrap metal processor may purchase a used catalytic converter.

Existing law requires a scrap metal processor to maintain certain records of purchases of scrap metal and used catalytic converters. (NRS 647.094, 647.0943) **Section 9** of this bill requires a scrap metal processor to maintain records of purchases of used utility wire that are substantially similar to the records that it must maintain under existing law for purchases of used catalytic converters. **Section 9** requires a scrap metal processor to maintain these records for a period of



not less than 3 years. **Section 9** also requires a scrap metal processor to make available to a local law enforcement agency on demand all the used utility wire that it purchases and the records of those purchases.

Existing law authorizes a local law enforcement agency to establish an electronic reporting system or to utilize an existing electronic reporting system to receive information relating to the purchase of scrap metal or used catalytic converters by a scrap metal processor that transacts business within the jurisdiction of the local law enforcement agency. If a law enforcement agency establishes or uses such a system, existing law requires each scrap metal processor that transacts business within the jurisdiction of the local law enforcement agency to submit electronically to the local law enforcement agency certain information relating to each purchase of scrap metal and catalytic converters from certain persons. (NRS 647.0945) **Section 16** of this bill requires each scrap metal processor to submit electronically to the local law enforcement agency certain additional information if the scrap metal processor purchases used utility wire.

Section 17 of this bill provides that a person who violates any provision of **section 8, 9 or 10** is guilty of a misdemeanor.

Section 7 of this bill defines “used utility wire” for the purposes of **sections 8-16**.

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

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

Section 1. Chapter 202 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person who willfully tampers with or willfully removes, damages or destroys any critical infrastructure shall be punished pursuant to the provisions of this section.

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

(a) Less than \$1,200, a person who violates the provisions of subsection 1 is guilty of a misdemeanor.

(b) At least \$1,200 but less than \$5,000, a person who violates the provisions of subsection 1 is guilty of a gross misdemeanor.

(c) Five thousand 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 tampering with or the removal, damage or destruction described in subsection 1 causes an interruption in the service provided by any critical infrastructure, 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. A prosecuting attorney shall not seek, and a court shall not impose, any penalty pursuant to NRS 205.0821 to 205.0835,



inclusive or NRS 206.310 against a person for the same conduct that is a violation of the provisions of subsection 1.

5. In determining the value of the property tampered with or removed, damaged or destroyed, as described in subsection 1, the cost of replacing or repairing the property or critical infrastructure, if necessary, must be added to the value of the property.

6. As used in this section, "critical infrastructure" means any building, facility, structure, fixture, equipment or other property owned, maintained or used by a company or a county, city or other political subdivision of this State to store, use, transform, deliver, transport or transmit electricity or furnish video service, broadband service, telecommunication service, telephone service, wireless service, natural gas service, water service, sewer service or stormwater collection or disposal service for the benefit of the public, including, without limitation, power lines, telephone lines, streetlights, traffic lights, electrical transformers, electrical substations, cellular towers and telecommunication or fiber optic cables.

Sec. 2. Chapter 205 of NRS is hereby amended by adding thereto the provisions set forth as sections 3, 4 and 5 of this act.

Sec. 3. 1. *It is unlawful for a person to possess used utility wire unless the person:*

(a) Holds a permit issued pursuant to NRS 444.553 to operate a disposal site, as defined in NRS 444.460;

(b) Holds a contractor's license issued pursuant to chapter 624 of NRS;

(c) Is a scrap metal processor licensed pursuant to NRS 647.092 who maintains a fixed place of business and has obtained the used utility wire in accordance with the provisions set forth in sections 8 and 9 of this act;

(d) Is a junk dealer and has obtained the used utility wire in accordance with the provisions set forth in NRS 647.030 and 647.035;

(e) Possesses documentation that proves the person is the lawful owner or possessor of the used utility wire, including, without limitation, an affidavit or declaration under penalty of perjury from the seller, bailor or deliverer from whom the person received the used utility wire concerning the lawfulness of the acquisition and possession of the used utility wire by the seller, bailor or deliverer; or

(f) Any other business that may reasonably generate, possess or sell the used utility wire.



