

OCCUPATIONS CODE

TITLE 12. PRACTICES AND TRADES RELATED TO WATER, HEALTH, AND SAFETY

SUBTITLE B. PRACTICES RELATED TO HEALTH AND SAFETY

CHAPTER 1956. METAL RECYCLING ENTITIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1956.001. DEFINITIONS. In this chapter:

(1) "Aluminum material" means a product made from aluminum, an aluminum alloy, or an aluminum by-product. The term includes aluminum wiring and an aluminum beer keg but does not include another type of aluminum can used to contain a food or beverage.

(2) "Bronze material" means:

(A) a cemetery vase, receptacle, or memorial made from bronze;

(B) bronze statuary; or

(C) material readily identifiable as bronze, including bronze wiring.

(3) "Commission" means the Public Safety Commission.

(4) "Copper or brass material" means:

(A) a power inverter or insulated or noninsulated copper wire or cable that contains copper or an alloy of copper or zinc and is of the type used by:

(i) a public utility or common carrier;

(ii) a telecommunications provider as defined by Section 51.002, Utilities Code;

(iii) a cable service provider as defined by Section 66.002, Utilities Code; or

(iv) a video service provider as defined by Section 66.002, Utilities Code;

(B) a copper or brass item of a type commonly used in construction or by:

(i) a public utility;

(ii) a telecommunications provider as defined by Section 51.002, Utilities Code;

(iii) a cable service provider as defined

by Section 66.002, Utilities Code; or

(iv) a video service provider as defined by Section 66.002, Utilities Code; or

(C) copper pipe or copper tubing.

(5) "Department" means the Texas Department of Public Safety.

(6) "Director" means the public safety director.

(6-a) "Lead material" means:

(A) a commercial grade lead battery, lead-acid battery, or spiral cell battery; or

(B) a material or an item readily identifiable as being made of or containing lead.

(7) "Metal recycling entity" means a business that is operated from a fixed location and is predominantly engaged in:

(A) performing the manufacturing process by which scrap, used, or obsolete ferrous or nonferrous metal is converted into raw material products consisting of prepared grades and having an existing or potential economic value, by a method that in part requires the use of powered tools and equipment, including processes that involve processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form of that metal;

(B) the use of raw material products described under Paragraph (A) in the manufacture of producer or consumer goods; or

(C) purchasing or otherwise acquiring scrap, used, or obsolete ferrous or nonferrous metals for the eventual use of the metal for the purposes described by Paragraph (A) or (B).

(8) "Personal identification document" means:

(A) a valid driver's license issued by a state in the United States;

(B) a United States military identification card; or

(C) a personal identification certificate issued by the department under Section 521.101, Transportation Code, or a corresponding card or certificate issued by another state.

(9) "Regulated material" means:

- (A) aluminum material;
- (B) bronze material;
- (C) copper or brass material;
- (D) lead material; or
- (E) regulated metal.

(10) "Regulated metal" means:

- (A) manhole covers;
- (B) guardrails;
- (C) metal cylinders designed to contain compressed air, oxygen, gases, or liquids;
- (D) beer kegs made from metal other than aluminum;
- (E) historical markers or cemetery vases, receptacles, or memorials made from metal other than aluminum;
- (F) unused rebar;
- (G) street signs;
- (H) drain gates;
- (I) safes;
- (J) communication, transmission, and service wire or cable;
- (K) condensing or evaporator coils for central heating or air conditioning units;
- (L) utility structures, including the fixtures and hardware;
- (M) aluminum or stainless steel containers designed to hold propane for fueling forklifts;
- (N) metal railroad equipment, including tie plates, signal houses, control boxes, signs, signals, traffic devices, traffic control devices, traffic control signals, switch plates, e-clips, and rail tie functions;
- (O) catalytic converters not attached to a vehicle;
- (P) fire hydrants;
- (Q) metal bleachers or other seating facilities used in recreational areas or sporting arenas;
- (R) any metal item clearly and conspicuously

marked with any form of the name, initials, or logo of a governmental entity, utility, cemetery, or railroad;

(S) insulated utility, communications, or electrical wire that has been burned in whole or in part to remove the insulation;

(T) backflow valves;

(U) metal in the form of commonly recognized products of the industrial metals recycling process, including bales, briquettes, billets, sows, ingots, pucks, and chopped or shredded metals; and

(V) commercial grade lead batteries or lead-acid batteries.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. [1154](#)), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. [694](#)), Sec. 1, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. [2187](#)), Sec. 1, eff. September 1, 2015.

Sec. 1956.002. EXCEPTION. This chapter does not apply to:

(1) a purchase of regulated material from a public utility, a telecommunications provider as defined by Section [51.002](#), Utilities Code, a cable service provider as defined by Section [66.002](#), Utilities Code, a video service provider as defined by Section [66.002](#), Utilities Code, or a manufacturing, industrial, commercial, retail, or other seller that sells regulated material in the ordinary course of the seller's business;

(2) a purchase of regulated material by a manufacturer whose primary business is the manufacture of iron and steel products made from melting scrap iron and scrap steel; or

(3) the transport or hauling of recyclable materials to or from the metal recycling entity.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. [1154](#)), Sec. 2, eff.

September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. 2187), Sec. 2, eff. September 1, 2015.

Sec. 1956.003. LOCAL LAW; CRIMINAL PENALTY. (a) A county, municipality, or political subdivision of this state may adopt a rule, charter, or ordinance or issue an order or impose standards that are more stringent than but do not conflict with this chapter or rules adopted under this chapter.

(a-1) A county, municipality, or other political subdivision may require the record of purchase described under Section 1956.033 to contain a clear and legible thumbprint of a seller of regulated material.

(a-2) A county, municipality, or other political subdivision that, as authorized under Subsection (a), requires a metal recycling entity to report to the county, municipality, or political subdivision information relating to a sale of regulated material shall:

(1) include in any contract entered into by the county, municipality, or political subdivision relating to the reporting of the information a provision that:

(A) requires any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information relating to a sale of regulated material to maintain the confidentiality of all information received, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(B) allows the county, municipality, or political subdivision to terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Paragraph (A); and

(2) investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

(b) A county, municipality, or political subdivision of

this state may issue a license or permit to a business to allow the business to act as a metal recycling entity in that county or municipality and may impose a fee not to exceed \$250 for the issuance or renewal of the license or permit.

(c) A county, municipality, or political subdivision of this state that issues a license or permit to a business as authorized under Subsection (b) shall submit to the department in the manner required by the department information on each business that is issued a license or permit.

(d) A municipality or political subdivision of this state, other than a county, may not increase the local license or permit fee imposed on a metal recycling facility unless the increase is approved by the local governing body. A request for an increase in the local license or permit fee must be based on the costs associated with law enforcement and administration of the licensing or permitting program. The municipality or political subdivision must submit a report to the department on the law enforcement and administrative costs associated with the fee increase.

