

A-Engrossed House Bill 4140

Ordered by the House February 18
Including House Amendments dated February 18

Sponsored by Representative WALLAN, Senators PROZANSKI, ANDERSON, Representative RIEKE SMITH; Representatives LEWIS, LIVELY, MARSH, RESCHKE (Presession filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act adds new requirements for scrap metal businesses. The Act changes the definition for a type of scrap metal. (Flesch Readability Score: 61.3).

[Digest: The Act creates a new crime about selling or trading scrap metal without being registered as a scrap metal seller. The Act adds new requirements for scrap metal businesses. (Flesch Readability Score: 60.8).]

Modifies the crime of criminal mischief in the first degree by expanding the types of telecommunications entities whose property may be subject to ORS 164.365.

[Prohibits certain individuals from selling or trading nonferrous metal property or commercial metal property to a scrap metal business unless the individual is registered as a scrap metal seller with the Department of Justice. Punishes by a maximum of 364 days' imprisonment, \$6,250 fine, or both. Specifies exemptions. Requires the department to establish a scrap metal seller registration database.]

Modifies the definition of "commercial metal property" and requires scrap metal businesses to check ownership of certain types of commercial metal property before purchasing or receiving the commercial metal property.

Requires scrap metal businesses to sign up with a national scrap metal theft alert system and use the system in conducting business activity. *[Requires scrap metal businesses to check that individuals are registered as scrap metal sellers before completing a transaction.]*

A BILL FOR AN ACT

Relating to metal property; creating new provisions; and amending ORS 164.365, 165.116 and 165.117.

Be It Enacted by the People of the State of Oregon:

CHANGES TO CRIMINAL MISCHIEF

SECTION 1. ORS 164.365 is amended to read:

164.365. (1) A person commits the crime of criminal mischief in the first degree who, with intent to damage property, and having no right to do so nor reasonable ground to believe that the person has such right:

(a) Damages or destroys property of another:

(A) In an amount exceeding \$1,000;

(B) By means of an explosive;

(C) By starting a fire in an institution while the person is committed to and confined in the institution;

(D) Which is a livestock animal as defined in ORS 164.055;

(E) Which is the property of a public utility, telecommunications **[carrier] provider**, railroad, public transportation facility or medical facility used in direct service to the public; or

(F) By intentionally interfering with, obstructing or adulterating in any manner the service of

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 a public utility, telecommunications [carrier] **provider**, railroad, public transportation facility or
2 medical facility; or

3 (b) Intentionally uses, manipulates, arranges or rearranges the property of a public utility,
4 telecommunications [carrier] **provider**, railroad, public transportation facility or medical facility
5 used in direct service to the public so as to interfere with its efficiency.

6 (2) As used in subsection (1) of this section:

7 (a) "Institution" includes state and local correctional facilities, mental health facilities, juvenile
8 detention facilities and state training schools.

9 (b) "Medical facility" means a health care facility as defined in ORS 442.015, a licensed
10 physician's office or anywhere a licensed medical practitioner provides health care services.

11 (c) "Public utility" has the meaning provided for that term in ORS 757.005 and includes any
12 cooperative, people's utility district or other municipal corporation providing an electric, gas, water
13 or other utility service.

14 (d) "Railroad" has the meaning provided for that term in ORS 824.020.

15 (e) "Public transportation facility" means any property, structure or equipment used for or in
16 connection with the transportation of persons for hire by rail, air or bus, including any railroad
17 cars, buses or airplanes used to carry out such transportation.

18 (f) [*"Telecommunications carrier" has the meaning given that term in ORS 133.721.*] **"Telecom-**
19 **munications provider" has the meaning given that term in ORS 184.911.**

20 (3) Criminal mischief in the first degree is a Class C felony.

21 22 **SCRAP METAL THEFT ALERT SYSTEM**

23
24 **SECTION 2. Sections 3 and 4 of this 2026 Act are added to and made a part of ORS 165.116**
25 **to 165.124.**

26 **SECTION 3. (1) A law enforcement agency may:**

27 (a) **Register with the scrap metal theft alert system maintained and provided at no**
28 **charge to users by the Recycled Materials Association, or its successor organization, or an**
29 **equivalent scrap metal theft alert system described in administrative rule by the Department**
30 **of Justice; and**

31 (b) **Report thefts of metal property to the system that occur within the geographic area**
32 **over which the law enforcement agency has jurisdiction.**

33 (2) **The department may adopt rules necessary to administer the provisions of this sec-**
34 **tion.**