2. As used in this section, “used utility wire” means:

- (a) Seven-strand metallic wire;
- (b) Metallic wire that has been permanently marked with a name, badge, symbol or other mark indicating ownership; or
- (c) Metallic wire that has been burned, in whole or in part, to remove insulation.

Sec. 4. 1. A person shall not purchase used utility wire for any purpose, including, without limitation, to recycle or smelt, unless the person purchases the used utility wire from:

(a) A scrap metal processor licensed pursuant to NRS 647.092 who maintains a fixed place of business and has obtained the used utility wire in accordance with the provisions of sections 8 and 9 of this act;

(b) Any other business that may reasonably generate, possess or sell used utility wire; or

(c) A person providing documentation that proves the person is the lawful owner or possessor of the used utility wire, including, without limitation, an affidavit or declaration under penalty of perjury from the person concerning the lawfulness of the acquisition and possession of the used utility wire by the person.

2. As used in this section, “used utility wire” means:

- (a) Seven-strand metallic wire;
- (b) Metallic wire that has been permanently marked with a name, badge, symbol or other mark indicating ownership; or
- (c) Metallic wire that has been burned, in whole or in part, to remove insulation.

Sec. 5. A person who violates the provisions of section 3 or 4 of this act is guilty of:

1. If the violation involves used utility wire with a weight of less than 100 pounds, a misdemeanor.

2. If the violation involves used utility wire with a weight of at least 100 pounds but less than 400 pounds, a gross misdemeanor.

3. If the violation involves used utility wire with a weight of 400 pounds or more, a category D felony and shall be punished as provided in NRS 193.130.

Sec. 5.5. NRS 41.0334 is hereby amended to read as follows:

41.0334 1. Except as otherwise provided in subsection 2, no action may be brought under NRS 41.031 or against an officer or employee of the State or any of its agencies or political subdivisions for injury, wrongful death or other damage sustained in or on a public building or public vehicle by a person who was engaged in any criminal act proscribed in [section 1 of this act](#), NRS 205.005 to 205.080, inclusive, 205.220, 205.226, 205.228, 205.240, 205.271 to



205.2741, inclusive, 206.310, 206.330, 206.335, 207.210, 331.200 or 393.410 at the time of the injury, wrongful death or damage was caused.

2. Subsection 1 does not apply to any action for injury, wrongful death or other damage:

(a) Intentionally caused or contributed to by an officer or employee of the State or any of its agencies or political subdivisions; or

(b) Resulting from the deprivation of any rights, privileges or immunities secured by the United States Constitution or the Constitution of the State of Nevada.

3. As used in this section:

(a) “Public building” includes every house, shed, tent or booth, whether or not completed, suitable for affording shelter for any human being or as a place where any property is or will be kept for use, sale or deposit, and the grounds appurtenant thereto; and

(b) “Public vehicle” includes every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, waterway or airway,

➔ owned, in whole or in part, possessed, used by or leased to the State or any of its agencies or political subdivisions.

Sec. 6. Chapter 647 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 10, inclusive, of this act.

Sec. 7. “Used utility wire” means:

1. Seven-strand metallic wire;

2. Metallic wire that has been permanently marked with a name, badge, symbol or other mark indicating ownership; or

3. Metallic wire that has been burned, in whole or in part, to remove insulation.

Sec. 8. A person described in subsection 1 of NRS 647.0172 shall not purchase or otherwise receive used utility wire for any purpose, including, without limitation, to recycle or smelt, unless the person purchases or receives the used utility wire from:

1. A scrap metal processor licensed pursuant to NRS 647.092 who maintains a fixed place of business and has obtained the used utility wire in accordance with the provisions of section 9 or 10 of this act;

2. A person providing documentation that proves the person is the lawful owner or possessor of the used utility wire, including, without limitation, an affidavit or declaration under penalty of perjury from the person concerning the lawfulness of the



acquisition and possession of the used utility wire by the person;
or

3. Any other business that may reasonably generate, possess or sell used utility wire.

Sec. 9. 1. Except as otherwise provided in subsections 2 and 3, every scrap metal processor shall maintain in his or her place of business a book or other permanent record in which must be made, at the time of each purchase of used utility wire, a record of the purchase that contains:

(a) The place and date of the purchase.

