



5.60.010 Scrap metal business license required – Definitions – Fees.

A. It is unlawful for any person to engage in the scrap metal business, as a scrap metal processor, scrap metal recycler, or a scrap metal supplier, without having first obtained a license from the City, and paying the license fee.

B. "Scrap metal business," as defined by this chapter, shall include:

1. "Scrap metal processor," which means a person or entity that conducts business from a permanent location within the City, that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and maintains a hydraulic baler, shearing device, or shredding device for recycling.

2. "Scrap metal recycler," which means a person or entity that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of aggregation and sale to another scrap business and that maintains a fixed place of business within the City.

3. "Scrap metal supplier," which means a person or entity that is engaged in the business of purchasing or receiving private metal property or nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycler or scrap metal processor and that does business within the City.

C. The provisions of this chapter do not apply to transactions involving metal from the components of vehicles acquired by vehicle wreckers, hulk haulers, or scrap processors licensed under Chapter [46.79](#) or [46.80](#) RCW, and acquired in accordance with those laws or transactions conducted by the following:

1. Motor vehicle dealers licensed under Chapter [46.70](#) RCW;

2. Persons or entities in the business of operating an automotive repair facility as defined under RCW [46.71.011](#); and

3. Persons or entities in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

D. The license fee for each scrap metal business shall be as set forth in Chapter [5.52](#) SMC. [Ord. 2014-4 § 1, 2014.]



5.60.020 State license required – Adoption of statute by reference.

A. As a condition of the issuance of a scrap metal business license as provided in SMC [5.60.010](#), the business license applicant shall have applied for, and received, a State scrap metal license.

B. For the purpose of regulating the scrap metal business, the following statutes, and their subsequent amendments and additions thereto, are hereby adopted by reference:

RCW

[19.290.010](#) Definitions

[19.290.020](#) Private Metal Property or Nonferrous Metal Property – Records Required

[19.290.030](#) Metal Property and Metallic Wire – Requirements for Transaction

[19.290.040](#) Scrap Metal Businesses – Record of Commercial Accounts

[19.290.050](#) Reports to Law Enforcement – Records Exempt from Public Disclosure – Private Civil Liability

[19.290.060](#) Stolen Metal Property – Preserving Evidence

[Ord. 2014-4 § 1, 2014.]

5.60.030 Prohibited acts – Penalties.

It is a gross misdemeanor for:

A. Any person or entity to engage in the scrap metal business without having first applied for and received a scrap metal business license under this chapter and from the Washington State Department of Licensing or engaging in such business following the expiration or revocation of such license.

B. Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of private metal property, nonferrous metal property, or commercial metal property in order to deceive a scrap metal business.

C. Any scrap metal business to enter into a transaction to purchase or receive any private metal property, nonferrous metal property, or commercial metal property where the manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated.

D. Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter and Chapter [19.290](#) RCW.

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E. Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property from any person under the age of 18 years or any person who is discernibly under the influence of intoxicating liquor or drugs.

F. Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past four years whether the person is acting on his or her own behalf or as the agent of another.

G. Any person to sign the declaration required under RCW [19.290.020](#) knowing that the private metal property or nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under RCW [19.290.020](#) constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the private metal property or nonferrous metal property subject to the transaction was stolen.

H. Any scrap metal business to possess private metal property or commercial metal property that was not lawfully purchased or received under the requirements of this chapter or Chapter [19.290](#) RCW.

I. Any scrap metal business to engage in a series of transactions valued at less than \$30.00 with the same seller for the purposes of avoiding the requirements of RCW [19.290.030](#)(4).

J. Any person to knowingly make a false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, with the intent to deceive a scrap metal business as to the actual seller of the scrap metal. [Ord. 2014-4 § 1, 2014.]

5.60.040 Inspection of licensed premises and records.

The Police Chief of the City of Sunnyside, or his designee, may make periodic inspections of the licensee's licensed premises and records provided for in this chapter and as required by Chapter [19.290](#) RCW, and furnish a certificate of inspection to the Department of Licensing in such manner as may be determined by

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the Department. Licensees are subject to unannounced periodic inspections as described in this section.
[Ord. 2014-4 § 1, 2014.]

5.60.050 Enforcement.

In addition to those requirements provided in Chapter [5.56](#) SMC, including revocation of license, enforcement of this chapter may include that authority granted by the following statutes, their amendments, and additions as follows:

RCW

[19.290.080](#) Civil Penalties

[19.290.220](#) Scrap Theft Alert System

[19.290.230](#) Seizure and Forfeiture

[19.290.250](#) No-Buy List Database Program – Scrap Metal Business to Determine If Customer Is Listed

[Ord. 2014-4 § 1, 2014.]

