

JAN 22 2007

A BILL FOR AN ACT

RELATING TO METAL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 708, Hawaii Revised Statutes, is
2 amended by adding to part IV a new section to be appropriately
3 designated and to read as follows:

4 "§708- Theft of copper. (1) A person commits the
5 offense of theft of copper if the person commits theft of
6 property that, in whole or in part, contains copper, the weight
7 of which is equal to or exceeds one pound, but not including
8 legal tender of the United States.

9 (2) Theft of copper is a class C felony.

10 SECTION 2. Section 445-233, Hawaii Revised Statutes, is
11 amended to read as follows:

12 "§445-233 Statement required. (a) Every scrap dealer,
13 when the dealer purchases scrap within the State, shall obtain a
14 written statement signed by the seller [~~or the seller's agent~~]
15 certifying that the seller [~~or the seller's agent~~] has the
16 lawful right to sell and dispose of the scrap. This statement
17 shall also contain the seller's name; the seller's business or
18 residence address; the seller's occupation; a description,

1 including serial numbers and other identifying marks, when
2 practical, of every scrap; the amount received by the seller;
3 the date, time, and place of the sale; and the license number of
4 any vehicle used to deliver the property to the place of
5 purchase.

6 (b) If the scrap presented for purchase is copper, in
7 whole or in part, the seller shall provide a copy of a receipt
8 that describes, with particularity:

9 (1) The exact item that is being offered for sale;

10 (2) Who issued the receipt;

11 (3) The date of sale of the item prior to the item being
12 offered to the scrap dealer; and

13 (4) The price, if any, of the item when obtained by the
14 seller.

15 (c) If a receipt is not available, the seller shall
16 provide to the scrap dealer a notarized declaration, describing
17 with particularity:

18 (1) The exact item that is being offered for sale;

19 (2) Who sold or otherwise transferred the item to the
20 seller;

21 (3) The date of sale of the item; and

22 (4) The price, if any, of the item when obtained by the

1 seller.

2 (d) If the seller does not provide a copy of the receipt
3 or the notarized declaration as required by this section, the
4 scrap dealer shall not purchase the copper, in whole or in part,
5 and shall report the attempted sale to the police.

6 (e) If the scrap dealer purchases any copper, in whole or
7 in part, the scrap dealer shall take a photograph or photographs
8 of all of the copper offered for sale.

9 (f) The scrap dealer shall also require the seller to
10 verify the seller's identity by presenting a proper valid photo
11 identification card or license issued by a federal or state
12 government agency or branch of military service authorized to
13 issue such identification.

14 (g) The scrap dealer shall keep at the dealer's place of
15 business the signed written statement, the receipt or notarized
16 declaration required by subsection (b) or (c), and the
17 photograph or photographs required by subsection (e), if
18 applicable, from the seller for a period of two years after the
19 date of purchase and the statement, the receipt or notarized
20 declaration required by subsection (b) or (c), and the
21 photograph or photographs required by section (e), if
22 applicable, may be examined at any time by the treasurer, [e]

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1 the chief of police[-], the attorney general, the prosecuting
2 attorney, or their designees."

3 SECTION 3. Section 445-235, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "§445-235 Prohibitions; penalty. Any person who violates
6 sections 445-232 and 445-233, or any person who falsifies a
7 statement required by section 445-233, shall be guilty of a
8 misdemeanor[-] and shall be sentenced in accordance with chapter
9 706, except that the court shall impose a minimum sentence of a
10 fine of \$100 for the first offense, \$500 for the second offense,
11 and \$1000 and the suspension of the scrap dealer license for a
12 period of six months for the third offense."

13 SECTION 4. This Act shall not affect the rights and duties
14 that matured, penalties that were incurred, and proceedings that
15 were begun before its effective date.

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

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1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

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BY REQUEST

JUSTIFICATION SHEET

DEPARTMENT: Attorney General

TITLE: A BILL FOR AN ACT RELATING TO METAL.

PURPOSE: To add the offense of theft of copper and to add special requirements for the purchase of copper by scrap dealers and to hold scrap dealers accountable for violations of section 445-233, Hawaii Revised Statutes, in order to curb the recent rise in costly copper thefts.

MEANS: Add a new section to part IV of chapter 708, Hawaii Revised Statutes, and amend sections 445-233 and 445-235, Hawaii Revised Statutes.

JUSTIFICATION: Recent thefts of copper have plagued the State and are costing resident taxpayers, public utility companies, private companies, and state entities significant revenue to replace the copper that has been stolen and to repair damage caused by these thefts.

Since May 2006, copper thieves have caused over \$300,000 in damage to state freeways along central and west Oahu, ripping out wiring from about 100 light fixtures and leaving stretches of darkness in several primary areas.

In November 2006, copper thieves struck the Sand Island State Recreation Area, damaging six restrooms and the electrical system that powers the park's sewage pumping system. They ripped out 300 feet of copper wire from an underground line that runs from the transformer to the sewage pumping station, causing extensive damage to the transformer system, which will require costly repairs or replacement. The Department of Land and Natural Resources was forced to close the park since the sewage pumping system was inoperable and restrooms could not be used.

Hawaiian Electric Company has had approximately 20 copper theft incidents this year at various sites, and at least six of them have resulted in power failures.

Police foiled one man's attempt to tear copper sheeting from the roof of a Board of Water Supply building in May, but he still caused more than \$5,000 in damage.

This bill will crack down on copper theft by creating the new criminal offense of "theft of copper" and by strengthening the requirements placed upon scrap dealers when purchasing copper to ensure that they do not facilitate the sale of stolen copper. If the scrap dealers cannot buy stolen copper, the copper thieves will have no incentive to steal.

Impact on the public: The public will not have to bear the costs to restore the damage caused by the theft of copper in utility poles, light fixtures, roofing and gutters, air conditioners, and fire hydrants.

Impact on the department and other agencies: The department of transportation, public utility companies, and other businesses, like the public, will benefit from inhibiting the theft of copper through tougher criminal laws and tighter regulation of scrap dealers.

GENERAL FUND:	None.
OTHER FUNDS:	None.
PPBS PROGRAM DESIGNATION:	None.
OTHER AFFECTED AGENCIES:	The county police and county prosecutors.
EFFECTIVE DATE:	Upon approval.