(e) A county may increase the local license or permit fee imposed on a metal recycling facility one additional time before the second anniversary of the date of the initial fee increase. The fee increase must be based on the average cost charged by municipalities statewide.

(f) A person commits an offense if the person owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Subsection (b). An offense under this subsection is a Class B misdemeanor unless it is shown on the trial of the offense that the person has been previously convicted under this subsection, in which event the offense is a Class A misdemeanor.

(g) Notwithstanding any other law, a county, municipality, or other political subdivision must provide a minimum 30-day notice followed by a public hearing prior to enacting a prohibition on the sale or use of a recyclable product.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 3, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 3, eff. March 1, 2012.

Sec. 1956.004. CIVIL PENALTY. (a) A person who owns or operates a metal recycling entity and does not hold a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b) is subject to a civil penalty of not more than \$1,000 for each violation. In determining the amount of the civil penalty, the court shall consider:

- (1) any other violations by the person; and
- (2) the amount necessary to deter future violations.

(b) A district attorney, county attorney, or municipal attorney may institute an action to collect the civil penalty provided by this section.

(c) Each day a violation occurs or continues to occur is a separate violation.

(d) The district attorney, county attorney, or municipal attorney may recover reasonable expenses incurred in obtaining a civil penalty under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 4, eff. March 1, 2012.

SUBCHAPTER A-1. POWERS AND DUTIES

Sec. 1956.011. ADMINISTRATION OF CHAPTER. The department shall administer this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Sec. 1956.012. DEPARTMENT STAFF. The department may employ administrative and clerical staff as necessary to carry out this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Sec. 1956.013. RULES. The commission may adopt rules to administer this chapter, including rules:

(1) establishing minimum requirements for registration under this chapter; and

(2) adopting forms required by this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Sec. 1956.014. FEES; REPORTS. (a) The commission by rule shall prescribe fees in reasonable amounts sufficient to cover the costs of administering this chapter, including fees for:

(1) an initial application for a certificate of registration;

(2) issuance of a certificate of registration;

(3) issuance of a renewal certificate of registration; and

(4) issuance of a duplicate certificate of registration or duplicate renewal certificate of registration.

(b) The commission may not impose a fee for issuance of a certificate of registration that exceeds \$250 annually. The department shall report annually to the legislature, not later than December 1, any costs associated with administering this chapter that are not covered by the fees assessed under this chapter.

(c) The department annually shall submit to both houses of the legislature a report on the number of metal recycling entities who have complied with the registration requirements under this chapter and the total number of metal recycling entities identified statewide. The report must include the information on metal recycling entities submitted to the department by municipalities, counties, and other political subdivisions of this state.

(d) Expired.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Sec. 1956.015. STATEWIDE ELECTRONIC REPORTING SYSTEM. (a) The department shall establish a statewide electronic reporting system to track the sales of regulated metal reported to the department under Section 1956.036.

(b) The department shall post a summary of the reports provided to the department under Section 1956.036 on the department's Internet website. The summary must include by county or region the frequency with which a person presents regulated materials for sale to a metal recycling entity. The summary may not identify any person to which the metal recycling entity sells the regulated materials.

(c) Subsection (b) does not apply to regulated material sold by a utility company, municipality, manufacturer, railroad, cemetery, cable or satellite entity, or other business entity that routinely has access to regulated metal.

(d) Information provided under this section is not subject to disclosure under Chapter 552, Government Code. The department may use information provided under this section for law enforcement purposes. Except as provided by this subsection, the department shall maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased.

(e) The department may enter into contracts relating to the operation of the statewide electronic reporting system established by this section. A contract under this subsection must:

(1) require that any contractor, subcontractor, or third party that has access to, comes into possession of, or otherwise obtains information provided under this section maintain the confidentiality of all information provided under this section, including the name of the seller, the price paid for a purchase of regulated material, and the quantity of regulated material purchased; and

(2) provide that the department may terminate the contract of any contractor, subcontractor, or third party that violates the confidentiality provision required by Subdivision (1).

(f) The department shall investigate a complaint alleging that a contractor, subcontractor, or third party has failed to maintain the confidentiality of information relating to a sale of regulated material.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 5, eff. September 1, 2011.

Sec. 1956.016. REGISTRATION DATABASE. The department shall make available on its Internet website a publicly accessible list of all registered metal recycling entities. The list must contain the following for each registered metal recycling entity:

- (1) the entity's name;
- (2) the entity's physical address; and
- (3) the name of and contact information for a representative of the entity.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 6, eff. September 1, 2011.

Sec. 1956.017. ADVISORY COMMITTEE. (a) The department shall establish an advisory committee to advise the department on matters related to the department's regulation of metal recycling entities under this chapter.

(b) The advisory committee consists of 15 members appointed by the director as follows:

- (1) one representative of the department;
- (2) two representatives of local law enforcement agencies located in different municipalities, each with a population of 500,000 or more;

(3) two representatives of local law enforcement agencies located in different municipalities, each with a

population of 200,000 or more but less than 500,000;

(4) one representative of a local law enforcement agency located in a municipality with a population of less than 200,000;

(5) five representatives of metal recycling entities;

(6) two members who represent industries that are impacted by theft of regulated material;

(7) one sheriff of a county with a population of 500,000 or more; and

(8) one sheriff of a county with a population of less than 500,000.

(c) The director shall ensure that the members of the advisory committee reflect the diverse geographic regions of this state.

(d) The advisory committee shall elect a presiding officer from among its members to serve a two-year term. A member may serve more than one term as presiding officer.

(e) The advisory committee shall meet annually and at the call of the presiding officer or the director.

(f) An advisory committee member is not entitled to compensation or reimbursement of expenses.

(g) Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory committee or to the appointment of the committee's presiding officer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 6, eff. September 1, 2011.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. 2187), Sec. 3, eff. September 1, 2015.

SUBCHAPTER A-2. CERTIFICATE OF REGISTRATION

Sec. 1956.021. REGISTRATION REQUIRED. A person may not act as a metal recycling entity or represent to the public that the person is a metal recycling entity unless the person is registered under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2,

eff. September 1, 2007.

Sec. 1956.022. ISSUANCE OF CERTIFICATE; QUALIFICATIONS.

(a) The department shall issue a certificate of registration to an applicant who:

(1) applies and pays a registration fee; and

(2) presents any relevant evidence relating to the applicant's qualifications as required by commission rule.

(b) The commission by rule may establish qualifications for the holder of a certificate of registration under this chapter, which may include accepting copies of a license or permit issued by a county or municipality authorizing a metal recycling entity to conduct business in that county or municipality.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Sec. 1956.023. TERM OF CERTIFICATE. (a) A certificate of registration is valid for two years after the date of issuance.

(b) The department shall adopt a system under which certificates of registration expire and are renewed on various dates.

(c) Not later than the 45th day before the date a person's certificate of registration is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department.

(d) A person whose certificate of registration has expired may not make a representation for which a certificate of registration is required under Section 1956.021 or perform collections services until the certificate has been renewed.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Sec. 1956.024. RENEWAL OF CERTIFICATE. (a) To renew a certificate of registration, a person must submit an application for renewal in the manner prescribed by the department.