35 **SECTION 4. A scrap metal business shall:**

36 (1) **Register with or subscribe to a scrap metal theft alert system described in section 3**
37 **of this 2026 Act to receive alerts regarding thefts of metal property in the relevant ge-**
38 **ographic area;**

39 (2) **Maintain the registration or subscription;**

40 (3) **Download and maintain the scrap metal theft alerts generated by the system;**

41 (4) **Use the scrap metal theft alerts in conducting all applicable business activity to**
42 **identify metal property that may be the subject of theft; and**

43 (5) **Maintain a copy of any scrap metal theft alert for a minimum of 90 days following the**
44 **date the alert was received and downloaded under this section.**

CHANGES TO SCRAP METAL LAWS

SECTION 5. ORS 165.116 is amended to read:

165.116. As used in ORS 165.116 to 165.124:

(1) “Commercial account” means an agreement or arrangement between a commercial seller and a scrap metal business for regularly or periodically selling, delivering, purchasing or receiving metal property.

(2) “Commercial metal property” means an item fabricated or containing parts made of metal or metal alloys that:

(a) Is used as, used in or used as part of:

(A) A utility access cover or a cover for a utility meter;

(B) A pole, fixture or component of a street light or traffic light;

(C) A sign or marker located, with the permission of a governmental entity, alongside a street, road or bridge for the purpose of directing or controlling traffic or providing information to motorists;

(D) A traffic safety device, including a guardrail for a highway, road or bridge;

(E) A vase, plaque, marker, tablet, plate or other sign or ornament affixed to or in proximity to a historic site, grave, statue, monument or similar property accessible to members of the public;

(F) An agricultural implement, including an irrigation wheel, sprinkler head or pipe;

(G) A forestry implement or structure, including silvicultural equipment, gates, culverts and servicing and maintenance parts or supplies; or

(H) A logging operation implement, including mechanical equipment, rigging equipment and servicing and maintenance parts or supplies;

(b) Bears the name of, or a serial or model number, logo or other device used by, a commercial seller to identify the commercial seller’s property including, but not limited to, implements or equipment used by railroads, **telecommunications providers** and utilities that provide telephone, commercial mobile radio, cable television, electricity, water, natural gas or similar services;

(c) Consists of **unused or undamaged** material used in building construction or other commercial construction, including:

(A) Copper or aluminum pipe, tubing or wiring;

(B) Aluminum gutters, downspouts, siding, decking, bleachers or risers; or

(C) Aluminum or stainless steel fence panels made of one-inch tubing 42 inches long, with four-inch gaps; [or]

(d) Constitutes wire of a gauge typically used by utilities to provide electrical [or *telecommunications*] service[.];

(e) Constitutes telecommunications wire; or

(f) Constitutes metallic wire from which insulation has been removed.

(3) “Commercial seller” means:

(a) A business entity, as defined in ORS 60.470, business enterprise with a fixed place of business, nonprofit corporation or governmental entity that regularly or periodically sells or delivers metal property to a scrap metal business as part of the entity’s business functions; or

(b) A person with a court order authorizing the possession and sale of particular metal property.

(4) “Dismantler” means the holder of a valid, current dismantler certificate issued under ORS 822.110.

(5) “Electronic funds transfer” has the meaning given that term in ORS 293.525.

(6) "Fixed place of business" means a location:

(a) Where a business enterprise primarily and regularly conducts the enterprise's business activity;

(b) That includes a commercial building; and

(c) That corresponds to the address shown on any licenses required by state law or local ordinance for all applicable business activity conducted at that location.

(7) "Law enforcement agency" has the meaning given that term in ORS 131.550.

(8) "Metal property" means commercial metal property, nonferrous metal property or private metal property.

(9)(a) "Nonferrous metal property" means an item fabricated or containing parts made of or in an alloy with copper, brass, aluminum, bronze, lead, zinc or nickel.

(b) "Nonferrous metal property" does not include gold, silver or platinum that is used in the manufacture, repair, sale or resale of jewelry.

(10) "Nonprofit corporation" means a corporation to which the Secretary of State has issued a certificate of existence or a certificate of authorization under ORS 65.027.

(11) "Private metal property" means a catalytic converter or a component of a catalytic converter that has been removed from a vehicle and is offered for sale as an independent item, whether individually or as part of a bundle, bale or in other bulk form.

