

Bill as Introduced

HB 510 - AS INTRODUCED

2015 SESSION

15-0685
05/08

HOUSE BILL **510**

AN ACT establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

SPONSORS: Rep. Williams, Hills 4

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill establishes a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struck through.]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

1 (i) One representative of the antique dealer industry, who transacts business with the
2 general public, appointed by the speaker of the house of representatives.

3 (j) One representative of the scrap metal dealer industry, appointed by the president of
4 the senate.

5 (k) One representative of the scrap metal dealer industry, appointed by the speaker of
6 the house of representatives.

7 (l) One member of the construction industry in New Hampshire, appointed by the
8 president of the senate.

9 (m) One member of the Auto and Truck Recyclers Association of New Hampshire,
10 appointed by the speaker of the house of representatives.

11 III. The commission shall:

12 (a) Relative to the regulation of pawnbrokers and secondhand dealers:

13 (1) Study current laws and ordinances regulating pawnbrokers and secondhand
14 dealers in New Hampshire.

15 (2) Study issues surrounding recordkeeping, reporting, and retention periods,
16 including privacy and constitutional questions.

17 (3) Study the change in recovery rates in municipalities that mandate
18 recordkeeping, reporting, and retention periods, and assess the effectiveness of such ordinances.

19 (4) Consider the impact changes to state law would have on the industry, including
20 any ethical concerns.

21 (5) Study issues related to jurisdiction and law enforcement inspections.

22 (6) Identify the type of items and transactions that should be regulated and those
23 that should be excluded from regulation, including whether a minimum dollar value is
24 appropriate.

25 (7) Recommend statutory changes to reflect current business practices and address
26 enforcement issues.

27 (b) Relative to the system of commodities reporting by junk or scrap metal dealers:

28 (1) Study the current system of community-based regulation and reporting by junk
29 or scrap metal dealers in New Hampshire.

30 (2) Study the occurrence of metal theft and arrest records in New Hampshire under
31 the current system.

32 (3) Examine what tools exist in New Hampshire currently to curb the incidence of
33 metal theft.

34 (4) Study effective models in others states and their funding mechanisms.

35 (5) Review and recommend on the advisability of creating a statewide database for
36 New Hampshire, funded by fees on those regulated, and its potential to assist in the deterrence or
37 aid in investigations of metal theft in New Hampshire.

1 IV. Members of the commission shall serve without compensation, except that legislative
2 members of the commission shall receive mileage at the legislative rate when attending to the duties
3 of the commission.

4 V. Members of the commission shall elect a chairperson from among the members. The first
5 meeting of the commission shall be called by the first-named house member. The first meeting of the
6 commission shall be held within 45 days of the effective date of this section. Seven members of the
7 commission shall constitute a quorum.

8 VI. The commission shall report its findings and any recommendations for proposed
9 legislation to the president of the senate, the speaker of the house of representatives, the senate
10 clerk, the house clerk, the governor, and the state library on or before November 1, 2015.

11 2 Repeal. RSA 322-A, relative to the commission to study the regulation of pawnbrokers,
12 secondhand dealers, and junk or scrap metal dealers, is repealed.

13 3 Effective Date.

14 I. Section 2 of this act shall take effect December 1, 2015.

15 II. The remainder of this act shall take effect upon its passage.

HB 510 - AS AMENDED BY THE SENATE

04/09/2015 1236s

2015 SESSION

15-0685

05/08

HOUSE BILL 510

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ANALYSIS

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04/09/2015 1236s

15-0685

05/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Chapter; Commission to Study the Regulation of Pawnbrokers, Secondhand Dealers, and the Junk or Scrap Metal Dealers. Amend RSA by inserting after chapter 322 the following new chapter:

CHAPTER 322-A

COMMISSION TO STUDY THE REGULATION OF PAWNBROKERS,
SECONDHAND DEALERS, AND JUNK OR SCRAP METAL DEALERS

322:A:1 Commission to Study the Regulation of Pawnbrokers, Secondhand Dealers, and Junk or Scrap Metal Dealers.

I. There is established a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers. The purpose of the commission shall be to:

(a) Review state and local regulation of pawnbrokers and secondhand dealers to determine whether current statutes and ordinances should be revised for consistency and to better reflect current business practices and/or law enforcement concerns.

(b) Examine the current community-based system of commodities reporting by junk or scrap metal dealers in New Hampshire and to examine the advisability of creating a statewide database to assist in the deterrence or investigation of metal theft in New Hampshire.

II. The members of the commission shall be as follows:

(a) One member of the senate, appointed by the president of the senate.

(b) Three members of the house of representatives, appointed by the speaker of the house of representatives.

(c) One representative of law enforcement from a municipality in which a pawnshop and secondhand shop are located, appointed by the president of the senate.

(d) A representative of the New Hampshire Association of Chiefs of Police, appointed by the association.

(e) A county attorney with experience in property crimes, appointed by the governor.

(f) One representative of the pawnbroker industry, appointed by the president of the senate.

(g) One representative of the secondhand dealer industry, appointed by the speaker of the house of representatives.

(h) One representative of the coin dealer industry who transacts business with the general

public, appointed by the president of the senate.

(i) One representative of the antique dealer industry, who transacts business with the general public, appointed by the speaker of the house of representatives.

(j) One representative of the scrap metal dealer industry, appointed by the president of the senate.

(k) One representative of the scrap metal dealer industry, appointed by the speaker of the house of representatives.

(l) One member of the construction industry in New Hampshire, appointed by the president of the senate.

(m) One member of the Auto and Truck Recyclers Association of New Hampshire, appointed by the speaker of the house of representatives.

III. The commission shall:

(a) Relative to the regulation of pawnbrokers and secondhand dealers:

(1) Study current laws and ordinances regulating pawnbrokers and secondhand dealers in New Hampshire.

(2) Study issues surrounding recordkeeping, reporting, and retention periods, including privacy and constitutional questions.

(3) Study the change in recovery rates in municipalities that mandate recordkeeping, reporting, and retention periods, and assess the effectiveness of such ordinances.

(4) Consider the impact changes to state law would have on the industry, including any ethical concerns.

(5) Study issues related to jurisdiction and law enforcement inspections.

(6) Identify the type of items and transactions that should be regulated and those that should be excluded from regulation, including whether a minimum dollar value is appropriate.

(7) Recommend statutory changes to reflect current business practices and address enforcement issues.

(b) Relative to the system of commodities reporting by junk or scrap metal dealers:

(1) Study the current system of community-based regulation and reporting by junk or scrap metal dealers in New Hampshire.

(2) Study the occurrence of metal theft and arrest records in New Hampshire under the current system.

(3) Examine what tools exist in New Hampshire currently to curb the incidence of metal theft.

(4) Study effective models in others states and their funding mechanisms.

(5) Review and recommend on the advisability of creating a statewide database for New Hampshire, funded by fees on those regulated, and its potential to assist in the deterrence or aid in investigations of metal theft in New Hampshire.

IV. Members of the commission shall serve without compensation, except that legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

V. Members of the commission shall elect a chairperson from among the members. The first meeting of the commission shall be called by the first-named house member. The first meeting of the commission shall be held within 45 days of the effective date of this section. Seven members of the commission shall constitute a quorum.

VI. The commission shall submit an interim report on or before November 1, 2015, and a final report on or before November 1, 2016, of its findings and any recommendations for proposed legislation to the president of the senate, the speaker of the house of representatives, the senate clerk, the house clerk, the governor, and the state library.

2 Repeal. RSA 322-A, relative to the commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers, is repealed.

3 Effective Date.

I. Section 2 of this act shall take effect December 1, 2016.

II. The remainder of this act shall take effect upon its passage

CHAPTER 72
HB 510 - FINAL VERSION

04/09/2015 1236s

2015 SESSION

15-0685
05/08

HOUSE BILL **510**

AN ACT establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

SPONSORS: Rep. Williams, Hills 4

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CHAPTER 72
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04/09/2015 1236s

15-0685
05/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 72:1 New Chapter; Commission to Study the Regulation of Pawnbrokers, Secondhand Dealers,
2 and the Junk or Scrap Metal Dealers. Amend RSA by inserting after chapter 322 the following new
3 chapter:

4 CHAPTER 322-A

5 COMMISSION TO STUDY THE REGULATION OF PAWNBROKERS,
6 SECONDHAND DEALERS, AND JUNK OR SCRAP METAL DEALERS

7 322-A:1 Commission to Study the Regulation of Pawnbrokers, Secondhand Dealers, and Junk or
8 Scrap Metal Dealers.

9 I. There is established a commission to study the regulation of pawnbrokers, secondhand
10 dealers, and junk or scrap metal dealers. The purpose of the commission shall be to:

11 (a) Review state and local regulation of pawnbrokers and secondhand dealers to
12 determine whether current statutes and ordinances should be revised for consistency and to better
13 reflect current business practices and/or law enforcement concerns.

14 (b) Examine the current community-based system of commodities reporting by junk or
15 scrap metal dealers in New Hampshire and to examine the advisability of creating a statewide
16 database to assist in the deterrence or investigation of metal theft in New Hampshire.

17 II. The members of the commission shall be as follows:

18 (a) One member of the senate, appointed by the president of the senate.

19 (b) Three members of the house of representatives, appointed by the speaker of the
20 house of representatives.

21 (c) One representative of law enforcement from a municipality in which a pawnshop and
22 secondhand shop are located, appointed by the president of the senate.

23 (d) A representative of the New Hampshire Association of Chiefs of Police, appointed by
24 the association.

25 (e) A county attorney with experience in property crimes, appointed by the governor.

26 (f) One representative of the pawnbroker industry, appointed by the president of the
27 senate.

28 (g) One representative of the secondhand dealer industry, appointed by the speaker of
29 the house of representatives.

CHAPTER 72
HB 510 - FINAL VERSION
- Page 2 -

1 (h) One representative of the coin dealer industry who transacts business with the
2 general public, appointed by the president of the senate.

3 (i) One representative of the antique dealer industry, who transacts business with the
4 general public, appointed by the speaker of the house of representatives.

5 (j) One representative of the scrap metal dealer industry, appointed by the president of
6 the senate.

