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HOUSE BILL 11-1130

BY REPRESENTATIVE(S) Priola, Todd, Liston, Szabo, Gardner B., Scott, Ramirez, Swerdfeger, Balmer, Barker, Baumgardner, Beezley, Bradford, Casso, Ferrandino, Levy, Looper, McNulty, Murray, Nikkel, Solano, Soper, Stephens, Waller, Coram, Pabon, Peniston, Schafer S., Vigil;
also SENATOR(S) Heath, Hodge, King S., Renfroe, Steadman, Giron, Newell, Williams S.

CONCERNING COMMODITY METALS, AND, IN CONNECTION THEREWITH, IMPLEMENTING STRICTER IDENTIFICATION AND PAYMENT REQUIREMENTS FOR TRANSACTIONS INVOLVING COMMODITY METALS, INCREASING PENALTIES FOR VIOLATIONS OF THE LAW REGULATING PURCHASE OF COMMODITY METALS, BASING THE CLASSIFICATION OF OFFENSE OF THEFT OF A COMMODITY METAL ON THE WEIGHT OF THE METAL, AND CREATING THE COMMODITY METALS THEFT TASK FORCE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 18-13-111 (1) (b) (V), (1) (b) (VI), (1) (b) (VII), (2), (3) (e), (5), (8) (b.5), and (8) (e), Colorado Revised Statutes, are amended, and the said 18-13-111 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

18-13-111. Purchases of commodity metals - violations - commodity metals theft task force - creation - composition - reports - legislative declaration - definitions - repeal. (1) (b) The owner, keeper, proprietor, collector, or dealer shall record the identification of a seller of commodity metals in the book or register and the method by which the seller verified his or her identity. The seller shall verify his or her identity by one of the following:

(V) A valid United States passport; OR

(VI) An alien registration card. ~~or~~

(VII) ~~A nonpicture identification document issued by a state or federal government entity if the owner, keeper, proprietor, collector, or dealer obtains a clear imprint of the seller's right index finger or the clear imprint of another finger if the right finger does not provide a clear imprint.~~

(1.3) (a) A PURCHASER OF COMMODITY METALS SHALL:

(I) SIGN UP WITH THE SCRAP THEFT ALERT SYSTEM MAINTAINED BY THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION, TO RECEIVE ALERTS REGARDING THEFTS OF COMMODITY METALS IN THE PURCHASER'S GEOGRAPHIC AREA;

(II) DOWNLOAD AND MAINTAIN THE SCRAP METAL THEFT ALERTS GENERATED BY THE SCRAP THEFT ALERT SYSTEM;

(III) USE THE ALERTS TO IDENTIFY POTENTIALLY STOLEN COMMODITY METALS, INCLUDING TRAINING THE PURCHASER'S EMPLOYEES TO USE THE ALERTS DURING THE PURCHASER'S DAILY OPERATIONS.

(b) A PURCHASER OF COMMODITY METALS SHALL MAINTAIN FOR NINETY DAYS COPIES OF ANY THEFT ALERTS RECEIVED AND DOWNLOADED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (1.3). A PURCHASER SHALL ALSO MAINTAIN DOCUMENTATION THAT THE PURCHASER EDUCATES EMPLOYEES ABOUT, AND PROVIDES TO EMPLOYEES, SCRAP THEFT ALERTS.

(1.5) (a) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER IS PERMITTED TO PAY A SELLER IN CASH FOR ANY COMMODITY METALS TRANSACTION OF THREE HUNDRED DOLLARS OR LESS.

(b) IF THE TRANSACTION COSTS MORE THAN THREE HUNDRED DOLLARS, THE OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER SHALL PAY THE SELLER OF A COMMODITY METAL BY CHECK UNLESS THE SELLER IS PAID BY MEANS OF ANY PROCESS IN WHICH A PICTURE OF THE SELLER IS TAKEN WHEN THE MONEY IS PAID.

