

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 26-0609.01 Owen Hatch x2698

HOUSE BILL 26-1101

HOUSE SPONSORSHIP

Espenosa and Soper,

SENATE SPONSORSHIP

Lindstedt and Pelton B.,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING ADDING CRIMINAL OFFENSES RELATED TO CRITICAL**
102 **INFRASTRUCTURE COMPONENTS TO CRIMINAL OFFENSES**
103 **INVOLVING COMMODITY METALS.**

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 applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill defines critical infrastructure related to commodity metals and adds several different criminal offenses related to the sale of, possession of, and failure to report stolen critical infrastructure.

The bill prohibits an owner, keeper, or proprietor (owner) of a junk shop, junk store, salvage yard, or junk cart or other vehicle and every

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

collector of or dealer in junk, salvage, or other secondhand property who buys a commodity metal that was part of critical infrastructure (buyer) from paying cash for the commodity metal unless the seller is paid by means of any process in which a picture of the seller is taken.

The bill prohibits a buyer from possessing a commodity metal that was part of critical infrastructure without a certification from the seller or donator of the commodity metal. A buyer who unknowingly takes possession of commodity metals from critical infrastructure as part of a load of otherwise non-commodity metals without a written certification has a duty to notify the appropriate law enforcement agency or municipal code enforcement agency.

An owner of a junk shop, junk store, salvage yard, or junk cart must make their book or register available to a law enforcement agency or municipal code enforcement agency upon request.

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

2 **SECTION 1.** In Colorado Revised Statutes, 18-13-111, **amend**
3 (1)(e), (1.5), (2), (5) introductory portion, (5)(e), (6), (10)(a)(II), and
4 (10)(a)(III); and **add** (1.6), (8)(c.5), and (10)(a)(IV) as follows:

5 **18-13-111. Purchases of commodity metals, critical**
6 **infrastructure metals, or detached catalytic converters - violations -**
7 **creation - composition - reports - legislative declaration - definitions.**

8 (1) (e) The book or register ~~shall~~ **MUST** be made available to ~~any~~
9 ~~peace officer~~ **A LAW ENFORCEMENT AGENCY OR MUNICIPAL CODE**
10 **ENFORCEMENT AGENCY for inspection at any reasonable time** UPON
11 **REQUEST.**

12 (1.5) (a) An owner, keeper, proprietor, collector, or dealer is
13 permitted to pay a seller in cash for any commodity metal or detached
14 catalytic converter transaction of three hundred dollars or less, **UNLESS**
15 **THE TRANSACTION INVOLVES A COMMODITY METAL THAT THE PAYING**
16 **PARTY KNOWS OR SHOULD HAVE KNOWN WAS PART OF CRITICAL**
17 **INFRASTRUCTURE.**

1 (b) If the transaction costs more than three hundred dollars OR
2 INVOLVES A COMMODITY METAL THAT THE PAYING PARTY KNOWS OR
3 SHOULD HAVE KNOWN WAS PART OF CRITICAL INFRASTRUCTURE, the
4 owner, keeper, proprietor, collector, or dealer shall pay the seller of a
5 commodity metal or detached catalytic converter by check unless the
6 seller is paid by means of any process in which a picture of the seller is
7 taken when the money is paid.

8 (1.6) (a) (I) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR
9 DEALER SHALL NOT POSSESS A COMMODITY METAL THAT WAS PART OF
10 CRITICAL INFRASTRUCTURE WITHOUT ALSO POSSESSING A WRITTEN
11 CERTIFICATION ON THE LETTERHEAD OF THE PERSON WHO TRANSFERRED
12 THE COMMODITY METAL TO THE OWNER, KEEPER, PROPRIETOR,
13 COLLECTOR, OR DEALER. THE CERTIFICATION MUST SAY THAT THE
14 TRANSFEROR MAY LAWFULLY TRANSFER THE COMMODITY METAL AND, IF
15 AN AGENT OF THE TRANSFEROR IS IN POSSESSION OF THE COMMODITY
16 METAL, THAT THE TRANSFEROR'S AGENT IS AUTHORIZED TO NEGOTIATE
17 THE SALE OR OTHER TRANSFER OF THE COMMODITY METAL.

18 (II) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER
19 WHO KNOWINGLY POSSESSES A COMMODITY METAL THAT WAS PART OF
20 CRITICAL INFRASTRUCTURE IN VIOLATION OF THIS SUBSECTION (1.6)(a)
21 COMMITS UNLAWFUL POSSESSION OF CRITICAL INFRASTRUCTURE.