7 (k) One representative of the scrap metal dealer industry, appointed by the speaker of
8 the house of representatives.

9 (l) One member of the construction industry in New Hampshire, appointed by the
10 president of the senate.

11 (m) One member of the Auto and Truck Recyclers Association of New Hampshire,
12 appointed by the speaker of the house of representatives.

13 III. The commission shall:

14 (a) Relative to the regulation of pawnbrokers and secondhand dealers:

15 (1) Study current laws and ordinances regulating pawnbrokers and secondhand
16 dealers in New Hampshire.

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18 including privacy and constitutional questions.

19 (3) Study the change in recovery rates in municipalities that mandate
20 recordkeeping, reporting, and retention periods, and assess the effectiveness of such ordinances.

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22 any ethical concerns.

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25 that should be excluded from regulation, including whether a minimum dollar value is appropriate.

26 (7) Recommend statutory changes to reflect current business practices and address
27 enforcement issues.

28 (b) Relative to the system of commodities reporting by junk or scrap metal dealers:

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30 or scrap metal dealers in New Hampshire.

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32 the current system.

33 (3) Examine what tools exist in New Hampshire currently to curb the incidence of
34 metal theft.

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36 (5) Review and recommend on the advisability of creating a statewide database for

CHAPTER 72
HB 510 - FINAL VERSION
- Page 3 -

1 New Hampshire, funded by fees on those regulated, and its potential to assist in the deterrence or
2 aid in investigations of metal theft in New Hampshire.

3 IV. Members of the commission shall serve without compensation, except that legislative
4 members of the commission shall receive mileage at the legislative rate when attending to the duties
5 of the commission.

6 V. Members of the commission shall elect a chairperson from among the members. The first
7 meeting of the commission shall be called by the first-named house member. The first meeting of the
8 commission shall be held within 45 days of the effective date of this section. Seven members of the
9 commission shall constitute a quorum.

10 VI. The commission shall submit an interim report on or before November 1, 2015, and a
11 final report on or before November 1, 2016, of its findings and any recommendations for proposed
12 legislation to the president of the senate, the speaker of the house of representatives, the senate
13 clerk, the house clerk, the governor, and the state library.

14 72:2 Repeal. RSA 322-A, relative to the commission to study the regulation of pawnbrokers,
15 secondhand dealers, and junk or scrap metal dealers, is repealed.

16 72:3 Effective Date.

17 I. Section 2 of this act shall take effect December 1, 2016.

18 II. The remainder of this act shall take effect upon its passage.

19

20 Approved: June 2, 2015

21 Effective Date: I. Section 2 shall take effect December 1, 2016.

22 II. Remainder shall take effect June 2, 2015

Amendments

Amendment to HB 510

1 Amend RSA 322-A:1, VI as inserted by section 1 of the bill by replacing it with the following:

2

3 VI. The commission shall submit an interim report on or before November 1, 2015, and a
4 final report on or before November 1, 2016, of its findings and any recommendations for proposed
5 legislation to the president of the senate, the speaker of the house of representatives, the senate
6 clerk, the house clerk, the governor, and the state library.

7

8 Amend the bill by replacing section 3 with the following:

9

10 3 Effective Date.

11 I. Section 2 of this act shall take effect December 1, 2016.

12 II. The remainder of this act shall take effect upon its passage.

Committee Minutes

**SENATE CALENDAR NOTICE
EXECUTIVE DEPARTMENTS AND ADMINISTRATION**

- ✓ Senator Sharon Carson Chairman
- ✓ Senator John Reagan V Chairman
- ✓ Senator Sam Cataldo
- ✓ Senator Donna Soucy
- Senator Jeff Woodburn

*open 1:15 PM
close 1:26 PM*

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

Date: March 25, 2015

HEARINGS

Thursday

4/2/2015

EXECUTIVE DEPARTMENTS AND ADMINISTRATION	LOB 101	1:00 PM
(Name of Committee)	(Place)	(Time)

EXECUTIVE SESSION MAY FOLLOW

- | | | |
|--------------------|------------------|---|
| 1:00 PM | HB521 | relative to the size of the pool of the workers' compensation appeals board. |
| 1:15 PM | HB510 | establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers. |
| 1:30 PM | HB408 | making a technical correction relative to fees for chiropractors. |
| 1:45 PM | HB259 | relative to the reporting date of the economic development strategy and plan. |
| 2:00 PM | HB175 | (NT) establishing a committee to study improving the efficiency of the financial approval process for housing subdivisions used by the department of justice. |

Sponsors:

- HB521**
Rep. Jeffrey Goley
- HB510**
Rep. Kermit Williams
- HB408**
Rep. Carol McGuire
- HB259**
Rep. Naida Kaen
- HB175**
Rep. William Infantine

**SENATE
EXECUTIVE DEPARTMENTS AND ADMINISTRATION
COMMITTEE**

Deb Chroniak, Legislative Aide

HB 510- establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

Hearing Date: April 2, 2015

Time Opened: 1:15 p.m.

Time Closed: 1:28 p.m.

Members of the Committee Present: Senators Carson, Reagan, Cataldo, and Soucy

Members of the Committee Absent: Senator Woodburn

Bill Analysis: This bill establishes a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

Sponsors: Rep. Williams, Hills 4

Who supports the bill: Representative Andrew Christie, House ED & A; Representative Kermit Williams, Hillsborough, District 4; Attorney Mike McLaughlin, Schnitzer Metal

Who opposes the bill: No one

Summary of testimony presented in support:

Representative Kermit Williams:

- From legislation passed last biennium (HB 343), two study commissions were created, one to study pawn brokers and secondhand dealers, and the second on regulation of junk and scrap metal dealers. Both important issues needing legislation, but complex as to their legislative solutions.
- The issue is that of theft due to drug related problems.
- At these studies, police officials discussed the difficulties in tracking down this type of theft.
- These two commissions were combined inviting members from both communities.
- This legislation will bring recommendations for changes to the RSAs dealing with this growing problem.

Senator Carson stated that the Final Report due date was November 1, 2015 and asked if that were enough time to come up with results for such a complex issue. She suggested the final report be due November 1, 2016 with an interim report due on November 1, 2015. Representative Williams was in favor of this extension of time.

Attorney Mike McLaughlin, Lobbyist (copies of the Final Report on HB 343 Commission, Summary of laws regarding regulation of scrap metals, flyer on ISRI, International Scrap Recycling Institute):

- Schnitzer Metal has six local offices in NH and was a participant in the study commission discussions of metal theft in NH.
- ISRI runs a free theft metal reporting system.
- Have been trying to institute a state-wide theft metal reporting program.
- Large cities will pass an ordinance and collect information on metal theft, but the information stays within that city.
- In the theft industry, thieves are knowledgeable and will continue to move their activities.
- Idea behind commission is to continue to find ways to implement a state-wide community-based reporting system where every community will be alerted on theft.
- Regional Information Sharing Systems Program is funded by the federal government through the state police in Massachusetts (another free program).
- These types of programs need to be blended into NH law.
- There is no charge for these programs to the communities.

Senator Reagan asked why the dealers are not presently doing this. **Attorney McLaughlin** stated that you cannot force dealers to be linked in. The idea is to encourage them and make them aware so they will participate.

Fiscal Note: N/A

Future Action: Motion of Ought to Pass on Amendment #1236s was made by Senator Soucy and seconded by Senator Reagan. The vote was 4 to 0 in favor. The motion of Ought to Pass with Amendment was made by Senator Reagan and seconded by Senator Soucy. The vote was 4 to 0 in favor. Senator Carson will move this bill out of committee.

dac
Date hearing report completed: April 4, 2015-F

[file: HB 510 report]

Speakers

Testimony

#1

SUMMARY OF NEW HAMPSHIRE LAWS CONCERNING THE REGULATION OF SCRAP METALS

September 25, 2014

EXECUTIVE SUMMARY

The purpose of this paper is to assess the current state statutory and regulatory scheme affecting scrap metal recycling with an eye towards how state regulation impacts the rights of municipalities to regulate scrap metal dealers at the local level¹. In summary, under the current state of the law, municipalities are granted almost complete authority – subject only to constitutional limitations – to regulate land use and operational aspects of metals recycling facilities in their communities, including rules relating to reporting of purchased materials and records maintenance. This is not inclusive of environmental regulation, which is preempted by State law and under the regulatory rubric of the Department of Environmental Services. As a result, New Hampshire's 234 cities and towns² could in theory impose 234 different regulatory schemes over the State's metals recycling facilities.

APPLICABLE LAWS AND RULES

Land Use Regulations

It is well-settled law in this State that towns and cities may enact land use regulations to address issues of zoning (RSA 674:16) and site plan review (RSA 674:44). Zoning concerns issues such as whether a use is permitted, the size of the buildings and other structures, minimum lot sizes, and the location of buildings. Site plan review concerns the review of a proposed use to ensure that it is aesthetically pleasing, compatible with the surrounding community and does not threaten surrounding properties from the perspective of issues such as noise, drainage, fire safety, or nuisance. The powers of planning and zoning do not authorize the regulation of the business itself beyond the land-use related concerns contemplated under Chapter 674.

Authority of Municipalities to Regulate Beyond Land Use

RSA 47:17. Under a general grant of authority, RSA §47:17 vests in city councils the power to make and establish rules and ordinances for a variety of purposes set forth in this section. One such purpose authorizes the regulation of “dealers in and keepers of shops for the purpose, sale or barter of junk, old metals, or second-hand articles”. RSA §47:17 XV. This

¹ This memorandum does not address regulation specific to motor vehicle crushing operations, which carry a unique set of rules and restrictions given the nature of the issues involved with such operations.

² Source, <http://www.nh.gov/municipal/>.

section authorizes city councils to impose “such limitations and restrictions as to them [i.e. the City] shall appear necessary.” Id. Towns do not appear granted the same broad grant of authority. See RSA 31:39.

