

First Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

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

(None),

House Committees
Judiciary

Senate Committees

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.

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 (c) IF A PURCHASER OF COMMODITY METALS DISCOVERS WITHIN
17 THE PURCHASER'S INVENTORY OF SCRAP METALS A COMMODITY METAL
18 THAT SUBSTANTIALLY MATCHES THE DESCRIPTION OF A STOLEN
19 COMMODITY METAL CONTAINED IN AN ALERT RECEIVED UNDER
20 PARAGRAPH (a) OF THIS SUBSECTION (1.3), THE PURCHASER SHALL NOTIFY
21 THE LOCAL LAW ENFORCEMENT AGENCY FOR THE JURISDICTION IN WHICH
22 THE PURCHASER IS OPERATING WITHIN TWENTY-FOUR HOURS AFTER
23 DISCOVERING THAT THE METAL IS A POTENTIAL MATCH.

24 (1.5) (a) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR
25 DEALER IS PERMITTED TO PAY A SELLER IN CASH FOR ANY COMMODITY
26 METALS TRANSACTION OF THREE HUNDRED DOLLARS OR LESS.

27 (b) IF THE TRANSACTION COSTS MORE THAN THREE HUNDRED

1 DOLLARS, THE OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER
2 SHALL PAY THE SELLER OF A COMMODITY METAL BY CHECK UNLESS THE
3 SELLER IS PAID BY MEANS OF ANY PROCESS IN WHICH A PICTURE OF THE
4 SELLER IS TAKEN WHEN THE MONEY IS PAID.

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

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

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

26 (5) (a) ~~Any~~ EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (b)
27 OF THIS SUBSECTION (5), A person who violates ~~any of the provisions of~~

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

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

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

11 (b) A PERSON WHO RECKLESSLY VIOLATES SUBSECTION (1) OF THIS
12 SECTION BY FAILING TO KEEP A BOOK OR REGISTER, AND ANY PERSON WHO
13 RECKLESSLY VIOLATES SUBSECTIONS (1.3), (1.5), OR (2) OF THIS SECTION,
14 COMMITS:

15 (I) A CLASS 1 MISDEMEANOR IF THE VALUE OF THE COMMODITY
16 METAL INVOLVED IS LESS THAN FIVE HUNDRED DOLLARS; OR

17 (II) A CLASS 6 FELONY IF THE VALUE OF THE COMMODITY METAL
18 INVOLVED IS FIVE HUNDRED DOLLARS OR MORE.

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

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

26 (e) ~~"Working day" means Monday, Tuesday, Wednesday,~~
27 ~~Thursday, Friday, and Saturday, except for such days which are~~

1 ~~designated a legal holiday by the state.~~

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

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

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

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

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

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

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

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

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

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

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

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

3 (c) THE TASK FORCE SHALL HOLD ITS FIRST MEETING NO LATER
4 THAN JULY 1, 2011. AT THE FIRST MEETING, THE TASK FORCE SHALL
5 DISCUSS THE BEST WAY TO DISTRIBUTE AND USE INFORMATION RELATED
6 TO THEFT OF SCRAP METALS, INCLUDING WHETHER AND HOW TO PROMOTE
7 USE BY LAW ENFORCEMENT AGENCIES OF THE SCRAP THEFT ALERT SYSTEM
8 MAINTAINED BY THE INSTITUTE OF SCRAP RECYCLING INDUSTRIES,
9 INCORPORATED, OR ITS SUCCESSOR ORGANIZATION. THEREAFTER, THE
10 TASK FORCE SHALL MEET ON A REGULAR BASIS, CONVENING AT LEAST
11 EVERY OCTOBER, TO DISCUSS ISSUES RELATED TO THEFT OF COMMODITY
12 METALS, INCLUDING SHARING RELEVANT INFORMATION ON THEFT OF
13 SCRAP METAL, IDENTIFYING WAYS IN WHICH COLORADO'S LAWS
14 REGULATING COMMODITY METALS PURCHASES CAN BE IMPROVED TO
15 REDUCE THEFT, AND REVIEWING ANY PERFORMANCE PROBLEMS OR
16 COMMUNICATION ISSUES. THE TASK FORCE IS SPECIFICALLY DIRECTED TO
17 CONSIDER POSSIBLE POLICIES OR PRACTICES TO AID IN TRACKING OR
18 APPREHENDING STOLEN COMMODITY METALS PRIOR TO THE POINT OF SALE
19 IN ORDER TO ASSIST LAW ENFORCEMENT PERSONNEL IN THEFT PREVENTION
20 AND RECOVERY OF STOLEN MATERIALS.