(b) A person who is otherwise eligible to renew a

certificate of registration may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate.

(c) A person whose certificate of registration has been expired for 90 days or less may renew the certificate by paying to the department a renewal fee that is equal to 1-1/2 times the normally required renewal fee.

(d) A person whose certificate of registration has been expired for more than 90 days but less than one year may renew the certificate by paying to the department a renewal fee that is equal to two times the normally required renewal fee.

(e) A person whose certificate of registration has been expired for one year or more may not renew the certificate. The person may obtain a new certificate of registration by complying with the requirements and procedures, including the examination requirements, for an original certificate.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. [1154](#)), Sec. 2, eff. September 1, 2007.

SUBCHAPTER A-3. PRACTICE BY CERTIFICATE HOLDERS

Sec. 1956.031. NOTICE TO SELLERS. (a) A metal recycling entity shall at all times maintain in a prominent place in the entity's place of business, in open view to a seller of regulated material, a notice in two-inch lettering that:

(1) includes the following language:

"A PERSON ATTEMPTING TO SELL ANY REGULATED MATERIAL MUST PRESENT SUFFICIENT IDENTIFICATION AND WRITTEN PROOF OF OWNERSHIP REQUIRED BY STATE LAW."

"WARNING: STATE LAW PROVIDES A CRIMINAL PENALTY FOR A PERSON WHO INTENTIONALLY PROVIDES A FALSE DOCUMENT OF IDENTIFICATION OR OTHER FALSE INFORMATION TO A METAL RECYCLING ENTITY WHILE ATTEMPTING TO SELL ANY REGULATED MATERIAL."; and

(2) states the metal recycling entity's usual business hours.

(b) The notice required by this section may be contained on a sign that contains another notice if the metal recycling entity is

required to display another notice under applicable law.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. [1154](#)), Sec. 2, eff. September 1, 2007.

Sec. 1956.032. INFORMATION REGARDING SELLER. (a) Except as provided by Subsection (f), a person attempting to sell regulated material to a metal recycling entity shall:

(1) display to the metal recycling entity the person's personal identification document;

(2) provide to the metal recycling entity the make, model, color, and license plate number of the motor vehicle used to transport the regulated material and the name of the state issuing the license plate;

(3) either:

(A) present written documentation evidencing that the person is the legal owner or is lawfully entitled to sell the regulated material; or

(B) sign a written statement provided by the metal recycling entity that the person is the legal owner of or is lawfully entitled to sell the regulated material offered for sale;

(4) if the regulated material includes condensing or evaporator coils for central heating or air conditioning units, display to the metal recycling entity:

(A) the person's air conditioning and refrigeration contractor license issued under Subchapter F or G, Chapter [1302](#);

(B) the person's air conditioning and refrigeration technician registration issued under Subchapter K, Chapter [1302](#);

(C) a receipt, bill of sale, or other documentation showing that the seller purchased the coils the seller is attempting to sell; or

(D) a receipt, bill of sale, or other documentation showing that the seller has purchased a replacement central heating or air conditioning unit; and

(5) if the regulated material includes insulated communications wire that has been burned wholly or partly to remove

the insulation, display to the metal recycling entity documentation acceptable under the rules adopted under Subsection (h) that states that the material was salvaged from a fire.

(b) A person required by a municipality to prepare a signed statement consisting of the information required by Subsection (a)(3) may use the statement required by the municipality to comply with Subsection (a)(3).

(c) The metal recycling entity or the entity's agent shall visually verify the accuracy of the identification presented by the seller at the time of the purchase of regulated material and make a copy of the identification to be maintained by the entity in the entity's records, except as otherwise provided by Subsection (f).

(d) The metal recycling entity or the entity's agent for recordkeeping purposes may photograph the seller's entire face, not including any hat, and obtain the name of the seller's employer.

(e) The metal recycling entity or the entity's agent for recordkeeping purposes may take a photograph of the motor vehicle of the seller in which the make, model, and license plate number of the motor vehicle are identifiable in lieu of the information required under Subsection (a)(3).

(f) The metal recycling entity is not required to make a copy of the identification as required under Subsection (c) or collect the information required under Subsection (a)(3) if:

(1) the seller signs the written statement as required under Subsection (a)(3);

(2) the seller has previously provided the information required under Subsection (a); and

(3) the previously provided information has not changed.

(g) Notwithstanding Section [1956.002](#), the metal recycling entity shall verify the registration of a person attempting to sell regulated material who represents that the person is a metal recycling entity as follows:

(1) by using the database described by Section [1956.016](#); or

(2) by obtaining from the person a copy of the person's certificate of registration issued under Section [1956.022](#) in

addition to the information required under Subsection (a).

(h) The commission shall adopt rules establishing the type of documentation that a seller of insulated communications wire described by Subsection (a)(5) must provide to a metal recycling entity to establish that the wire was salvaged from a fire.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 7, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 8, eff. September 1, 2011.

Sec. 1956.033. RECORD OF PURCHASE. (a) Each metal recycling entity in this state shall keep an accurate electronic record or an accurate and legible written record of each purchase of regulated material made in the course of the entity's business from an individual.

(b) The record must be in English and include:

- (1) the place, date, and amount of the purchase;
- (2) the name and address of the seller in possession of the regulated material purchased;
- (3) the identifying number of the seller's personal identification document;
- (4) a description made in accordance with the custom of the trade of the commodity type and quantity of regulated material purchased;
- (5) the information required by Sections 1956.032(a)(2) and (3);
- (6) as applicable:
 - (A) the identifying number of the seller's air conditioning and refrigeration contractor license displayed under Section 1956.032(a)(4)(A);
 - (B) a copy of the seller's air conditioning and refrigeration technician registration displayed under Section 1956.032(a)(4)(B);
 - (C) a copy of the documentation described by

Section 1956.032(a)(4)(C); or

(D) a copy of the documentation described by Section 1956.032(a)(4)(D);

(7) if applicable, a copy of the documentation described by Section 1956.032(a)(5);

(8) a copy of the documentation described by Section 1956.032(g); and

(9) a copy of the documentation described by Section 1956.0381(b).

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 9, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. 2187), Sec. 4, eff. September 1, 2015.

Sec. 1956.0331. PHOTOGRAPH OR RECORDING REQUIREMENT FOR REGULATED METAL TRANSACTION. (a) In addition to the requirements of Sections 1956.032 and 1956.033, for each purchase by a metal recycling entity of an item of regulated metal, the entity shall obtain a digital photograph or video recording that accurately depicts the seller's entire face and each type of regulated metal purchased.

(b) A metal recycling entity shall preserve a photograph or recording required under Subsection (a) as follows:

(1) for a video recording, until the 91st day after the date of the transaction; and

(2) for a digital photograph, until the 181st day after the date of the transaction.

(c) The photograph or recording must be made available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 10, eff. September 1, 2011.

Sec. 1956.034. PRESERVATION OF RECORDS. A metal recycling

entity shall preserve each record required by Sections 1956.032 and 1956.033 until the second anniversary of the date the record was made. The records must be kept in an easily retrievable format and must be available for inspection as provided by Section 1956.035 not later than 72 hours after the time of purchase.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 11, eff. September 1, 2011.

Sec. 1956.035. INSPECTION OF RECORDS. (a) On request, a metal recycling entity shall permit a peace officer of this state, a representative of the department, or a representative of a county, municipality, or other political subdivision that issues a license or permit under Section 1956.003(b) to inspect, during the entity's usual business hours:

- (1) a record required by Section 1956.033;
- (2) a digital photograph or video recording required by Section 1956.0331;
- (3) regulated material in the entity's possession; or
- (4) an application for a cash transaction card submitted to the entity.

(b) The person seeking to inspect a record or material shall:

- (1) inform the entity of the officer's status as a peace officer; or
- (2) if the person is a representative of the department or a representative of a county, municipality, or other political subdivision, inform the entity of the person's status and display to the entity an identification document or other appropriate documentation establishing the person's status as a representative of the department or of the appropriate county, municipality, or political subdivision.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 12, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. 2187), Sec. 5, eff. September 1, 2015.

Sec. 1956.036. FURNISHING OF REPORT TO DEPARTMENT.

(a) Except as provided by Subsections (b) and (d), not later than the close of business on a metal recycling entity's second working day after the date of the purchase or other acquisition of material for which a record is required under Section 1956.033, the entity shall send an electronic transaction report to the department via the department's Internet website. Except as provided by Subsection (d-1), the report must contain the information required to be recorded under Section 1956.033.

(b) If a metal recycling entity purchases bronze material that is a cemetery vase, receptacle, memorial, or statuary or a pipe that can reasonably be identified as aluminum irrigation pipe, the entity shall:

(1) not later than the close of business on the entity's first working day after the purchase date, notify the department by telephone, by e-mail, or via the department's Internet website; and

(2) not later than the close of business on the entity's second working day after the purchase date, submit to the department electronically via the department's Internet website or file with the department a report containing the information required to be recorded under Section 1956.033.

(c) Subsection (b) does not apply to a purchase from:

(1) the manufacturer or fabricator of the material or pipe;

(2) a seller bearing a bill of sale for the material or pipe; or

(3) the owner of the material or pipe.

(d) A metal recycling entity may submit the transaction report required under Subsection (a) by facsimile if:

(1) the entity submits to the department annually:

(A) an application requesting an exception to the

electronic reporting requirement; and

(B) an affidavit stating that the entity does not have an available and reliable means of submitting the transaction report electronically; and

(2) the department approves the entity's application under this subsection.

(d-1) A metal recycling entity is not required to include in a transaction report required by this section:

(1) the amount of the purchase; or

(2) a copy of the documentation described by Section [1956.0381\(b\)](#).

(e) The department, after notice and an opportunity for a hearing, may prohibit a metal recycling entity from paying cash for a purchase of regulated material for a period determined by the department if the department finds that the entity has failed to comply with this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. [1154](#)), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. [694](#)), Sec. 13, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. [2187](#)), Sec. 6, eff. September 1, 2015.

Sec. 1956.037. PLACEMENT OF ITEMS ON HOLD. (a) A metal recycling entity may not dispose of, process, sell, or remove from the premises an item of regulated metal unless:

(1) the entity acquired the item more than:

(A) eight days, excluding weekends and holidays, before the disposal, processing, sale, or removal, if the item is a cemetery vase, receptacle, or memorial made from a regulated material other than aluminum material; or

(B) 72 hours, excluding weekends and holidays, before the disposal, processing, sale, or removal, if the item is not an item described by Paragraph (A); or

(2) the entity purchased the item from a manufacturing, industrial, commercial, retail, or other seller

that sells regulated material in the ordinary course of its business.

(b) A peace officer who has reasonable suspicion to believe that an item of regulated material in the possession of a metal recycling entity is stolen may place the item on hold by issuing to the entity a written notice that:

(1) specifically identifies the item alleged to be stolen and subject to the hold; and

(2) informs the entity of the requirements of Subsection (c).

(c) On receiving the notice, the entity may not, except as provided by Subsection (e), process or remove from the entity's premises the identified item before the 60th day after the date the notice is issued unless the hold is released at an earlier time in writing by a peace officer of this state or a court order.

(d) After the holding period expires, the entity may dispose of the item unless disposition violates a court order.

(e) If a hold is placed on a purchase of regulated material, a metal recycling entity may not dispose of, process, sell, or remove from the premises any item from the purchased material unless the hold on the material is released.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. [1154](#)), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. [694](#)), Sec. 14, eff. September 1, 2011.

Sec. 1956.038. PROHIBITED ACTS. (a) A person may not, with the intent to deceive:

(1) display to a metal recycling entity a false or invalid personal identification document in connection with the person's attempted sale of regulated material;

(2) make a false, material statement or representation to a metal recycling entity in connection with:

(A) that person's execution of a written statement required by Section [1956.032](#)(a)(3); or

(B) the entity's efforts to obtain the

information required under Section 1956.033(b);

(3) display or provide to a metal recycling entity any information required under Section 1956.032 that the person knows is false or invalid; or

(4) display another individual's personal identification document in connection with the sale of regulated material.

(a-1) A metal recycling entity may only pay for a purchase of regulated material in the manner provided by Section 1956.0381.

(b) A metal recycling entity may not pay for a purchase of regulated material in cash if:

(1) the entity does not hold a certificate of registration under Subchapter A-2 and, if applicable, a license or permit required by a county, municipality, or other political subdivision as authorized under Section 1956.003(b); or

(2) the entity has been prohibited by the department from paying cash under Section 1956.036(e).

(c) Notwithstanding Section 1956.003(a) or any other law, a county, municipality, or other political subdivision may not adopt or enforce a rule, charter, or ordinance or issue an order or impose standards that limit the use of cash by a metal recycling entity in a manner more restrictive than that provided by Subsection (b).

(d) Subsection (c) does not apply to a rule, charter, ordinance, or order of a county, municipality, or other political subdivision in effect on January 1, 2011.

(e) The department or a county, municipality, or other political subdivision may bring an action in the county in which a metal recycling entity is located to enjoin the business operations of the owner or operator of the metal recycling entity for a period of not less than 30 days and not more than 90 days if the owner or operator has not submitted an application for a certificate of registration or the appropriate license or permit required by a county, municipality, or other political subdivision.

(f) An action under Subsection (e) must be brought in the name of the state. If judgment is in favor of the state, the court shall:

(1) enjoin the owner or operator from maintaining or

participating in the business of a metal recycling entity for a definite period of not less than 30 days and not more than 90 days, as determined by the court; and

(2) order that the place of business of the owner or operator be closed for the same period.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 15, eff. September 1, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. 2187), Sec. 7, eff. September 1, 2015.

