

AMENDED IN SENATE AUGUST 4, 2014

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

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

February 21, 2014

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, January 1, 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 and designed to enhance the capacity of the department to serve as the lead law enforcement agency in the investigation and prosecution of illegal recycling operations, and metal theft and related recycling crimes, and would authorize the department to enter into partnerships, as defined, with local law enforcement agencies, regional task forces, and district attorneys for the purpose of achieving the goals of the program. The bill 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, 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.~~

~~The bill would require agencies receiving funding from the program to submit an annual report, as specified, and would 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, 2018, on the status and progress, since the year 2016, of the program in deterring, investigating, and prosecuting *illegal recycling operations, and 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.

Existing law requires, until January 1, 2019, a weighmaster who is a junk dealer or recycler to pay an additional annual fee of \$500 to the Department of Food and Agriculture for each location at which the weighmaster operates, as specified, for the administration and enforcement of specified provisions.

The bill would extend the operation of the above provisions until January 1, 2020, and would additionally require a weighmaster who is a junk dealer or recycler, as defined, to pay a specified additional license fee to be deposited into the Metal Theft Task Force Fund and to be expended by the Department of Justice for the purpose of administering the Metal Theft Task Force Program. The bill would prohibit the proceeds of this fee from exceeding an aggregate total of \$2,000,000 per year.

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:

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

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

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

7 (c) In addition to the license fees set forth in subdivisions (a)
8 and (b), a weighmaster who is a recycler or a junk dealer as defined
9 in Section 21601, or who is performing services on behalf of a
10 recycler or junk dealer, shall also pay to the department a license
11 fee, to be determined by the Department of Justice, in an amount
12 not to exceed the reasonable costs associated with regulating the
13 weighmaster. *the following license fee: The*

14 (A) *One thousand dollars (\$1,000) if the weighmaster is*
15 *operating at a fixed location.*

16 (B) *One thousand five hundred dollars (\$1,500) if the*
17 *weighmaster is operating at other than a fixed location.*

18 (1) *The* proceeds of this fee shall not exceed an aggregate total
19 of two million dollars (\$2,000,000) per year.

20 (d) “License year” means the period of time beginning with the
21 first day of the month the weighmaster is required to be licensed
22 in this state, and ending on the date designated by the secretary
23 for expiration of the license, or yearly intervals after the first
24 renewal.

25 (e) “Location” means a premise on which weighing, measuring,
26 or counting devices are used.

27 (f) This section shall remain in effect only until January 1, ~~2019,~~
28 ~~2020,~~ and as of that date is repealed, unless a later enacted statute,
29 that is enacted before January 1, ~~2019,~~ 2020, deletes or extends
30 that date.

31 *SEC. 2. Section 12704 of the Business and Professions Code,*
32 *as added by Section 4 of Chapter 518 of the Statutes of 2013, is*
33 *amended to read:*

34 12704. (a) A weighmaster shall pay to the department the
35 following license fee for each license year as applicable to the
36 operation:

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

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

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

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

4 (b) “License year” means the period of time beginning with the
5 first day of the month the weighmaster is required to be licensed
6 in this state, and ending on the date designated by the secretary
7 for expiration of the license, or yearly intervals after the first
8 renewal.

9 (c) “Location” means a premise on which weighing, measuring,
10 or counting devices are used.

11 (d) This section shall become operative on January 1, ~~2019~~.
12 2020.

13 ~~SEC. 2.~~

14 *SEC. 3.* Section 12709 of the Business and Professions Code,
15 as amended by Section 5 of Chapter 518 of the Statutes of 2013,
16 is amended to read:

17 12709. (a) All license fees collected pursuant to this chapter
18 shall be deposited in the Department of Food and Agriculture Fund
19 to be expended by the department for the administration and
20 enforcement of this chapter, except as provided in subdivisions
21 (b) and (c).