(2) Except as otherwise provided in subsection (3) of this section, the owner, keeper, proprietor, collector, or dealer of any commodity metal shall ~~hold the commodity metal purchased separate and apart from all other materials purchased for a period of not less than five working days after the date of purchase, during which period the owner, keeper, proprietor, collector, or dealer shall not change the form of the commodity metal and shall permit any law enforcement officer to make inspection of the commodity metal during the holding period of five working days; except that any transaction for the purchase of a commodity metal, wherein~~ MAKE a digital photographic record, video record, or other record format is used to identify THAT IDENTIFIES the seller and the commodity metal that the seller is selling. ~~shall be exempt from the holding requirement described in this subsection (2).~~ The digital photographic record, video record, or other record format shall be retained for ~~ninety~~ ONE HUNDRED EIGHTY days, and the owner shall permit a law enforcement officer to make inspections of the record.

(3) The following transactions and materials are exempt from the requirements specified in subsections (1) and (2) of this section:

(e) ~~Any transaction for the purchase of a commodity metal in which the amount of the metal purchased from a single seller in a single day is less than twenty-five pounds.~~

(5) A person who violates ~~any of the provisions of~~ subsection (1) of this section by failing to keep a book or register, any person who knowingly gives false information with respect to the information required to be maintained in the book or register provided for in subsection (1) of this section, and any person who violates ~~the provisions of subsection~~ SUBSECTIONS (1.3), (1.5), OR (2) of this section commits:

(a) A class 2 misdemeanor if the value of the commodity metal involved is less than five hundred dollars; or

(b) A class 1 misdemeanor if the value of the commodity metal involved is five hundred dollars or more.

(8) For the purposes of this section, unless the context otherwise requires:

(b.5) "Commodity metal" means a metal containing brass, copper, copper alloy, aluminum, stainless steel, or magnesium or another metal traded on the commodity markets that sells for fifty cents per pound or greater. "COMMODITY METAL" DOES NOT INCLUDE PRECIOUS METALS SUCH AS GOLD, SILVER, OR PLATINUM.

(e) ~~"Working day" means Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday, except for such days which are designated a legal holiday by the state.~~

(9) (a) THERE IS HEREBY CREATED THE COMMODITY METALS THEFT TASK FORCE, ALSO REFERRED TO IN THIS SUBSECTION (9) AS THE "TASK FORCE".

(b) THE TASK FORCE CONSISTS OF THE FOLLOWING TEN PERSONS OR THEIR DESIGNEES:

(I) THE CHIEF OF THE COLORADO STATE PATROL;

(II) A SHERIFF APPOINTED BY A COLORADO SHERIFFS' ASSOCIATION;

(III) A MUNICIPAL POLICE CHIEF APPOINTED BY THE COLORADO ASSOCIATION OF CHIEFS OF POLICE;

(IV) A CONTRACTOR THAT USES COMMODITY METALS IN CONSTRUCTION;

(V) A REPRESENTATIVE OF A NATIONAL TRADE ASSOCIATION OR OTHER ORGANIZATION THAT REPRESENTS COMMODITY METALS RECYCLERS, SUCH AS THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION OR ANOTHER ENTITY REPRESENTING COMPARABLE INTERESTS;

(VI) A SCRAP METAL DEALER LOCATED IN COLORADO WHO IS A

MEMBER OF THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION;

(VII) A REPRESENTATIVE OF THE COLORADO MUNICIPAL LEAGUE OR ITS SUCCESSOR ENTITY;

(VIII) A REPRESENTATIVE OF COLORADO COUNTIES, INCORPORATED, OR ITS SUCCESSOR ENTITY;

(IX) A REPRESENTATIVE OF A PUBLIC UTILITY THAT USES COMMODITY METALS; AND

(X) A REPRESENTATIVE OF A RAILROAD COMPANY THAT OPERATES IN COLORADO.

