

AMENDED IN ASSEMBLY APRIL 10, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2312

**Introduced by Assembly Members Nestande and Olsen
(Coauthors: Assembly Members Gray, Linder, and Patterson)**

February 21, 2014

An act to amend Section 12703.1 of, and to add Section 21608.7 to, the Business and Professions Code, and to add Article 6 (commencing with Section 11199.5) to Chapter 2 of Title 1 of Part 4 of the Penal Code, relating to metal theft.

LEGISLATIVE COUNSEL'S DIGEST

AB 2312, as amended, Nestande. Metal theft.

Existing law governs the business of buying, selling, and dealing in secondhand and used machinery and all ferrous and nonferrous scrap metals and alloys, also known as "junk." Existing law requires junk dealers and recyclers to keep a written record of all sales and purchases made in the course of their business, including the name and address of each person to whom junk is sold or disposed of, and to preserve the written record for at least 2 years after making the final entry of any purchase or sale of junk.

Existing law provides that it is a crime for a dealer in or collector of junk, metals, or secondhand materials, or the agent, employee, or representative of that dealer or collector, who buys or receives any wire, cable, copper, lead, solder, mercury, iron, or brass which 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, city and county, or other political subdivision of this state engaged in furnishing public utility service without using due diligence to ascertain that the person selling or delivering the same has a legal right to do so.

Existing law, until January 1, 2019, requires the Department of Food and Agriculture to require a recycler or junk dealer who is an applicant for a new weighmaster license or a renewal of a weighmaster license to furnish specified additional information on the application.

This bill would require a junk dealer or recycler to request to receive theft alert notifications regarding the theft of commodity metals in the junk dealer’s or recycler’s geographic region from the theft alert system maintained by the Institute of Scrap Recycling Industries, Inc. The bill would require the Department of Food and Agriculture, until January 1, 2019, to require a junk dealer or recycler who is an applicant for a new weighmaster license or a renewal of a weighmaster license to also include a statement on the application indicating that the applicant has requested to receive the theft alert notifications. The bill would also encourage local law enforcement agencies to report thefts of commodity metals that have occurred within their jurisdiction to that theft alert system, in order to ensure that persons using the system receive timely and thorough information regarding metal thefts. *The bill would prohibit the institute or its successor from requiring payment for use of the theft alert system by law enforcement agencies or members of the public, and would prohibit the sale of subscribers’ information to 3rd parties. The bill would state findings and declarations by the Legislature regarding the theft alert system.*

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 all of the
- 2 following:
- 3 (a) The Institute of Scrap Recycling Industries, Inc. (ISRI)
- 4 developed ScrapTheftAlert.com which is a web-based theft alert
- 5 system that allows law enforcement to alert recyclers of reported
- 6 stolen material and allows recyclers to alert area law enforcement
- 7 when they have received materials they believe might have been
- 8 stolen.

1 (b) This alert system broadcasts theft alerts to every registered
2 user within a 100-mile radius of where the theft occurred and can
3 expand depending on the circumstances.

4 (c) ISRI has worked closely with law enforcement and has
5 integrated their suggestions into the system's latest update to make
6 its use more user-friendly for law enforcement.

7 (d) There is no cost to law enforcement or non-ISRI members
8 to use the system.

9 (e) Members of ISRI pay for the entire database through their
10 membership dues.

11 SEC. 2. Section 12703.1 of the Business and Professions Code
12 is amended to read:

13 12703.1. (a) In addition to any other requirements for issuance
14 of a license pursuant to this chapter, if the applicant is a recycler
15 or junk dealer as defined in Section 21601, the department shall
16 require the applicant to furnish all of the following information
17 accurately on any application for a new license or the renewal of
18 a license issued pursuant to this chapter:

19 (1) A copy of the applicant's current business license.

20 (2) A statement indicating that the applicant has either filed an
21 application for a stormwater permit or is not required to obtain a
22 stormwater permit.

23 (3) A statement indicating that the applicant has the equipment
24 necessary to comply with the photographic and thumbprinting
25 requirements for the purchase and sale of nonferrous materials
26 pursuant to Section 21608.5 or a statement indicating that the
27 applicant will not be purchasing or selling nonferrous materials
28 and is not required to comply with Section 21608.5.

29 (4) A statement indicating that the applicant has requested to
30 receive theft alert notifications pursuant to Section 21608.7.

31 (5) The name or names of any deputy weighmasters.

32 (b) The department shall issue a license to a junk dealer or
33 recycler upon receipt of an application for a new license or renewal
34 of a license that contains the information required by subdivision
35 (a) and that is accompanied by the appropriate fee.

36 (c) (1) On or before December 31, 2014, upon issuance of a
37 license to a junk dealer or recycler, or renewal of such a license,
38 the department shall make a thorough investigation of all of the
39 information contained in the application within 90 days. If the
40 license is issued or renewed on or after January 1, 2015, the

1 department shall make a thorough investigation of all the
2 information contained in the application within 90 days for a new
3 license, and within one calendar year for a renewal of a license.

4 (2) Notwithstanding Section 12708, if the department determines
5 that the information submitted pursuant to subdivision (a) is
6 materially inaccurate, the department shall revoke the license issued
7 to a junk dealer or recycler unless the junk dealer or recycler
8 complies with the requirements of subdivision (a) within 14 days
9 of notice from the department of a proposed revocation pursuant
10 to this subdivision.

11 (3) A junk dealer or recycler whose license has been revoked
12 pursuant to this subdivision is entitled to a hearing conducted
13 pursuant to Chapter 5 (commencing with Section 11500) of Part
14 1 of Division 3 of Title 2 of the Government Code.

15 (d) The secretary may enter into a cooperative agreement with
16 any county sealer to carry out the provisions of this section.

17 (e) This section shall remain in effect only until January 1, 2019,
18 and as of that date is repealed, unless a later enacted statute, that
19 is enacted before January 1, 2019, deletes or extends that date.

20 SEC. 3. Section 21608.7 is added to the Business and
21 Professions Code, to read:

22 21608.7. A junk dealer or recycler shall request to receive theft
23 alert notifications regarding the theft of commodity metals,
24 including, but not limited to, ferrous metal, copper, brass,
25 aluminum, nickel, stainless steel, and alloys, in the junk dealer's
26 or recycler's geographic region from the theft alert system
27 maintained by the Institute of Scrap Recycling Industries, Inc., or
28 its successor.

29 SEC. 4. Article 6 (commencing with Section 11199.5) is added
30 to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

31
32
33

Article 6. Reports of Metal Theft

34 11199.5. Local law enforcement agencies are encouraged to
35 report thefts of commodity metals, including, but not limited to,
36 ferrous metal, copper, brass, aluminum, nickel, stainless steel, and
37 alloys, that have occurred within their jurisdiction to the theft alert
38 system maintained by the Institute of Scrap Recycling Industries,
39 Inc., or its successor, in order to ensure that persons using that
40 system receive timely and thorough information regarding metal

1 thefts. *The institute or its successor shall not require payment for*
2 *the use of the theft alert system by law enforcement agencies or*
3 *members of the public, and shall not sell subscribers' information*
4 *received pursuant to this section to third parties.*

O