RSA Chapter 322. Any questions about the rights of all municipalities to regulate scrap metals are answered by RSA Chapter 322, which specifically affords towns and cities the right to license “dealers in” and “keepers of shops for” the purchase and sale of “old junk”, “old or scrap metals”. RSA §322:1. This Chapter also grants to the “board which grants said licenses” the right to “establish rules, regulations and restrictions relative to the business carried on”. RSA §322:2. This Chapter also requires licensees under the section to “keep records sufficient to the licensing authority of the accumulation, storage, and handling of commodities as a junk or scrap metal dealer”. RSA §322:6-a. The section authorizes any “officer, having jurisdiction may enter upon the premises used by a licensee...ascertain how the licensee conducts business and examine all commodities purchased, obtained, kept, or stored...and all books and inventories relating thereto”. RSA §322:7. The New Hampshire Supreme Court has affirmed that Chapter 322 represents a broad grant of authority that is limited only by constitutional constraints. See, Prolerized New England Company v. City of Manchester (Slip Opinion of NH Supreme Court dated August 28, 2014).

RSA Chapter 236. “It is hereby declared to be the policy of this state and in the public interest to provide for effective control of the establishment, use, and maintenance of junk yards adjacent to the interstate and turnpike systems in order to protect the public investment in such highways, to promote the safety and recreational value of public travel, and to preserve natural beauty.” RSA §236:90. A “junk yard” means “an establishment or place of business which is maintained, operated, or used for storing, keeping, buying or selling junk...”. RSA §236:91 (IV). Junk means “old or scrap copper, brass...iron, steel, and other old or scrap ferrous or non-ferrous material.” RSA §236:91 (II). Given the breadth of the definition of “junk”, there can be no question that dealers in scrap metals fall under the definition. The Commissioner of Transportation is authorized to issue rules “to provide for effective control of junk yards”. RSA 236:92. The Commissioner previously adopted such rules, NH Admin. Rules Tra 605, but they have now expired.

Chapter 236 also affirms the role of municipalities in regulating “junk yards”. More specifically, RSA §236:114 and 115 requires a person to obtain a license to operate a junk yard business from the “local governing body of the municipality” where it resides. In considering a request for a junk yard license, the local governing body “shall take into account the suitability of the applicant with reference to his ability to comply with the fencing requirements or other reasonable regulations concerning the proposed junk yard...to any record of convictions for any type of larceny or receiving of stolen goods, and to any other matter within the purposes of this subdivision. RSA §236:117. The statute is expressly deferential to properly-enacted municipal ordinances. RSA §236:124.

Notwithstanding its sometimes-general reference to “reasonable regulations” (i.e. §236:17), it would appear that the deference to municipal authority under Chapter 236 was intended by the legislature to be focused more on land use and aesthetic concerns³. See, RSA

³ Chapter 236 generally concerns the regulation of highways and areas adjacent thereto.

236:118 and 120. When read in conjunction with Chapter 322, it would appear that the intent of the legislature, in total, is to defer all aspects of scrap metal regulation to municipalities, with the exception of environmental issues, discussed below.

Environmental Regulation

Under RSA Chapter 149-M, the State has imposed a comprehensive regulatory system over solid waste management.

The Chapter expresses the goal of promoting reductions in solid waste through an emphasis on “source reduction” and “recycling and reuse” and authorizes the Department of Environmental Services to regulate solid waste facilities. RSA §149-M:6 (III). Under the statute, the term “recyclable materials” expressly includes “ferrous and non-ferrous metals”.

DES has adopted comprehensive rules relating to solid waste management. See Env-SW §§100-2100. The rules include a “permit by notification” requirement for “facilities that only collect and temporarily store ferrous or non-ferrous scrap metals, or a combination thereof, and that transfer said scrap metal to authorize facilities or markets for recycling...”. Env-SW 407.04.

The State has also enacted a comprehensive regulatory scheme over hazardous waste management. See, RSA Chapter 147-A. To the extent metals recycling facilities generate hazardous waste, they are subject to the hazardous waste permitting rules. However, “the recycling process itself shall not be subject regulation under the hazardous waste rules”. Env-HW 802-02(b).

Of note, regulation under Chapters 149-M and/or 147-A is vested exclusively in DES. Unlike the statutory sections earlier discussed, a municipality would likely be precluded from regulating a metals recycling facility insofar as such regulation fell within the subject matter addressed by these two chapters.

2

MEMORANDUM

DATE: November 1, 2014

TO: Honorable Margaret Wood Hassan, Governor
Honorable Terie Norelli, Speaker of the House
Honorable Chuck Morse, President of the Senate
Honorable Karen O. Wadsworth, House Clerk
Honorable Tammy L. Wright, Senate Clerk
Michael York, State Librarian

FROM: Colin Kelly, Commission Chairman

SUBJECT: Final Report on HB 343, Chapter 259, Laws of 2014

Pursuant to HB 343, Chapter 259, Laws of 2014, enclosed please find the Final Report of the Commission to Study the Current Community-Based System of Commodities Reporting by Junk or Scrap Metal Dealers in New Hampshire.

If you have any questions or comments regarding this report please do not hesitate to contact me.

Enclosures

Cc: Members of the Committee

FINAL REPORT

Commission to Study the Current Community-Based System of Commodities Reporting by Junk or Scrap Metal Dealers in New Hampshire.

HB343, Chapter 259, Laws of 2014

November 1, 2014

MEMBERS:

Senator David Pierce
Rep. David O. Huot
Rep. Kenneth Gidge
Rep. John B. Hunt

Mr. Colin Kelly, Chairman, representing the scrap metal industry
Mr. Bruce Crawford, representing the Auto and Truck Recyclers of N.H.
Chief David Mara, Manchester Police Department
Det. Donald Densmore, Nashua Police Department
Scott Knightly, representing the construction industry

CHARGE OF THE STUDY:

The commission to study the current community-based system of commodities reporting by junk or scrap metal dealers in New Hampshire was charged to:

- a. study the occurrence of metal theft and arrest records in New Hampshire under the current system.
- b. Examine what tools exist in New Hampshire currently to curb the incidence of metal theft.
- c. Study effective models in other states and their funding mechanisms.
- d. Review and recommend on the advisability of creating a statewide database for New Hampshire, funded by fees on those regulated and its potential to assist in the deterrence or aid in investigations of metal theft in New Hampshire.

ISSUE:

The theft of metal, both ferrous and non-ferrous, from cities, towns, utilities as well as homes and apartment buildings, both occupied and unoccupied, has escalated

dramatically in recent years. One cause appears to be the need for drug addicts to convert their crimes into cash.

Scrap metal recyclers serve as an important resource in society's effort to reuse materials and for years have recycled millions of tons of metal that otherwise would have been discarded and taken up space in already crowded landfills. In recent years, as a result of the economic downturn and the spread of drug addiction, the industry has been exposed to a stream of stolen material that thieves attempt to sell and convert into cash to satisfy their addiction.

New Hampshire's laws regarding junk yards and scrap metal recyclers originate from a time far removed from the world of today. RSA 322 JUNK AND SCRAP METAL DEALERS was first enacted in 1883. It has been modified many times but the one feature that has remained constant is the delegation of the responsibility of licensing such businesses to local governments, who may, or may not decide to do so.

The evolution of the recycling business as well as society's attention to environmental concerns have added to the laws applicable to scrap metal and junk yards. RSA 236, HIGHWAY REGULATION, PROTECTION AND CONTROL REGULATIONS, a series of laws passed to qualify for federal highway funds, contains both a definition of junk yards and a requirement that they be licensed, RSA 236:114.

In addition to the above laws, RSA 149-M, requires junk yards, scrap metal yards and auto recycling yards to obtain a solid waste if they collect, separate, store, transfer, process, treat, or dispose of solid waste.

The cities that have chosen to license junk and scrap metal yards via local ordinance all approach the subject in different ways. Manchester has passed an ordinance that requires licensed scrap metal dealers to report each transaction on a daily basis and pay a fee per transaction. Concord licenses junk and scrap metal yards but does not require daily reports instead they rely on the records kept at the scrap yard as required by RSA 322-6-a. In Nashua scrap metal dealers, pawnshops and resellers report activity to the police department and there is no fee.

There is no statewide database that localities can access to obtain information on recent thefts of metals.

Rep. David O. Huot and Rep. Lisa DiMartino introduced HB343 in the 2014 Legislative Session with an emphasis on the issues surrounding pawnshops. An amendment was offered to the bill when it reached the Senate to include the junk yard and scrap metals. The amended bill was passed by both houses and signed by the Governor.

PROCESS AND PROCEDURES:

The membership of the commission was designed to provide all stakeholders, law enforcement personnel and business owners, an opportunity to share their mutual

concerns and to develop ways to help share information to help in solving metal theft crimes. The commission met three times and reviewed current New Hampshire law, law enforcement activity and crime solving techniques as well as receiving presentations from two entities that monitor activity in the industry.

FINDINGS:

- Current law regarding junkyards and scrap metal recyclers needs to be updated to reflect current business models.
- Any new law should create definitions that accurately reflect the activities a named business is conducting.
- A new law needs to regulate pawnshops, secondhand dealers, antique dealers, scrap metal recyclers, automobile salvage and recycling yards under one statute with subsections addressing the issues unique to each of the different categories.
- There is no statewide database available to cities and towns to report or track metal theft.
- There are several entities that are in the business of collecting information concerning the theft of metals and sharing the information with law enforcement as well as junkyards and scrap metal recyclers.

RECOMMENDATIONS:

1. Develop a single new streamlined statute to regulate the purchase and sale of ferrous and non-ferrous metals as well as used goods. Consider including the following businesses and statues in the new law: pawnbrokers (RSA 398), second hand dealers and scrap metal dealers (RSA 322), itinerant vendors (RSA 321), auctioneers (RSA 311), hawkers and peddlers (RSA 320), dealers in cash for gold, flea markets, gun shows, and yard sales. Clearly define all types of businesses regulated by or exempt from the statute. Create subdivisions for issues unique to the different types of second hand goods sales.
2. Require all junkyards, scrap metal dealers and automobile salvage and recycling businesses to register with a municipality. Develop a statewide database of registered businesses. Ensure that the process is not unduly burdensome or expensive for business owners.
3. Establish a Commission to review all of the statutes regulating businesses involved in the purchase and sale of property from the public. The new Commission should have membership similar to the Commission that is filing this report with the addition of a representative from the scrap metal industry and a representative from the City and Town Clerk's Association.