(c) THE TASK FORCE SHALL HOLD ITS FIRST MEETING NO LATER THAN JULY 1, 2011. AT THE FIRST MEETING, THE TASK FORCE SHALL DISCUSS THE BEST WAY TO DISTRIBUTE AND USE INFORMATION RELATED TO THEFT OF SCRAP METALS, INCLUDING WHETHER AND HOW TO PROMOTE USE BY LAW ENFORCEMENT AGENCIES OF THE SCRAP THEFT ALERT SYSTEM MAINTAINED BY THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION. THEREAFTER, THE TASK FORCE SHALL MEET ON A REGULAR BASIS, CONVENING AT LEAST EVERY OCTOBER, TO DISCUSS ISSUES RELATED TO THEFT OF COMMODITY METALS, INCLUDING SHARING RELEVANT INFORMATION ON THEFT OF SCRAP METAL, IDENTIFYING WAYS IN WHICH COLORADO'S LAWS REGULATING COMMODITY METALS PURCHASES CAN BE IMPROVED TO REDUCE THEFT, AND REVIEWING ANY PERFORMANCE PROBLEMS OR COMMUNICATION ISSUES. THE TASK FORCE IS SPECIFICALLY DIRECTED TO CONSIDER: POSSIBLE POLICIES OR PRACTICES TO AID IN TRACKING OR APPREHENDING STOLEN COMMODITY METALS PRIOR TO THE POINT OF SALE IN ORDER TO ASSIST LAW ENFORCEMENT PERSONNEL IN THEFT PREVENTION AND RECOVERY OF STOLEN MATERIALS; RECOMMENDATIONS REGARDING WHEN AND HOW A COMMODITY METALS PURCHASER SHOULD BE REQUIRED TO APPRISE LOCAL LAW ENFORCEMENT AUTHORITIES IF A PURCHASED COMMODITY METAL IS A POTENTIAL MATCH OF A COMMODITY METAL REPORTED STOLEN IN THE SCRAP THEFT ALERT SYSTEM; AND THE CREATION AND ATTRIBUTES OF A CIVIL PENALTY PROCESS FOR EGREGIOUS AND REPEAT VIOLATORS OF THE RECORD-KEEPING REQUIREMENTS OF THIS SECTION.

(d) A MEMBER OF THE TASK FORCE, AS DESIGNATED BY THE TASK FORCE SHALL REPORT ANNUALLY TO THE JUDICIARY COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND THE SENATE OR ANY SUCCESSOR COMMITTEES, REGARDING THE TASK FORCE'S MEETINGS, FINDINGS, AND RECOMMENDATIONS.

(e) MEMBERS OF THE TASK FORCE SHALL NOT BE COMPENSATED FOR, OR REIMBURSED FOR EXPENSES INCURRED IN, ATTENDING MEETINGS OF THE TASK FORCE.

(f) THIS SUBSECTION (9) IS REPEALED, EFFECTIVE JULY 1, 2016. BEFORE THE REPEAL, THE COMMODITY METALS THEFT TASK FORCE, CREATED PURSUANT TO THIS SUBSECTION (9), SHALL BE REVIEWED AS PROVIDED IN SECTION 2-3-1203, C.R.S.

(10) (a) THE GENERAL ASSEMBLY HEREBY FINDS, DETERMINES, AND DECLARES THAT:

(I) THEFTS OF COMMODITY METALS JEOPARDIZE THE SAFETY AND WELFARE OF THE PUBLIC, FINANCIALLY BURDEN TAXPAYERS AND INDUSTRY, AND EXHAUST LAW ENFORCEMENT RESOURCES;

(II) SUCH THEFTS IMPACT EVERY COMMUNITY IN COLORADO; AND

(III) THE REGULATION OF COMMODITY METAL PURCHASES IS A MATTER OF STATEWIDE CONCERN.

(b) THE GENERAL ASSEMBLY FURTHER ENCOURAGES LAW ENFORCEMENT AUTHORITIES IN THE STATE TO REPORT THEFTS OF COMMODITY METALS OCCURRING WITHIN THEIR JURISDICTIONS TO THE SCRAP THEFT ALERT SYSTEM MAINTAINED BY THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES, INCORPORATED, OR ITS SUCCESSOR ORGANIZATION, IN ORDER TO ENSURE THAT PERSONS USING THE SYSTEM RECEIVE TIMELY AND THOROUGH INFORMATION. THE GENERAL ASSEMBLY ALSO ENCOURAGES COMMERCIAL STAKEHOLDERS AFFECTED BY COMMODITY METALS THEFT TO SIGN UP FOR AND PARTICIPATE IN THE SCRAP THEFT ALERT SYSTEM.

SECTION 2. 2-3-1203 (3) (cc), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

2-3-1203. Sunset review of advisory committees. (3) The following dates are the dates for which the statutory authorization for the designated advisory committees is scheduled for repeal:

(cc) July 1, 2016:

(IV) THE COMMODITY METALS THEFT TASK FORCE CREATED IN SECTION 18-13-111, C.R.S.

SECTION 3. Applicability. This act shall apply to acts occurring on or after the effective date of this act.

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Frank McNulty
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Brandon C. Shaffer
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO