

AMENDED IN SENATE JUNE 19, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2298

Introduced by Assembly Members Ma and Achadjian

February 24, 2012

An act to amend Section 21606.5 of the Business and Professions Code, and to add Title 11.8 (commencing with Section 14190.10) to Part 4 of the Penal Code, relating to ~~junk dealers and recyclers metal theft~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 2298, as amended, Ma. ~~Junk dealers and recyclers. Metal theft and related recycling crimes.~~

Existing law requires junk dealers and recyclers, as defined, to keep written records of all sales and purchases made in the course of their business. Existing law requires a junk dealer or recycler to allow for periodic inspection by specified persons, including persons authorized by the county sheriff or the head of a city police department, of any premises maintained for purposes of determining compliance with the recordkeeping requirements, and, upon inspection, requires the junk dealer or recycler to produce sales and purchase records.

This bill would, in addition, authorize persons appointed by the head of a county agricultural commission to carry out the periodic inspection of the premises of junk dealers and recyclers.

Existing law, commencing July 1, 2012, establishes the Board of State and Community Corrections as an entity independent of the Department of Corrections and Rehabilitation and commencing that date deems

any reference to the “Board of Corrections” or the “Corrections Standards Authority” to refer, instead, to the Board of State and Community Corrections.

This bill would require the Board of State and Community Corrections to establish a Metal Theft Task Force Program to provide grants to applicant regional task forces for the purposes of providing local law enforcement and district attorneys with the tools necessary to successfully interdict the commission of metal theft and related metal recycling crimes.

This bill would establish the Metal Theft Task Force Fund and would, upon appropriation by the Legislature, make moneys in the fund available for these purposes.

The bill would require the board to regularly review the program and report to the Governor and the Legislature.

The bill would provide that this program shall not be implemented until the Department of Finance determines that sufficient funding has been deposited in the Metal Theft Task Force Fund to implement the program and funds have been made available upon appropriation by the Legislature, as specified.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21606.5 of the Business and Professions
- 2 Code is amended to read:
- 3 21606.5. Every junk dealer or recycler shall, during normal
- 4 business hours, allow periodic inspection of any premises
- 5 maintained and any junk thereon for the purpose of determining
- 6 compliance with the recordkeeping requirements of this article,
- 7 and shall during those hours produce his or her records of sales
- 8 and purchases, except as provided in subparagraph (B) of paragraph
- 9 (6) of subdivision (a) of Section 21608.5, and all property
- 10 purchased incident to those transactions which is in the possession
- 11 of the junk dealer or recycler for inspection by any of the following
- 12 persons:
- 13 (a) An officer holding a warrant authorizing him or her to search
- 14 for personal property.

1 (b) A person appointed by the sheriff of a county, by the head
2 of the police department of a city, or by the head of a county
3 agricultural commission.

4 (c) An officer holding a court order directing him or her to
5 examine the records or property.

6 *SEC. 2. Title 11.8 (commencing with Section 14190.10) is*
7 *added to Part 4 of the Penal Code, to read:*

8
9 *TITLE 11.8. THEFT AND RECYCLING OF METALS*

10
11 *14190.10. The Legislature finds and declares all of the*
12 *following:*

13 (a) *The theft of metal is a serious problem in California. Losses*
14 *due to metal theft are not limited to just the value of the metal*
15 *taken, but frequently the cost of repairing or replacing the*
16 *infrastructure, component, or item from which the metal has been*
17 *removed greatly exceeds the value of the metal itself. The United*
18 *States Department of Energy estimates that metal theft costs United*
19 *States businesses approximately one billion dollars*
20 *(\$1,000,000,000) annually.*

21 (b) *It is the intent of the Legislature in enacting this title to*
22 *provide local law enforcement and district attorneys with the tools*
23 *necessary to successfully interdict the commission of metal theft*
24 *and related metal recycling crimes.*

25 *14190.15. For the purposes of this title, the following terms*
26 *have the following meanings:*

27 (a) *“Fund” means the Metal Theft Task Force Fund.*

28 (b) *“Board” means the Board of State and Community*
29 *Corrections.*

30 (c) *“Program” means the Metal Theft Task Force Program.*

31 *14190.20. (a) The Metal Theft Task Force Fund is hereby*
32 *established within the State Treasury. Transfers to the Metal Theft*
33 *Task Force Fund shall be deposited in the Treasury, or in a state*
34 *depository bank approved by the Treasurer. These funds shall,*
35 *upon appropriation by the Legislature, be available for the*
36 *purposes set forth in this title.*

37 (b) *The fund shall consist of moneys deposited into the fund*
38 *from the federal government, industry, and citizen sources.*

39 (c) *Funds provided under this program are intended to ensure*
40 *that law enforcement is equipped with the necessary personnel*

1 *and tools to successfully combat metal theft and related recycling*
2 *crimes, which include, but are not limited to, all of the following*
3 *offenses:*

4 *(1) The theft of metals, including, but not limited to, nonferrous*
5 *metals.*

6 *(2) The purchase and recycling of stolen metals, including, but*
7 *not limited to, recycled metal beverage containers, by recyclers.*

8 *(3) The transportation of stolen metals from this state to another*
9 *state.*

10 *(4) The transportation of stolen metals from another state to*
11 *this state.*