21 (d) A MEMBER OF THE TASK FORCE, AS DESIGNATED BY THE TASK
22 FORCE, SHALL REPORT ANNUALLY TO THE ECONOMIC AND BUSINESS
23 DEVELOPMENT COMMITTEE OF THE HOUSE OF REPRESENTATIVES AND THE
24 BUSINESS, LABOR, AND TECHNOLOGY COMMITTEE OF THE SENATE, OR ANY
25 SUCCESSOR COMMITTEES, REGARDING THE TASK FORCE'S MEETINGS,
26 FINDINGS, AND RECOMMENDATIONS.

27 (e) MEMBERS OF THE TASK FORCE SHALL NOT BE COMPENSATED

1 FOR, OR REIMBURSED FOR EXPENSES INCURRED IN, ATTENDING MEETINGS
2 OF THE TASK FORCE.

3 (f) THIS SUBSECTION (9) IS REPEALED, EFFECTIVE JULY 1, 2021.
4 BEFORE THE REPEAL, THE COMMODITY METALS THEFT TASK FORCE,
5 CREATED PURSUANT TO THIS SUBSECTION (9), SHALL BE REVIEWED AS
6 PROVIDED IN SECTION 2-3-1203, C.R.S.

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

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

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

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

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

25 **SECTION 2.** 18-4-401, Colorado Revised Statutes, is amended
26 BY THE ADDITION OF A NEW SUBSECTION to read:

27 **18-4-401. Theft.** (2.5) (a) NOTWITHSTANDING SUBSECTION (2)

1 OF THIS SECTION, IF THE THING OF VALUE INVOLVED IS A COMMODITY
2 METAL, THEFT IS:

3 (I) FOR A FIRST OFFENSE:

4 (A) A CLASS 6 FELONY IF THE WEIGHT OF THE COMMODITY METAL
5 IS LESS THAN ONE HUNDRED POUNDS;

6 (B) A CLASS 5 FELONY IF THE WEIGHT OF THE COMMODITY METAL
7 IS ONE HUNDRED THROUGH ONE THOUSAND POUNDS;

8 (C) A CLASS 4 FELONY IF THE WEIGHT OF THE COMMODITY METAL
9 EXCEEDS ONE THOUSAND POUNDS;

10 (II) A CLASS 4 FELONY, REGARDLESS OF THE WEIGHT OF THE
11 COMMODITY METAL, IF THE PERSON HAS BEEN PREVIOUSLY CONVICTED OF
12 OR PLED GUILTY OR NOLO CONTENDERE TO THEFT OF A COMMODITY
13 METAL.

14 (b) AS USED IN THIS SECTION, "COMMODITY METAL" HAS THE
15 MEANING SET FORTH UNDER SECTION 18-13-111 (8).

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

18 **2-3-1203. Sunset review of advisory committees.** (3) The
19 following dates are the dates for which the statutory authorization for the
20 designated advisory committees is scheduled for repeal:

21 (hh) JULY 1, 2021:

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

24 **SECTION 4. Applicability.** This act shall apply to acts
25 occurring on or after the effective date of this act.

26 **SECTION 5. Safety clause.** The general assembly hereby finds,

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