

**First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 11-0194.01 Kate Meyer

HOUSE BILL 11-1130

HOUSE SPONSORSHIP

Priola, Todd, Liston, Szabo, Gardner B., Scott, Ramirez, Swerdfeger, Balmer, Barker, Baumgardner, Beezley, Bradford, Casso, Ferrandino, Levy, Looper, McNulty, Murray, Nikkel, Solano, Soper, Stephens, Waller

SENATE SPONSORSHIP

Heath, Hodge, King S., Renfroe, Steadman

House Committees

Judiciary
Appropriations

Senate Committees

Judiciary

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

SENATE
2nd Reading Unam ended
March 25, 2011

HOUSE
3rd Reading Unam ended
March 1, 2011

HOUSE
Am ended 2nd Reading
February 28, 2011

applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Commodity metals are defined in current law as metals containing brass, copper, and other valuable materials and having a market value of at least 50 cents per pound. Sales of commodity metals are subject to record-keeping requirements and other limitations.

Section 1 of the bill modifies the law regulating purchases of commodity metals as follows:

- ! Eliminates the ability of a seller of commodity metals to verify his or her identity using a nonpicture identification document;
- ! Requires a buyer of commodity metals to use the scrap theft alert system (system), train employees in using theft alerts generated by the system, and maintain documentation related to such use and training;
- ! Allows a buyer of commodity metals to pay with cash for any transaction that does not exceed \$300, and, for transactions over \$300, requires a buyer to use a check unless the seller is paid by a process in which a picture is taken of the seller;
- ! Requires every commodity metals buyer to make a photographic or video record of each seller and the commodity metals that he or she sells, and extends the required period of retention of such records from 90 to 180 days;
- ! Makes conforming amendments to repeal the requirement that purchasers hold the commodity metals they buy for 5 working days and to repeal the definition of "working day";
- ! Applies the law regulating scrap metal to sales of less than 25 pounds by repealing an exception;
- ! Increases penalties when a commodity metals purchaser recklessly commits a violation;
- ! Clarifies that the regulation of commodity metal does not apply to precious metal;
- ! Creates the commodity metals theft task force (task force) and describes the composition and duties of the task force; and
- ! Declares the theft of commodity metals to be a matter of statewide concern and encourages law enforcement entities and commercial stakeholders in the state to report commodity metals thefts to the system.

For crimes of theft of commodity metals, **section 2** bases the class of the offense on the weight, rather than the monetary value, of the commodity metals involved. Specifically, a person commits:

- ! A class 6 felony if the weight of the commodity metal involved is less than 100 pounds;
- ! A class 5 felony if the weight of the commodity metal involved is 100 through 1,000 pounds; or
- ! A class 4 felony if the weight of the commodity metal exceeds 1,000 pounds or if the person has been convicted of, or pled guilty or nolo contendere to, a crime of theft of commodity metals.

Section 3 schedules the sunset review of the task force for July 1, 2021.

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

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

6 **18-13-111. Purchases of commodity metals - violations -**
7 **commodity metals theft task force - creation - composition - reports**
8 **- legislative declaration - definitions - repeal.** (1) (b) The owner,
9 keeper, proprietor, collector, or dealer shall record the identification of a
10 seller of commodity metals in the book or register and the method by
11 which the seller verified his or her identity. The seller shall verify his or
12 her identity by one of the following:

13 (V) A valid United States passport; OR

14 (VI) An alien registration card. or

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

1 (1.3) (a) A PURCHASER OF COMMODITY METALS SHALL:

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

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

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

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

16 

17 (1.5) (a) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR
18 DEALER IS PERMITTED TO PAY A SELLER IN CASH FOR ANY COMMODITY
19 METALS TRANSACTION OF THREE HUNDRED DOLLARS OR LESS.


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

25 (2) Except as otherwise provided in subsection (3) of this section,
26 the owner, keeper, proprietor, collector, or dealer of any commodity metal
27 shall ~~hold the commodity metal purchased separate and apart from all~~

1 other materials purchased for a period of not less than five working days
2 after the date of purchase, during which period the owner, keeper,
3 proprietor, collector, or dealer shall not change the form of the
4 commodity metal and shall permit any law enforcement officer to make
5 inspection of the commodity metal during the holding period of five
6 working days; except that any transaction for the purchase of a
7 commodity metal, wherein MAKE a digital photographic record, video
8 record, or other record format is used to identify THAT IDENTIFIES the
9 seller and the commodity metal that the seller is selling. shall be exempt
10 from the holding requirement described in this subsection (2). The digital
11 photographic record, video record, or other record format shall be
12 retained for ninety ONE HUNDRED EIGHTY days, and the owner shall
13 permit a law enforcement officer to make inspections of the record.