12 *14190.25. (a) The fund shall be administered by the board.*

13 *(b) The board may adopt regulations as needed to administer*
14 *this title.*

15 *(c) Administration of the overall program and the evaluation*
16 *and monitoring of all grants made pursuant to this title shall be*
17 *performed by the board.*

18 *14190.30. (a) The board shall establish the Metal Theft Task*
19 *Force Program. Administration of the overall program and the*
20 *evaluation and monitoring of all grants made pursuant to this title*
21 *shall be performed by the board.*

22 *(b) Moneys appropriated to the board for the program shall be*
23 *expended to fund programs that enhance the capacity of local law*
24 *enforcement and prosecutors to deter, investigate, and prosecute*
25 *metal theft and related recycling crimes.*

26 *(c) After deduction of the board's actual and necessary*
27 *administrative costs, the funds shall be expended to fund programs*
28 *to enhance the capacity of local law enforcement and prosecutors*
29 *to deter, investigate, and prosecute metal theft and related*
30 *recycling crimes.*

31 *(d) Funds distributed under this program shall be expended for*
32 *the exclusive purpose of deterring, investigating, and prosecuting*
33 *metal theft and related recycling crimes.*

34 *(e) Up to 10 percent of the funds may, upon appropriation, be*
35 *used for developing and maintaining a statewide database on metal*
36 *theft and related recycling crimes for use in developing and*
37 *distributing intelligence information to participating law*
38 *enforcement agencies.*

1 14190.35. (a) *The board shall develop specific guidelines and*
2 *administrative procedures for the selection of regional task forces*
3 *to receive funds under this program, as follows:*

4 (1) *Each regional task force that seeks funds shall submit a*
5 *written application to the board setting forth in detail the proposed*
6 *use of funds.*

7 (2) *Each regional task force shall be identified by a name that*
8 *is appropriate to the area that it serves. In order to qualify for*
9 *funds, a regional task force shall be comprised of local law*
10 *enforcement and prosecutors from at least two counties.*

11 (3) *Each task force shall consult with experts from the United*
12 *States military, the California Military Department, the Department*
13 *of Justice, other law enforcement entities, and various other state*
14 *and private organizations as deemed necessary to maximize the*
15 *effectiveness of this program.*

16 (4) *Priority shall be given to regional task forces outside of the*
17 *13 counties funded under the rural crime prevention programs*
18 *authorized pursuant to Sections 14170 and 14180.*

19 (b) *The guidelines shall include all of the following selection*
20 *criteria that shall be considered by the board in awarding grant*
21 *funds:*

22 (1) *The number of metal theft or related recycling crime cases*
23 *filed in the prior year.*

24 (2) *The number of metal theft or related recycling crime cases*
25 *investigated in the prior year.*

26 (3) *The number of victims involved in the cases filed.*

27 (4) *The total aggregate monetary loss suffered by the victims,*
28 *including damage caused by the theft.*

29 (5) *Local funds available to assist the regional task force.*

30 (6) *The number of licensed recycling facilities in the region.*

31 14190.40. (a) *Each regional task force that has been awarded*
32 *funds authorized under the program during the previous*
33 *grant-funding cycle, upon reapplication for funds to the board in*
34 *each successive year, shall submit a detailed accounting of funds*
35 *received and expended in the prior year in addition to any*
36 *information required by this title.*

37 (b) *The accounting shall include all of the following information:*

38 (1) *The amount of funds received and expended.*

1 (2) *The use to which those funds were put, including payment*
2 *of salaries and expenses, purchase of equipment and supplies, and*
3 *other expenditures by type.*

4 (3) *The number of filed complaints, investigations, arrests, and*
5 *convictions that resulted from the expenditure of the funds.*

6 14190.45. (a) *The board shall regularly review the*
7 *effectiveness of the program in deterring, investigating, and*
8 *prosecuting metal theft and related recycling crimes and shall,*
9 *notwithstanding Section 10231.5 of the Government Code, present*
10 *a report to the Legislature and Governor.*

11 (b) *The report shall be based on information provided by the*
12 *regional task forces in an annual report to the board which shall*
13 *detail all of the following:*

14 (1) *The number of metal theft and recycling crime cases filed*
15 *in the prior year.*

16 (2) *The number of metal theft and recycling crime cases*
17 *investigated in the prior year.*

18 (3) *The number of victims involved in the cases filed.*

19 (4) *The number of convictions obtained in the prior year.*

20 (5) *The total aggregate monetary loss suffered by the victims,*
21 *including damage caused by the theft.*

22 (6) *An accounting of funds received and expended in the prior*
23 *year, which shall include all of the following:*

24 (A) *The amount of funds received and expended.*

25 (B) *The uses to which those funds were put, including payment*
26 *of salaries and expenses, purchase of supplies, and other*
27 *expenditures.*

28 (C) *Any other relevant information requested.*

29 14190.50. *The program established pursuant to this title shall*
30 *not be implemented until the Department of Finance determines*
31 *that sufficient funds have been deposited in the Metal Theft Task*
32 *Force Fund to implement the provisions of this title and funds have*
33 *been made available for the purposes of this title upon*
34 *appropriation by the Legislature as provided in subdivision (a) of*
35 *Section 14190.20.*