Sec. 1956.0381. PAYMENT BY METAL RECYCLING ENTITY. (a) A metal recycling entity may pay for a purchase of regulated material only by:

(1) cash if the seller has been issued a cash transaction card under Section 1956.0382, unless the metal recycling entity is prohibited from paying in cash under Section 1956.038(b);

(2) debit card if the seller has been issued a cash transaction card under Section 1956.0382;

(3) check;

(4) money order; or

(5) direct deposit by electronic funds transfer.

(b) A metal recycling entity shall include in the record of purchase required by Section 1956.033, as applicable, a copy of:

(1) the seller's cash transaction card or approved application for a cash transaction card if the entity paid for a purchase of regulated material by cash;

(2) the debit card receipt and the seller's cash transaction card or approved application for a cash transaction card if the entity paid for a purchase of regulated material by debit card; or

(3) the check if the entity paid for a purchase of regulated material by check.

Added by Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. 2187), Sec. 8,

eff. September 1, 2015.

Sec. 1956.0382. CASH TRANSACTION CARD. (a) A metal recycling entity may pay a seller for a purchase of regulated material by cash or debit card only if, before the entity issues payment:

(1) the seller presents to the entity a valid cash transaction card issued by the entity or by another metal recycling entity located in this state; or

(2) the entity obtains a copy of the seller's cash transaction card from the records of the entity.

(b) An application for the issuance or renewal of a cash transaction card must include:

(1) the name, address, sex, and birth date of the applicant;

(2) the identification number from the applicant's personal identification document;

(3) a digital photograph that accurately depicts the applicant's entire face taken at the time the applicant completes the application;

(4) a clear and legible thumbprint of the applicant;
and

(5) the signature of the applicant.

(c) On receipt of an application that contains the information required by Subsection (b), a metal recycling entity may approve the application and issue a cash transaction card to the applicant. The individual approving the application on behalf of the metal recycling entity must sign the application.

(d) A cash transaction card must include:

(1) the name and address of the seller;

(2) a digital photograph of the seller that accurately depicts the seller's entire face;

(3) an identifying number that is unique to the individual card; and

(4) the expiration date of the card, which may not be later than two years from the date the card was issued or renewed.

(e) A metal recycling entity must mail the issued cash

transaction card to the address provided on the application for the card.

(f) A cash transaction card issued under this section is not transferable.

(g) A metal recycling entity shall preserve:

(1) each application for a cash transaction card the entity receives until the second anniversary of the date the application was received; and

(2) a copy of each cash transaction card the entity issues or renews until the second anniversary of the date the card was issued or renewed.

Added by Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. 2187), Sec. 8, eff. September 1, 2015.

Sec. 1956.039. HOURS FOR PURCHASING MATERIAL. (a) Subject to Subsection (b), a county, municipality, or political subdivision may establish the hours during which a metal recycling entity may purchase regulated material.

(b) A metal recycling entity may not purchase from the general public regulated material:

(1) more than 15 consecutive hours in one day; or

(2) later than 9 p.m.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Sec. 1956.040. CRIMINAL PENALTY. (a) A person commits an offense if the person knowingly violates Section 1956.038.

An offense under this subsection is a Class A misdemeanor unless it is shown on trial of the offense that the person has previously been convicted of a violation of this subchapter, in which event the offense is a state jail felony.

(a-1) A person commits an offense if the person knowingly violates Section 1956.021, 1956.023(d), 1956.036(a), or 1956.039.

(a-2) An offense under Subsection (a-1) is a Class A misdemeanor, except that any fine imposed may not exceed \$10,000. If it is shown on trial of an offense under Subsection (a-1) that the person has previously been convicted of a violation of that

subsection, the offense is a state jail felony.

(a-3) It is an affirmative defense to prosecution of a violation of Section 1956.021 or 1956.023(d) that the person made a diligent effort to obtain or renew a certificate of registration at the time of the violation.

(a-4) A municipality or county may retain 10 percent of the money collected from a fine for a conviction of an offense under Subsection (a-1) as a service fee for that collection and the clerk of the court shall remit the remainder of the fine collected for conviction of an offense under Subsection (a-1) to the comptroller in the manner provided for the remission of fees to the comptroller under Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit proceeds received under this subsection to the credit of an account in the general revenue fund, and those proceeds may be appropriated only to the department and used to:

(1) finance the department's administration of Subchapters A, A-1, A-2, and A-3; and

(2) fund grants distributed under the prevention of scrap metal theft grant program established under Subchapter O, Chapter 411, Government Code.

(b) A person commits an offense if the person knowingly buys:

(1) stolen regulated material; or

(2) insulated communications wire that has been burned wholly or partly to remove the insulation, unless the wire is accompanied by documentation acceptable under the rules adopted under Section 1956.032(h) that states that the material was salvaged from a fire.

(b-1) An offense under Subsection (b) is a Class A misdemeanor unless it is shown on trial of the offense that the person has previously been convicted under Subsection (b), in which event the offense is a state jail felony.

(c) A person commits an offense if the person knowingly sells stolen regulated material. An offense under this subsection is a state jail felony unless it is shown on trial of the offense that the person has previously been convicted under this subsection, in which event the offense is a third degree felony.

(d) On the conviction of a metal recycling entity for an offense punishable under Subsection (b), a court, in addition to imposing any other applicable penalty, may order that the entity cease doing business as a metal recycling entity for a period not to exceed:

(1) 30 days from the date of the order for each violation that forms the basis of the conviction for a first offense; and

(2) 180 days from the date of the order for each violation that forms the basis of the conviction if it is shown on trial of the offense that the person has previously been convicted under this section.

(e) If conduct that constitutes an offense under this section also constitutes an offense under any other law, the actor may be prosecuted under this section or the other law.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 2, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 16, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 161 (S.B. 1093), Sec. 22.002(27), eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 864 (H.B. 555), Sec. 1, eff. September 1, 2013.

Sec. 1956.041. ADMINISTRATIVE PENALTY. (a) The commission, after notice and an opportunity for a hearing, may impose an administrative penalty on a person who violates Section 1956.036.

(b) The amount of the administrative penalty may not exceed \$1,000. Each day a violation occurs or continues to occur is a separate violation for the purpose of imposing a penalty. In determining the amount of the administrative penalty, the commission shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm caused by the violation;

- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

(c) The enforcement of the administrative penalty may be stayed during the time the order is under judicial review if the person pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A person who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the commission to contest the affidavit as provided by those rules.

(d) The attorney general may sue to collect the administrative penalty.

(e) A proceeding to impose an administrative penalty is considered to be a contested case under Chapter 2001, Government Code.

Added by Acts 2015, 84th Leg., R.S., Ch. 1065 (H.B. 2187), Sec. 8, eff. September 1, 2015.

SUBCHAPTER B. SALE OF CRAFTED PRECIOUS METAL TO DEALERS

Sec. 1956.051. DEFINITIONS. In this subchapter:

(1) "Commission" means the Finance Commission of Texas.

