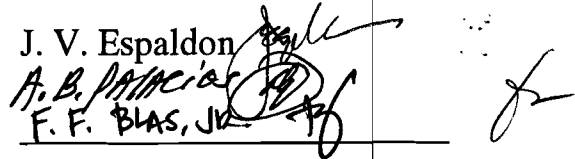


**I MINA'BENTE ÑUEBI NA LIHESLATURAN GUÅHAN**  
**2007 (FIRST) Regular Session**

Bill No. 156 (EC)

Introduced by:

J. V. Espaldon  
A. B. PARRICIO  
F. F. BLAS, JR.  


**AN ACT TO REPEAL AND REENACT CHAPTER 74  
OF TITLE 11 OF THE GUAM CODE ANNOTATED  
RELATIVE TO PROTECTING AND RECOVERING  
PROPERTY OWNED BY UTILITIES,  
TELECOMMUNICATIONS COMPANIES,  
GOVERNMENT ENTITIES, CONSTRUCTION  
FIRMS, AND OTHER PARTIES.**

**BE IT ENACTED BY THE PEOPLE OF GUAM:**

**Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds that despite the enactment of Public Law 28-18 in 2005, the rash of thefts of copper wire and other non-ferrous metals continues to plague our community. The destruction and theft of public and private property, to include the recent thefts of monuments and memorials at the War in the Pacific World War II Memorial to the people of Guam, the walk of fame tribute to the cultural master artists in Skinner Plaza, the Don Pedro Martinez memorial plaque at the San Antonio Bridge Park, and the theft of flower vases at gravesites have enraged the community. While law enforcement officials continue to investigate and apprehend the individuals responsible for these crimes against the community, scrap metal dealers need to be more diligent in receiving non-ferrous metals and forthcoming in furnishing vital information to law enforcement officials as they investigate these crimes. It is the intent of the *I Liheslaturan Guåhan* to strengthen the reporting requirements of scrap metal dealers and enact penalties for non-compliance.

**Section 2.** Chapter 74 of Title 11 of the Guam Code Annotated is hereby *repealed* and *reenacted* to read as follows:

**“Chapter 74.**

**Scrap Metal Dealers.**

**Definitions.**

**§74101.**

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§74102.  
§74103.  
  
§74104.  
  
§74105.  
§74106.  
  
§74107.  
§74108.  
§74109.  
§74110.

**Hours of Operation Limited.**  
**Records Required For Purchasing**  
**Non-Ferrous Metal Property from the**  
**General Public.**  
**Requirements for Purchasing or**  
**Receiving Non-Ferrous Metal**  
**Property from the General Public.**  
**Record for Commercial Accounts.**  
**Reporting to Law Enforcement**  
**Officials.**  
**Preserving Evidence of Metal Theft.**  
**Unlawful Violations.**  
**Civil Penalties.**  
**Exemptions.**

§74101. **Definitions.** As used in this Chapter, the following words and phrases are defined to mean:

- (1) "*Commercial account*" means a relationship between a scrap metal business and a commercial enterprise that is ongoing and properly documented under §74104 of this Chapter.
- (2) "*Commercial enterprise*" means a corporation, partnership, limited liability company, association, government department or agency, public corporation, or any other legal or commercial entity.
- (3) "*Commercial metal property*" means: Utility access covers; street light poles and fixtures; road and bridge guardrails; highway or street signs; water meter covers; traffic directional and control signs; traffic light signals; any metal property marked with the name of a commercial enterprise, including but not limited to a telephone, commercial mobile radio services, cable, electric, water, natural gas, or other utility; unused or undamaged building construction materials consisting of copper pipe, tubing, or wiring, or aluminum wire, siding, downspouts, or gutters; aluminum or stainless steel fence panels made from one inch tubing, forty-two inches high with four inch gaps; aluminum decking, bleachers, or risers; historical markers; statue plaques; grave markers and funeral vases; or agricultural irrigation wheels, sprinkler heads, and pipes.
- (4) "*Nonferrous metal property*" means metal property for which the value of the metal property is derived from the property's content of copper, brass, aluminum, bronze, lead, zinc, nickel, and their alloys. "*Nonferrous metal property*" does not include precious metals.

1 (5) "*Precious metals*" means gold, silver, and platinum.

