

SB 28

Measure Title: RELATING TO SCRAP DEALERS.

Report Title: Copper Theft; Catalytic Converter Theft; Payment to Scrap Dealer

Description: Restricts the sale of copper wiring by scrap dealers and recyclers solely to licensed electrical contractors. Also restricts the sale of catalytic converters or catalytic converter metals solely from persons licensed under chapter 289 or chapter 437B. Requires scrap dealers and recyclers purchasing copper, copper wiring, catalytic converters, or catalytic converter metals to wait ten business days before allowing the seller to pick up the check for payment at the scrap dealer or recycler's place of business.

Companion:

Package: None

Current Referral: CPN

Introducer(s): GABBARD, English, Espero, Hee

<u>Sort by</u> <u>Date</u>		Status Text
1/17/2013	S	Introduced.
1/17/2013	S	Passed First Reading.
1/17/2013	S	Referred to CPN.
1/31/2013	S	The committee(s) on CPN has scheduled a public hearing on 02-13-13 8:30AM in conference room 229.



**To: Senator Rosalyn H. Baker, Chair
Senator Brickwood Galuteria, Vice Chair
Committee on Commerce and Consumer Protection**

**Fr: Terry Telfer, President
Reynolds Recycling**

Date: Wednesday, February a3, 2013, 8:30 in Conference Room 229

Re: Testimony in opposition to SB28, Relating to Scrap Dealers

Reynolds Recycling operates the largest network of redemption and scrap metal buy back centers in Hawaii. Reynolds has invested heavily to make scrap metal recycling convenient to consumers, and be responsible citizens in the Hawaii community.

There are several reasons why we oppose this bill.

1. This bill punishes all citizens in an attempt to deal with the small number of criminals that are involved with stolen copper wire material. All people in Hawaii, except licensed contractors, will suddenly be unable to sell their own copper wire, or catalytic converters. Property that legitimately belongs to them, and they have a legal right to dispose of as they see fit.
2. There are already laws in place that are to deal with stolen copper and or catalytic converters, and these should be used judiciously to do what they were designed to do. Currently there are laws that require proof of ownership, proof of identity, and a detailed paper trail, for all copper sales, in order to effectively find, and arrest those people who are selling, and or buying copper illegally. Another law is not what is needed. Effective police work to solve crime, and effective judicial action to put thieves behind bars is what is truly needed.
3. Requiring scrap metal dealers to take checks for copper purchases (which are already required) and hold them for 10 days, does nothing to alleviate crime, and only creates a payment nightmare for accounting departments, and prevents customers from receiving their rightful payment in a timely fashion. Already, payment for copper by check is mandated, and followed by all law-abiding businesses.

4. When the current copper laws were proposed and eventually agreed upon by the industry, the AG, and police, the industry proposed a procedure to help catch stolen copper items. From that time until now, we have never received a call from the police to ask us to be preemptive in not purchasing, or holding a customer so that the police could apprehend them.

We believe this bill is a bad attempt to deal with a copper problem, the repairs of which are costly for citizens and government to fix, but the fix would be better achieved by utilizing laws already on the books, rather than by taking legitimate rights away from the majority of the population in order to deal with a problem caused by a very small part of the population.

As a leader in Hawaii's recycling industry, Reynolds Recycling remains committed to protecting Hawaii's future by recycling today, and in the future. We respectfully oppose SB28.

Thank you.

February 11, 2013

TESTIMONY IN OPPOSITION TO SB28

To the honorable CPN committee:

We strongly oppose any new legislation regarding the theft of copper for many reasons. The main reason would be that you are only putting the burden and penalties on scrap dealers and law abiding citizens alone. It is obvious that legislation **does not stop** copper theft. Thieves disregard laws and always find ways to cash in on their stolen items.

You are all responding to the thefts that occur mostly on public property where safety is a concern and also to thefts on private property. I will enlighten you on two scenarios; **theft on private property vs. theft on public property.**

When copper theft occurs on **private property**, we (scrap dealers) normally receive a phone call as soon as a theft is discovered. This is a very efficient response to the theft.

When copper theft occurs on **public property**, we (scrap dealers) find out through the evening news or the Staradvertiser. This is not efficient and it leads me to conclude that no one working for these departments cares!

No one at the DOT, Board of Water Supply, DOE, Department of Parks and Recreation or any other department calls us at the discovering the theft.

Passing a new law to amend HRS 445-233 will not stop theft. We are doing our part to comply with the law and Hawaii already has adequate criminal property damage laws such as HRS 708-820 and HRS 708-821. They both have strict penalties for property damage. Copper theft is almost always associated with property damage. I have worked with law enforcement in the past and many had said that a copper thief can be effectively prosecuted when they are caught in the **act of stealing** and not in the **act of selling**.

