

AMENDED IN SENATE JUNE 10, 2014

AMENDED IN ASSEMBLY APRIL 21, 2014

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2313**

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**Introduced by Assembly Members Nestande and Olsen  
(Coauthor: Assembly Member Gray)**

February 21, 2014

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An act to add and repeal Title 11.8 (commencing with Section 14190.15) of Part 4 of the Penal Code, relating to metal theft, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2313, as amended, Nestande. Metal theft and related recycling crimes.

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 requires the Office of Emergency Services to administer a comprehensive statewide domestic violence program to establish a targeted or directed program for the development and establishment of domestic violence service in currently unserved and underserved areas, and establishes a grant program administered by the Office of Emergency Services for the distribution of financial and technical assistance to domestic violence shelter service providers for this purpose.

This bill, until December 31, 2020, would require the Office of Emergency Services to establish a Metal Theft Task Force Program to provide grants to applicant agencies 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 would establish the Metal Theft Task Force Fund, to be administered by the Office of Emergency Services, and would continuously appropriate all moneys in that fund to the department for the purposes of the program. The bill would impose a fee, to be deposited into the fund, not to exceed 1% of the purchase price for each junk sale, which involves the sale of scrap metals and alloys, on the seller of junk for the purpose of regulating that seller, thereby making an appropriation. The bill would exempt a junk sale or transaction, which involves the sale of scrap metals and alloys, between junk dealers and recyclers, as defined, from the above-described fee. *The bill would exempt a junk sale or transaction, which involves the sale of scrap metals and alloys, by automobile dismantlers, as defined, from the above-described fee. The bill would also specify that the provisions regarding the above-described fee would not apply to any secondhand dealers, coin dealers, and licensed pawnbrokers, as defined.*

The bill would require agencies receiving funding from the program to submit an annual report, as specified, and would require the Office of Emergency Services to use the information in those reports to review the program and report to the Governor and the Legislature. The bill would require the Office of Emergency Services to submit a comprehensive report to the Legislature, no later than December 31, 2019, on the status and progress, since the year 2016, of the program in deterring, investigating, and prosecuting metal theft and related recycling crimes. The bill would specify that the program would not be implemented until the Office of Emergency Services determines that sufficient moneys have been deposited in the fund to implement the program.

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

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

1 SECTION 1. Title 11.8 (commencing with Section 14190.15)  
2 is added to Part 4 of the Penal Code, to read:

3

4 TITLE 11.8. THEFT AND RECYCLING OF METALS

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6 14190.15. For the purposes of this title, the following  
7 definitions shall apply:

8 (a) "Agency" means a regional task force, a local law  
9 enforcement agency, or a district attorney.

10 (b) "Department" means the Office of Emergency Services.

11 (c) "Fund" means the Metal Theft Task Force Fund.

12 (d) "Program" means the Metal Theft Task Force Program.

13 14190.20. (a) The Metal Theft Task Force Fund is hereby  
14 established within the ~~State Treasury~~. *Office of the Controller*.  
15 Notwithstanding Section 13340 of the Government Code, the fund  
16 is hereby continuously appropriated to the department for the  
17 purposes set forth in this title. Transfers to the Metal Theft Task  
18 Force Fund shall be deposited ~~in the State Treasury, or in a state~~  
19 ~~depository bank approved by the Treasurer.~~ *with the Controller*.

20 (b) The fund shall consist of moneys deposited into it from the  
21 federal government, industry, and private sources, and from fees  
22 collected pursuant to Section 14190.45. General Fund moneys  
23 shall not be deposited into the fund nor used to start up, implement,  
24 or support the continuing administration of the provisions of this  
25 title.

26 (c) The fund shall be administered by the department.

27 (d) Moneys distributed from the fund pursuant to the program  
28 established pursuant to Section 14190.25 are intended to ensure  
29 that local law enforcement and district attorneys are equipped with  
30 the necessary personnel and tools to successfully combat metal  
31 theft and related recycling crimes, which include, but are not  
32 limited to, all of the following offenses:

33 (1) The theft of metals, including, but not limited to, nonferrous  
34 metals.