2 (6) "*Record*" means a paper, electronic, or other method of  
3 storing information.

4 (7) "*Scrap metal business*" means a scrap metal supplier, scrap  
5 metal recycling center, and scrap metal processor.

6 (8) "*Scrap metal processor*" means a person with a current  
7 business license that conducts business from a permanent location, that is  
8 engaged in the business of purchasing or receiving nonferrous metal  
9 property and commercial metal property for the purpose of altering the  
10 metal in preparation for its use as feedstock in the manufacture of new  
11 products, and that maintains a hydraulic bailer, shearing device, or  
12 shredding device for recycling.

13 (9) "*Scrap metal recycling center*" means a person with a  
14 current business license that is engaged in the business of purchasing or  
15 receiving nonferrous metal property and commercial metal property for  
16 the purpose of aggregation and sale to another scrap metal business and  
17 that maintains a fixed place of business within the island.

18 (10) "*Scrap metal supplier*" means a person with a current  
19 business license that is engaged in the business of purchasing or  
20 receiving nonferrous metal property for the purpose of aggregation and  
21 sale to a scrap metal recycling center or scrap metal processor and that  
22 does not maintain a fixed business location in the territory.

23 (11) "*Transaction*" means a pledge, or the purchase of, or the  
24 trade of any item of nonferrous metal property by a scrap metal business  
25 from a member of the general public. "*Transaction*" does not include  
26 donations or the purchase or receipt of nonferrous metal property by a  
27 scrap metal business from a commercial enterprise, from another scrap  
28 metal business, or from a duly authorized employee or agent of the  
29 commercial enterprise or scrap metal business.

30 **§74102. Hours of Operation Limited.** A scrap metal business shall  
31 not receive, transact or purchase any scrap metal products during the hours from  
32 5:00 PM to 8:00 AM.

33 **§74103. Records Required For Purchasing Non-Ferrous Metal**  
34 **Property from the General Public.** (a) At the time of a transaction, every  
35 scrap metal business doing business in this territory shall produce wherever that  
36 business is conducted an accurate and legible record of each transaction  
37 involving nonferrous metal property. These records must be written in the  
38 English language, documented on a standardized form or in electronic form,  
39 and contain the following information:

1 (1) The name and signature of the person with whom the  
2 transaction is made;

3 (2) The time, date, location, and value of the transaction;

4 (3) The name of the employee representing the scrap metal  
5 business in the transaction;

6 (4) The name, street address, and telephone number of the  
7 person with whom the transaction is made;

8 (5) The license plate number on the motor vehicle used to  
9 deliver the nonferrous metal property subject to the transaction;

10 (6) A description of the motor vehicle used to deliver the  
11 nonferrous metal property subject to the transaction;

12 (7) The current driver's license number or other government-  
13 issued picture identification card number of the seller or a photocopy of  
14 the seller's drivers licenses or other government-issued picture  
15 identification card; and

16 (8) A description of the predominant types of nonferrous metal  
17 property subject to the transaction, including the property's classification  
18 code as provided in the Institute of Scrap Recycling Industries Scrap  
19 Specifications Circular, 2007, and weight, quantity, or volume.

20 (b) For every transaction that involves nonferrous metal property,  
21 every scrap metal business doing business in the territory shall require the  
22 person with whom a transaction is being made to sign a declaration. The  
23 declaration may be included as part of the transactional record required under  
24 Subsection (1) of this Section, or on a receipt for the transaction. The  
25 declaration must state substantially the following:

26 "I, the undersigned, affirm under penalty of law that the property  
27 that is subject to this transaction is not, to the best of my  
28 knowledge, stolen property."

29 The declaration must be signed and dated by the person with whom the  
30 transaction is being made. An employee of the scrap metal business must  
31 witness the signing and dating of the declaration and sign the declaration  
32 accordingly before any transaction may be consummated.

33 (c) The record and declaration required under this Section must be  
34 open to the inspection of any commissioned local or federal law enforcement  
35 officer of the territory or any government department or agency at all times  
36 during the ordinary hours of business, or at reasonable times if ordinary hours  
37 of business are not kept, and must be maintained wherever that business is  
38 conducted for one year following the date of the transaction.