(2) "Commissioner" means the consumer credit commissioner.

(3) "Crafted precious metal" means jewelry, silverware, an art object, or another object, made wholly or partly from precious metal, other than a coin, a bar, a commemorative medallion, or scrap or a broken item selling at five percent or more than the scrap value of the item.

(4) "Dealer" means a person registered to engage in the business of purchasing and selling crafted precious metal, including purchases or sales made through the mail.

(5) "Department" means the Texas Department of Public

Safety.

(6) "Precious metal" means gold, silver, platinum, palladium, iridium, rhodium, osmium, ruthenium, or an alloy of those metals.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 1, eff. September 1, 2011.

Sec. 1956.0511. ADMINISTRATION BY COMMISSION.

(a) Notwithstanding any other provision of this chapter, the commission shall administer and enforce this subchapter, unless the context clearly requires another state agency to perform a specific duty.

(b) To the extent of any conflict between this subchapter and other provisions of this chapter, this subchapter prevails.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 2, eff. September 1, 2011.

Sec. 1956.052. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to crafted precious metal that has been sold or used primarily for personal, family, or household purposes. Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.053. EXCEPTION: PRECIOUS METAL EXTRACTED, RECOVERED, OR SALVAGED FROM INDUSTRIAL BY-PRODUCTS OR INDUSTRIAL WASTE PRODUCTS. This subchapter does not apply to a person whose purchase or sale of precious metal or a product made of precious metal is merely incidental to the person's business of extracting, recovering, or salvaging precious metal from industrial by-products or industrial waste products.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.054. EXCEPTION: DENTAL, PHARMACEUTICAL, OR MEDICAL APPLICATION OF CRAFTED PRECIOUS METAL. This subchapter does not apply to a dental, pharmaceutical, or medical application of crafted precious metal.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.055. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED FROM ANOTHER DEALER WHO PREVIOUSLY MADE REQUIRED REPORTS. This subchapter does not apply to crafted precious metal acquired in good faith in a transaction involving the stock-in-trade of another dealer who previously made the reports concerning that metal as required by this subchapter if:

(1) the selling dealer delivers to the acquiring dealer a written document stating that the reports have been made;

(2) the acquiring dealer submits a copy of the statement to the chief of police of the municipality or the sheriff of the county in which the selling dealer is located; and

(3) each dealer involved in the transaction retains a copy of the statement until the third anniversary of the date of the transaction.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.056. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED IN DISSOLUTION OR LIQUIDATION SALE. This subchapter does not apply to crafted precious metal acquired in a nonjudicial sale, transfer, assignment, assignment for the benefit of creditors, or consignment of the assets or stock-in-trade, in bulk, or a substantial part of those assets, of an industrial or commercial enterprise, other than a dealer, for the voluntary dissolution or liquidation of the seller's business, or for disposing of an excessive quantity of personal property, or property that has been acquired in a nonjudicial sale or transfer from an owner other than a dealer, the seller's entire household of personal property, or a substantial part of that property, if the dealer:

(1) gives written notice to the chief of police of the municipality or the sheriff of the county in which the dealer's business is located that a reporting exemption is being claimed under this section;

(2) retains in the dealer's place of business, until the third anniversary of the date of the transaction, a copy of the bill of sale, receipt, inventory list, or other transfer document;

and

(3) makes the record retained available for inspection by a peace officer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.057. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED IN JUDICIAL SALE. This subchapter does not apply to crafted precious metal acquired in a sale made:

(1) by any public officer in the officer's official capacity as a trustee in bankruptcy, executor, administrator, receiver, or public official acting under judicial process or authority; or

(2) on the execution of, or by virtue of, any process issued by a court.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.058. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED AS PAYMENT FOR OTHER CRAFTED PRECIOUS METAL BY PERSON IN BUSINESS OF SELLING TO CONSUMERS. This subchapter does not apply to crafted precious metal acquired in good faith as part or complete payment for other crafted precious metal by a person whose principal business is primarily that of selling directly to the consumer crafted precious metal that has not been subject to a prior sale.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.059. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED FROM OR REPORTED TO GOVERNMENTAL AGENCY. This subchapter does not apply to crafted precious metal:

(1) acquired as surplus property from the United States, a state, a subdivision of a state, or a municipal corporation; or

(2) reported by a dealer as an acquisition or a purchase, or reported as destroyed or otherwise disposed of, to:

(A) a state agency under another law of this state; or

(B) a municipal or county office or agency under another law of this state or a municipal ordinance.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.060. EXCEPTION: CRAFTED PRECIOUS METAL ACQUIRED BY PERSON LICENSED UNDER TEXAS PAWNSHOP ACT. This subchapter does not apply to crafted precious metal acquired by:

(1) a person licensed under Chapter 371, Finance Code; or

(2) an entity affiliated with a person licensed under Chapter 371, Finance Code, if the entity's recordkeeping practices satisfy the requirements of that chapter.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 3, eff. September 1, 2011.

Sec. 1956.061. EFFECT ON OTHER LAWS AND ORDINANCES. This subchapter does not:

(1) excuse noncompliance with another state law or municipal ordinance covering the reporting, holding, or releasing of crafted precious metal;

(2) prohibit a municipality from enacting, amending, or enforcing an ordinance relating to a dealer; or

(3) supersede a municipal ordinance except to the extent the ordinance does not require reporting for transactions involving crafted precious metal.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.0611. RULEMAKING. The commission may adopt rules necessary to implement and enforce this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 4, eff. September 1, 2011.

Sec. 1956.0612. REGISTRATION AS DEALER. (a) A person may not engage in the business of purchasing and selling crafted precious metal unless the person is registered with the commissioner as a dealer under this section.

(b) To register as a dealer, a person must provide to the

commissioner, on or before December 31 preceding each calendar year in which the person seeks to act as a dealer:

(1) a list of each location in this state at which the person will conduct business as a dealer; and

(2) a processing fee for each location included on the list furnished under Subdivision (1).

(c) The commissioner shall prescribe the processing fee in an amount necessary to cover the costs of administering this section.

(d) After the December 31 deadline, a dealer may amend the registration required under Subsection (a) to reflect any change in the information provided by the registration.

(e) The commissioner shall make available to the public a list of dealers registered under this section.

(f) The commissioner may prescribe the registration form.

(g) A reference to a registration in another subchapter of this chapter does not apply to a person to the extent the person is registered under this subchapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 4, eff. January 1, 2012.

Sec. 1956.0613. INVESTIGATION BY COMMISSIONER. The commissioner shall:

(1) monitor the operations of a dealer to ensure compliance with this chapter; and

(2) receive and investigate complaints against a dealer or a person acting as a dealer.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 4, eff. September 1, 2011.

Sec. 1956.0614. REVOCATION OF REGISTRATION. (a) The commissioner may revoke the registration of a dealer if the commissioner concludes that the dealer has violated this chapter. The commissioner shall recite the basis of the decision in an order revoking the registration.