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

3 (3) The transportation of stolen metals from *junk dealers and*  
 4 *recyclers in* this state to another state.

5 (4) The transportation of stolen metals from another state to this  
 6 state.

7 (5) ~~Unlicensed~~ *Illegal* recycling operations.

8 14190.25. (a) The department shall establish the Metal Theft  
 9 Task Force Program. Administration of the overall program and  
 10 the evaluation and monitoring of all grants made pursuant to this  
 11 title shall be performed by the department.

12 (b) Moneys appropriated to the department for the program shall  
 13 be expended for programs that enhance the capacity of local law  
 14 enforcement and prosecutors to deter, investigate, and prosecute  
 15 metal theft and related recycling crimes.

16 (c) After deduction of the department’s actual and necessary  
 17 administrative costs, the moneys in the fund shall be expended for  
 18 programs to enhance the capacity of local law enforcement and  
 19 prosecutors to deter, investigate, and prosecute metal theft and  
 20 related recycling crimes.

21 (d) Moneys distributed under this program shall be expended  
 22 for the exclusive purpose of deterring, investigating, and  
 23 prosecuting metal theft and related recycling crimes. Agencies that  
 24 receive moneys pursuant to the program may consult with experts  
 25 from the United States military, the California Military Department,  
 26 law enforcement entities, and various other state and private  
 27 organizations, including pertinent trade associations, as necessary  
 28 to maximize the effectiveness of this program.

29 14190.30. (a) The department shall develop administrative  
 30 procedures for the selection of agencies to receive a grant under  
 31 this program, which shall include, at a minimum, the following  
 32 requirements:

33 (1) That each agency seeking a grant submit a written application  
 34 to the department setting forth in detail the proposed use of the  
 35 grant funds.

36 (2) That, if an applicant agency is a regional task force, the task  
 37 force shall be identified by a name that is appropriate to the area  
 38 that it serves and, in order to qualify for a grant, shall be comprised  
 39 of local law enforcement and prosecutors from at least two  
 40 counties.

1 ~~(3) That 65 percent of each grant issued shall be dedicated to~~  
2 ~~the investigation and prosecution of unlicensed junk dealers.~~

3 ~~(4)~~

4 (3) That priority be given to applicant agencies in areas with  
5 high rates of reported metal thefts.

6 (b) The department shall develop specific guidelines for the  
7 selection of agencies to receive a grant under this program. The  
8 guidelines shall include, at a minimum, all of the following  
9 selection criteria, which shall be considered by the department in  
10 awarding grants:

11 (1) The number of metal theft or related recycling crime cases  
12 filed in the immediately preceding year.

13 (2) The number of metal theft or related recycling crime cases  
14 investigated in the immediately preceding year.

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

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

18 (5) Local moneys available to assist the agencies.

19 (6) The number of licensed recycling facilities in the area.

20 (7) *The estimated number of illegal recycling operations in the*  
21 *area.*

22 14190.35. (a) Each agency ~~that has been~~ awarded a grant under  
23 the program during the previous funding cycle shall, upon  
24 reapplication for funds to the department in each successive year  
25 and in addition to any other information required by this title,  
26 submit a detailed accounting of moneys received and expended in  
27 the immediately preceding year.

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

29 (1) The amount of moneys received and expended.

30 (2) The use to which those moneys were put, including payment  
31 of salaries and expenses, purchase of equipment and supplies, and  
32 other expenditures by type.

33 (3) The number of filed ~~complaints~~, *crime reports*,  
34 investigations, arrests, and convictions for metal theft and related  
35 recycling crimes that resulted from expenditure of the funds.

36 14190.40. (a) The department shall regularly review the  
37 effectiveness of the program in deterring, investigating, and  
38 prosecuting metal theft and related recycling crimes and shall,  
39 notwithstanding Section 10231.5 of the Government Code, submit

1 a report to the Legislature and Governor that is based on reports  
2 submitted to the department pursuant to subdivision (b).