39 **§74104. Requirements for Purchasing or Receiving Non-Ferrous**  
40 **Metal Property from the General Public.** (a) No scrap metal business

1 may enter into a transaction to purchase or receive nonferrous metal property  
2 from any person who cannot produce at least one piece of current government-  
3 issued picture identification, including a valid driver's license or identification  
4 card issued by any jurisdiction.

5 (b) No scrap metal business may purchase or receive commercial  
6 metal property unless the seller:

7 (1) Has a commercial account with the scrap metal business;

8 (2) Can prove ownership of the property by producing written  
9 documentation that the seller is the owner of the property; or

10 (3) Can produce written documentation that the seller is an  
11 employee or agent authorized to sell the property on behalf of a  
12 commercial enterprise.

13 (c) No scrap metal business may enter into a transaction to purchase or  
14 receive metallic wire that was burned in whole or in part to remove insulation  
15 unless the seller can produce written proof to the scrap metal business that the  
16 wire was lawfully burned.

17 (d) No transaction involving nonferrous metal property valued at  
18 greater than Twenty Dollars (\$20.00) may be made in cash or with any person  
19 who does not provide a street address under the requirements of §74103 of this  
20 Chapter. For transactions valued at greater than Twenty Dollars (\$20.00), the  
21 person with whom the transaction is being made may only be paid by a  
22 nontransferable check, mailed by the scrap metal business to a street address  
23 provided under §74103 of this Chapter, no earlier than ten (10) days after the  
24 transaction was made. A transaction occurs on the date provided in the record  
25 required under §74103 of this Chapter.

26 (e) No scrap metal business may purchase or receive beer kegs from  
27 anyone except a manufacturer of beer kegs or licensed brewery.

28 **§74105. Record for Commercial Accounts.** (a) Every scrap metal  
29 business must create and maintain a permanent record with a commercial  
30 enterprise, including another scrap metal business, in order to establish a  
31 commercial account. That record, at a minimum, must include the following  
32 information:

33 (1) The full name of the commercial enterprise or commercial  
34 account;

35 (2) The business address and telephone number of the  
36 commercial enterprise or commercial account; and

37 (3) The full name of the person employed by the commercial  
38 enterprise who is authorized to deliver nonferrous metal property and  
39 commercial metal property to the scrap metal business.

1 (b) The record maintained by a scrap metal business for a commercial  
2 account must document every purchase or receipt of nonferrous metal property  
3 and commercial metal property from the commercial enterprise. The  
4 documentation must include, at a minimum, the following information:

5 (1) The time, date, and value of the property being purchased or  
6 received;

7 (2) A description of the predominant types of property being  
8 purchased or received; and

9 (3) The signature of the person delivering the property to the  
10 scrap metal business.

11 **§74106. Reporting to Law Enforcement Officials.** (a) Upon  
12 request by any commissioned law enforcement officer of the territory, every  
13 scrap metal business shall furnish a full, true, and correct transcript of the  
14 records from the purchase or receipt of nonferrous metal property and  
15 commercial metal property involving a specific individual, vehicle, or item of  
16 nonferrous metal property or commercial metal property. This information may  
17 be transmitted within a specified time of not less than two business days to the  
18 applicable law enforcement agency electronically, by facsimile transmission, or  
19 by modem or similar device, or by delivery of computer disk subject to the  
20 requirements of, and approval by, the chief of police or chief law enforcement  
21 officer.

22 (b) If the scrap metal business has good cause to believe that any  
23 nonferrous metal property or commercial metal property in his or her  
24 possession has been previously lost or stolen, the scrap metal business shall  
25 promptly report that fact to the applicable commissioned law enforcement  
26 officer of the territory, the chief of police, or the chief law enforcement officer,  
27 together with the name of the owner, if known, and the date when and the name  
28 of the person from whom it was received.

29 **§74107. Preserving Evidence of Metal Theft.** (a) Following  
30 notification, either verbally or in writing, from a commissioned law  
31 enforcement officer of the territory that an item of nonferrous metal property or  
32 commercial metal property has been reported as stolen, a scrap metal business  
33 shall hold that property intact and safe from alteration, damage, or  
34 commingling, and shall place an identifying tag or other suitable identification  
35 upon the property. The scrap metal business shall hold the property for a period  
36 of time as directed by the applicable law enforcement agency up to a maximum  
37 of ten (10) business days.

