

Smith champions bill to stop rampant metal, copper theft

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AUSTIN — Last month, Rep. Wayne Smith (R-Baytown) filed H.B. 1933 relating to the regulation of metal recycling entities; providing penalties. This bill was heard in the House Committee on Environmental Regulation last week, the committee for which Representative Smith is the chairman. Metal theft has become a major problem for many Texas communities because stolen metal can easily be recycled for cash. Scrap metal thefts have occurred at churches, charitable organizations, schools, municipalities, businesses, etc., and recently, Memorial Baptist Church in Baytown fell victim to this same type of crime resulting in over \$20,000 in damages.

In 2007, SB 1154 was passed and attempted to curtail metal theft through the development of a database and increased penalties for knowingly buying or selling stolen regulated metals and materials, but after being implemented it became apparent that certain provisions of the bill were difficult to enforce. Additionally, the industry voiced concerns about the patchwork of local ordinances regarding the regulation of recycling facilities.

The Department of Public Safety (DPS) could not give an exact number of metal recycling entities currently in business, but through various methods of research they estimate there could be as many as 2,400 potential recyclers. Of that amount, only an approximate 687 Metal Recycling Entities are registered and 329 have reported transactions in the last 12 months. Scrap metal prices per pound are between \$0.69-\$4. Copper thefts, which are the most prevalent, currently generate between \$3-\$4 per pound. That is about a 40 percent increase in price compared to last year's price.

Representative Smith's bill, H.B. 1933, makes revisions to existing state law relating to the regulation of metal recycling entities and provides penalties by amending the Occupations Code to make a number of changes to the regulation of the scrap metal recycling industry. The term "regulated metal" is redefined to include additional items that have become a common target for thieves. This bill provides local law enforcement with additional authority to enforce local ordinances and requires DPS to maintain an accessible list of all registered metal recycling entities. H.B. 1933 also requires a metal recycling entity to obtain additional information about individuals that sell regulated material including the state issuing the license plate and the color of the vehicle used to transport the items for sale and the license plate and description of any trailer used to transport items. If air conditioning components are sold, sellers are required to show the recycler: an air conditioning contractor's license, an A/C technicians registration, or a receipt for

A/C components. If burned insulated wire is sold, this bill requires the seller to show documentation from a fire department that the material was salvaged from a fire.

In addition, H.B. 1933 requires that the record of sale include photos of the seller, items sold and the vehicle used to transport the items for sale. A recycling entity may be exempt from the photo requirements if the entity does not have the means available to obtain the photos. The record of sale must be submitted electronically not later than 48 hours after the sale and recycling entities are required to wait at least five days after the acquisition of regulated material before it may be disposed, processed, sold or removed from the premises and an entity may only pay for a purchase of regulated metal by check issued to the seller not earlier than the 5th day after the purchase or by cash not earlier than the 10th day after the purchase. This bill prohibits an un-registered entity from purchasing regulated material with cash and provides that a person commits an offense if they knowingly violate registration and reporting requirements. An offense is punishable by a fine up to \$10,000. Fines collected will be distributed to DPS to fund the regulation of scrap metal recycling entities and to fund a grant program, which will provide local law enforcement with resources to combat metal theft.

Under this legislation, stealing property valued at less than \$20,000 if the stolen property is aluminum, bronze, copper, or brass is classified as a state felony.

“The theft of metal from businesses, schools and churches has reached an alarming rate across the state. At times the theft of wire endangers citizens by interrupting our emergency services,” said Rep. Smith. “I am hopeful this legislation will provide more tools for law enforcement to arrest and prosecute these criminals.”