(b) The name of the seller and the seller's valid driver's license number or valid identification card number and the state of issue.

(c) A general description of the vehicle delivering the used utility wire, including, without limitation, the state of the registration of the vehicle.

(d) A description of the used utility wire purchased, including, without limitation, the item type and quantity.

(e) A statement written by the seller indicating:

(1) That the seller is the lawful owner or possessor of the used utility wire; or

(2) The name of the person from which the seller obtained the used utility wire, including, if applicable, the name of the business as shown on a signed transfer document.

(f) The price paid by the scrap metal processor for the used utility wire.

(g) If the seller is a business entity other than a scrap metal processor, the seller's:

(1) Physical business address;

(2) Business telephone number; and

(3) Business license number or tax identification number.

2. A scrap metal processor who purchases used utility wire from a business entity that holds a written agreement with another business that sells used utility wire for recycling purposes is required to maintain in his or her place of business a book or other permanent record in which must be made, at the time of each purchase, a record of the purchase that contains:

(a) The name of the seller or agent acting on behalf of the seller.

(b) The seller's physical business address and business telephone number.

(c) The seller's business license number or tax identification number.

(d) The date and place of the transaction.



(e) The number of units of used utility wire received in the course of the transaction.

(f) The amount of money that was paid for each unit of used utility wire in the course of the transaction.

(g) A copy of the written agreement.

3. A scrap metal processor who sells used utility wire to another scrap metal processor shall maintain in his or her place of business a book or other permanent record in which must be made, at the time of each sale, a record of the sale that contains:

(a) The name and address of each person to whom each unit of used utility wire is sold.

(b) The number of units of used utility wire being sold.

(c) The amount of money that was received for each unit of used utility wire sold in the transaction.

(d) The date and place of the transaction.

4. All records kept pursuant to subsections 1, 2 and 3 must be kept and maintained for not less than 3 years.

5. All used utility wire purchased by a scrap metal processor and the records made and maintained in accordance with subsections 1 to 4, inclusive, must be made available at all times to a local law enforcement agency upon demand.

Sec. 10. 1. Except as otherwise provided in subsection 2, a scrap metal processor shall not provide payment for used utility wire unless:

(a) The payment is made by check or through an electronic transfer of money cleared through an automated clearinghouse;

(b) The seller is a person described in section 8 of this act; and

(c) The scrap metal processor obtains:

(1) A clear photograph or video of the:

(I) Seller at the time of the sale; and

(II) Used utility wire being sold;

(2) A copy of the seller's valid driver's license containing the photograph and address of the seller, or a copy of a state or federal government-issued identification card containing the photograph and address of the seller; and

(3) A statement written by the seller indicating:

(I) That the seller is the lawful owner or possessor of the used utility wire; or

(II) The name of the person from whom the seller obtained the used utility wire, including, if applicable, the name of the business as shown on a signed transfer document.

2. The provisions of subsection 1 do not apply to a scrap metal processor who buys used utility wire if the scrap metal



processor and the seller have a written agreement for the transaction which includes:

(a) A log or other regularly updated record of all used utility wire received pursuant to the agreement; and

(b) A description of each unit of used utility wire with enough particularity so that each of the units of used utility wire in the scrap metal processor's inventory can reasonably be matched to its description in the agreement.

Sec. 11. NRS 647.010 is hereby amended to read as follows:

647.010 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 647.011 to 647.0185, inclusive, *and section 7 of this act* have the meanings ascribed to them in those sections.

Sec. 12. NRS 647.017 is hereby amended to read as follows:

647.017 1. "Scrap metal" means 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.

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

Sec. 13. NRS 647.0172 is hereby amended to read as follows:

647.0172 "Scrap metal processor" means any person who:

1. Engages in the business of purchasing, trading, bartering or otherwise receiving scrap metal, *used utility wire* or used catalytic converters; 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. 14. NRS 647.030 is hereby amended to read as follows:

647.030 1. Every junk dealer shall keep a book in which must be written in ink at the time of purchase a full and accurate description of each article purchased, together with the full name, residence, driver's license number, vehicle license number and general description of the person selling the article.



2. In addition to the information required to be included in the book pursuant to subsection 1, a junk dealer must include in writing in ink in the book each time he or she purchases or otherwise receives ~~{metallic}~~ *used utility* wire that has been burned in whole or in part to remove insulation:

(a) The name of the person who delivered the ~~{metallic}~~ *used utility* wire; and

(b) A description of the written evidence obtained by the junk dealer pursuant to NRS 647.035 identifying the person who delivered the ~~{metallic}~~ *used utility* wire.

3. No entry in the book may be erased, mutilated or changed.

4. The book must be open at all times to inspection by the sheriff of the county or any of his or her deputies, any member of the police department in the city or town, and any constable or other county or municipal officer in the county in which the junk dealer does business.

Sec. 15. NRS 647.035 is hereby amended to read as follows:

647.035 1. A junk dealer shall not purchase or otherwise receive ~~{metallic}~~ *used utility* wire ~~{that has been burned in whole or in part to remove insulation}~~ unless, at the time that the ~~{metallic}~~ *used utility* wire is purchased or otherwise received, the junk dealer obtains:

(a) Written evidence identifying the person who delivered the ~~{metallic}~~ *used utility* wire; and

(b) A statement signed by the person who delivered the ~~{metallic}~~ *used utility* wire in which the person attests that the ~~{metallic}~~ *used utility* wire was lawfully acquired and , *if applicable*, burned.

2. A junk dealer shall retain the written evidence and the statement obtained pursuant to subsection 1 for not less than 3 years.

Sec. 16. NRS 647.0945 is hereby amended to read as follows:

647.0945 1. A local law enforcement agency may establish an electronic reporting system or utilize an existing electronic reporting system to receive information relating to the purchase of scrap metal , *used utility wire* or used catalytic converters by a scrap metal processor that transacts business within the jurisdiction of the local law enforcement agency. An electronic reporting system established or utilized pursuant to this subsection must:

(a) Be electronically secure and accessible only to:

(1) A scrap metal processor for the purpose of submitting the information required by subsection 2;

(2) An officer of the local law enforcement agency; and



(3) If applicable, an authorized employee of any designated third party.

(b) Provide for the electronic submission of information by a scrap metal processor.

2. If a local law enforcement agency establishes an electronic reporting system or utilizes an existing electronic reporting system pursuant to subsection 1, each scrap metal processor that transacts business within the jurisdiction of the local law enforcement agency shall, before 12 p.m. of each business day, submit electronically to the local law enforcement agency or, if applicable, a designated third party the following information regarding:

(a) Each purchase of scrap metal conducted on the preceding day from a person who sold the scrap metal in his or her individual capacity:

(1) The name of the seller;

(2) The date of the purchase;

(3) The name of the person or employee who conducted the transaction on behalf of the scrap metal processor;

(4) The name, street, house number and date of birth listed on the identification provided pursuant to paragraph (c) of subsection 1 of NRS 647.094 and a physical description of the seller, including the seller's gender, height, eye color and hair color;

(5) The license number and general description of any vehicle that delivered the scrap metal;

(6) The description of the scrap metal recorded pursuant to paragraph (h) of subsection 1 of NRS 647.094;

(7) The amount, in weight, of scrap metal purchased; and

(b) *Each purchase of used utility wire conducted on the preceding day from a person who sold the used utility wire in his or her individual capacity:*

(1) A statement written by the seller indicating:

(I) That the seller is the lawful owner or possessor of the used utility wire; or

(II) The name of the person from whom the seller obtained the used utility wire, including, if applicable, the name of the business as shown on a signed transfer document; and

(2) A description of the used utility wire purchased or sold, including, without limitation, the item type and quantity.