The charges of the Commission should include:

- Review of the availability and cost of theft alert and theft reporting systems.
- Review the systems in place in other jurisdictions.
- Review and analyze arrest and convictions information as it applies to each segment of the businesses covered by the commission.
- Discuss privacy issues raised by recordkeeping and record sharing requirements for affected businesses.
- Explore ways to ensure that business owners are receiving information about stolen items that may be for sale as well as sharing information on items that they purchase.
- Review the impact of a new statewide law regulating affected businesses on municipal ordinances adopted prior to the new law.
- Consider requiring all affected businesses to register their businesses with a municipal official. Develop a statewide database of registered businesses. Ensure that the process is not unduly burdensome or expensive for business owners.
- Consider requiring all temporary 'cash for gold' businesses to obtain a license with the state and to notify local law enforcement officials of their presence prior to opening for business.
- Review all of their recommendations to ensure that they do not create an unfunded mandate in conflict with Article 28-a of the New Hampshire Constitution.

The Commission should be required to solicit input from the Attorney General's Office, a representative of the cash for gold industry, a selectman or town clerk from a small town and a police chief from a small town.

Require the Commission to file an interim report by December 1, 2015 and a final report by November 1, 2016.

Respectfully submitted

Colin Kelly, Chairman, on behalf of the Commission



Making a Difference

RISS Investigative Services

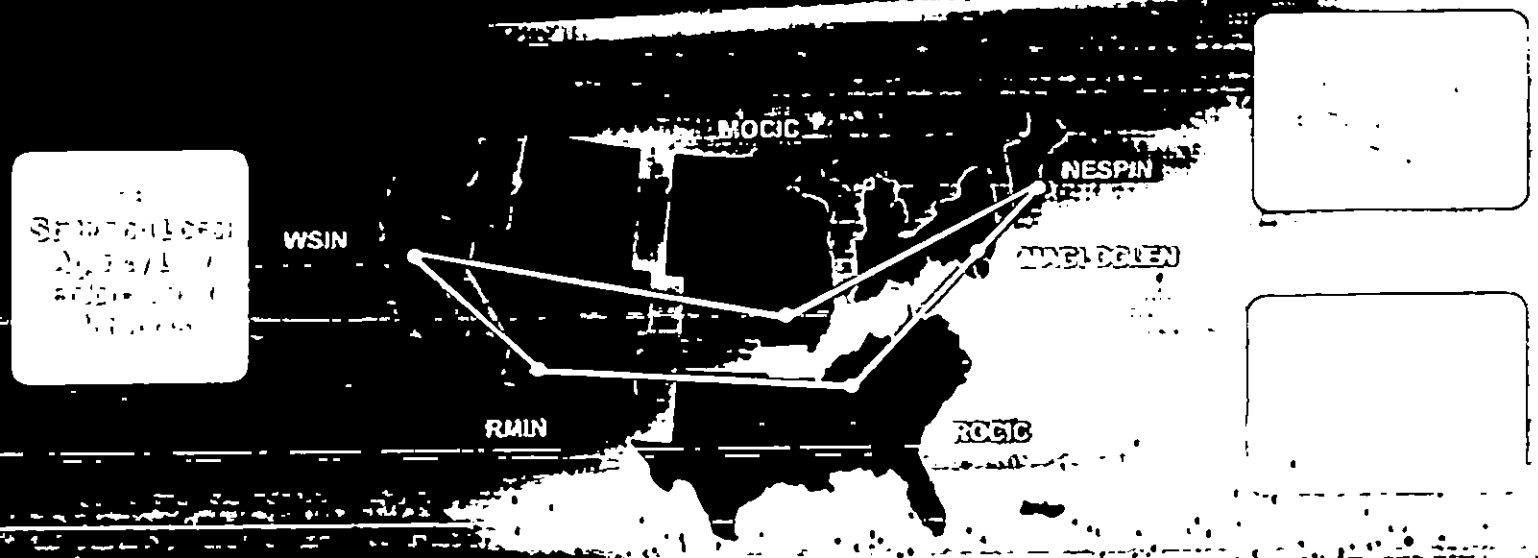
The RISS Centers provide investigative support services to more than 8,700 local, state, federal, and tribal law enforcement agencies in all 50 states, the District of Columbia, U.S. territories, Australia, Canada, England, and New Zealand. Hundreds of thousands of officers access RISS services and programs each year. RISS also provides a number of resources to agencies and individuals that do not require full RISS membership. Almost 100 agencies and systems are connected or pending connection to the RISS Secure Intranet, RISSNET™.

—RISS member agencies have access to powerful investigative resources, including:

Information Sharing	Analytical Support	Training and Conferences	Confidential Funds	Equipment Loans
<ul style="list-style-type: none"> • RISSNET • RISS Alerts • RISS Alerts • RISS Alerts • RISS Alerts • RISS Alerts 	<ul style="list-style-type: none"> • Intelligence • Database • Database • Database • Database • Database 	<ul style="list-style-type: none"> • RISSNET • RISSNET • RISSNET • RISSNET • RISSNET • RISSNET 	<ul style="list-style-type: none"> • RISSNET • RISSNET • RISSNET • RISSNET • RISSNET • RISSNET 	<ul style="list-style-type: none"> • RISSNET • RISSNET • RISSNET • RISSNET • RISSNET • RISSNET

RISSNET

RISSNET houses and provides access to millions of pieces of data, offers bidirectional sharing of information, and acts as the communications infrastructure for a number of critical resources and investigative tools—such as the National Criminal Intelligence Databases (RISSIntel), RISSale, RISSGang, RISSATX, and RISSLeads—and provides access to various local, state, and federal intelligence and investigative databases. There are more than 300 resources available via RISSNET; the owners of these resources rely on RISS for its proven and secure infrastructure.



**RISS**

Regional Information Sharing Systems® Program

**BJA**
Bureau of Justice Assistance
U.S. Department of Justice

A Proven Resource for Law Enforcement

RISS is a nationwide program consisting of six regional centers and a technology support center. For more than 30 years, RISS has been a proven, trusted, and cost-effective program that leverages funding to support thousands of local, state, federal, and tribal law enforcement agencies across the nation.

RISS is different from other information sharing programs. RISS offers access to intelligence databases, connects disparate systems, and provides essential investigative support services.

In addition, RISS provides officer safety through the RISS Officer Safety Event Deconfliction System (RISSafe) and extensive gang resources through the RISS National Gang (RISSGang) Program. Public safety and private sector officials utilize the RISS Automated Trusted Information Exchange (RISS ATIX) to communicate and share information with each other as well as with law enforcement. RISS's services and resources directly impact investigative case success and officer safety.

RISS Centers

Between 1973 and 1981, the six RISS Centers were established in the order listed below:

- Regional Organized Crime Information Center® (ROGIC)
- Rocky Mountain Information Network® (RMIN)
- New England State Police Information Network® (NESPIN)
- Mid-States Organized Crime Information Center (MOCIC)
- Western States Information Network (WSIN)
- Middle Atlantic Great Lakes Organized Crime Law Enforcement Network® (MAGLOLEN)

RISS Mission

The mission of RISS is to support law enforcement efforts nationwide to combat illegal drug trafficking, organized criminal activity, criminal gangs, violent crime, human trafficking, identity theft, terrorist activity, and other criminal activity and to promote officer safety. RISS also provides information sharing and communications to public and private sector entities.

SBU/CUI Interoperability Initiative (SII)

RISSNET is one of four sensitive but unclassified/controlled unclassified information (SBU/CUI) networks/systems participating in the SBU/CUI Interoperability Initiative (SII) under the auspices of the White House and the Office of the Program Manager Information Sharing Environment (PMISE). The goal of the SII is to provide single sign-on and access to a variety of system-to-system enhancements within an interoperable and protected SBU/CUI network/system environment for local, state, federal, and tribal law enforcement, regardless of agency ownership of the individual network/system.



Child Pornography Case Leads to Plea

RISS digital forensics staff assisted a New Mexico sheriff's office with a child pornography case involving computer analysis and hard-disk drives. More than 100,000 images were collected that required analysis. The analysis led to a plea agreement resulting in an 18-year sentence.

RISS operates on a nationwide basis while serving the unique needs of its individual regions.

For more information on the RISS Program, visit www.riss-net.org.



Moving Forward

RISS Initiatives and Programs

The following provides highlights of RISS's numerous and diverse initiatives and programs:

The RISSIntel databases, as well as RISS partner system intelligence databases, are available to authorized RISSNET users via a federated search. Authorized RISSNET users have access to millions of records regarding suspected criminal information from RISSIntel and RISS partner systems through a single query. This capability is a great benefit to law enforcement and other criminal justice professionals.

RISSafe stores and maintains data on planned law enforcement events—such as raids, controlled buys, and undercover operations—with the goal of identifying and alerting affected agencies or officers of potential conflicts. Without the use of this resource, law enforcement agencies may inadvertently interfere with each other's cases, causing investigative efforts to be disrupted or, worse, officers to be unintentionally hurt or killed.

A new resource in the RISS arsenal is the RISS Officer Safety Website. This website serves as a national repository for issues related to officer safety, including concealments, hidden weapons, armed and dangerous threats, officer safety videos, special reports, and training opportunities.

The RISSGang Program consists of an intelligence database, a website, a bulletin board, and gang-specific resources. The intelligence database provides access to records, such as gang suspects, organizations, and weapons, as well as gang symbols and graffiti. Like RISSIntel, the RISSGang database allows for a federated search, including the CalGang database. The website contains valuable information and resources. RISS partners with the National Gang Intelligence Center and the Bureau of Alcohol, Tobacco, Firearms and Explosives and is working to connect with other gang systems.

RISS-ATIX provides more than 145,000 law enforcement officers and public safety and critical infrastructure personnel with access to homeland security, disaster, and terrorist threat information and other information of interest, as well as thousands of secure e-mails.

RISS continues to connect and link fusion centers to RISSNET and has integrated RISS services and tools into fusion center operations and provided educational materials. RISS has collocated analysts in fusion centers and participates on fusion center advisory boards and at regional and national conferences. RISS continues to work with fusion center leadership to tailor RISS services to fusion center needs.

