

AMENDED IN SENATE JULY 2, 2013

AMENDED IN ASSEMBLY MAY 24, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 909**

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**Introduced by Assembly Member Gray**

February 22, 2013

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An act to add Title 11.8 (commencing with Section 14190.15) to Part 4 of the Penal Code, relating to metal theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 909, as amended, Gray. Metal theft and related recycling crimes.

~~Existing law establishes the Board of State and Community Corrections to, among other things, promote effective state and local efforts and partnerships in California's adult and juvenile criminal justice system.~~

*Existing law provides that any person who feloniously steals, takes, or carries away the personal property of another, or who fraudulently appropriates property that has been entrusted to him or her, is guilty of theft. Existing law also provides that a person who, being a dealer in or collector of junk, metals, or secondhand materials, buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass that he or she knows or reasonably should know is ordinarily used by, or ordinarily belongs to, a railroad or other transportation, telephone, telegraph, gas, water, or electric light company or county, city, or city and county without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so, is guilty of criminally receiving that property.*

*Existing law establishes the Department of Justice, which is headed by the Attorney General and tasked with, among other things, representing California in criminal cases.*

This bill, on and after January 1, 2015, would require the ~~board~~ Department of Justice to establish a Metal Theft Task Force Program to provide grants to applicant regional task forces for the purpose 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. The bill, on and after January 1, 2015, would establish the Metal Theft Task Force Fund, to be administered by the ~~board~~ department, and, upon appropriation by the Legislature, would make moneys in the fund available for the purposes of the program.

The bill would require the ~~board~~ department to regularly review the program and report to the Governor and the Legislature, and would specify that the program 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.

This bill would also state findings and declarations of the Legislature relative to metal theft and the intent of the Legislature to provide local law enforcement with the tools to interdict metal theft and related metal recycling crimes.

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

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

- 1 SECTION 1. The Legislature finds and declares both of the
- 2 following:
- 3 (a) The theft of metal is a serious problem in California. Losses
- 4 due to metal theft are not limited to the value of the metal taken,
- 5 but frequently include the cost of repairing or replacing the
- 6 infrastructure, component, or item from which the metal was
- 7 removed, which greatly exceeds the value of the metal itself.
- 8 (b) The United States Department of Energy estimates that metal
- 9 theft costs United States businesses approximately one billion
- 10 dollars (\$1,000,000,000) annually.
- 11 (c) It is the intent of the Legislature in enacting this act to
- 12 provide local law enforcement and district attorneys with the tools

1 necessary to successfully interdict the commission of metal theft  
2 and related metal recycling crimes.

3 SEC. 2. Title 11.8 (commencing with Section 14190.15) is  
4 added to Part 4 of the Penal Code, to read:

5

6 TITLE 11.8. THEFT AND RECYCLING OF METALS

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8 14190.15. For the purposes of this title, the following terms  
9 have the following meanings:

10 (a) "Fund" means the Metal Theft Task Force Fund.

11 (b) ~~"Board"~~ "Department" means the ~~Board of State and~~  
12 ~~Community Corrections.~~ *Department of Justice.*

13 (c) "Program" means the Metal Theft Task Force Program.

14 14190.20. (a) The Metal Theft Task Force Fund is hereby  
15 established within the State Treasury. Transfers to the Metal Theft  
16 Task Force Fund shall be deposited in the Treasury, or in a state  
17 depository bank approved by the Treasurer. These funds shall,  
18 upon appropriation by the Legislature, be available for the purposes  
19 set forth in this title.

20 (b) The fund shall consist of moneys deposited into the fund  
21 from the federal government, industry, and private sources. General  
22 Fund moneys shall not be deposited into the fund nor used to  
23 implement the provisions of this title.

24 (c) Funds provided under this program are intended to ensure  
25 that law enforcement is equipped with the necessary personnel  
26 and tools to successfully combat metal theft and related recycling  
27 crimes, which include, but are not limited to, all of the following  
28 offenses:

29 (1) The theft of metals, including, but not limited to, nonferrous  
30 metals.

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

33 (3) The transportation of stolen metals from this state to another  
34 state.

35 (4) The transportation of stolen metals from another state to this  
36 state.

37 14190.25. (a) The fund shall be administered by the ~~board~~  
38 *department.*

39 (b) The ~~board~~ *department* may adopt regulations as needed to  
40 administer this title.

1 (c) Administration of the overall program and the evaluation  
2 and monitoring of all grants made pursuant to this title shall be  
3 performed by the ~~board~~ *department*.