22 (b) License fees collected pursuant to subdivision (b) of Section
23 12704 shall be deposited in a special account in the Department
24 of Food and Agriculture Fund to be expended by the department
25 for the administration and enforcement of Section 12703.1.

26 (c) License fees collected pursuant to subdivision (c) of Section
27 12704 shall be deposited into the Metal Theft Task Force Fund
28 established pursuant to Section 14190.20 of the Penal Code to be
29 expended by the Department of Justice for the administration of
30 the Metal Theft Task Force Program established pursuant to
31 Section 14190.25 of the Penal Code.

32 (d) This section shall remain in effect only until January 1, ~~2019~~,
33 2020, and as of that date is repealed, unless a later enacted statute,
34 that is enacted before January 1, ~~2019~~, 2020, deletes or extends
35 that date.

36 *SEC. 4.* *Section 12709 of the Business and Professions Code,*
37 *as added by Section 6 of Chapter 518 of the Statutes of 2013, is*
38 *amended to read:*

39 12709. (a) All license fees collected pursuant to this chapter
40 shall be deposited in the Department of Food and Agriculture Fund

1 to be expended by the department for the administration and
2 enforcement of this chapter.

3 (b) This section shall become operative on January 1, ~~2019~~
4 ~~2020~~.

5 ~~SEC. 3.~~

6 *SEC. 5.* Title 11.8 (commencing with Section 14190.15) is
7 added to Part 4 of the Penal Code, to read:

8

9 TITLE 11.8. THEFT AND RECYCLING OF METALS

10

11 14190.15. For the purposes of this title, the following
12 definitions shall apply:

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

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

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

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

19 (e) "Junk dealer" has the same meaning as set forth in Section
20 21601 of the Business and Professions Code.

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

22 (g) "Recycler" has the same meaning as set fourth in Section
23 21605 of the Business and Professions Code.

24 14190.20. (a) The Metal Theft Task Force Fund is hereby
25 established within the ~~department~~. *State Treasury*. Notwithstanding
26 Section 13340 of the Government Code, the fund is hereby
27 continuously appropriated to the department for the purposes set
28 forth in this title. Transfers to the Metal Theft Task Force Fund
29 shall be deposited ~~with the department~~. *in the State Treasury, or*
30 *in a state depository bank approved by the Treasurer.*

31 (b) The fund shall consist of moneys deposited into it ~~from~~
32 *received from, or recovered by*, the federal government, industry,
33 and private sources, *moneys appropriated by the Legislature*, and
34 from fees collected pursuant to subdivision (c) of Section 12704
35 of the Business and Professions Code. General Fund moneys shall
36 not be deposited into the fund nor used to start up, implement, or
37 support the continuing administration of the provisions of this title.

38 (c) The fund shall be administered by the department. ~~The~~
39 ~~department may enter into agreements with other state agencies~~
40 ~~to administer grants to applicant agencies from the fund.~~

1 (d) Moneys distributed from the fund pursuant to the program
2 established pursuant to Section 14190.25 are intended to ensure
3 that the department and local law enforcement and district attorneys
4 ~~are~~ is equipped with the necessary personnel and tools to
5 successfully combat metal theft and related recycling ~~crimes~~
6 *crimes*, with a primary focus of shutting down illegal recycling
7 operations, which include, but are not limited to, all of the
8 following offenses:

9 (1) ~~Illegal recycling operations.~~ *operations, in which a junk*
10 *dealer or recycler does not possess any of the following:*

11 (A) *A current business license.*

12 (B) *A stormwater permit, application for a stormwater permit,*
13 *or a statement indicating that the applicant has either filed an*
14 *application for a stormwater permit or is not required to obtain*
15 *a stormwater permit.*

16 (C) *A weighmaster's license issued pursuant to Chapter 7*
17 *(commencing with Section 12700) of Division 5 of the Business*
18 *and Professions Code.*

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

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

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

25 (5) *The transportation of stolen metals from another state to this*
26 *state.*