The RISSNET Portal provides users with a single entry point for all RISSNET resources. RISS has transitioned to an industry standards-based Secure Sockets Layer (SSL) authentication technology. SSL is a mature technology for the transmission of encrypted information and is supported by all major Internet browsers.

Through the use of Federated Identity technologies, RISS is able to provide users from other systems with access to resources available via RISSNET without the requirement for the user to hold a RISSNET account. RISS is also able to provide RISSNET users with access to resources from other systems without the necessity for the RISSNET user to hold an account on the other system.



Making an Impact

Did you know that RISS...

Houses more than 3.4 million intelligence records and more than 168,000 gang records

Delivers more than 37,000 analytical products annually

Trains more than 80,000 officers each year

Provides \$300,000 in confidential funds per year

Loans almost 5,000 pieces of investigative equipment

Assists in thousands of arrests and seizures in the millions of dollars



Defendants Face Drug Distribution Charges

An investigation by the Hawaii High Intensity Drug Trafficking Area Task Force targeted a major Mexican methamphetamine organization that was shipping an estimated 20 pounds of methamphetamine from Las Vegas to Hawaii on a monthly basis. RISS provided analytical support to investigators. To date, 20 defendants have faced federal and state charges of drug distribution, more than \$250,000 has been forfeited, and more than 8 pounds of methamphetamine "ice" has been seized.



Attempted Murder of Police Officer

RISS analytical staff assisted a Minnesota police department with an investigation involving kidnapping, armed robbery, and the attempted murder of a police officer. The suspect pleaded guilty and received a 29-year sentence.

Results

of Member Agency Investigations

Utilizing Services of the Six RISS Centers Combined
(Fiscal Years 2003-2009-2010)

Arrests	12,000
Narcotics Seizures	\$83.4 million
Property Seizures	\$14.2 million
Currency Seizures	\$12.8 million

RISS Centers

MAGLOCLEN
(800) 345-1322

info@magloclen.riss.net

RMIN

(800) 821-0640

info@rmin.riss.net

MOCIC

(800) 846-6242

info@mocic.riss.net

ROCIC

(800) 238-7985

info@rocic.riss.net

NESPIN

(800) 343-5682

info@nespin.riss.net

WSIN

(800) 952-5258

info@wsin.riss.net



This project was supported by Grant No. 2008-00001-0001 awarded by the Bureau of Justice Assistance, U.S. Department of Justice. The contents and conclusions are those of the authors and do not necessarily represent those of the U.S. Department of Justice.

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BIA-10-0001-0001-0001

What is ScrapTheftAlert.com?

For years, the Institute of Scrap Recycling Industries, Inc. (ISRI) has worked to be a part of the solution to the problem of metals theft. To combat this crime, ISRI has developed **ScrapTheftAlert.com**, an online theft alert system that is available to law enforcement, recyclers, and property owners — free of charge. The system allows law enforcement (and certain corporate security personnel) to post alerts that are sent to system users within a 100-mile radius of the theft location. When warranted, the alert radius can be expanded to larger areas.

The **ScrapTheftAlert.com** system helps police, it helps our communities, and it helps the scrap recycling industry (more than two-thirds of recyclers report being a victim of metals theft in the past year). It contains enhanced features based on user feedback including:

- ▶ Easy user interface for registering and submitting alerts;
- ▶ Ability to select multiple locations to receive alerts;
- ▶ Alerts can handle up to 8 attachments at up to 8 MB each in ANY format;
- ▶ A private portal for vetted LEOs;
- ▶ Search capabilities with unlimited time frame;
- ▶ Customizable search parameters by material, region, date, and key word;
- ▶ Ability to extract search results to Excel;
- ▶ Materials categories to include vehicles, batteries, and cargo theft;
- ▶ Registered user search function for local areas; and
- ▶ Testimonials/success stories.

Success Stories ...

Material Recovery

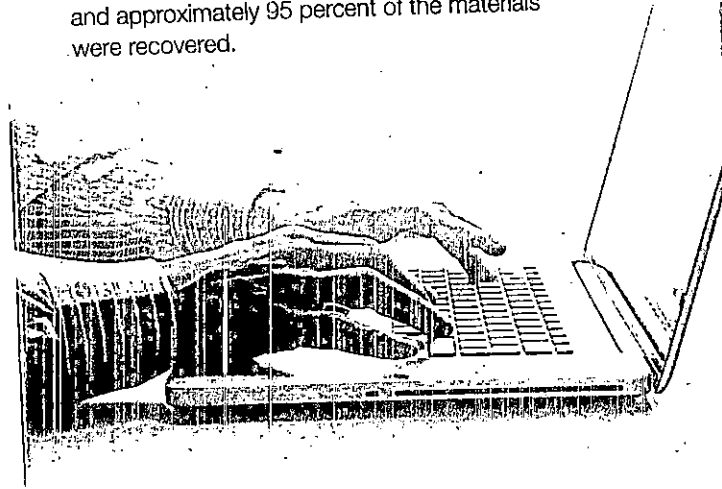
A wire manufacturer in Colorado reported the theft of wire spools to the **ScrapTheftAlert.com** system and a cashier at a nearby scrap facility recognized the stolen materials. The cashier reviewed surveillance records to identify the seller of the materials, sharing what she found with the police — who determined from the surveillance pictures that the seller worked at the wire manufacturer. The suspect was arrested.

Six Individuals Arrested

Six individuals were arrested in Berlin, CT for stealing catalytic converters after a scrap theft alert was issued by the Berlin Police Department. When arrested, the suspects had between 35 and 50 converters in their vehicle, with an approximate value of \$1,500 each.

Stolen Material Recovered

Washington State Department of Transportation security issued an alert in reference to the theft of three 100 foot rolls of 6 inch copper flat strap, valued at \$17,200. As a result of the alert, the Department of Transportation was contacted by a representative of a local recycling facility (Midland Recovery) who recognized the stolen materials. Arrests were made by the Tumwater Police Department and approximately 95 percent of the materials were recovered.



SCRAP THEFT ALERT.COM

ISRI — Part of the Solution

As the Voice of the Recycling Industry, the Institute of Scrap Recycling Industries, Inc. is leading the way in advocating the vital role scrap recycling plays in the U.S. economy, global trade, the environment, and sustainable development. A Washington, DC-based trade association, ISRI represents more than 1,600 private for-profit companies operating at more than 6,500 facilities in the United States and 24 countries worldwide. ISRI members process, broker, and industrially consume scrap commodities including ferrous and nonferrous metals, paper, electronics, rubber, plastics, glass, and textiles. In addition, ISRI's associate members include equipment and service providers to the scrap recycling industry.

ISRI members employ 785,000 people, and their companies range in size from small, one-location operations to large, publicly-traded corporations with multiple facilities worldwide. Other ISRI members focus on the business of brokering and trading recyclable materials, consolidating materials from a variety of businesses to expedite the fulfillment of consumer needs.

ISRI is actively working to be part of the solution to the metals and materials theft issue. To provide additional tools and information, ISRI also created **StopMetalsTheft.org**, a website that serves as a service and one-stop resource to law enforcement, prosecutors, recyclers, and other interested parties on the issue of metals theft.

Sign Up for ScrapTheftAlert.com

How to Register

Go to ScrapTheftAlert.com. Click on the "Register" button and complete the registration form. Make sure the e-mail is checked to allow you to receive reports and select if you wish to receive alerts in all or the state or within a range of zip code areas.

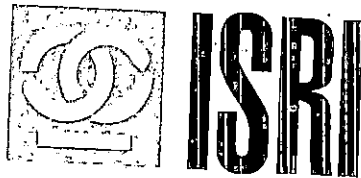
Authentication of law enforcement credentials is required for registration and access to the enhanced law enforcement features of the system. If you are a registered law enforcement, you will be required to provide proof of agency affiliation as well as your department supervisor's name and contact information for verification. You may also select to share your contact information with other law enforcement officers by clicking "Yes" on this registration screen.

Submitting A Report

Should you need to submit a theft report or a report of suspicious material received, log into ScrapTheftAlert.com using your e-mail address and the password you selected when you registered. Click on "Report a Theft". The system will guide you for the information needed to complete the report. Once the report is submitted, the system searches for zip codes within 100 miles of the theft location and sends an e-mail to all subscribers in that radius. Alerts posted to the website remain active for 90 days. After 74 days, the sender receives requests to re-post on the alert. Law enforcement officers may search and view all alerts in the system regardless of whether they are active or not.

How You Can Help

You can help make ScrapTheftAlert.com an even better tool by informing other recyclers and law enforcement personnel about the system and asking them to subscribe to alerts. The alert system is free and recyclers do not need to be ISP members to participate.



Voice of the Recycling Industry™

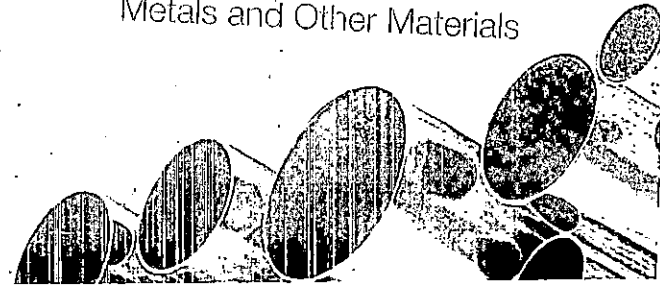
www.ISRI.org

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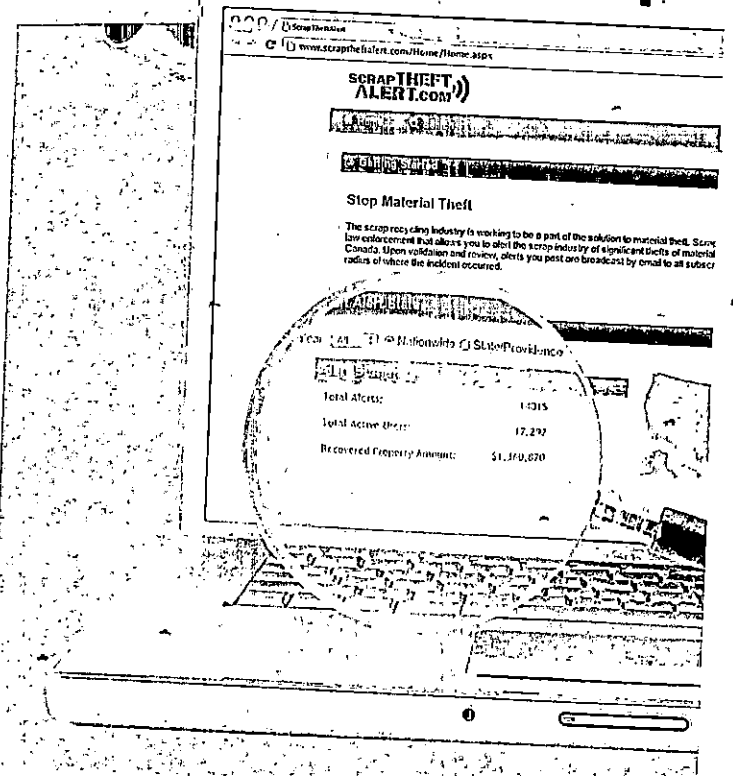
Printed on Recycled Paper.