(b) If the commissioner proposes to revoke a registration, the dealer is entitled to a hearing before the commissioner or a

hearings officer, who shall propose a decision to the commissioner. The commissioner or hearings officer shall prescribe the time and place of the hearing. The hearing is governed by Chapter 2001, Government Code.

(c) A dealer aggrieved by a ruling, order, or decision of the commissioner is entitled to appeal to a district court in the county in which the hearing was held. An appeal under this subsection is governed by Chapter 2001, Government Code.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 4, eff. September 1, 2011.

Sec. 1956.0615. ADMINISTRATIVE PENALTY. The commissioner may assess an administrative penalty not to exceed \$500 against a person for each knowing and wilful violation of this chapter.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 4, eff. September 1, 2011.

Sec. 1956.062. REPORT OF PURCHASE REQUIRED. (a) A dealer shall, as required by Section 1956.063, report all identifiable crafted precious metal that the dealer purchases, takes in trade, accepts for sale on consignment, or accepts for auction.

(b) Before crafted precious metal is offered for sale or exchange, a dealer must notify each person intending to sell or exchange the metal that, before the dealer may accept any of the person's property, the person must file with the dealer a list describing all of the person's crafted precious metal to be accepted by the dealer. The list must contain:

(1) the proposed seller's name and address;

(2) a complete and accurate description of the crafted precious metal; and

(3) the proposed seller's certification that the information is true and complete.

(c) The dealer shall record the proposed seller's driver's license number or department personal identification certificate number on physical presentation of the license or personal identification certificate by the seller. The record must accompany the list.

(d) The dealer shall:

(1) provide to a peace officer, on demand, the list required by Subsection (b); and

(2) mail or deliver a complete copy of the list to the chief of police or the sheriff as provided by Section 1956.063 not later than 48 hours after the list is filed with the dealer.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.063. FORM OF REPORT; FILING. (a) A report required by this subchapter must comply with this section unless a similar report is required by another state law or a municipal ordinance, in which event the required report must comply with the applicable law or ordinance.

(b) If a transaction regulated by this subchapter occurs in a municipality that maintains a police department, the original and a copy of the report required by this subchapter shall be submitted to the municipality's chief of police. If the transaction does not occur in such a municipality, the original and a copy of the report shall be submitted to the sheriff of the county in which the transaction occurs.

(c) For each transaction regulated by this subchapter, the dealer shall submit a report on a preprinted and prenumbered form prescribed by the commissioner. The form must include the following:

(1) the date of the transaction;

(2) a description of the crafted precious metal purchased by the dealer;

(3) the name and physical address of the dealer; and

(4) the name, physical description, and physical address of the seller or transferor.

(d) The dealer shall retain a copy of the report until the third anniversary of the date the report is filed.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 5, eff. September 1, 2011.

Sec. 1956.064. REQUIRED RETENTION OF CRAFTED PRECIOUS METAL. (a) A dealer may not melt, deface, alter, or dispose of crafted precious metal that is the subject of a report required by this subchapter before the 11th day after the date the report is filed unless:

(1) the peace officer to whom the report is submitted, for good cause, authorizes disposition of the metal;

(2) the dealer obtains the name, address, and description of the buyer and retains a record of that information; or

(3) the dealer is a pawnbroker and the disposition is the redemption of pledged property by the pledgor.

(b) A peace officer who has reasonable suspicion to believe that an item of crafted precious metal in the possession of a dealer is stolen may place the item on hold for a period not to exceed 60 days by issuing to the dealer a written notice that:

(1) specifically identifies the item alleged to be stolen and subject to the hold; and

(2) informs the dealer of the requirements of Subsection (c).

(c) On receiving the notice, the dealer may not melt, deface, alter, or dispose of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 6, eff. September 1, 2011.

Sec. 1956.065. INSPECTION OF CRAFTED PRECIOUS METAL BY PEACE OFFICER. (a) A dealer shall make crafted precious metal purchased by the dealer available for inspection by a peace officer during regular business hours while in the dealer's possession.

(b) Information obtained under this section is confidential except for use in a criminal investigation or prosecution or a civil court proceeding.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.066. PURCHASE FROM MINOR. (a) A dealer may not purchase crafted precious metal from a person younger than 18 years of age unless the seller delivers to the dealer before the purchase a written statement from the seller's parent or legal guardian consenting to the transaction.

(b) The dealer shall retain the statement with the records required to be kept under this subchapter. The dealer may destroy the statement after the later of:

(1) the date the item is sold; or

(2) the first anniversary of the date the dealer purchased the item.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.067. PURCHASE AT TEMPORARY LOCATION OF DEALER.

(a) A dealer who conducts business at a temporary location for a period of less than one year may not engage in the business of buying precious metal or used items made of precious metal unless, within a 12-month period at least 30 days before the date on which each purchase is made, the dealer has filed:

(1) a registration statement with the department;

(2) a copy of the registration statement and a copy of the dealer's certificate of registration issued under this subchapter with the local law enforcement agency of:

(A) the municipality in which the temporary location is located; or

(B) if the temporary location is not located in a municipality, the county in which the temporary location is located; and

(3) a copy of the dealer's certificate of registration issued under this subchapter with the county and, if applicable, the municipality in which the temporary location is located.

(b) The registration statement must contain:

(1) the name and address of the dealer;

(2) the location where business is to be conducted;

(3) if the dealer is an association, the name and address of each member of the association;

(4) if the dealer is a corporation, the name and address of each officer and director of the corporation; and

(5) other relevant information required by the department.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 7, eff. January 1, 2012.

Sec. 1956.068. PURCHASE OF MELTED ITEMS. A dealer, in the course of business, may not purchase from a person other than a manufacturer of or a regular dealer in crafted precious metal an object formed as the result of the melting of crafted precious metal.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.069. CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) fails to make or permit inspection of a report as required by Section 1956.062 or 1956.063;

(2) violates Section 1956.0612 or 1956.064;

(3) fails to obtain or retain a statement as required by Section 1956.066;

(4) fails to file a registration statement as required by Section 1956.067; or

(5) purchases an object in violation of Section 1956.068.

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1298 (H.B. 2490), Sec. 8, eff. January 1, 2012.

SUBCHAPTER C. RESTRICTIONS ON SALE OF CERTAIN ITEMS TO METAL RECYCLING ENTITIES

Sec. 1956.101. DEFINITIONS. In this subchapter:

(1) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1316, Sec. 5, eff. September 1, 2007.

(2) "Motor vehicle" has the meaning assigned by Section 541.201, Transportation Code.

(3) "PCB-containing capacitor" means a capacitor that contains polychlorinated biphenyls and is regulated under the federal Toxic Substances Control Act (15 U.S.C. Section 2601 et seq.).

(4) "Person" means an individual, corporation, partnership, sole proprietorship, or other business entity.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 5, eff. September 1, 2007.