19.290.010

Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial account" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under RCW [19.290.030](#).

(2) "Commercial enterprise" means a corporation, partnership, limited liability company, association, state agency, political subdivision of the state, public corporation, or any other legal or commercial entity.

(3) "Commercial metal property" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including but not limited to a telephone, commercial mobile radio services, cable, electric, water, natural gas, or other utility, or railroad; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one inch tubing, forty-two inches high with four-inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.

(4) "Engage in business" means conducting more than twelve transactions in a twelve-month period.

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(5) "Nonferrous metal property" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys.

"Nonferrous metal property" does not include precious metals.

(6) "Person" means an individual, domestic or foreign corporation, limited liability corporation, partnership, trust, unincorporated association, or other entity; an affiliate or associate of any such person; or any two or more persons acting as a partnership, syndicate, or other group for the purpose of acquiring, holding, or dispersing of securities of a domestic or foreign corporation.

(7) "Precious metals" means gold, silver, and platinum.

(8) "Private metal property" means catalytic converters, either singly or in bundles, bales, or bulk, that have been removed from vehicles for sale as a specific commodity.

(9) "Record" means a paper, electronic, or other method of storing information.

(10) "Scrap metal business" means a scrap metal supplier, scrap metal recycler, and scrap metal processor.

(11) "Scrap metal processor" means a person with a current business license that conducts business from a permanent location, that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of altering the metal in preparation for its use as feedstock in the manufacture of new products, and that maintains a hydraulic baler, shearing device, or shredding device for recycling.

(12) "Scrap metal recycler" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property, nonferrous metal property, and commercial metal property for the purpose of aggregation and sale to another scrap metal business and that maintains a fixed place of business within the state.

(13) "Scrap metal supplier" means a person with a current business license that is engaged in the business of purchasing or receiving private metal property or nonferrous metal property for the purpose of aggregation and sale to a scrap metal recycler or scrap metal processor and that does not maintain a fixed business location in the state.

(14) "Transaction" means a pledge, or the purchase of, or the trade of any item of private metal property or nonferrous metal property by a scrap metal business from a member of the general public. "Transaction" does not include donations or the purchase or receipt of private metal property or nonferrous metal property by a scrap metal business from a commercial enterprise, from another scrap metal business, or from a duly authorized employee or agent of the commercial enterprise or scrap metal business.

[2013 c 322 § 4; 2008 c 233 § 1; 2007 c 377 § 1.]

NOTES:

Reviser's note: The definitions in this section have been alphabetized pursuant to RCW 1.08.015(2)(k).

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19.290.020

Private metal property or nonferrous metal property—Records required.

(1) At the time of a transaction, every scrap metal business doing business in this state shall produce wherever that business is conducted an accurate and legible record of each transaction involving private metal property or nonferrous metal property. This record must be written in the English language, documented on a standardized form or in electronic form, and contain the following information:

- (a) The signature of the person with whom the transaction is made;
- (b) The time, date, location, and value of the transaction;
- (c) The name of the employee representing the scrap metal business in the transaction;
- (d) The name, street address, and telephone number of the person with whom the transaction is made;
- (e) The license plate number and state of issuance of the license plate on the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;
- (f) A description of the motor vehicle used to deliver the private metal property or nonferrous metal property subject to the transaction;
- (g) The current driver's license number or other government-issued picture identification card number of the seller or a copy of the seller's government-issued picture identification card; and
- (h) A description of the predominant types of private metal property or nonferrous metal property subject to the transaction, utilizing the institute of scrap recycling industries' generally accepted terminology, and including weight, quantity, or volume.

(2) For every transaction that involves private metal property or nonferrous metal property, every scrap metal business doing business in the state shall require the person with whom a transaction is being made to sign a declaration. The declaration may be included as part of the transactional record required under subsection (1) of this section, or on a receipt for the transaction. The declaration must state substantially the following:

"I, the undersigned, affirm under penalty of law that the property that is subject to this transaction is not to the best of my knowledge stolen property."

The declaration must be signed and dated by the person with whom the transaction is being made. An employee of the scrap metal business must witness the signing and dating of the declaration and sign the declaration accordingly before any transaction may be consummated.

(3) The record and declaration required under this section must be open to the inspection of any commissioned law enforcement officer of the state or any of its political subdivisions at all times during the ordinary hours of business, or at reasonable times if ordinary hours of business are not kept, and must be maintained wherever that business is conducted for five years following the date of the transaction.

[2013 c 322 § 5; 2008 c 233 § 2; 2007 c 377 § 2.]

