

AMENDED IN SENATE JULY 2, 2014  
AMENDED IN SENATE JUNE 16, 2014  
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 *amend Sections 12704 and 12709 of the Business and Professions Code, and 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 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, until December 31, 2020, would require the Department of Justice 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~~. *and would authorize the department to enter into an agreement with any state agency for the purpose of administering the program.* The bill would establish the Metal Theft Task Force Fund, to be administered by the Department of Justice, 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 or 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 or 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 or alloys, by automobile dismantlers, as defined, from the above-described fee.~~ *program, thereby making an appropriation. The bill would require a weighmaster who is a junk dealer or recycler, as defined, to pay an additional license fee, to be determined by the department and to be deposited into the fund, in an amount that does not exceed the reasonable costs associated with regulating the weighmaster. The bill would prohibit the proceeds of this fee from exceeding an aggregate total of \$2,000,000 per year.*

~~This bill would exempt from the provisions of the act any junk sale or transaction, which involves the sale of scrap metals or alloys, involving a licensed pawnbroker, or a secondhand dealer or coin dealer doing business under a California secondhand dealer's license.~~

The bill would require agencies receiving funding from the program to submit an annual report, as specified, and would ~~require~~ *authorize* the Department of Justice to use the information in those reports to review the program and report to the Governor and the Legislature. The

bill would require the Department of Justice 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 Department of Justice 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. Section 12704 of the Business and Professions  
2 Code, as amended by Section 3 of Chapter 518 of the Statutes of  
3 2013, is amended to read:

4     12704. (a) A weighmaster shall pay to the department the  
5 following license fee for each license year as applicable to the  
6 operation:

7     (1) Seventy-five dollars (\$75) if the weighmaster is operating  
8 at a fixed location.

9     (2) Thirty dollars (\$30) for each additional fixed location at  
10 which the weighmaster is operating.

11     (3) Two hundred dollars (\$200) if the weighmaster is operating  
12 at other than a fixed location.

13     (4) Twenty dollars (\$20) for each deputy weighmaster.

14     (b) In addition to the license fees set forth in subdivision (a), a  
15 weighmaster who is a recycler or a junk dealer as defined in Section  
16 21601 or is performing services on behalf of a recycler or junk  
17 dealer shall also pay to the department the following license fee  
18 for each license year as applicable to the operation:

19     (1) Five hundred dollars (\$500) if the weighmaster is operating  
20 at a fixed location.

21     (2) Five hundred dollars (\$500) for each additional fixed location  
22 at which the weighmaster is operating.

23     (3) Five hundred dollars (\$500) if the weighmaster is operating  
24 at other than a fixed location.

25     (c) In addition to the license fees set forth in subdivisions (a)  
26 and (b), a weighmaster who is a recycler or a junk dealer as  
27 defined in Section 21601, or who is performing services on behalf  
28 of a recycler or junk dealer, shall also pay to the department a

1 license fee, to be determined by the Department of Justice, in an  
2 amount not to exceed the reasonable costs associated with  
3 regulating the weighmaster. The proceeds of this fee shall not  
4 exceed an aggregate total of two million dollars (\$2,000,000) per  
5 year.

6 (e)

7 (d) "License year" means the period of time beginning with the  
8 first day of the month the weighmaster is required to be licensed  
9 in this state, and ending on the date designated by the secretary  
10 for expiration of the license, or yearly intervals after the first  
11 renewal.

12 (d)

13 (e) "Location" means a premise on which weighing, measuring,  
14 or counting devices are used.

15 (e)

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

19 SEC. 2. Section 12709 of the Business and Professions Code,  
20 as amended by Section 5 of Chapter 518 of the Statutes of 2013,  
21 is amended to read:

22 12709. (a) All license fees collected pursuant to this chapter  
23 shall be deposited in the Department of Food and Agriculture Fund  
24 to be expended by the department for the administration and  
25 enforcement of this chapter, except as provided in ~~subdivision~~  
26 ~~subdivisions~~ (b) and (c).

27 (b) License fees collected pursuant to subdivision (b) of Section  
28 12704 shall be deposited in a special account in the Department  
29 of Food and Agriculture Fund to be expended by the department  
30 for the administration and enforcement of Section 12703.1.

31 (c) License fees collected pursuant to subdivision (c) of Section  
32 12704 shall be deposited into the Metal Theft Task Force Fund  
33 established pursuant to Section 14190.20 of the Penal Code to be  
34 expended by the Department of Justice for the administration of  
35 the Metal Theft Task Force Program established pursuant to  
36 Section 14190.25 of the Penal Code.

37 (e)

38 (d) This section shall remain in effect only until January 1, 2019,  
39 and as of that date is repealed, unless a later enacted statute, that  
40 is enacted before January 1, 2019, deletes or extends that date.