SCRAP THEFT ALERT.COM

An Enhanced Online Tool
to Help Law Enforcement
Fight the Theft of
Metals and Other Materials

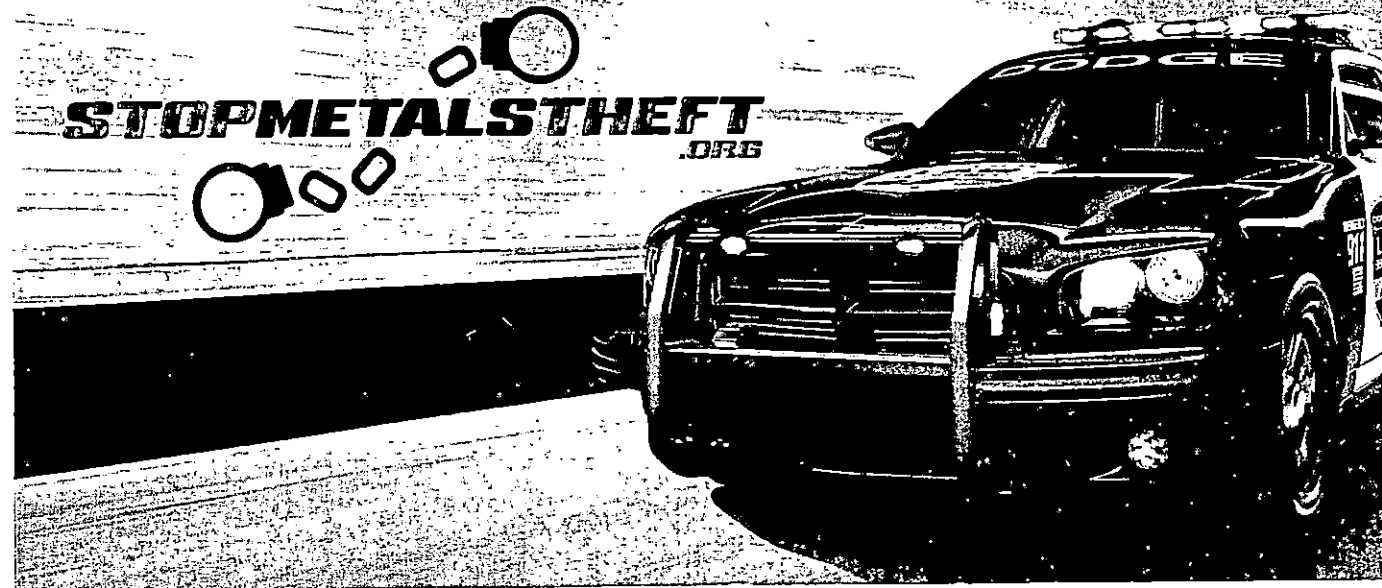


CRIME SCENE - DO NOT





Law Enforcement's Online Resource to Stop Metals Theft



ONLINE TOOLS TO HELP YOU IN THE FIGHT AGAINST METALS THEFT.

Here's what you can do on StopMetalsTheft.org:

- Send a metals theft alert in your community.
- Read and submit success stories from across the country.
- Access tools geared towards law enforcement, prosecutors, legislators, and recyclers.
- View and search through a comprehensive glossary of terms.
- Gain additional industry insight and knowledge through the ISRI team of experts.

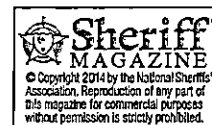
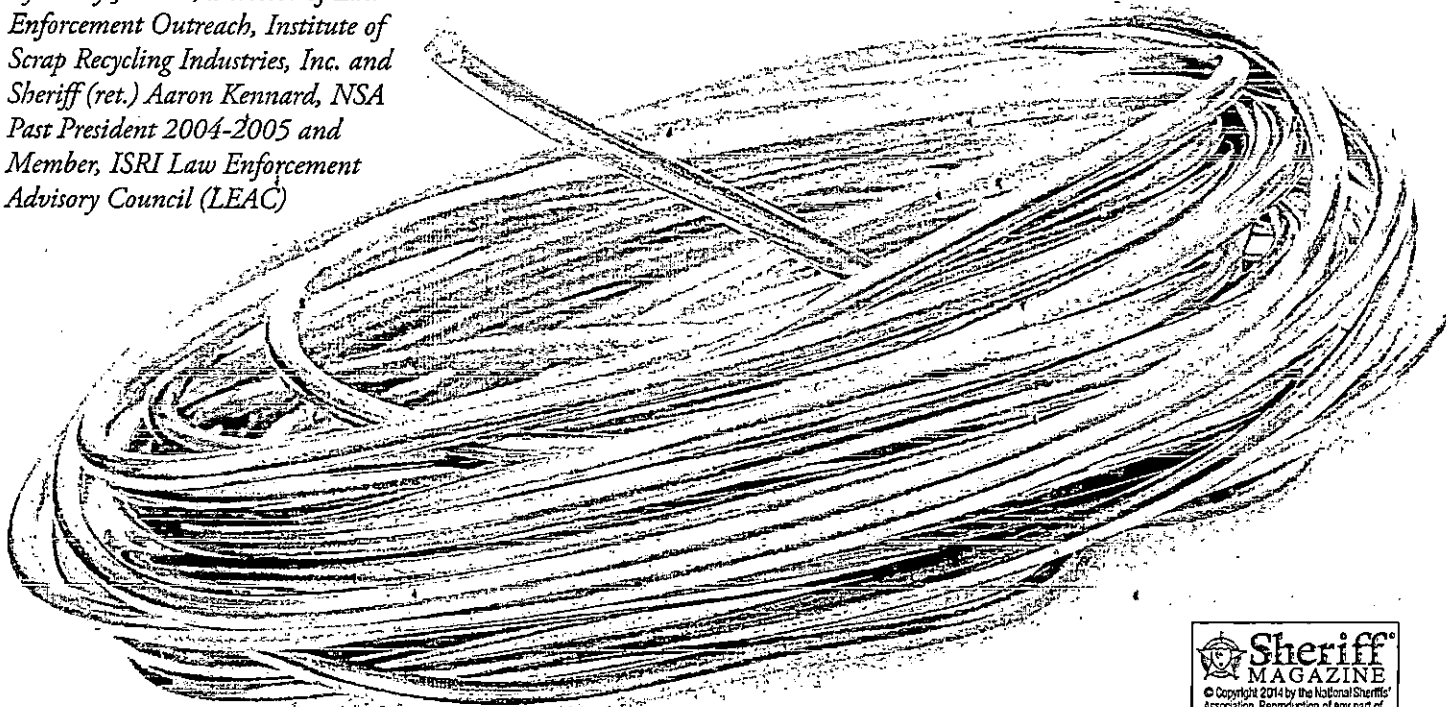


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METALS THEFT: Is this billion dollar crime on YOUR radar?

By Brady J. Mills, Director of Law Enforcement Outreach, Institute of Scrap Recycling Industries, Inc. and Sheriff (ret.) Aaron Kennard, NSA Past President 2004-2005 and Member, ISRI Law Enforcement Advisory Council (LEAC)



In Glendale, Arizona, police find a man in an abandoned commercial yard with burns covering 100 percent of his body. Apparently, the deceased was trying to steal copper from a transformer. His attempt cut power to 1,400 residential and business customers.

In Northeastern Ohio, seven people are indicted in federal court for conspiracy to steal copper from two-dozen First Energy and Cleveland Public Power substations. The FBI says the defendants sold the materials for \$15,000. Eventually, courts order the men collectively to pay \$242,626 in restitution and to serve more than 16 years in prison.

In Miami, a woman is struck by a car as she crosses the street at night. According to local news, "A 30-block stretch of road was unlit because copper wiring had been stolen from the streetlights, rendering them inoperable." Before the woman dies, a Miami Fire Rescue official adds, "We all feel if the streetlights were on, she wouldn't be fighting for her life."

In Elizabeth, New Jersey, four men exchange gunfire with police before being arrested for stealing a truck's worth of catalytic converters for the metal they contain. Police give chase and bullets fly through rush-hour traffic on Routes 1 and 9 North until a collision stops the truck.

Metals theft is a big problem: \$1 billion annually in the U.S. alone, the U.S. Department of Energy estimates, when factoring in damages and lost revenue. While the crime may

involve de minimus property content, the repair and replacement costs dwarf the value of the stolen items. The results are also aggravating (or worse) to customers, property owners, and other stakeholders as well as dangerous to first responders, utility workers, and more.

There were 41,138 insurance claims for the theft of copper, bronze, brass, and aluminum in 2011, 2012, and 2013, according to the National Insurance Crime Bureau (NICB). Of these reported incidents, 97 percent involved copper. The NICB notes that "the number of claims filed is found to have a statistically significant correlation with the price of copper."

Scope of the Problem

Copper is valuable: \$3.16 a pound in May, down from \$3.42 a year before but up from \$1.25 in 2009 and \$0.60 in 2002. It's also versatile, used in everything from electronics to fiber optics to plumbing and utilities. It's literally overhead and underfoot, from electrical lines to construction sites to telecom cables, cell towers to railroad switchyards to ordinary buildings. Thieves have gone after both old parts and new equipment – and most of the time get away with it.