19.290.030**Metal property and metallic wire—Requirements for transactions.**

(1) No scrap metal business may enter into a transaction to purchase or receive private metal property or nonferrous metal property from any person who cannot produce at least one piece of current government-issued picture identification, including a valid driver's license or identification card issued by any state.

(2) No scrap metal business may purchase or receive private metal property or commercial metal property unless the seller: (a) Has a commercial account with the scrap metal business; (b) can prove ownership of the property by producing written documentation that the seller is the owner of the property; or (c) can produce written documentation that the seller is an employee or agent authorized to sell the property on behalf of a commercial enterprise.

(3) No scrap metal business may enter into a transaction to purchase or receive metallic wire that was burned in whole or in part to remove insulation unless the seller can produce written proof to the scrap metal business that the wire was lawfully burned.

(4)(a) No transaction involving private metal property or nonferrous metal property may be made in cash or with any person who does not provide a street address under the requirements of RCW [19.290.020](#) except as described in (b) of this subsection. The person with whom the transaction is being made may only be paid by a nontransferable check, mailed by the scrap metal business to a street address provided under RCW [19.290.020](#), no earlier than three days after the transaction was made. A transaction occurs on the date provided in the record required under RCW [19.290.020](#).

(b) A scrap metal business that is in compliance with this chapter that digitally captures: (i) A copy of one piece of current government-issued picture identification, including a current driver's license or identification card issued by any state and (ii) either a picture or video of either the material subject to the transaction in the form received or the material subject to the transaction within the vehicle which the material was transported to the scrap metal business, may pay up to a maximum of thirty dollars in cash, stored value device, or electronic funds transfer. The balance of the value of the transaction may be made by nontransferable check, stored value device, or electronic funds transfer at the time the transaction is made. A scrap metal businesses usage of video surveillance shall be sufficient to comply with this subsection (4)(b)(ii) as long as the video captures the material subject to the transaction. A digital image or picture taken under this subsection must be available for two years from the date of transaction, while a video recording must be available for thirty days.

(5) No scrap metal business may purchase or receive beer kegs from anyone except a manufacturer of beer kegs or licensed brewery.

[[2013 c 322 § 6](#); [2008 c 233 § 3](#); [2007 c 377 § 3](#).]

19.290.040**Scrap metal businesses—Record of commercial accounts.**

(1) Every scrap metal business must create and maintain a permanent record with a commercial enterprise, including another scrap metal business, in order to establish a commercial account. That record, at a minimum, must include the following information:

- (a) The full name of the commercial enterprise or commercial account;
- (b) The business address and telephone number of the commercial enterprise or commercial account; and
- (c) The full name of the person employed by the commercial enterprise who is authorized to deliver private metal property, nonferrous metal property, and commercial metal property to the scrap metal business.

(2) The record maintained by a scrap metal business for a commercial account must document every purchase or receipt of private metal property, nonferrous metal property, and commercial metal property from the commercial enterprise. The record must be maintained for three years following the date of the transfer or receipt. The documentation must include, at a minimum, the following information:

- (a) The time, date, and value of the property being purchased or received;
- (b) A description of the predominant types of property being purchased or received; and
- (c) The signature of the person delivering the property to the scrap metal business.

[2013 c 322 § 7; 2008 c 233 § 4; 2007 c 377 § 4.]

19.290.050**Reports to law enforcement—Records exempt from public disclosure—Private civil liability.**

(1) Upon request by any commissioned law enforcement officer of the state or any of its political subdivisions, every scrap metal business shall furnish a full, true, and correct transcript of the records from the purchase or receipt of private metal property, nonferrous metal property, and commercial metal property involving only a specified individual, vehicle, or item of private metal property, nonferrous metal property, or commercial metal property. This information may be transmitted within a specified time of not less than two business days to the applicable law enforcement agency electronically, by facsimile transmission, or by modem or similar device, or by delivery of computer disk subject to the requirements of, and approval by, the chief of police or the county's chief law enforcement officer.

(2) Any records created or produced under this section are exempt from disclosure under chapter 42.56 RCW.

(3) If the scrap metal business has good cause to believe that any private metal property, nonferrous metal property, or commercial metal property in his or her possession has been previously lost or stolen, the scrap metal business shall promptly report that fact to the applicable commissioned law enforcement

officer of the state, the chief of police, or the county's chief law enforcement officer, together with the name of the owner, if known, and the date when and the name of the person from whom it was received.

(4) Compliance with this section shall not give rise to or form the basis of private civil liability on the part of a scrap metal business or scrap metal recycler.

[2013 c 322 § 8; 2008 c 233 § 5; 2007 c 377 § 5.]

19.290.060

Stolen metal property—Preserving evidence.