Before even introducing new bills to legislate copper sales, we need to collectively get everyone on the same page in terms of how to respond to a copper theft and how to look for suspicious activity and so far there has not been this type of effort in the community. We need to educate everyone and be more proactive versus reactive.

I strongly urge you to not add to our burden like you did 5 years ago. Based on our experience, new legislation will only slow down theft for about a year until the thieves figure out new ways around it. Please do not make this bill go any further.

Sincerely,



Robert Okuda

Okuda Metal, Inc.

**Testimony of
Gary M. Slovin / Mihoko E. Ito
on behalf of
PVT Land Company**

DATE: February 11, 2013

TO: Senator Rosalyn H. Baker
Chair, Senate Committee on Commerce and Consumer Protection
Submitted Via CPNtestimony@capitol.hawaii.gov

RE: **S.B. 28 — Relating to Scrap Dealers**
Hearing Date: Wednesday, February 13, 2013 at 8:30 a.m.
Conference Room 229

Dear Chair Baker and Members of the Committee:

I am Gary Slovin, submitting testimony on behalf of PVT Land Company (“PVT”), the owner and operator of the PVT Construction and Demolition Landfill (“Landfill”) in Nanakuli. The PVT Landfill is the only landfill on Oahu licensed and authorized to accept construction and demolition (“C & D”) debris. The PVT Landfill is permitted by the Department of Health to accept C & D debris for recycling and metals recovery, as well as for disposal.

PVT supports the intent of S.B. 28, which we understand is to address the persistent problem of the theft of copper wiring. However, as currently drafted, S.B. 28 has the unintended consequence of prohibiting PVT from recycling the copper wire it recovers from C & D debris. We therefore support that the bill be amended to allow PVT’s permitted recycling and metals recovery program to continue.

Our first concern with S.B. 28 is found in Section 2, which would amend Hawaii Revised Statutes (“HRS”) § 445-233 to add a new section (c) which provides:

(c) If the scrap presented for purchase is copper wiring, such purchase shall be made only from a licensed electrical contractor.

Gary M. Slovin
Mihoko E. Ito
Christine Ogawa Karamatsu
Tiffany N. Yajima

1099 Alakea Street, Suite 1400
Honolulu, HI 96813
(808) 539-0840

PVT recovers copper wiring from C & D debris for recycling. As PVT is not a licensed electrical contractor, it would not be lawful for PVT to sell the recovered copper wiring to a scrap dealer.

Our second concern with S.B. 28 is also found in Section 2, which would amend HRS § 445-233 with revised sections (d) and (e). These sections provide that where copper wiring is presented for purchase, the seller (e.g. PVT) would have to provide either (1) a receipt for the original sale of the copper wiring or (2) a declaration describing the original sale of the copper wiring. PVT could not meet either requirement as it recovers copper wire from C & D debris. Without the receipt or declaration, it would not be lawful for PVT to sell the recovered copper wiring to a scrap dealer.

We are confident that it was not the intent of the authors of S.B. 28 to prevent permitted facilities such as PVT from recycling copper wire. We would be pleased to work with the Committee to draft appropriate exemption language, but we suggest that HRS § 445-233(j), which exempts public utilities from HRS § 445-233(d) and (e), would be an appropriate place for an additional exemption. At a minimum, PVT and other permitted integrated solid waste management facilities would need to be exempted from HRS § 445-233(c), (d) and (e).

Finally, we are concerned with Section 3 of S.B. 28, which would amend HRS § 455-233.5 to require that the seller of copper be paid by check “no earlier than ten business days following the purchase.” We suggest that an exemption to this section should be made for public utilities and permitted integrated solid waste management facilities. As theft is not a concern when dealing with these permitted businesses, we do not feel it necessary to delay payment for two weeks.

PVT proposes the following amendments as shown in bold:

Revisions at page 5 of 7, to Section 2 of SB 28, beginning at line 9:

~~[(h)]~~ (j) Public utilities, as defined in section 269-1, **and recycling and materials recovery facilities that are permitted under chapter 342H** shall be exempt from the requirements of subsections ~~[(b)]~~ (d) and ~~[(e)]~~ (e). When the seller is a public utility **or a permitted recycling and materials recovery facility**, the scrap dealer shall not be required to obtain the statement required by subsection (a), and the scrap dealer shall not be prohibited by subsections ~~[(d)]~~ (c) or (f) from purchasing the copper from the public utility **or the permitted recycling and materials recovery facility**.