(c) Each purchase of a used catalytic converter conducted on the preceding day from a person who sold the used catalytic converter in his or her individual capacity:

(1) A statement written by the seller indicating:



(I) That the seller is the lawful owner or possessor of the used catalytic converter; or

(II) The name of the person from whom the seller obtained the used catalytic converter, including, if applicable, the name of the business as shown on a signed transfer document;

(2) If applicable, a copy of the title of the vehicle from which the used catalytic converter was removed which includes a vehicle identification number that matches the vehicle identification number permanently marked on the used catalytic converter;

(3) The year, make, model and vehicle identification number of the vehicle from which the used catalytic converter was removed; and

(4) A description of the used catalytic converter purchased or sold, including, without limitation, the item type, quantity and vehicle identification number permanently marked on the used catalytic converter.

3. If a scrap metal processor is required to submit information to a local law enforcement agency or, if applicable, a designated third party pursuant to subsection 2, the scrap metal processor shall display prominently at the point of purchase a public notice, in a form approved by the local law enforcement agency, describing the information that the scrap metal processor is required to submit electronically to the local law enforcement agency or, if applicable, the designated third party.

4. Nothing in this section shall be deemed to limit or otherwise abrogate any duty of a scrap metal processor to maintain a book or other permanent record of information pursuant to NRS 647.094 or 647.0943.

5. If a local law enforcement agency establishes an electronic reporting system or utilizes an existing electronic reporting system to receive information pursuant to this section, the local law enforcement agency shall, on or before January 15 of each odd-numbered year, submit to the Director of the Legislative Counsel Bureau for transmittal to the Legislature a report regarding the effect of the electronic reporting system on the incidence of crime which relates to the sale or purchase of scrap metal or used catalytic converters within the jurisdiction of the law enforcement agency.

6. Except as otherwise provided in paragraph ~~(b)~~ (c) of subsection 2, the provisions of this section do not apply to the purchase of scrap metal , *used utility wire* or a used catalytic converter from a business entity.

7. The Division of Industrial Relations of the Department of Business and Industry shall, in consultation with representatives



from local law enforcement agencies in this state and representatives from the scrap metal industry, adopt regulations to ensure the confidentiality of information which is reported and maintained pursuant to this section, including, without limitation, regulations providing for:

- (a) The confidentiality of consumer information;
- (b) The confidentiality of proprietary information;
- (c) Equity of input into contractual terms;
- (d) Contractual terms relating to disclaimers, indemnification and the ownership of data by a designated third party;
- (e) Oversight of a designated third party that handles, maintains or has access to such information, including, without limitation, the qualifications, equipment, procedures and background checks required of a designated third party;
- (f) The manner in which reported information may be used, shared or disseminated; and
- (g) The maintenance of reported information in relationship to other data maintained by a law enforcement agency.

8. As used in this section, “designated third party” means any person with whom a local law enforcement agency has entered into a contract for the purpose of receiving and storing any information required to be submitted electronically by a scrap metal processor pursuant to subsection 2.

Sec. 17. NRS 647.143 is hereby amended to read as follows:

647.143 1. Except as otherwise provided in subsection 3 and unless a greater penalty is provided pursuant to specific statute, a person who violates any provision of NRS 647.093, 647.094, 647.0943, 647.096, 647.098 or 647.099 **or section 8, 9 or 10 of this act** is guilty of a misdemeanor.

2. In addition to the provisions of subsections 1 and 3, the court may issue an injunction prohibiting a person from engaging in the business of a scrap metal processor:

(a) For the first or second offense, for a period of not less than 30 days.

(b) For a third or subsequent offense, for a period of 1 year.

3. Any scrap metal processor who is a natural person and who knowingly violates NRS 647.093 or who sells any used catalytic converter that the scrap metal processor knows or should know is a stolen catalytic converter, is guilty of:

(a) If the violation involves one used catalytic converter, a category E felony and shall be punished as provided in NRS 193.130.



(b) If the violation involves 2 or more, but less than 10, used catalytic converters, a category D felony and shall be punished as provided in NRS 193.130.

(c) If the violation involves 10 or more used catalytic converters, a category C felony and shall be punished as provided in NRS 193.130.

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