1 SECTION 1.

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

4  
5 TITLE 11.8. THEFT AND RECYCLING OF METALS  
6

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

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

11 (b) "Department" means the Department of Justice.

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

13 (d) "Junk" has the same meaning as set forth in Section 21600  
14 of the Business and Professions Code.

15 (e) "Junk dealer" has the same meaning as set forth in Section  
16 21601 of the Business and Professions Code.

17 (f) "Program" means the Metal Theft Task Force Program.

18 (g) "Recycler" has the same meaning as set fourth in Section  
19 21605 of the Business and Professions Code.

20 14190.20. (a) The Metal Theft Task Force Fund is hereby  
21 established within the ~~Office of the Controller.~~ *department.*  
22 Notwithstanding Section 13340 of the Government Code, the fund  
23 is hereby continuously appropriated to the department for the  
24 purposes set forth in this title. Transfers to the Metal Theft Task  
25 Force Fund shall be deposited with the ~~Controller.~~ *department.*

26 (b) The fund shall consist of moneys deposited into it from the  
27 federal government, industry, and private sources, and from fees  
28 collected pursuant to ~~Section 14190.45.~~ *subdivision (c) of Section*  
29 *12704 of the Business and Professions Code.* General Fund moneys  
30 shall not be deposited into the fund nor used to start up, implement,  
31 or support the continuing administration of the provisions of this  
32 title.

33 (c) The fund shall be administered by the department. *The*  
34 *department may enter into agreements with other state agencies*  
35 *to administer grants to applicant agencies from the fund.*

36 (d) Moneys distributed from the fund pursuant to the program  
37 established pursuant to Section 14190.25 are intended to ensure  
38 that *the department and* local law enforcement and district  
39 attorneys are equipped with the necessary personnel and tools to  
40 successfully combat metal theft and related recycling ~~crimes,~~

1 *crimes with a primary focus of shutting down illegal recycling*  
2 *operations, which include, but are not limited to, all of the*  
3 *following offenses:*

4 (1) *Illegal recycling operations.*

5 ~~(1)~~

6 (2) *The theft of metals, including, but not limited to, nonferrous*  
7 *metals.*

8 ~~(2)~~

9 (3) *The purchase and recycling of stolen metals, including, but*  
10 *not limited to, recycled metal beverage containers, by recyclers.*

11 ~~(3)~~

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

14 ~~(4)~~

15 (5) *The transportation of stolen metals from another state to this*  
16 *state.*

17 ~~(5) Illegal recycling operations.~~

18 14190.25. (a) *The department shall establish the Metal Theft*  
19 *Task Force Program. Administration of the overall program and*  
20 *the evaluation and monitoring of all grants made pursuant to this*  
21 *title shall be performed by the department. The department may*  
22 *enter into an agreement with any state agency for the purpose of*  
23 *administering the program and the evaluation and monitoring of*  
24 *all grants made pursuant to this title.*

25 (b) *Moneys appropriated to the department for the program shall*  
26 *be expended for programs that enhance the capacity of local law*  
27 *enforcement and prosecutors to deter, investigate, and prosecute*  
28 *illegal recycling operations, and metal theft and related recycling*  
29 *crimes. The department may expend funds to serve as the*  
30 *lead law enforcement agency in the investigation of metal theft*  
31 *crimes.*

32 (c) *After deduction of the department’s actual and necessary*  
33 *administrative costs, the moneys in the fund shall be expended for*  
34 *programs to enhance the capacity of local law enforcement and*  
35 *prosecutors to deter, investigate, and prosecute illegal recycling*  
36 *operations, and metal theft and related recycling crimes. The*  
37 *department may expend funds to serve as the lead law enforcement*  
38 *agency in the investigation of metal theft crimes.*

39 (d) *Moneys distributed under this program shall be expended*  
40 *for the exclusive purpose of deterring, investigating, and*

1 prosecuting *illegal recycling operations and* metal theft and related  
2 recycling crimes. Agencies that receive moneys pursuant to the  
3 program may consult with experts from the United States military,  
4 the California Military Department, law enforcement entities, and  
5 various other state and private organizations, including pertinent  
6 trade associations, as necessary to maximize the effectiveness of  
7 this program.

8 14190.30. (a) The department shall develop administrative  
9 procedures for the selection of agencies to receive a grant under  
10 this program, which shall include, at a minimum, the following  
11 requirements:

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

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

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

22 (b) The department shall develop specific guidelines for the  
23 selection of agencies to receive a grant under this program. The  
24 guidelines shall include, at a minimum, all of the following  
25 selection criteria, which shall be considered by the department in  
26 awarding grants:

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

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

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

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

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

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

36 (7) The estimated number of illegal recycling operations in the  
37 area.