22 (b) (I) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER
23 WHO UNKNOWNLY TAKES POSSESSION OF COMMODITY METALS FROM
24 CRITICAL INFRASTRUCTURE AS PART OF A LOAD OF OTHERWISE
25 NON-COMMODITY METALS WITHOUT A WRITTEN CERTIFICATION, AS
26 DESCRIBED IN SUBSECTION (1.6)(a)(I) OF THIS SECTION, HAS A DUTY TO
27 NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY OR MUNICIPAL

1 CODE ENFORCEMENT AGENCY BY THE END OF THE NEXT BUSINESS DAY
2 AFTER DISCOVERING THE PROHIBITED MATERIAL. WRITTEN CERTIFICATION
3 RELIEVES THE OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER
4 FROM PENALTY FOR POSSESSION OF THE PROHIBITED MATERIAL. THE
5 PROHIBITED MATERIAL MUST BE SET ASIDE AND MUST NOT BE SOLD,
6 PENDING A DETERMINATION AS TO ITS LEGAL STATUS MADE BY A LAW
7 ENFORCEMENT AGENCY OR MUNICIPAL CODE ENFORCEMENT AGENCY.

8 (II) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER
9 WHO UNKNOWINGLY TAKES POSSESSION OF COMMODITY METALS FROM
10 CRITICAL INFRASTRUCTURE AS PART OF A LOAD OF OTHERWISE
11 NON-COMMODITY METALS WITHOUT A WRITTEN CERTIFICATION AND DOES
12 NOT NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY OR MUNICIPAL
13 CODE ENFORCEMENT AGENCY BY THE END OF THE NEXT BUSINESS DAY IN
14 VIOLATION OF THIS SUBSECTION (1.6)(b) COMMITS FAILURE TO REPORT
15 STOLEN CRITICAL INFRASTRUCTURE.

16 (2) Except as otherwise provided in subsection (3) of this section,
17 the owner, keeper, proprietor, collector, or dealer of any commodity metal
18 or detached catalytic converter shall make a digital photographic record,
19 video record, or other record that identifies the seller and the commodity
20 metal or detached catalytic converter that the seller is selling. The digital
21 photographic record, video record, or other record format shall be
22 retained for one hundred eighty days, and the owner shall permit a law
23 enforcement officer OR MUNICIPAL CODE ENFORCEMENT OFFICER to make
24 inspections of the record.

25 (5) A person who violates subsection (1) of this section by failing
26 to keep a book or register, ~~any~~ A person who knowingly gives false
27 information with respect to the information required to be maintained in

1 the book or register provided for in subsection (1) of this section, and ~~any~~
2 A person who violates subsection (1.3), (1.5), **(1.6)**, or (2) of this section
3 commits:

4 (e) A class 5 felony if:

5 (I) The amount is five thousand dollars or more but less than
6 twenty thousand dollars; OR

7 (II) THE VIOLATION INVOLVES COMMODITY METALS USED IN
8 CRITICAL INFRASTRUCTURE WITH A VALUE OF MORE THAN TWO THOUSAND
9 DOLLARS BUT LESS THAN TWENTY THOUSAND DOLLARS;

10 (6) (a) There is a rebuttable presumption that metal purchased by
11 a dealer for the purpose of recycling is a commodity metal if the
12 commodity metal has a value of fifty cents per pound or greater for
13 purposes of recycling the commodity metal.

14 (b) THERE IS A REBUTTABLE PRESUMPTION THAT THE PAYING
15 PARTY SHOULD HAVE KNOWN THE COMMODITY METAL WAS PART OF
16 CRITICAL INFRASTRUCTURE IF THERE EXISTS EVIDENCE THAT THE
17 INSULATING CASING OF A COMMODITY METAL WAS BURNED OR
18 SMOLDERED OFF.

19 (8) As used in this section, unless the context otherwise requires:

20 (c.5) "CRITICAL INFRASTRUCTURE" MEANS ANY COMPONENT OF A
21 COMMODITY METAL THAT IS USED IN COMMUNICATION, TRANSPORTATION,
22 OR HOUSING INFRASTRUCTURE, THE THEFT OF WHICH POSES AN IMMINENT
23 THREAT TO LIFE OR THE PHYSICAL SAFETY OF A PERSON, INCLUDING
24 THROUGH SERIOUS HARM TO THE BASIC SUPPLY OF COMMUNICATION,
25 TRANSPORTATION, OR HOUSING INFRASTRUCTURE TO THE POPULATION OR
26 TO THE EXERCISE OF A CORE FUNCTION OF COMMUNICATION,
27 TRANSPORTATION, OR HOUSING INFRASTRUCTURE.

1 (10) (a) The general assembly hereby finds, determines, and
2 declares that:

3 (II) Such thefts impact every community in Colorado; ~~and~~

4 (III) The regulation of commodity metal or detached catalytic
5 converter purchases is a matter of statewide concern; AND

6 (IV) IN THE CONTEXT OF COMMODITY METALS THAT MAKE UP
7 CRITICAL INFRASTRUCTURE, THEIR THEFT REPRESENTS A SIGNIFICANT
8 THREAT TO COLORADO CITIZENS.

9 **SECTION 2. Applicability.** This act applies to offenses
10 committed on or after the effective date of this act.

11 **SECTION 3. Safety clause.** The general assembly finds,
12 determines, and declares that this act is necessary for the immediate
13 preservation of the public peace, health, or safety or for appropriations for
14 the support and maintenance of the departments of the state and state
15 institutions.