(12)(a) "Scrap metal business" means a person that:

(A) Maintains a permanent or fixed place of business at which the person:

(i) Engages in the business of purchasing or receiving metal property;

(ii) Alters or prepares metal property the person receives for use in manufacturing other products; and

(iii) Owns, leases, rents, maintains or uses a device used in metal recycling, including a hydraulic baler, metal shearer or metal shredder;

(B) Maintains a permanent or fixed place of business at which the person engages in the business of purchasing or receiving metal property for the purpose of aggregation and sale to another scrap metal business;

(C) Does not necessarily maintain a permanent or fixed place of business in this state but engages in the business of purchasing or receiving nonferrous metal property for the purpose of aggregation and sale to another scrap metal business and holds any licenses required by state law or local ordinance for conducting all applicable business activity; or

(D) Engages in the business of purchasing or receiving private metal property at a fixed place of business and holds any licenses required by state law or local ordinance for all applicable business activity.

(b) "Scrap metal business" does not include a governmental entity that accepts metal property for recycling.

(13) "Stored value device" means a debit card or other device that draws funds from an account owned or operated by the user and that allows the user to obtain something of value from a merchant.

(14) "Telecommunications provider" has the meaning given that term in ORS 184.911.

(15) "Telecommunications wire" means copper or copper alloy wire, cable, tubing or related materials that bear evidence of being or are reasonably likely to be implements or equipment used by a telecommunications provider, such as insulation of an industry-standard color for telecommunications wiring, materials with attached telecommunications connec-

tors or terminators or materials showing evidence of recent removal from telecommunications infrastructure.

[(14)(a)] **(16)(a)** “Transaction” means a sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell, purchase, receive or trade, private metal property or nonferrous metal property that occurs or forms between an individual and a scrap metal business.

(b) “Transaction” does not include:

(A) A transfer of metal property made without consideration; or

(B) A sale, purchase, receipt or trade of, or a contract, agreement or pledge to sell, purchase, receive or trade, private metal property or nonferrous metal property that occurs or forms between:

(i) A commercial seller or an authorized employee or agent of the commercial seller; and

(ii) A scrap metal business or an authorized employee or agent of the scrap metal business.

SECTION 6. ORS 165.117 is amended to read:

165.117. (1) Before completing a transaction, a scrap metal business engaged in business in this state shall:

(a) Create a metal property record for the transaction at the time and in the location where the transaction occurs. The record must:

(A) Be accurate and written clearly and legibly in English;

(B) Be entered onto a standardized printed form or an electronic form that is securely stored and is capable of ready retrieval and printing; and

(C) Contain all of the following information:

(i) The signature of the individual with whom the scrap metal business conducts the transaction.

(ii) The time, date, location and monetary amount or other value of the transaction.

(iii) The name of the employee who conducts the transaction on behalf of the scrap metal business.

(iv) The name and telephone number of the individual with whom the scrap metal business conducts the transaction and a street address or, if a post office box is listed on the government-issued photo identification described in sub-subparagraph (vi) of this subparagraph, a post office box, to which the scrap metal business will mail payment to the individual.

(v) The make, model year and the license plate number and state of issue of the motor vehicle or motor vehicles, if any, used to transport the individual who conducts the transaction and to transport the nonferrous metal property or private metal property that is the subject of the transaction.

(vi) A photocopy of a current, valid driver license or other government-issued photo identification belonging to the individual with whom the scrap metal business conducts the transaction.

(vii) A photograph of, or video surveillance recording depicting, a recognizable facial image of the individual with whom the scrap metal business conducts the transaction.

(viii) A general description of the nonferrous metal property that constitutes the predominant part of the transaction and a specific description of private metal property, if any, included in the transaction. The description must include any identifiable marks on the property, if readily discernible, and must specify the weight, quantity or volume of the nonferrous metal property or private metal property.

(ix) For private metal property, the vehicle identification number and a copy of the title or vehicle registration for the vehicle from which the private metal property was removed.

(b) Require the individual with whom the scrap metal business conducts a transaction to sign and date a declaration printed in conspicuous type, either on the record described in this subsection

1 or on a receipt issued to the individual with whom the scrap metal business conducts the trans-
2 action, that states:

3 _____
4
5 I, _____, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM
6 SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN
7 PROPERTY.
8 _____
9

10 (c) Require the employee of the scrap metal business who conducts the transaction on behalf
11 of the scrap metal business to witness the individual sign the declaration, and also to sign and date
12 the declaration in a space provided for that purpose.

13 (d) For one year following the date of the transaction, keep a copy of the record and the signed
14 and dated declaration described in this subsection. If the scrap metal business uses a video surveil-
15 lance recording as part of the record kept in accordance with this subsection, the scrap metal
16 business need not keep the video surveillance recording for one year, but shall retain the video
17 surveillance recording for a minimum of 30 days following the date of the transaction. The scrap
18 metal business shall at all times keep the copies at the current place of business for the scrap metal
19 business.