27 (e) (1) *After deduction of the department's actual and necessary*
28 *administrative costs, moneys in the fund shall be expended for the*
29 *exclusive purpose of enhancing the capacity of the department to*
30 *serve as the lead law enforcement agency in deterring,*
31 *investigating, and prosecuting illegal recycling operations, and*
32 *metal theft and related recycling crimes.*

33 (2) *Moneys in the fund may be expended for the purpose of*
34 *enabling the department to enter into partnerships with local law*
35 *enforcement agencies, regional task forces, or district attorneys.*

36 14190.25. (a) (1) *The department shall establish and*
37 *administer the Metal Theft Task Force Program. Administration*
38 *of the overall program and the evaluation and monitoring of all*
39 *grants made pursuant to this title shall be performed by the*
40 *department. The*

1 (2) *The department may enter into an agreement with any state*
2 *agency for the purpose of administering the program and the*
3 *evaluation and monitoring of all grants made pursuant to this title.*
4 *program.*

5 ~~(b) Moneys appropriated to the department for the program shall~~
6 ~~be expended for programs that enhance the capacity of local law~~
7 ~~enforcement and prosecutors to deter, investigate, and prosecute~~
8 ~~illegal recycling operations, and metal theft and related recycling~~
9 ~~crimes. The department may expend funds to serve as the lead law~~
10 ~~enforcement agency in the investigation of metal theft crimes.~~

11 ~~(c) After deduction of the department's actual and necessary~~
12 ~~administrative costs, the moneys in the fund shall be expended for~~
13 ~~programs to enhance the capacity of local law enforcement and~~
14 ~~prosecutors to deter, investigate, and prosecute illegal recycling~~
15 ~~operations, and metal theft and related recycling crimes. The~~
16 ~~department may expend funds to serve as the lead law enforcement~~
17 ~~agency in the investigation of metal theft crimes.~~

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

27 *(b) (1) The program shall be designed to enhance the capacity*
28 *of the department to serve as the lead law enforcement agency in*
29 *the investigation and prosecution of illegal recycling operations*
30 *and metal theft and related recycling crimes.*

31 *(2) The department shall consult at least twice per calendar*
32 *year with pertinent recycling trade associations, including, but*
33 *not limited to, the Institute of Scrap Recycling Industries,*
34 *California Chapter and the California Metal Coalition, to*
35 *determine the best allocation of resources, for purposes of the*
36 *program, from an industry perspective, in preventing metal theft,*
37 *with an emphasis on eliminating illegal recycling operations from*
38 *the state.*

39 *(c) The department may enter into partnerships with local law*
40 *enforcement agencies, regional task forces, or district attorneys.*

1 *For purposes of this title, “partnership” means a collaborative*
2 *effort involving financial contributions by the department to*
3 *achieve the goals of the program established by this title.*

4 ~~14190.30. (a) The department shall develop administrative~~
5 ~~procedures for the selection of agencies to receive a grant under~~
6 ~~this program, which shall include, at a minimum, the following~~
7 ~~requirements:~~

8 ~~(1) That each agency seeking a grant submit a written application~~
9 ~~to the department setting forth in detail the proposed use of the~~
10 ~~grant funds.~~

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

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

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

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

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

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

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

30 ~~(5) Local moneys available to assist the agencies.~~

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

32 ~~(7) The estimated number of illegal recycling operations in the~~
33 ~~area.~~

34 ~~(c) The department may enter into an agreement with any state~~
35 ~~agency for the purpose of developing administrative procedures~~
36 ~~and specific guidelines for the selection of agencies to receive a~~
37 ~~grant under this program.~~

38 ~~14190.35. (a) Each agency awarded a grant under the program~~
39 ~~during the previous funding cycle shall, upon reapplication for~~
40 ~~funds to the department in each successive year and in addition to~~

1 any other information required by this title, submit a detailed
 2 accounting of moneys received and expended in the immediately
 3 preceding year.