(1) Following notification in writing from a commissioned law enforcement officer of the state or any of its political subdivisions that an item of private metal property, nonferrous metal property, or commercial metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification upon the property. The scrap metal business shall hold the property for a period of time as directed by the applicable law enforcement agency up to a maximum of ten business days.

(2) A commissioned law enforcement officer of the state or any of its political subdivisions shall not place on hold any item of private metal property, nonferrous metal property, or commercial metal property unless that law enforcement agency reasonably suspects that the property is a lost or stolen item. Any hold that is placed on the property must be removed within ten business days after the property on hold is determined not to be stolen or lost and the property must be returned to the owner or released.

[2013 c 322 § 9; 2008 c 233 § 6; 2007 c 377 § 6.]

19.290.070

Violations—Penalty.

It is a gross misdemeanor under chapter 9A.20 RCW for:

(1) Any person to deliberately remove, alter, or obliterate any manufacturer's make, model, or serial number, personal identification number, or identifying marks engraved or etched upon an item of private metal property, nonferrous metal property, or commercial metal property in order to deceive a scrap metal business;

(2) Any scrap metal business to enter into a transaction to purchase or receive any private metal property, nonferrous metal property, or commercial metal property where the manufacturer's make, model, or serial

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number, personal identification number, or identifying marks engraved or etched upon the property have been deliberately and conspicuously removed, altered, or obliterated;

(3) Any person to knowingly make, cause, or allow to be made any false entry or misstatement of any material matter in any book, record, or writing required to be kept under this chapter;

(4) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property from any person under the age of eighteen years or any person who is discernibly under the influence of intoxicating liquor or drugs;

(5) Any scrap metal business to enter into a transaction to purchase or receive private metal property, nonferrous metal property, or commercial metal property with anyone whom the scrap metal business has been informed by a law enforcement agency to have been convicted of a crime involving drugs, burglary, robbery, theft, or possession of or receiving stolen property, manufacturing, delivering, or possessing with intent to deliver methamphetamine, or possession of ephedrine or any of its salts or isomers or salts of isomers, pseudoephedrine or any of its salts or isomers or salts of isomers, or anhydrous ammonia with intent to manufacture methamphetamine within the past four years whether the person is acting in his or her own behalf or as the agent of another;

(6) Any person to sign the declaration required under RCW [19.290.020](#) knowing that the private metal property or nonferrous metal property subject to the transaction is stolen. The signature of a person on the declaration required under RCW [19.290.020](#) constitutes evidence of intent to defraud a scrap metal business if that person is found to have known that the private metal property or nonferrous metal property subject to the transaction was stolen;

(7) Any scrap metal business to possess private metal property or commercial metal property that was not lawfully purchased or received under the requirements of this chapter;

(8) Any scrap metal business to engage in a series of transactions valued at less than thirty dollars with the same seller for the purposes of avoiding the requirements of RCW [19.290.030](#)(4); or

(9) Any person to knowingly make a false or fictitious oral or written statement or to furnish or exhibit any false, fictitious, or misrepresented identification, with the intent to deceive a scrap metal business as to the actual seller of the scrap metal.

[[2013 c 322 § 10](#); [2008 c 233 § 7](#); [2007 c 377 § 7](#).]

19.290.080

Civil penalties.

(1) Each violation of the requirements of this chapter that are not subject to the criminal penalties under RCW [19.290.070](#) shall be punishable, upon conviction, by a fine of not more than one thousand dollars.

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(2) Within two years of being convicted of a violation of any of the requirements of this chapter that are not subject to the criminal penalties under RCW [19.290.070](#), each subsequent violation shall be punishable, upon conviction, by a fine of not more than two thousand dollars.

[[2007 c 377 § 8.](#)]

19.290.090

Exemptions from chapter.

The provisions of this chapter do not apply to transactions involving metal from the components of vehicles acquired by vehicle wreckers, hulk haulers, or scrap processors licensed under chapter [46.79](#) or [46.80](#) RCW, and acquired in accordance with those laws or transactions conducted by the following:

- (1) Motor vehicle dealers licensed under chapter [46.70](#) RCW;
- (2) Persons in the business of operating an automotive repair facility as defined under RCW [46.71.011](#); and
- (3) Persons in the business of buying or selling empty food and beverage containers, including metal food and beverage containers.

[[2013 c 322 § 11](#); [2008 c 233 § 8](#); [2007 c 377 § 9.](#)]

19.290.100

Scrap metal license—Penalties.

- (1) It is unlawful for a person to engage in the business of a scrap metal processor, scrap metal recycler, or scrap metal supplier without having first applied for and received a scrap metal license.
- (2)(a) Except as provided in (b) of this subsection, a person or firm engaged in the unlawful activity described in this section is guilty of a gross misdemeanor.
- (b) A second or subsequent offense is a class C felony.