Revisions at page 6 of 7, to last sentence of Section 3 of SB 28, beginning at line 7:

The check may be mailed to the address shown on the identification, or the scrap dealer or recycler may arrange for the check to be picked up personally by the seller at the place of business of the scrap dealer or recycler ~~[-]~~ **no earlier than ten business days following**

the purchase unless the seller is a public utility or a permitted recycling and materials recovery facility."

In closing, we do very much support the intent of this bill, but request that the bill be amended to address the unintended consequence of prohibiting permitted recycling operations. Thank you for the opportunity to comment on this bill.



TESTIMONY BEFORE THE SENATE COMMITTEE ON
COMMERCE AND CONSUMER PROTECTION

SENATE BILL 28

RELATING TO SCRAPE DEALERS

PRESENTED TO THE TWENTY-SEVENTH LEGISLATURE

FEBRUARY 2013

CHAIRMEN BAKER and Members of the Committee:

SUPPORT WITH AMENDMENTS

My name is Loren Mochida, Director of Agricultural Operations at W. H. Shipman, Limited in Keaau on the Big Island. We are a local kamaaina-family owned land management company that is engaged in Agriculture and Commercial/Industrial development and leasing. We currently lease lands to over 130 individually growers at W.H. Shipman, Ltd.

W. H. Shipman, Ltd., and their growers provide strong support to SB 28 Relating to Scrape Dealers. This Act will curtail the burglaries, thefts, and trespassers on our agriculture lands.

I am also requesting to "AMEND" Bill 28 to include "ALUMINUM" metal. Last year we had tenants that had aluminum workbenches and gates stolen. On the second incident we visited the scrap dealers in Hilo and found the stolen aluminum. This person was caught and his case will be coming up in March.

Thank you very much for the opportunity to provide testimony on SB 28.



Hammerhead Metals Recycling

2000 Mokulele Highway

P.O. Box 1473

Puunene, HI 96784

Office: (808) 280-8844

Fax: (808) 877-0202



February 12, 2013

Senate Committee on Commerce and Consumer Protection

Re: SB 28, RELATING TO SCRAP DEALERS.

Aloha, Chair Baker, Vice Chair Galuteria and members of the Committee,

My name is Nick Garofalo and I serve as the Facilities and Operations Supervisor at Hammerhead Metals Recycling in Maui. We accept ferrous and non-ferrous metals, vehicles and appliances at our Pu'unene facility, where we have operated since 2010. Hammerhead Metals Recycling is owned by Schnitzer Steel, which has operated in Hawaii for many years. We process more than 100 tons of recyclable materials from across the state at our facilities in Pu'unene and Kapolei on Oahu.

We appreciate the opportunity to testify on SB 28, relating to scrap dealers. We respectfully oppose this measure in its current form.

SB 28, relating to scrap dealers, prohibits the sale of copper wiring by anyone other than licensed electrical contractors. In our experience, many other types of workmen and women, as well as regular citizens have occasion to sell us copper and can meet the strict requirements of the current law. Such a restriction could result in more copper being thrown away because it cannot be legally scrapped. This side effect would not support the state's commitment to recycling.

SB 28 also restricts the sale of catalytic converters or catalytic converter metals solely from licensed auto wreckers or motor vehicle repair dealers. In addition to our concerns about restricting who could sell the used auto parts, we have concerns over this provision because it does not specify whether the restriction applies to catalytic converters still attached to cars or not.

Finally, SB 28 creates a new requirement that scrap dealers and recyclers purchasing copper, copper wiring, catalytic converters, or catalytic converter metals must wait ten business days before allowing the seller to pick up the check for payment. While we applaud the legislature's intent to address concerns about theft and fraud, we believe that requiring recyclers to wait ten business days before allowing the seller of certain products to pick up the check for payment will have the unintended consequence of decreasing the amount of metals and vehicles recycled legally. Current law requires certification by the seller involving a notarized statement regarding ownership of the product being transferred. This existing system works.

We work closely with state Department of Health and County recycling coordinators. We believe that we are an important part of Hawaii's sustainable future. We look forward to being part of the ongoing dialog about how to best serve the public interest in Hawaii.

Please defer this measure.

SB28 LATE TESTIMONY

Submitted By	Organization	Testifier Position	Present at Hearing
Keith	Tajiri Lumber, Ltd.	Oppose	No

SB28 LATE TESTIMONY

Submitted By	Organization	Testifier Position	Present at Hearing
John Maze	Individual	Oppose	No
Anthony Orozco	Individual	Oppose	No
John Jose	Individual	Oppose	No
Douglas Ota	Individual	Oppose	No
Andrew Tajiri	Individual	Oppose	No
Takeo Okuda	Individual	Oppose	No
Jeffrey Pong	Individual	Oppose	No
Matt Adams	Individual	Oppose	No
Harry Ono	Individual	Oppose	No