Utilities, scrapyards, and railroads get hit often because of their abundant supply of copper and other metals and perceived lack of preventive security measures. In a 2009 survey by the Electrical Safety Foundation International, 69 percent of utility

markets reported copper theft in the previous 12 months. Nearly 8,000 incidents involved energized equipment. (According to the National Rural Electric Cooperative Association, media reports showed that two dozen would-be thieves died at power lines or substations in 2007 and 2008.) These utility thefts represented some \$20 million in value alone—not to mention repair costs, business losses, and human problems when electricity service is cut.

However, anywhere and anyone with visible copper is a target. These include churches for anything from air conditioners and weathervanes to organs and heat pumps. Electricians and plumbers are great targets for thieves looking to pilfer copper pipe and other material regularly used in those trades. Even cemeteries are not immune as thieves disregard any sacred or sentimental beliefs for copper, brass, and bronze in urns, markers, and ornaments—even prosthetic body parts in gravesites.

Criminals look for easy marks. Metals theft is a crime of opportunity, and churches, cemeteries, and remote substations—often empty—fit the bill. Vacant properties are an obvious target, and in the wake of the Great Recession (2007–2009), foreclosure filings number in the millions. Detroit, one of the nation's most economically hard-hit cities, has fallen victim to thieves who strip wiring and parts from houses, schools, businesses, and streetlights, leaving nothing but empty shells. Lately this trend has extended to homes vacant at day and offices vacant at night.

The collapse of the housing market, which began slowly in the mid-2000s, certainly contributed to the trend for a number of reasons. First, as homes began losing value, foreclosures and other problems led to vacancies, which led to crimes of opportunity. Second, as unemployment and related economic issues rose and municipalities' budgets were strained, there were furloughs among first responders, and law enforcement had a hard time keeping up even as more properties were being hit.

Some in law enforcement have blamed copper thefts on drug abusers, but in reality the problem is much larger in scope and cannot be labeled as a simple drug crime. High metals prices, lax security and protection of many objects of theft, their frequently untraceable nature, a poor economy and continued unemployment, have all contributed to the problem. For instance, as San Joaquin (California) Farm Bureau Federation program director, Kory Campbell, said in 2011: "Theft moves with the price of metal. When the economy's bad, criminals are more desperate, and couple that with the increase in the price for copper, the crime rate rises."

In its latest report, which covers thefts claims through last December, the NICB says the 41,138 metals theft insurance claims over the past three years came largely from Ohio, Texas, California, Pennsylvania, and Georgia. The top five metro areas for claims were New York/Newark/Jersey City, Chicago/Naperville/Elgin, Philadelphia/Camden/Wilmington, Atlanta/Sandy Springs/Roswell, and Dallas/Fort Worth/Arlington. There is good news in the report. The overall numbers have been decreasing each of the past two years, 26 percent overall. However, these statistics only reflect reported insurance claims,

which are said to underestimate the number of thefts. As a result, there is no statistically valid data available to determine the scope of the problem. Metals theft is not the least bit new, but it arose in awareness—with the public and would-be thieves—along with metal prices in the mid-2000s.

But, metals theft is not relegated solely to the urban areas as cited in the NICB report. In rural areas, thieves target farms vulnerable for both their stationary and mobile equipment, from tanks to turbines, not to mention their unprotected remote irrigation systems. Batteries found in tractors and other heavy farming equipment are also favorites. Thefts can often go unnoticed for extended periods due to the seasonal use of equipment. Stricter city ordinances in some localities have also meant rogue recyclers relocating to remote areas to avoid enforcement. The results put a further strain on the budgets and manpower of county sheriffs' offices.

What's Being Done

All 50 states have laws requiring scrap dealers to keep records of certain sales, and many go further than that—by mandating photographic records of sellers, vehicles, items sold, and so on. In some states, scrap sellers must be fingerprinted; in others, there is a tag and hold period (when items are required to be held for a set number of days before being processed), or the seller may be paid only by a check, with a few states mandating further that the check be mailed to a physical address. Some states have established transaction databases and electronic reporting requirements. Yet, none of these practices have proven to put any discernable dent in the crime.

Laws and practices may try to limit theft by focusing on items frequently stolen rather than on transactions. For instance, in Virginia, anyone dealing in secondhand building fixtures—particularly plumbing, heating, and wiring—must have a permit from the local sheriff or chief of police. This April, Michigan passed a law covering the state's three most stolen scrap items: air-conditioning units, copper wire, and catalytic converters. However, laws alone cannot significantly impact the crime unless enforcement and prosecution follow. In budget-conscious sheriffs' offices, police departments and prosecutors' offices, "property crimes" take a back seat to crimes against persons. While understandable, the perception of metals theft as a "typical" theft case has to change. The damage done to electrical and communications facilities can threaten a community's critical infrastructure.

What has proven more effective than more legislation is when all stakeholders coordinate and communicate with each other and take each of their roles as part of the solution seriously. For instance, scrapyards not only maintain the required records and report suspicious transactions to law enforcement, but have also fallen victim to thieves. They have erected fences, installed cameras, hired guards, and more to stop thieves, who bring stolen goods to the desk by day and filch bales of wire from the lot by night. Property owners who are frequent victims, such as utilities and private industry, also have taken action to discourage thieves, using DNA water solutions, nanotechnology and laser-etched wiring for identification, and

copperweld wiring – with a steel core – to create a clear deterrent to theft by notifying potential thieves that they are likely to get caught with identifiable stolen property. But property owners and scrap recycling yards are not the only stakeholders that are part of the solution.

Law enforcement and prosecutors are essential, which sometimes is difficult given the misconception that metals theft is a “victimless” low-level property crime. Enforcement, prosecution, and prevention are key to reducing the problem. No doubt businesses must be held accountable and abide by existing laws. However, some recyclers express frustration when they feel the focus is on the industry and not the thieves. There are plenty of laws, says Danielle Waterfield, assistant counsel and director of government relations at the Institute of Scrap Recycling Industries (ISRI). What’s really going to bring results, she says, is when all stakeholders come together to figure out how each can contribute to a solution.

Often, additional legislation placing further restrictions on recyclers is seen as the solution to reduce metals theft. The problem is how to properly evaluate what works and what does not. An independent study conducted by the Knowledge Center of the Council of State Governments (CSG), released in May 2014, concludes that “no state is comprehensively tracking metal theft crime statistics, and while some local jurisdictions are reporting their own data, the data has a number of limitations when it comes to evaluating the impacts of state legislation.” The collection of data is further complicated by the fact the Uniform Crime Reporting Program does not have a specific code for metals theft to allow for accurate reporting by law enforcement agencies.

One legislative solution that seems to have almost unanimous support among most of the stakeholders involves the legislature providing more resources for law enforcement and teeth to the law to incentivize prosecution of metals thieves. It is no secret that prosecution of a felony is more likely than a misdemeanor charge, which is more commonly pled out if there is a charge at all. The scrap recycling industry supports changing states’ criminal codes so prosecutors can consider damages rather than simply the value of the metal when determining whether to charge a criminal with a misdemeanor or felony. “There is so much damage done in the retrieval of those products. In other words, if someone goes into a house that is under construction, they may do \$10,000 to \$20,000 worth of damage to retrieve maybe \$200, \$300 worth of recyclable metals,” Kurt Wall, director of the criminal division of the Louisiana attorney general’s office, told WAFB-TV this spring. In South Carolina, penalties are based on the total cost to replace an item that’s stolen or destroyed; a court may fine a convicted thief, impose a 3-to-10 year jail sentence, or both, regardless of the crime’s monetary value. Sentences jump when injuries are involved. North Carolina and several other states have enacted similar statutory amendments to assist with enforcement and prosecution.

For its part, law enforcement can’t be effective until officers on the ground know the applicable laws and the nuances of metals theft crimes. “Training of law enforcement regarding their state’s laws is essential to addressing this crime,” Rick Arrington, crime

prevention coordinator for the Virginia Department of Criminal Justice services, wrote on IACP.net. “Likewise, only recently have prosecutors recognized the unique nature of the crime and the need to provide training for investigators on specific evidence needs, evidence collection, and presentation.”

Outreach

ISRI is an organization that represents more than 1,600 U.S. companies that process, broker, and industrially consume scrap commodities of all sorts. ISRI, the scrap recycling industry, and law enforcement are joining forces to conduct training specific to metals theft. In 2012, for example, ISRI and Virginia’s Department of Criminal Justice Services conducted a joint training program that also included prosecutors and covered crime prevention. This training included an overview of the recycling industry, to include yard operations and metal identification, applicable laws, and evidentiary requirements.

This past January, ISRI formed the Law Enforcement Advisory Council (LEAC) made up of 10 law enforcement officers, security personnel, and prosecutors from around the country experienced in metals theft. Its first task was to develop a multilayered training program to help law enforcement.

LEAC members have helped ISRI reframe its strategy to better meet the needs of both law enforcement and the industry. For instance, they strongly suggested scaling down a proposed local, state, and national training/outreach program on metals theft to something easier, inexpensive, and closer to home. This translated to videos and trainings for recyclers on how to help prosecutors build a metals theft case. The council also suggested that ISRI develop best practices for scale operators – the front line in scrapyards – on how to help identify and catch thieves in a reliable manner.

Law enforcement agencies have many demands on available resources. Some sheriffs and police chiefs have recognized the impact the crime is having on their communities and have made enforcement of metals theft laws a priority. One such example is in Anne Arundel County, Maryland, located midway between Washington, DC, and Baltimore, MD. Here, county police developed a six-person metals theft unit early in 2014, in response to an increasing problem. In April alone, the unit busted multiple suspects for stealing boat batteries from at least 15 properties as well as copper pipe, a water heater, and “junk metal.” It is understood that not all departments have the ability to form such units, but this should not diminish the need for situational awareness.

Awareness can come through both training and spreading the word. Collaboration and cooperation among the stakeholders has produced the most effective outreach and subsequent results. For instance, groups such as the East Texas Copper Theft Task Force (four electric cooperatives that lost \$4.3 million to thieves), along with a utility and an insurance company have mounted billboards, run newspaper ads, and held a “media day” to encourage the public to watch for suspicious behavior.