4 (b) The accounting shall include all of the following information:
 5 (1) The amount of moneys received and expended.
 6 (2) The use to which those moneys were put, including payment
 7 of salaries and expenses, purchase of equipment and supplies, and
 8 other expenditures by type.
 9 (3) The number of filed crime reports, investigations, arrests,
 10 and convictions for metal theft and related recycling crimes that
 11 resulted from expenditure of the funds.

12 14190.40. (a) The department may regularly review the
 13 effectiveness of the program in deterring, investigating, and
 14 prosecuting metal theft and related recycling crimes and shall,
 15 notwithstanding Section 10231.5 of the Government Code, submit
 16 a report to the Legislature and Governor that is based on reports
 17 submitted to the department pursuant to subdivision (b).

18 (b) Agencies receiving funding from the program shall submit
 19 an annual report to the department that details all of the following:
 20 (1) The number of metal theft and recycling crime cases filed
 21 in the immediately preceding year.
 22 (2) The number of metal theft and recycling crime cases
 23 investigated in the immediately preceding year.
 24 (3) The number of victims involved in the cases reported.
 25 (4) The number of convictions obtained in the immediately
 26 preceding year.
 27 (5) The total aggregate monetary loss suffered by the victims,
 28 including damage caused by the theft.
 29 (6) The number of illegal recycling operations or illegal junk
 30 dealers, or both, shut down.
 31 (7) An accounting of moneys received and expended in the
 32 immediately preceding year, which shall include all of the
 33 following:
 34 (A) The amount of moneys received and expended.
 35 (B) The uses to which those moneys were put, including
 36 payment of salaries and benefits, operating expenses, equipment
 37 purchases, and allowable expenditures.
 38 (C) Any other relevant information requested.
 39 (e) By no

1 14190.30. No later than December 31, ~~2019~~, 2018, the
2 department shall, notwithstanding Section 10231.5 of the
3 Government Code, submit a comprehensive report to the
4 Legislature on the status and progress, since the year 2016, of the
5 program in deterring, investigating, and prosecuting *illegal*
6 *recycling operations*, and metal theft and related recycling crimes.
7 The report shall be based on each annual report submitted to the
8 department pursuant to subdivision (b); include, but be not limited
9 to, all of the following information:

10 (a) *The number of metal theft and related recycling crime cases*
11 *filed.*

12 (b) *The number of metal theft and related recycling crimes cases*
13 *investigated.*

14 (c) *The number of victims involved in the cases reported.*

15 (d) *The number of convictions obtained.*

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

18 (f) *The number of illegal recycling operations or illegal junk*
19 *dealers or recyclers, or both, shut down.*

20 (g) *An accounting of moneys received and expended in each*
21 *program year, commencing with 2016, which shall include all of*
22 *the following:*

23 (1) *The amount of moneys received and expended by the*
24 *department.*

25 (2) *The use to which those moneys were put, including payment*
26 *of salaries and benefits, operating expenses, equipment purchases,*
27 *and allowable expenditures.*

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

29 ~~14190.45.~~

30 14190.35. (a) The program established pursuant to this title
31 shall not be implemented until the department determines that
32 sufficient moneys have been deposited in the Metal Theft Task
33 Force Fund to implement the provisions of this title.

34 (b) The department shall only be required to implement the
35 provisions of this title upon the availability of moneys in the fund
36 in an amount sufficient to cover all costs relating to the startup,
37 implementation, and continuing administration of the provisions
38 of this title.

1 ~~14190.50.~~
2 *14190.40.* The department may adopt regulations as needed
3 to administer this title.
4 ~~14190.55.~~
5 *14190.45.* This title shall remain in effect only until ~~December~~
6 ~~31, January 1, 2020,~~ and as of that date is repealed, unless a later
7 enacted statute, that is enacted before ~~December 31, January 1,~~
8 2020, deletes or extends that date.