[[2013 c 322 § 12.](#)]

NOTES:

Effective date—2013 c 322 §§ 12-23: "Sections 12 through 23 of this act take effect January 1, 2014." [[2013 c 322 § 35.](#)]

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Implementation—2013 c 322 §§ 12-23: "The director of the department of licensing may take the necessary steps to ensure that sections 12 through 23 of this act are implemented on January 1, 2014." [[2013 c 322 § 36.](#)]

19.290.110

Scrap metal license—Application, renewal—Required information.

Application for a scrap metal license or renewal of a scrap metal license shall be made on a form for this purpose, furnished by the department of licensing, and shall be signed by the license holder or his or her authorized agent and shall include the following information:

- (1) Name and address of the person, firm, partnership, association, limited liability company, or corporation under which name the business is to be conducted;
- (2) Names and residence address of all persons having an interest in the business or, if the owner is a corporation, the names and addresses of the officers thereof;
- (3) Certificate of approval of the chief executive officer or chief of police, or a designee, if the application is for a license within an incorporated city or town or, in any unincorporated area, the county legislative authority, the sheriff, or a designee, certifying that:
 - (a) The applicant has an established place of business at the address shown on the application;
 - (b) There are no known environmental, building code, zoning, or other land use regulation violations associated with the business being located at the address; and
 - (c) In the case of a renewal of a scrap metal license, the applicant is in compliance with this chapter: PROVIDED, That an authorized representative of the department of licensing may make the certification described in this section in any instance;
- (4) Any other information that the department of licensing may require.

[[2013 c 322 § 13.](#)]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.120

Scrap metal license application—Department of licensing to issue license—Display of certificate.

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The application, together with the required fee, shall be forwarded to the department of licensing. Upon receipt of the application the department shall, if the application is in order, issue a scrap metal license authorizing the processor, recycler, or supplier to do business as such and forward the fee to the state treasurer. Upon receiving the certificate, the owner shall cause it to be prominently displayed in the place of business, where it may be inspected by an investigating officer at any time. Every license must be issued in the name of the applicant and the holder thereof may not allow any other person to use the license.

[2013 c 322 § 14.]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.130

Scrap metal license—Surety bond—Action for recovery.

Before issuing a scrap metal license to a scrap metal processor or scrap metal recycler, the department of licensing shall require the applicant to file with the department a surety bond in the amount of ten thousand dollars, running to the state of Washington, and executed by a surety company authorized to do business in the state of Washington. The bond shall be approved as to form by the attorney general and conditioned upon the licensee conducting the business in conformity with the provisions of this chapter. Except as prohibited elsewhere in this chapter, any person who has suffered loss or damage by reason of fraud or gross negligence, or an intentional or reckless violation of the terms of this chapter, or misrepresentation on the part of the scrap metal processor or recycler, may institute an action for recovery against the licensee and surety upon the bond. However, the aggregate liability of the surety to all persons shall in no event exceed the amount of the bond.

[2013 c 322 § 15.]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

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Scrap metal license—Renewal—Surrender of license.

A license issued on the scrap metal license application remains in force until suspended or revoked and may be renewed annually upon reapplication and upon payment of the required fee. A licensee who fails or neglects to renew the license before the assigned expiration date shall pay the fee for an original scrap metal license as provided in this chapter.

Whenever a scrap metal processor, recycler, or supplier ceases to do business as such or the license has been suspended or revoked, the licensee shall immediately surrender the license to the department of licensing.

[2013 c 322 § 16.]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.150

License plates—Fee.

The licensee shall obtain a special set of license plates in addition to the regular licenses and plates required for the operation of such vehicles. The special plates must be displayed on vehicles owned and/or operated by the licensee and used in the conduct of the business. The fee for these plates shall be five dollars for the original plates and two dollars for each additional set of plates bearing the same license number. A licensee with more than one licensed location in the state may use special plates bearing the same license number for vehicles operated out of any of the licensed locations.

[2013 c 322 § 17.]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

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Uniform regulation of business and professions act.

The uniform regulation of business and professions act, chapter [18.235 RCW](#), governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter.

[[2013 c 322 § 18.](#)]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.170

Cancellation of scrap metal license—Refusal of issuance.

If a person whose scrap metal license has previously been canceled for cause by the department of licensing files an application for a license to conduct business as a scrap metal processor, recycler, or supplier, or if the department is of the opinion that the application is not filed in good faith or that the application is filed by some person as a subterfuge for the real person in interest whose license has previously been canceled for cause, the department may refuse to issue the person a license to conduct business as a scrap metal processor, recycler, or supplier.