Sec. 1956.102. EXCEPTION. This subchapter does not apply to a sale or transfer by or on behalf of a metal recycling entity.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Sec. 1956.103. RESTRICTIONS ON TRANSFER OF CERTAIN PROPERTY. (a) A person may not sell or otherwise transfer to a metal recycling entity:

(1) a lead-acid battery, fuel tank, or PCB-containing capacitor that is included with another type of scrap, used, or obsolete metal without first obtaining from the metal recycling entity a written and signed acknowledgment that the scrap, used, or obsolete metal includes one or more lead-acid batteries, fuel tanks, or PCB-containing capacitors;

(2) any of the following items that contain or enclose a lead-acid battery, fuel tank, or PCB-containing capacitor or of which a lead-acid battery, fuel tank, or PCB-containing capacitor is a part:

(A) a motor vehicle;

(B) a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle;

(C) an appliance; or

(D) any other item of scrap, used, or obsolete metal;

(3) a motor vehicle or a motor vehicle that has been junked, flattened, dismantled, or changed so that it has lost its character as a motor vehicle if the motor vehicle includes, contains, or encloses a tire or scrap tire; or

(4) a metal alcoholic beverage keg, regardless of condition, unless the seller is the manufacturer of the keg, the brewer or distiller of the beverage that was contained in the keg, or an authorized representative of the manufacturer, brewer, or distiller.

(b) Subsection (a)(3) does not apply to the sale or other transfer of a motor vehicle or a junked, flattened, dismantled, or changed motor vehicle from another state.

(c) Subsection (a) does not apply to a fuel tank that has been completely drained and rendered unusable in accordance with Texas Commission on Environmental Quality rules regardless of whether the fuel tank is attached to a motor vehicle.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 47 (S.B. 1298), Sec. 1, eff. September 1, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 17, eff. September 1, 2011.

Sec. 1956.104. NOTICE OF RESTRICTIONS. A metal recycling entity shall post in a conspicuous location a notice that:

(1) is readily visible to a person selling material to the metal recycling entity;

(2) is at least 24 inches horizontally by 18 inches vertically; and

(3) contains the following language:

TEXAS LAW PROHIBITS:

1. THE SALE OF A WHOLE, FLATTENED, OR JUNKED MOTOR VEHICLE, AN APPLIANCE, OR ANY OTHER SCRAP METAL ITEM CONTAINING A LEAD-ACID BATTERY, FUEL TANK THAT HAS NOT BEEN COMPLETELY DRAINED AND RENDERED UNUSABLE, OR PCB-CONTAINING CAPACITOR; AND

2. THE SALE OF LEAD-ACID BATTERIES, FUEL TANKS THAT HAVE NOT BEEN COMPLETELY DRAINED AND RENDERED UNUSABLE, OR PCB-CONTAINING CAPACITORS INCLUDED WITH OTHER SCRAP METALS WITHOUT OUR PRIOR WRITTEN ACKNOWLEDGMENT.

VIOLATION OF THIS LAW IS A MISDEMEANOR.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 47 (S.B. 1298), Sec. 2, eff. September 1, 2005.

Sec. 1956.105. CRIMINAL PENALTY. (a) A person commits an offense if the person violates this subchapter.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not more than \$1,000;

(2) confinement in the county jail for not more than 60 days; or

(3) both the fine and the confinement.

Added by Acts 2001, 77th Leg., ch. 1421, Sec. 4, eff. June 1, 2003.

SUBCHAPTER D. DISCIPLINARY PROCEDURES

Sec. 1956.151. DENIAL OF CERTIFICATE; DISCIPLINARY ACTION. The department shall deny an application for a certificate of registration, suspend or revoke a certificate of registration, or reprimand a person who is registered under this chapter if the person:

(1) obtains a certificate of registration by means of fraud, misrepresentation, or concealment of a material fact;

(2) sells, barter, or offers to sell or barter a certificate of registration;

(3) violates a provision of this chapter or a rule adopted under this chapter; or

(4) violates Section 1956.021.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 4, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 18, eff. September 1, 2011.

Sec. 1956.152. INVESTIGATION. Within the limits of available resources, the department may investigate:

(1) a person who engages in a practice that violates this chapter; and

(2) a complaint filed with the department against a person registered under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 4, eff. September 1, 2007.

Sec. 1956.153. HEARING. (a) A person whose application for a certificate of registration is denied, whose certificate of registration is suspended or revoked, or who is reprimanded is entitled to a hearing before the department if the person submits to the department a written request for the hearing.

(b) A hearing is governed by department rules for a contested hearing and by Chapter 2001, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 4, eff. September 1, 2007.

SUBCHAPTER E. OTHER PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 1956.201. ENFORCEMENT PROCEEDINGS; INJUNCTION. (a) The department, the attorney general, or the district, county, or city attorney for the county or municipality in which an alleged violation of this chapter occurs may, on receipt of a verified complaint, bring an appropriate administrative or judicial proceeding to enforce this chapter or a rule adopted under this chapter.

(b) The attorney general or an attorney representing the state may initiate an action for an injunction to prohibit a person from violating this chapter or a rule adopted under this chapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 4, eff. September 1, 2007.

Sec. 1956.202. CIVIL PENALTY. (a) Except as provided by Subsection (d), a person who violates this chapter or a rule adopted under this chapter is liable to this state for a civil penalty of not more than \$1,000 for each violation.

(b) The amount of the penalty shall be based on:

- (1) the seriousness of the violation;
- (2) the history of previous violations;
- (3) the amount necessary to deter a future violation;

and

- (4) any other matter that justice may require.

(c) The attorney general may sue to collect a civil penalty under this section. In the suit the attorney general may recover, on behalf of the state, the reasonable expenses incurred in obtaining the penalty, including investigation and court costs, reasonable attorney's fees, witness fees, and other expenses.

(d) A civil penalty may not be assessed under this section for conduct described by Section 1956.021, 1956.023(d), 1956.036(a), 1956.038, or 1956.039.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 4, eff. September 1, 2007.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1234 (S.B. 694), Sec. 19, eff. September 1, 2011.

Sec. 1956.203. CRIMINAL PENALTY FOR CERTAIN SOLICITATION.

(a) A person commits an offense if the person solicits the purchase of regulated material at a location other than a business location at which the material is produced as a by-product in the ordinary course of that business.

(b) An offense under this section is a Class B misdemeanor.

Added by Acts 2007, 80th Leg., R.S., Ch. 1316 (S.B. 1154), Sec. 4, eff. September 1, 2007.

Sec. 1956.204. GENERAL CRIMINAL PENALTY. (a) A person commits an offense if the person violates this chapter or a rule adopted under this chapter, including a rule, charter, or ordinance adopted, an order issued, or a standard imposed by a county,

municipality, or political subdivision under Section [1956.003](#).

(b) An offense under this section is a Class C misdemeanor.

(c) If conduct that constitutes an offense under this section also constitutes an offense under another section in this chapter, the person may be prosecuted only under that other section.

Added by Acts 2013, 83rd Leg., R.S., Ch. 864 (H.B. [555](#)), Sec. 2, eff. September 1, 2013.