38 (b) A commissioned law enforcement officer of the territory shall not  
39 place on hold any item of nonferrous metal property or commercial metal  
40 property unless that law enforcement agency reasonably suspects that the

1 property is a lost or stolen item. Any hold that is placed on the property must be  
2 removed within ten business days after the property on hold is determined not  
3 to be stolen or lost and the property must be returned to the owner or released.

4 **§74108. Unlawful Violations.** It is a gross misdemeanor under  
5 §43.50, Chapter 43, of Title 9 Guam Code Annotated for:

6 (1) Any person to deliberately remove, alter, or obliterate any  
7 manufacturer's make, model, or serial number, personal identification  
8 number, or identifying marks engraved or etched upon an item of  
9 nonferrous metal property or commercial metal property in order to  
10 deceive a scrap metal business;

11 (2) Any scrap metal business to enter into a transaction to  
12 purchase or receive any nonferrous metal property or commercial metal  
13 property where the manufacturer's make, model, or serial number,  
14 personal identification number, or identifying marks engraved or etched  
15 upon the property have been deliberately and conspicuously removed,  
16 altered, or obliterated;

17 (3) Any person to knowingly make, cause, or allow to be made  
18 any false entry or misstatement of any material matter in any book,  
19 record, or writing required to be kept under this Chapter;

20 (4) Any scrap metal business to enter into a transaction to  
21 purchase or receive nonferrous metal property or commercial metal  
22 property from any person under the age of eighteen (18) years or any  
23 person who is discernibly under the influence of intoxicating liquor or  
24 drugs;

25 (5) Any scrap metal business to enter into a transaction to  
26 purchase or receive nonferrous metal property or commercial metal  
27 property with anyone whom the scrap metal business has been informed  
28 by a law enforcement agency to have been convicted of a crime involving  
29 drugs, burglary, robbery, theft, or possession of or receiving stolen  
30 property, manufacturing, delivering, or possessing with intent to deliver  
31 methamphetamine, or possession of ephedrine or any of its salts or  
32 isomers or salts of isomers, pseudo ephedrine or any of its salts or  
33 isomers or salts of isomers, or anhydrous ammonia with intent to  
34 manufacture methamphetamine within the past ten (10) years whether the  
35 person is acting in his or her own behalf or as the agent of another;

36 (6) Any person to sign the declaration required under  
37 §74208.(3) of this Act knowing that the nonferrous metal property  
38 subject to the transaction is stolen. The signature of a person on the  
39 declaration required under §74108.(3) of this Act constitutes evidence of  
40 intent to defraud a scrap metal business if that person is found to have

1 known that the nonferrous metal property subject to the transaction was  
2 stolen;

3 (7) Any scrap metal business to possess commercial metal  
4 property that was not lawfully purchased or received under the  
5 requirements of this Chapter; or

6 (8) Any scrap metal business to engage in a series of  
7 transactions valued at less than Twenty Dollars (\$20.00) with the same  
8 seller for the purposes of avoiding the requirements of §74108.(5) of this  
9 Act.

10 **§74109. Civil Penalties.** (a) Each violation of the requirements  
11 of this Chapter that are not subject to the criminal penalties under §74108.(7) of  
12 this Act shall be punishable, upon conviction, by a fine of not more than One  
13 Thousand dollars (\$1,000.00).

14 (b) Within two years of being convicted of a violation of any of the  
15 requirements of this Chapter that are not subject to the criminal penalties under  
16 §74108.(7) of this Act, each subsequent violation shall be punishable, upon  
17 conviction, by a fine of not more than Two Thousand Dollars (\$2,000.00).

18 **§74110. Exemptions.** The provisions of this Chapter do not  
19 apply to transactions conducted by the following:

- 20 (1) Licensed motor vehicle dealers;  
21 (2) Licensed vehicle wreckers or hulk haulers;  
22 (3) Persons in the business of operating an automotive repair  
23 facility; and  
24 (4) Persons in the business of buying or selling empty food and  
25 beverage containers, including metal food and beverage containers.”  
26

27 **Section 3. Severability.** *If any provision of this Law or its*  
28 *application to any person or circumstance is found to be invalid or contrary to*  
29 *law, such invalidity shall not affect other provisions or applications of this Law*  
30 *which can be given effect without the invalid provisions application, and to this*  
31 *end the provisions of this Law are severable.”*