38 (c) *The department may enter into an agreement with any state*  
39 *agency for the purpose of developing administrative procedures*

1 *and specific guidelines for the selection of agencies to receive a*  
 2 *grant under this program.*

3 14190.35. (a) Each agency awarded a grant under the program  
 4 during the previous funding cycle shall, upon reapplication for  
 5 funds to the department in each successive year and in addition to  
 6 any other information required by this title, submit a detailed  
 7 accounting of moneys received and expended in the immediately  
 8 preceding year.

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

- 10 (1) The amount of moneys received and expended.
- 11 (2) The use to which those moneys were put, including payment  
 12 of salaries and expenses, purchase of equipment and supplies, and  
 13 other expenditures by type.
- 14 (3) The number of filed crime reports, investigations, arrests,  
 15 and convictions for metal theft and related recycling crimes that  
 16 resulted from expenditure of the funds.

17 14190.40. (a) The department ~~shall~~ *may* regularly review the  
 18 effectiveness of the program in deterring, investigating, and  
 19 prosecuting metal theft and related recycling crimes and shall,  
 20 notwithstanding Section 10231.5 of the Government Code, submit  
 21 a report to the Legislature and Governor that is based on reports  
 22 submitted to the department pursuant to subdivision (b).

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

- 25 (1) The number of metal theft and recycling crime cases filed  
 26 in the immediately preceding year.
- 27 (2) The number of metal theft and recycling crime cases  
 28 investigated in the immediately preceding year.
- 29 (3) The number of victims involved in the cases reported.
- 30 (4) The number of convictions obtained in the immediately  
 31 preceding year.
- 32 (5) The total aggregate monetary loss suffered by the victims,  
 33 including damage caused by the theft.
- 34 (6) The number of illegal recycling operations or illegal junk  
 35 dealers, or both, shut down.
- 36 (7) An accounting of moneys received and expended in the  
 37 immediately preceding year, which shall include all of the  
 38 following:
  - 39 (A) The amount of moneys received and expended.

1 (B) The uses to which those moneys were put, including  
2 payment of salaries and benefits, operating expenses, equipment  
3 purchases, and allowable expenditures.

4 (C) Any other relevant information requested.

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

12 ~~14190.45.—(a) Except as provided in subdivisions (b) and (c)~~  
13 ~~of this section, and Section 14190.50, a fee, determined by the~~  
14 ~~department, not to exceed 1 percent of the purchase price for each~~  
15 ~~junk sale, which involves the sale of any scrap metals or alloys,~~  
16 ~~shall be assessed on the seller of junk for the purpose of regulating~~  
17 ~~that seller. The fee assessed pursuant to this section shall be~~  
18 ~~collected by junk dealers and recyclers at the time each sale is~~  
19 ~~conducted, and shall be submitted to the Controller for deposit~~  
20 ~~into the fund.~~

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

24 ~~(c) Each junk sale or transaction, which involves the sale of any~~  
25 ~~scrap metals or alloys, by an automobile dismantler, as defined in~~  
26 ~~Section 220 of the Vehicle Code, shall not be subject to the fee~~  
27 ~~described in subdivision (a).~~

28 ~~14190.50.— This title shall not apply to any of the following:~~

29 ~~(a) A junk sale or transaction, which involves the sale of any~~  
30 ~~scrap metal or alloys, reported by a secondhand dealer or coin~~  
31 ~~dealer pursuant to Section 21628 of the Business and Professions~~  
32 ~~Code.~~

33 ~~(b) A junk sale or transaction, which involves the sale of any~~  
34 ~~scrap metal or alloys, involving either:~~

35 ~~(1) A pawnbroker licensed pursuant to Chapter 3 (commencing~~  
36 ~~with Section 21300) of Division 8 of the Financial Code.~~

37 ~~(2) A secondhand dealer or coin dealer doing business under a~~  
38 ~~secondhand dealer’s license issued pursuant to Section 21641 of~~  
39 ~~the Business and Professions Code.~~

1 ~~14190.55.~~

2 *14190.45.* (a) The program established pursuant to this title  
3 shall not be implemented until the department determines that  
4 sufficient moneys have been deposited in the Metal Theft Task  
5 Force Fund to implement the provisions of this title.

6 (b) The department shall only be required to implement the  
7 provisions of this title upon the availability of moneys in the fund  
8 in an amount sufficient to cover all costs relating to the startup,  
9 implementation, and continuing administration of the provisions  
10 of this title.

11 ~~14190.60.~~

12 *14190.50.* The department may adopt regulations as needed to  
13 administer this title.

14 ~~14190.65.~~

15 *14190.55.* This title shall remain in effect only until December  
16 31, 2020, and as of that date is repealed, unless a later enacted  
17 statute, that is enacted before December 31, 2020, deletes or  
18 extends that date.