[[2013 c 322 § 19.](#)]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.180

Director of licensing authorized to adopt rules and regulations, set license and renewal fees.

(1) The director of licensing is hereby authorized to adopt reasonable rules and regulations not in conflict with provisions hereof for the proper operation and enforcement of this chapter.

(2) The director shall set all license and renewal fees in accordance with RCW [43.24.086](#).

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[2013 c 322 § 20.]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.190

Inspection of licensed premises and records—Certificate of inspection.

The chiefs of police, the county sheriffs, and the Washington state patrol may make periodic inspection of the licensee's licensed premises and records provided for in this chapter during normal business hours, and furnish a certificate of inspection to the department of licensing in such manner as may be determined by the department. In any instance, an authorized representative of the department may make the inspection. Licensees are subject to unannounced periodic inspections, as described in this section.

[2013 c 322 § 21.]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.200

State preemption.

The state of Washington hereby fully occupies and preempts the entire field of regulation of scrap metal processors, recyclers, or suppliers within the boundaries of the state. Any political subdivision in this state may enact or enforce only those laws and ordinances relating to the regulation of scrap metal processors, recyclers, or suppliers that are specifically authorized by state law and are consistent with this chapter. Nothing in this chapter is intended to limit the authority of any political subdivision to impose generally applicable zoning, land use, permitting, general business licensing, environmental, and health and safety requirements or authorized business taxes upon scrap metal processors, recyclers, or suppliers within their jurisdictions. Local ordinances pertaining specifically to scrap metal processors, recyclers, or suppliers shall have the same or lesser penalty as provided for by state law. Local scrap metal laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be

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enacted and are hereby preempted and repealed, regardless of the code, charter, or home rule status of such political subdivision.

[2013 c 322 § 22.]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.210

Subpoenas.

(1) In addition to the powers granted in chapter [18.235](#) RCW, the department of licensing or its authorized agent may examine or subpoena any persons, books, papers, records, data, vehicles, or metal property bearing upon the investigation or proceeding under this chapter.

(2) The persons subpoenaed may be required to testify and produce any books, papers, records, data, vehicles, or metal property that the director of licensing deems relevant or material to the inquiry.

(3) The director of the department of licensing or an authorized agent may administer an oath to the person required to testify, and a person giving false testimony after the administration of the oath is guilty of perjury in the first degree under RCW [9A.72.020](#).

(4)(a) Any authorized representative of the director of the department of licensing may apply for and obtain a superior court order approving and authorizing a subpoena in advance of its issuance. The application may be made in the county where the subpoenaed person resides or is found, or the county where the subpoenaed records or documents are located, or in Thurston county. The application must:

(i) State that an order is sought pursuant to this subsection;

(ii) Adequately specify the records, documents, or testimony; and

(iii) Declare under oath that an investigation is being conducted for a lawfully authorized purpose related to an investigation within the department's authority and that the subpoenaed documents or testimony are reasonably related to an investigation within the department's authority.

(b) Where the application under this subsection is made to the satisfaction of the court, the court must issue an order approving the subpoena. An order under this subsection constitutes authority of law for the agency to subpoena the records or testimony.

(c) Any authorized representative of the director of the department of licensing may seek approval and a court may issue an order under this subsection without prior notice to any person, including the person to whom the subpoena is directed and the person who is the subject of an investigation.

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(5) Any records created or produced under this section are exempt from disclosure under chapter [42.56](#) RCW.

[[2013 c 322 § 23.](#)]

NOTES:

Effective date—Implementation—2013 c 322 §§ 12-23: See notes following RCW [19.290.100](#).

19.290.220

Scrap theft alert system.

(1) Law enforcement agencies may register with the scrap theft alert system that is maintained and provided at no charge to users by the institute of scrap recycling industries, incorporated, or its successor organization, to receive alerts regarding thefts of private, nonferrous, or commercial metal property in the relevant geographic area.

(2) Any business licensed under this chapter shall:

- (a) Sign up with the scrap theft alert system that is maintained and provided at no charge to users by the institute of scrap recycling industries, incorporated, or its successor organization, to receive alerts regarding thefts of private, nonferrous, or commercial metal property in the relevant geographic area;
- (b) Download the scrap metal theft alerts generated by the scrap theft alert system on a daily basis;
- (c) Use the alerts to identify potentially stolen commercial metal property, nonferrous metal property, and private metal property; and
- (d) Maintain for ninety days copies of any theft alerts received and downloaded pursuant to this section.

[[2013 c 322 § 25.](#)]

19.290.230

Seizure and forfeiture.