4 14190.30. (a) The ~~board~~ *department* shall establish the Metal  
5 Theft Task Force Program. Administration of the overall program  
6 and the evaluation and monitoring of all grants made pursuant to  
7 this title shall be performed by the ~~board~~ *department*.

8 (b) Moneys appropriated to the ~~board~~ *department* for the  
9 program shall be expended to fund programs that enhance the  
10 capacity of local law enforcement and prosecutors to deter,  
11 investigate, and prosecute metal theft and related recycling crimes.

12 (c) After deduction of the ~~board's~~ *department's* actual and  
13 necessary administrative costs, the funds shall be expended to fund  
14 programs to enhance the capacity of local law enforcement and  
15 prosecutors to deter, investigate, and prosecute metal theft and  
16 related recycling crimes.

17 (d) Funds distributed under this program shall be expended for  
18 the exclusive purpose of deterring, investigating, and prosecuting  
19 metal theft and related recycling crimes.

20 (e) Up to 10 percent of the funds may, upon appropriation, be  
21 used for developing and maintaining a statewide database on metal  
22 theft and related recycling crimes for use in developing and  
23 distributing intelligence information to participating law  
24 enforcement agencies.

25 14190.35. (a) The ~~board~~ *department* shall develop specific  
26 guidelines and administrative procedures for the selection of  
27 regional task forces to receive funds under this program, as follows:

28 (1) Each regional task force that seeks funds shall submit a  
29 written application to the ~~board~~ *department* setting forth in detail  
30 the proposed use of funds.

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

35 (3) Each task force may consult with experts from the United  
36 States military, the California Military Department, ~~the Department~~  
37 ~~of Justice~~, ~~other~~ law enforcement entities, and various other state  
38 and private organizations, including pertinent trade associations,  
39 as deemed necessary to maximize the effectiveness of this program.

1 (4) Priority shall be given to regional task forces outside of the  
2 13 counties funded under the rural crime prevention programs  
3 authorized pursuant to Sections 14170 and 14180.

4 (b) The guidelines shall include all of the following selection  
5 criteria that shall be considered by the ~~board~~ *department* in  
6 awarding grant funds:

7 (1) The number of metal theft or related recycling crime cases  
8 filed in the prior year.

9 (2) The number of metal theft or related recycling crime cases  
10 investigated in the prior year.

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

12 (4) The total aggregate monetary loss suffered by the victims,  
13 including damage caused by the theft.

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

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

16 14190.40. (a) Each regional task force that has been awarded  
17 funds authorized under the program during the previous  
18 grant-funding cycle, upon reapplication for funds to the ~~board~~  
19 *department* in each successive year, shall submit a detailed  
20 accounting of funds received and expended in the prior year in  
21 addition to any information required by this title.

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

23 (1) The amount of funds received and expended.

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

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

29 14190.45. (a) The ~~board~~ *department* shall regularly review  
30 the effectiveness of the program in deterring, investigating, and  
31 prosecuting metal theft and related recycling crimes and shall,  
32 notwithstanding Section 10231.5 of the Government Code, present  
33 a report to the Legislature and Governor.

34 (b) The report shall be based on information provided by the  
35 regional task forces in an annual report to the ~~board~~ *department*  
36 which shall detail all of the following:

37 (1) The number of metal theft and recycling crime cases filed  
38 in the prior year.

39 (2) The number of metal theft and recycling crime cases  
40 investigated in the prior year.

- 1 (3) The number of victims involved in the cases filed.
- 2 (4) The number of convictions obtained in the prior year.
- 3 (5) The total aggregate monetary loss suffered by the victims,
- 4 including damage caused by the theft.
- 5 (6) An accounting of funds received and expended in the prior
- 6 year, which shall include all of the following:
- 7 (A) The amount of funds received and expended.
- 8 (B) The uses to which those funds were put, including payment
- 9 of salaries and expenses, purchase of supplies, and other
- 10 expenditures.
- 11 (C) Any other relevant information requested.
- 12 14190.50. (a) The program established pursuant to this title
- 13 shall not be implemented until the Department of Finance
- 14 determines that sufficient funds have been deposited in the Metal
- 15 Theft Task Force Fund to implement the provisions of this title
- 16 and funds have been made available for the purposes of this title
- 17 upon appropriation by the Legislature as provided in subdivision
- 18 (a) of Section 14190.20.
- 19 (b) The ~~board~~ *department* shall be required to implement the
- 20 provisions of this title only upon the availability of funds
- 21 appropriated for that purpose, in an amount sufficient to cover all
- 22 costs relating to the implementation and continuing administration
- 23 of the provisions of this title.
- 24 14190.55. This title shall become operative on January 1, 2015.