20 (2) A scrap metal business engaged in business in this state may not do any of the following:

21 (a) Purchase or receive kegs or similar metallic containers used to store or dispense alcoholic
22 beverages, except from a person that manufactures the kegs or containers or from a person licensed
23 by the Oregon Liquor and Cannabis Commission under ORS 471.155.

24 (b) Conduct a transaction with an individual if the individual does not at the time of the trans-
25 action consent to the creation of the record described in subsection (1) of this section and produce
26 for inspection a valid driver license or other valid government-issued photo identification that be-
27 longs to the individual.

28 (c) Conduct a transaction with an individual in which the scrap metal business pays the indi-
29 vidual other than by electronic funds transfer, stored value card or stored value device, or by
30 mailing a nontransferable check, made payable to the individual, for the amount of the transaction
31 to the street address or post office box the individual provided under subsection (1)(a)(C)(iv) of this
32 section. Payment must be made not earlier than three business days after the date of the trans-
33 action. The check, electronic funds transfer or stored value device must be drawn on or must draw
34 from an account that the scrap metal business maintains with a financial institution, as defined in
35 ORS 706.008. A stored value card may be issued by a money transmission business licensed under
36 ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS 717.210.

37 (d) Purchase metal property from a nonprofit corporation other than by electronic funds trans-
38 fer, stored value card or stored value device, or by mailing a nontransferable check, made payable
39 to the nonprofit corporation, for the amount of the purchase price to the business address provided
40 under subsection (4)(a)(B) of this section. Payment must be made not earlier than three business days
41 after the date of the purchase. The check, electronic funds transfer or stored value device must be
42 drawn on or must draw from an account that the scrap metal business maintains with a financial
43 institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission
44 business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS
45 717.210.

(e) Purchase private metal property from a commercial seller other than by electronic funds transfer, credit card, debit card, stored value card or stored value device or by mailing a nontransferable check, made payable to the commercial seller, for the amount of the purchase price to the business address provided under subsection (4)(a)(B) of this section. Except for an electronic funds transfer, credit card transaction or debit card transaction which can be immediate, payment must be made not earlier than three business days after the date of the purchase. The check, electronic funds transfer, credit card, debit card or stored value device must be drawn on or must draw from an account that the scrap metal business maintains with a financial institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS 717.210.

(f) Cash or release a check issued in payment for a transaction or for a purchase described in paragraph (c), (d) or (e) of this subsection other than as provided in this paragraph or paragraph (c), (d) or (e) of this subsection. If a check is not delivered to the intended recipient within 10 days of the date of the transaction or the purchase, the scrap metal business may release the check directly to the individual or commercial seller with the written approval of a law enforcement agency having jurisdiction over the scrap metal business. If a check is returned as undelivered or undeliverable, the scrap metal business shall:

(A) Release the check directly to the individual or commercial seller with the written approval of a law enforcement agency having jurisdiction over the scrap metal business; or

(B) Retain the check until the individual or commercial seller to which the check was mailed provides a valid address in accordance with subsection (1)(a)(C)(iv) or (4)(a)(B) of this section. If after 30 days following the date of the transaction or the purchase described in paragraph (c), (d) or (e) of this subsection the individual or commercial seller fails to provide a valid address, the scrap metal business may cancel the check and the individual or commercial seller shall forfeit to the scrap metal business the amount due as payment.

(g) Purchase or receive private metal property, except from:

(A) A commercial seller; or

(B) An individual who is the owner of the vehicle from which the private metal property was removed and who provides the information required under subsection (1)(a)(C) of this section.

(h) Conduct a transaction with an individual at a time that the scrap metal business is out of compliance with the requirements described in section 4 of this 2026 Act.

(3) If a scrap metal business obtains the approval of a law enforcement agency under subsection (2)(f) of this section, the scrap metal business shall retain the written approval for one year following the date the approval is received.

(4) Before purchasing or receiving metal property from a commercial seller, a scrap metal business shall:

(a) Create and maintain a commercial account with the commercial seller. As part of the commercial account, the scrap metal business shall enter accurately, clearly and legibly in English onto a standardized printed form, or an electronic form that is securely stored and is capable of ready retrieval and printing, the following information:

(A) The full name of the commercial seller;

(B) The business address and telephone number of the commercial seller; and

(C) The full name of each employee, agent or other individual the commercial seller authorizes to receive payment for metal property from the scrap metal business.