3 (b) Agencies receiving funding from the program shall submit  
4 an annual report to the department that details all of the following:

5 (1) The number of metal theft and recycling crime cases filed  
6 in the immediately preceding year.

7 (2) The number of metal theft and recycling crime cases  
8 investigated in the immediately preceding year.

9 (3) The number of victims involved in the cases ~~filed~~ reported.

10 (4) The number of convictions obtained in the immediately  
11 preceding year.

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

14 (6) *The number of illegal recycling operations or illegal junk  
15 dealers, or both, shut down.*

16 ~~(6)~~

17 (7) An accounting of moneys received and expended in the  
18 immediately preceding year, which shall include all of the  
19 following:

20 (A) The amount of moneys received and expended.

21 (B) The uses to which those moneys were put, including  
22 payment of salaries and ~~expenses, purchase of supplies, benefits,~~  
23 *operating expenses, equipment purchases, and other allowable*  
24 *expenditures.*

25 (C) Any other relevant information requested.

26 (c) By no later than December 31, 2019, the department shall,  
27 notwithstanding Section 10231.5 of the Government Code, submit  
28 a comprehensive report to the Legislature on the status and  
29 progress, since the year 2016, of the program in deterring,  
30 investigating, and prosecuting metal theft and related recycling  
31 crimes. The report shall be based on each annual report submitted  
32 to the department pursuant to subdivision (b).

33 14190.45. (a) Except as provided in ~~subdivision~~ *subdivisions*  
34 (b), (c), and (d), a fee, determined by the department, not to exceed  
35 1 percent of the purchase price for each junk sale, which involves  
36 the sale of any scrap metals or alloys, shall be assessed on the  
37 seller of junk for the purpose of regulating that seller. The fee  
38 assessed pursuant to this section shall be collected by junk dealers  
39 and recyclers at the time each sale is conducted, and shall be  
40 submitted to the ~~Treasurer~~ *Controller* for deposit into the fund.

1 (b) Each junk sale or transaction, which involves the sale of any  
2 scrap metals or alloys, between junk dealers and recyclers shall  
3 not be subject to the fee described in subdivision (a).

4 (c) *Each junk sale or transaction, which involves the sale of*  
5 *any scrap metals or alloys, by an automobile dismantler, as defined*  
6 *in Section 220 of the Vehicle Code, shall not be subject to the fee*  
7 *described in subdivision (a).*

8 (d) *This section does not apply to any of the following:*

9 (1) *Secondhand dealers or coin dealers, or both, as defined in*  
10 *Section 21626 of the Business and Professions Code.*

11 (2) *Pawnbrokers licensed pursuant to Chapter 3 of Division 8*  
12 *of the Finance Code.*

13 ~~(e)~~

14 (e) For purposes of this section, the following definitions shall  
15 apply:

16 (1) “Junk” has the same meaning as set forth in Section 21600  
17 of the Business and Professions Code.

18 (2) “Junk dealer” has the same meaning as set forth in Section  
19 21601 of the Business and Professions Code.

20 (3) “Recycler” has the same meaning as set forth in Section  
21 21605 of the Business and Professions Code.

22 14190.50. (a) The program established pursuant to this title  
23 shall not be implemented until the department determines that  
24 sufficient moneys have been deposited in the Metal Theft Task  
25 Force Fund to implement the provisions of this title.

26 (b) The department shall only be required to implement the  
27 provisions of this title upon the availability of moneys in the fund  
28 in an amount sufficient to cover all costs relating to the startup,  
29 implementation, and continuing administration of the provisions  
30 of this title.

31 14190.55. The department may adopt regulations as needed to  
32 administer this title.

33 14190.60. This title shall remain in effect only until December  
34 31, 2020, and as of that date is repealed, unless a later enacted  
35 statute, that is enacted before December 31, 2020, deletes or  
36 extends that date.