Law enforcement training and stakeholder outreach is greatly enhanced when officers understand the business of recycling

which often is best conveyed by a simple tour of a recycling yard. Many state recycling associations and individual recycling companies invite law enforcement and other stakeholders in for facility tours. Police, prosecutors, and legislators are frequently surprised when they learn that scrap recycling yards are not dirty "junk yards" that haul in random stuff with no value. A typical tour of a facility enlightens the visitors to the fact that scrap recycling is a legitimate sophisticated business operation run by people who require all sellers to produce valid identification and submit to photographs of themselves, their vehicles, and their goods. Prior to taking a tour, law enforcement generally does not realize the extent of the records maintained by recyclers and how these records can help law enforcement catch thieves and track down stolen material within hours or days.

The key components for a successful arrest and prosecution of metals thieves is communication and trust. It is essential that law enforcement understands that ISRI members and other honest recyclers are part of the solution and should be viewed as partners in dealing with metals theft, not as the bad guys.

While many recycling yards and scrap dealers are on the up-and-up, a common theme heard from the industry is that legitimate dealers feel at a competitive disadvantage from rogue or unscrupulous dealers who don't follow the laws. For example, a legitimate recycler will turn away what he or she knows to be stolen, say, a utility meter or manhole cover, but stolen items eventually find a home. Legitimate recyclers require identification; a "customer" unwilling to provide it will take stolen goods somewhere that does not require ID.

Since 2008, ISRI has offered ScrapTheftAlert.com, a website that lets law enforcement, corporate security personnel and other registered users post alerts that are sent to users within 100 miles of a theft location. In its first six years, the site led to 236 arrests or warrants issued and helped recover \$1.3 million in property. In March 2014, the site was upgraded to include an easier user interface for registering and submitting alerts; the ability to see user statistics via an interactive U.S. map; the ability to choose multiple locations to receive alerts; better customizable search capabilities by material, date, region, and keyword; extractable search results; additional materials categories to include vehicles, batteries, and cargo theft; and greater capacity for downloading images and information.

The website also allows for success stories. Among recent postings:

- The Washington Department of Transportation issued an alert about the theft of three 100-foot rolls of six-inch copper flat strap worth \$17,200. The next day, a scrap dealer contacted the DOT. Police made arrests, and 95 percent of the materials were recovered.
- When two 55-gallon drums containing copper pipe and wire disappeared in Elyria, Ohio, police contacted ScrapTheftAlert.com. A nearby salvage yard was able to supply clear still images of the transaction, the vehicle, and the suspect. Police issued warrants for the man's arrest.
- Florida's Polk County Sheriff's Office issued an alert about two pipe saddles valued at \$2,000. Within minutes, a

recycler was in touch to say it had purchased both and had plenty of data on the transaction. A suspect was arrested on multiple charges, and the owner recovered the property.

Success through partnership

Successful partnerships are becoming abundant across the country as metals theft is being recognized as a serious threat to individuals as well as to our critical infrastructure. In September 2013, Maria Bundock, an investigator with Time Warner Cable initiated a group that met on an informal basis in response to thefts incurred by her company. The group, now known as the North Texas Metals Theft Intelligence Group, consists of law enforcement; public utilities; prosecutors; government relations officials; and other telecommunications carriers, and now meets on a monthly basis to share information on trends in metals theft. The group also receives briefings from the recycling industry.

Working together has also been making a difference in legislation across the country, as the following examples show:

"When theft really got out of control, we came to the table with law enforcement, and it paid off," says Rose Mock, president of the Florida Recyclers Association and of Allied Scrap Processors in Lakeland. The two interests approached legislators to develop solutions that have driven metals thefts down significantly.

Before 2008, Florida metals dealers merely had to copy a seller's ID. Then the state passed a law involving electronic reporting; photographs; getting the make, model, and year of the seller's vehicle, identifying details of the seller's person, and more. If the transaction involved more than \$1,000 in nonferrous metal, the dealer had to pay by check.

In 2012, Florida tweaked the law. Now even more rules apply, but only to a list of 21 "restricted metals," including aluminum copper radiators, grave markers, and agricultural sprinkler heads – things that stakeholders statewide could agree on. The list grew out of "sitting down with law enforcement and asking, what are the most stolen things?" Mock says. The tweak seems to have worked. Since July 2012, metals theft has fallen 45 to 75 percent, depending on the region.

Working with both law enforcement and legislators pays off, she says, because "they don't think of you as the outlet for stolen material. They see that we're on the same side here." For instance, Florida Recyclers invites law enforcement to its biannual meetings to build relationships. "They know the majority of us are legitimate and cooperative, so they're willing to get the state attorneys on board," Mock explains.

The Florida effort serves as an example of what can be accomplished when all stakeholders work towards a common goal. Though the legislative changes made in Florida might not be effective in other jurisdictions, the lesson learned is that cooperation works.

Much the same thing has happened in the small town of Coshocton, Ohio, where Ty Smith, manager of Lity Scrap Yard, told the Coshocton Tribune this spring that government regulations, including a new requirement to report all transactions through an electronic database, have brought metals theft down.

"We work very closely with surrounding counties' law enforcement agencies," he said. "We really haven't seen any [stolen goods] this year. That's not to say there haven't been people who tried that in the past." In Ohio, dealers also have to copy sellers' ID, photograph the sellers and the items, and record license plate numbers.

In 2008, Georgia law was changed to specifically address metals theft, rather than charging theft by conversion, and stiffer penalties were enacted. But that was just one strand of wire in a bundle of efforts to combat the theft problems. As the new law was being crafted, Chip Koplin, now governmental and public affairs manager for Schnitzer Steel's southeast region in Macon, became alarmed at the uptick in high profile thefts. Working with the Macon Police Department, he put together a group of recyclers and stakeholders to address the issue and the results were positive. One step taken by the group was to issue theft alerts which included a point of contact from the appropriate law enforcement agency. Members have since aligned with the Southeast Metal Theft Task Force and have registered with ScrapTheftAlert.com.

Also in Georgia, the Atlanta Police Department formed the Metro Atlanta Copper Task Force, which involves members of the Georgia Recycling Association, Georgia Power, and the Fulton County district attorney's office. And state-wide, sheriffs, police chiefs, recyclers, prosecutors, county commissioners, mayors, and electric cooperatives have met to share strategies and come up with further steps, such as strengthening state law.

That happened in July 2013 with a new Georgia recordkeeping law. Recyclers grumbled, says former DeKalb County police officer Lee Swann, now with Georgia Transmission Corporation, but "those added requirements really helped us in fighting metal theft. That plus the partnership, investigation, prosecution, judiciary, and the recyclers working together." Thefts from his company have fallen roughly eight percent in the past year.

Moving forward

The billion dollar problem that is metals theft is not going away anytime soon. To successfully address this serious crime, it

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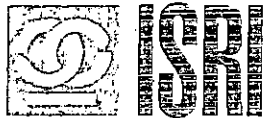
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will take a sustained collaborative grassroots effort that includes the recycling industry, law enforcement and corporate security, prosecutors, legislators, and community leaders all across the country.

Working together we can accomplish far more than we can alone, and only working together can we find a solution to this problem and reduce the rate and impact of metals theft that plagues our communities.

Provided courtesy of:



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Scrap Recycling
Industries, Inc.

Voice of the Recycling Industry

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Committee Report

STATE OF NEW HAMPSHIRE

SENATE

REPORT OF THE COMMITTEE

Date: April 2, 2015

THE COMMITTEE ON Executive Departments and Administration
to which was referred House Bill 510

AN ACT establishing a commission to study the regulation of
 pawnbrokers, secondhand dealers, and junk or scrap
 metal dealers.

Having considered the same, the committee recommends that the Bill:

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4-0

AMENDMENT # 1236 s

Senator Sharon Carson for the Committee

Deb Chroniak 271-1403

New Hampshire General Court - Bill Status System

Docket of HB510

Docket Abbreviations

Bill Title: establishing a commission to study the regulation of pawnbrokers, secondhand dealers, and junk or scrap metal dealers.

Official Docket of HB510:

Date	Body	Description
1/8/2015	H	Introduced and Referred to Executive Departments and Administration; HJ 12 , PG. 227
2/4/2015	H	Public Hearing: 2/17/2015 11:30 AM LOB 306
2/24/2015	H	Executive Session: 3/2/2015 12:30 PM LOB 306
3/5/2015	H	Committee Report: Ought to Pass for Mar 11 (Vote 15-0; CC); HC19 , PG. 400-401
3/11/2015	H	Ought to Pass : MA VV; HJ 24 , PG. 788
3/19/2015	S	Introduced and Referred to Executive Departments and Administration; SJ 10
3/25/2015	S	Hearing: 4/2/15, Room 101, LOB, 1:15 p.m.; SC15
4/2/2015	S	Committee Report: Ought to Pass with Amendment #2015-1236s, 4/9/15; SC16
4/9/2015	S	Committee Amendment 1236s, AA, VV
4/9/2015	S	Ought to Pass with Amendment 1236s, MA, VV; OT3rdg; SJ 11
5/6/2015	H	House Concurs with Senate Amendment #1236s (Rep A. Christie): MA VV; HJ 41 , PG. 1747
5/19/2015	S	Enrolled (In recess 5/14/2015); SJ 15
5/19/2015	H	Enrolled (in recess of 5/6/2015); HJ 41 , PG. 1781
6/3/2015	H	Signed by the Governor on 6/2/2015; Chapter 72; Section 2 Effective Date 12/1/2016, Remaining Effective Date 6/2/2015

NH House

NH Senate

Other Referrals

COMMITTEE REPORT FILE INVENTORY

HB 510 ORIGINAL REFERRAL

RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING
1-4
- SIGN-UP SHEET(S)

ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:

- AMENDMENT # 12365 - AMENDMENT # _____
- _____ - AMENDMENT # _____ - AMENDMENT # _____

ALL AVAILABLE VERSIONS OF THE BILL:

- AS INTRODUCED _____ AS AMENDED BY THE HOUSE
- FINAL VERSION AS AMENDED BY THE SENATE

OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):

DATE DELIVERED TO SENATE CLERK

8-19-15

By:


COMMITTEE AIDE