(b) Create a metal property record as part of the commercial account at the time and in the

1 location that the scrap metal business purchases or receives metal property from a commercial
2 seller that contains the following information:

3 (A) The time, date and location at which the scrap metal business purchased or received the
4 metal property;

5 (B) The printed name and signature or electronic signature of the employee who conducted the
6 purchase or receipt on behalf of the scrap metal business;

7 (C) The printed name and signature or electronic signature of the individual or individuals who
8 conducted the purchase or receipt of the metal property on behalf of the commercial seller and of
9 the individual or individuals who delivered the metal property on behalf of the commercial seller to
10 the scrap metal business, if different;

11 (D) A photocopy of a valid driver license or other valid government-issued photo identification
12 belonging to the individual or individuals who conducted the purchase or receipt of the metal
13 property on behalf of the commercial seller and of the individual or individuals who delivered the
14 metal property on behalf of the commercial seller to the scrap metal business, if different;

15 (E) The monetary amount or other value of the metal property;

16 (F) A description of the type of metal property that constitutes the predominant part of the
17 purchase or receipt;

18 (G) For private metal property sold or transferred by a commercial seller other than a
19 dismantler, the following information for the vehicle from which the private metal property was re-
20 moved:

21 (i) The make, model year, vehicle identification number and, if available, the license plate num-
22 ber and issuing state shown on the license plate; and

23 (ii) The date that the commercial seller removed the private metal property; and

24 (H) For private metal property sold or transferred by a dismantler, the stock or yard number
25 or numbers assigned to the private metal property by the dismantler under ORS 822.137.

26 **(I) For the following commercial metal property, written documentation or identification**
27 **proving that the commercial seller owns the commercial metal property or is otherwise au-**
28 **thorized to offer the commercial metal property for sale or transfer on behalf of the owner:**

29 **(i) Commercial metal property described under ORS 165.116 (2)(b), if the commercial**
30 **metal property is offered for sale or transfer by a commercial seller other than the railroad,**
31 **telecommunications provider or utility whose name, serial or model number, logo or other**
32 **device appears on the commercial property.**

33 **(ii) Commercial metal property described under ORS 165.116 (2)(d), unless the commercial**
34 **seller is a utility that provides electrical services and the commercial metal property does**
35 **not bear a device as described under sub-subparagraph (i) of this subparagraph.**

36 **(iii) Commercial metal property described under ORS 165.116 (2)(e), unless the commer-**
37 **cial seller is a telecommunications provider and the commercial metal property does not bear**
38 **a device as described under sub-subparagraph (i) of this subparagraph.**

39 **(J) For commercial metal property described under ORS 165.116 (2)(f), appropriate doc-**
40 **umentation proving that the commercial seller owns or is entitled to offer the metallic wire**
41 **for purchase or receipt and that the insulation has been removed by accident or was done**
42 **by legitimate means or for a legitimate purpose.**

43 (c) Require all signatories to the metal property record to declare the accuracy of the informa-
44 tion contained in the record by including on the metal property record in conspicuous type, "I AF-
45 FIRM BY MY SIGNATURE THAT UNDER PENALTY OF LAW THAT THE INFORMATION I

1 PROVIDED AND REFLECTED ON THIS FORM IS TRUE AND ACCURATE.”

2 (5) A scrap metal business may require an individual from whom the business obtains metal
3 property to provide the individual’s thumbprint to the scrap metal business.

4 (6) A scrap metal business shall make all records and accounts required to be maintained under
5 this section available to any peace officer on demand.

6 (7)(a) Except as otherwise provided in ORS 165.118, violation of this section is a specific fine
7 violation, and the presumptive fine for the violation is \$1,000.

8 (b) Notwithstanding paragraph (a) of this subsection, the presumptive fine for a violation of a
9 provision of this section is \$5,000 if the scrap metal business has at least three previous convictions
10 for violations of a provision of this section.

11
12 **APPLICABILITY**

13
14 **SECTION 7. Sections 3 and 4 of this 2026 Act and the amendments to ORS 164.365, 165.116**
15 **and 165.117 by sections 1, 5 and 6 of this 2026 Act apply to conduct occurring on or after the**
16 **effective date of this 2026 Act.**

17
18 **CAPTIONS**

19
20 **SECTION 8. The unit captions used in this 2026 Act are provided only for the convenience**
21 **of the reader and do not become part of the statutory law of this state or express any leg-**
22 **islative intent in the enactment of this 2026 Act.**
23 _____