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

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

19 
20 (5) A person who violates any of the provisions of subsection (1)
21 of this section by failing to keep a book or register, any person who
22 knowingly gives false information with respect to the information
23 required to be maintained in the book or register provided for in
24 subsection (1) of this section, and any person who violates the provisions
25 of subsection SUBSECTIONS (1.3), (1.5), OR (2) of this section commits:

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

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

3
4 (8) For the purposes of this section, unless the context otherwise
5 requires:

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

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

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

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

19 (I) THE CHIEF OF THE COLORADO STATE PATROL;

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

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

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

26 (V) A REPRESENTATIVE OF A NATIONAL TRADE ASSOCIATION OR
27 OTHER ORGANIZATION THAT REPRESENTS COMMODITY METALS

1 RECYCLERS, SUCH AS THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES,
2 INCORPORATED, OR ITS SUCCESSOR ORGANIZATION OR ANOTHER ENTITY
3 REPRESENTING COMPARABLE INTERESTS;

4 (VI) A SCRAP METAL DEALER LOCATED IN COLORADO WHO IS A
5 MEMBER OF THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES,
6 INCORPORATED, OR ITS SUCCESSOR ORGANIZATION;

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

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

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

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

15 (c) THE TASK FORCE SHALL HOLD ITS FIRST MEETING NO LATER
16 THAN JULY 1, 2011. AT THE FIRST MEETING, THE TASK FORCE SHALL
17 DISCUSS THE BEST WAY TO DISTRIBUTE AND USE INFORMATION RELATED
18 TO THEFT OF SCRAP METALS, INCLUDING WHETHER AND HOW TO PROMOTE
19 USE BY LAW ENFORCEMENT AGENCIES OF THE SCRAP THEFT ALERT SYSTEM
20 MAINTAINED BY THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES,
21 INCORPORATED, OR ITS SUCCESSOR ORGANIZATION. THEREAFTER, THE
22 TASK FORCE SHALL MEET ON A REGULAR BASIS, CONVENING AT LEAST
23 EVERY OCTOBER, TO DISCUSS ISSUES RELATED TO THEFT OF COMMODITY
24 METALS, INCLUDING SHARING RELEVANT INFORMATION ON THEFT OF
25 SCRAP METAL, IDENTIFYING WAYS IN WHICH COLORADO'S LAWS
26 REGULATING COMMODITY METALS PURCHASES CAN BE IMPROVED TO
27 REDUCE THEFT, AND REVIEWING ANY PERFORMANCE PROBLEMS OR

1 COMMUNICATION ISSUES. THE TASK FORCE IS SPECIFICALLY DIRECTED TO
2 CONSIDER: POSSIBLE POLICIES OR PRACTICES TO AID IN TRACKING OR
3 APPREHENDING STOLEN COMMODITY METALS PRIOR TO THE POINT OF SALE
4 IN ORDER TO ASSIST LAW ENFORCEMENT PERSONNEL IN THEFT PREVENTION
5 AND RECOVERY OF STOLEN MATERIALS; RECOMMENDATIONS REGARDING
6 WHEN AND HOW A COMMODITY METALS PURCHASER SHOULD BE REQUIRED
7 TO APPRISE LOCAL LAW ENFORCEMENT AUTHORITIES IF A PURCHASED
8 COMMODITY METAL IS A POTENTIAL MATCH OF A COMMODITY METAL
9 REPORTED STOLEN IN THE SCRAP THEFT ALERT SYSTEM; AND THE
10 CREATION AND ATTRIBUTES OF A CIVIL PENALTY PROCESS FOR EGREGIOUS
11 AND REPEAT VIOLATORS OF THE RECORD-KEEPING REQUIREMENTS OF THIS
12 SECTION.

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

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

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

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

27 (I) THEFTS OF COMMODITY METALS JEOPARDIZE THE SAFETY AND

1 WELFARE OF THE PUBLIC, FINANCIALLY BURDEN TAXPAYERS AND
2 INDUSTRY, AND EXHAUST LAW ENFORCEMENT RESOURCES;

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

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

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

16

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

19 **2-3-1203. Sunset review of advisory committees.** (3) The
20 following dates are the dates for which the statutory authorization for the
21 designated advisory committees is scheduled for repeal:

22 (cc) July 1, 2016:

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

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

1 **SECTION 4. Safety clause.** The general assembly hereby finds,
2 determines, and declares that this act is necessary for the immediate
3 preservation of the public peace, health, and safety.