(1) The following personal property is subject to seizure and forfeiture and no property right exists in them: All personal property including, but not limited to, any item, object, tool, substance, device, weapon, machine, vehicle of any kind, money, security, or negotiable instrument, which the seizing agency proves by a preponderance of the evidence was used or intended to be used by its owner or the person in charge

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to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, or which the seizing agency proves by a preponderance of the evidence was knowingly or intentionally furnished or was intended to be furnished by any person in the commission of, as a result of, or as compensation for the commission of, a crime involving theft, trafficking, or the unlawful possession of commercial metal property, or which the property owner acquired in whole or in part with proceeds traceable to a knowing or intentional commission of a crime involving the theft, trafficking, or unlawful possession of commercial metal property provided that such activity is not less than a class C felony; except that:

(a) No vehicle used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this section unless the seizing agency proves by a preponderance of the evidence that the owner or other person in charge of the vehicle is a consenting party or is privy to any crime involving theft, trafficking, or the unlawful possession of commercial metal property;

(b) A forfeiture of property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party neither had actual or constructive knowledge of nor consented to the commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property; and

(c) A property owner's property is not subject to seizure if an employee or agent of that property owner uses the property owner's property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent.

(2) The following real property is subject to seizure and forfeiture and no property right exists in them: All real property, including any right, title, and interest in the whole of any lot or tract of land, and any appurtenances or improvements, that the seizing agency proves by a preponderance of the evidence are being used with the knowledge of the owner for the intentional commission of any crime involving the theft, trafficking, or unlawful possession of commercial metal property, or which have been acquired in whole or in part with proceeds traceable to the commission of any crime involving the trafficking, theft, or unlawful possession of commercial metal, if such activity is not less than a class C felony and a substantial nexus exists between the commission of the violation or crime and the real property. However:

(a) No property may be forfeited pursuant to this subsection (2), to the extent of the interest of an owner, by reason of any act or omission committed or omitted without the owner's actual or constructive knowledge; and further, a property owner's real property is not subject to seizure if an employee or agent of that property owner uses the property owner's real property to knowingly or intentionally facilitate the commission of, or to knowingly or intentionally aid and abet the commission of, a crime involving theft, trafficking, or unlawful possession of commercial metal property, in violation of that property owner's instructions or policies against such activity, and without the property owner's knowledge or consent; and

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(b) A forfeiture of real property encumbered by a bona fide security interest is subject to the interest of the secured party if the secured party, neither had actual or constructive knowledge, nor consented to the act or omission.

(3) Property subject to forfeiture under this chapter may be seized by any law enforcement officer of this state upon process issued by any superior court having jurisdiction over the property. Seizure of real property shall include the filing of a lis pendens by the seizing agency. Real property seized under this section shall not be transferred or otherwise conveyed until ninety days after seizure or until a judgment of forfeiture is entered, whichever is later: PROVIDED, That real property seized under this section may be transferred or conveyed to any person or entity who acquires title by foreclosure or deed in lieu of foreclosure of a security interest. Seizure of personal property without process may be made if:

(a) The seizure is incident to an arrest or a search under a search warrant; or

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding.

(4) In the event of seizure pursuant to this section, proceedings for forfeiture shall be deemed commenced by the seizure. The law enforcement agency under whose authority the seizure was made shall cause notice to be served within fifteen days following the seizure on the owner of the property seized and the person in charge thereof and any person having any known right or interest therein, including any community property interest, of the seizure and intended forfeiture of the seized property. Service of notice of seizure of real property shall be made according to the rules of civil procedure. However, the state may not obtain a default judgment with respect to real property against a party who is served by substituted service absent an affidavit stating that a good faith effort has been made to ascertain if the defaulted party is incarcerated within the state, and that there is no present basis to believe that the party is incarcerated within the state. The notice of seizure of personal property may be served by any method authorized by law or court rule including but not limited to service by certified mail with return receipt requested. Service by mail shall be deemed complete upon mailing within the fifteen-day period following the seizure. Notice of seizure in the case of property subject to a security interest that has been perfected by filing a financing statement in accordance with chapter 62A.9A RCW, or a certificate of title shall be made by service upon the secured party or the secured party's assignee at the address shown on the financing statement or the certificate of title.

(5) If no person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of items specified in subsection (1) of this section within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the item seized shall be deemed forfeited. The community property interest in real property of a person whose spouse or domestic partner committed a violation giving rise to seizure of the real property may not be forfeited if the person did not participate in the violation.

(6) If a person notifies the seizing law enforcement agency in writing of the person's claim of ownership or right to possession of the seized property within forty-five days of the seizure in the case of personal property and ninety days in the case of real property, the law enforcement agency shall give the person or

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persons a reasonable opportunity to be heard as to the claim or right. The hearing shall be before the chief law enforcement officer of the seizing agency or the chief law enforcement officer's designee, except where the seizing agency is a state agency as defined in RCW 34.12.020(4), the hearing shall be before the chief law enforcement officer of the seizing agency or an administrative law judge appointed under chapter 34.12 RCW, except that any person asserting a claim or right may remove the matter to a court of competent jurisdiction. Removal may only be accomplished according to the rules of civil procedure. The person seeking removal of the matter must serve process against the state, county, political subdivision, or municipality that operates the seizing agency, and any other party of interest, in accordance with RCW 4.28.080 or 4.92.020, within forty-five days after the person seeking removal has notified the seizing law enforcement agency of the person's claim of ownership or right to possession. The court to which the matter is to be removed shall be the district court when the aggregate value of the property is within the jurisdictional limit set forth in RCW 3.66.020. A hearing before the seizing agency and any appeal therefrom shall be under Title 34 RCW. In a court hearing between two or more claimants to the property involved, the prevailing party shall be entitled to a judgment for costs and reasonable attorneys' fees. The burden of producing evidence shall be upon the person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property.

(7) At the hearing, the seizing agency has the burden of proof to establish by a preponderance of the evidence that seized property is subject to forfeiture, and that the use or intended use of the seized property in connection with a crime pursuant to this section occurred with the owner's actual or constructive knowledge or consent. The person claiming to be the lawful owner or the person claiming to have the lawful right to possession of the property has the burden of proof to establish by a preponderance of the evidence that the person owns or has a right to possess the seized property. The possession of bare legal title is not sufficient to establish ownership of seized property if the seizing agency proves by a preponderance of the evidence that the person claiming ownership or right to possession is a nominal owner and did not actually own or exert a controlling interest in the property.

The seizing law enforcement agency shall promptly return the property to the claimant upon a determination by the administrative law judge or court that the claimant is the present lawful owner or is lawfully entitled to possession of the property.

(8) When property is forfeited under this chapter, after satisfying any court-ordered victim restitution, the seizing law enforcement agency may:

- (a) Retain it for official use or, upon application by any law enforcement agency of this state, release such property to such agency; or
- (b) Sell that which is not required to be destroyed by law and which is not harmful to the public.

(9)(a) Within one hundred twenty days after the entry of an order of forfeiture, each seizing agency shall remit to, if known, the victim of the crime involving the seized property, an amount equal to fifty percent of the net proceeds of any property forfeited.



(b) Retained property and net proceeds not required to be paid to victims shall be retained by the seizing law enforcement agency exclusively for the expansion and improvement of law enforcement activity. Money retained under this section may not be used to supplant preexisting funding sources.

(c) The net proceeds of forfeited property is the value of the forfeitable interest in the property after deducting the cost of satisfying any bona fide security interest to which the property is subject at the time of seizure; and in the case of sold property, after deducting the cost of sale, including reasonable fees or commissions paid to independent selling agents, and the cost of any valid landlord's claim for damages.

(d) The value of sold forfeited property is the sale price. The value of retained forfeited property is the fair market value of the property at the time of seizure, determined when possible by reference to an applicable commonly used index, such as the index used by the department of licensing for valuation of motor vehicles. A seizing agency may use, but need not use, an independent qualified appraiser to determine the value of retained property. If an appraiser is used, the value of the property appraised is net of the cost of the appraisal. The value of destroyed property and retained firearms or illegal property is zero.

(10) Upon the entry of an order of forfeiture of real property, the court shall forward a copy of the order to the assessor of the county in which the property is located. Orders for the forfeiture of real property shall be entered by the superior court, subject to court rules. Such an order shall be filed by the seizing agency in the county auditor's records in the county in which the real property is located.

[2013 c 322 § 27.]

19.290.240

Chapter to be liberally construed.

The provisions of this chapter shall be liberally construed to the end that traffic in stolen private metal property or nonferrous metal property may be prevented, and irresponsible, unreliable, or dishonest persons may be prevented from engaging in the business of processing, recycling, or supplying scrap metal in this state and reliable persons may be encouraged to engage in businesses of processing, recycling, or supplying scrap metal in this state.

[2013 c 322 § 28.]

19.290.250

No-buy list database program—Scrap metal business to determine if customer is listed.

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A scrap metal business shall, before completing any transaction under this chapter, determine whether such customer is listed in the Washington association of sheriffs and police chiefs no-buy list database program established and made available under RCW [43.43.885](#).

[[2013 c 322 § 32.](#)]

19.290.900

Captions not law—2007 c 377.

Captions used in this act are not any part of the law.

[[2007 c 377 § 13.](#)]

19.290.901

Severability—2007 c 377.

If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

[[2007 c 377 § 14.](#)]

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