

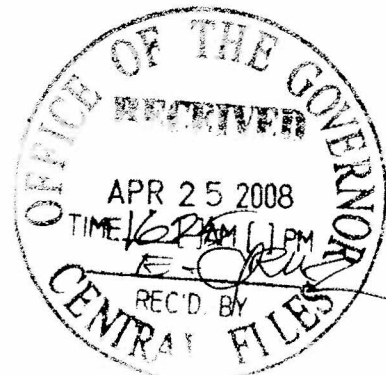


MINA' BENTE NUEBI NA LIHESLATURAN GUÅHAN
TWENTY-NINTH GUAM LEGISLATURE
155 Hessler Place, Hagåtña, Guam 96910

FILE COPY

April 25, 2008

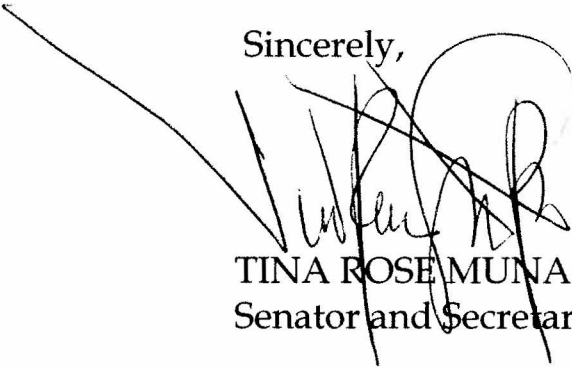
The Honorable Felix P. Camacho
I Maga'lahaen Guåhan
Ufisinan I Maga'lahi
Hagåtña, Guam 96910



Dear *Maga'lahi* Camacho:

Transmitted herewith are Bill Nos. 255(EC), 269(EC), 277(LS); and Substitute Bill Nos. 12(LS) & 156(EC) which were passed by *I Mina'Bente Nuebi Na Liheslaturan Guåhan* on April 25, 2008.

Sincerely,


TINA ROSE MUNA BARNES
Senator and Secretary of the Legislature

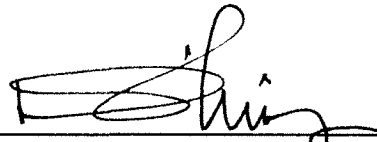
Enclosures (5)

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I MINA'BENTE NUEBI NA LIHESLATURAN GUÅHAN
2008 (SECOND) Regular Session

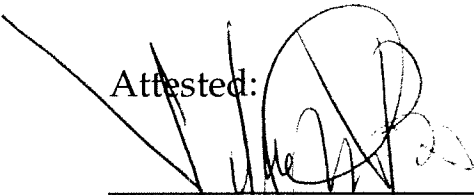
CERTIFICATION OF PASSAGE OF AN ACT TO I MAGA'LAHEN GUÅHAN

This is to certify that **Substitute Bill No. 156 (EC), "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,"** was on the 25th day of April, 2008, duly and regularly passed.



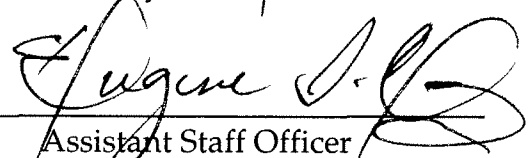
DR. DAVID L.G. SHIMIZU
Acting Speaker

Attested:



TINA ROSE MUÑA BARNES
Senator and Secretary of the Legislature

This Act was received by *I Maga'lahaen Guåhan* this 25th day of April, 2008, at 4:25 o'clock P.M.



Assistant Staff Officer
Maga'lahi's Office

APPROVED:

FELIX P. CAMACHO
I Maga'lahaen Guåhan

Date: _____

Public Law No. _____

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

Bill No. 156 (EC)

As substituted by the Author and
amended on the Floor.

Introduced by:

James V. Espaldon
A. B. Palacios, Sr.
Frank F. Blas, Jr.
Edward J.B. Calvo
B. J.F. Cruz
Mark Forbes
Judith Paulette Guthertz, DPA
Frank T. Ishizaki
J. A. Lujan
Tina Rose Muña Barnes
v. c. pangelinan
R. J. Respicio
Dr. David L.G. Shimizu
Ray Tenorio
J. T. Won Pat, Ed.D.

**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.**

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

2 **Section 1. Legislative Findings and Intent.** *I Liheslaturan Guåhan* finds
3 that despite the enactment of Public Law 28-18 in 2005, the rash of thefts of
4 copper wire and other non-ferrous metals continues to plague our community. The
5 destruction and theft of public and private property, to include the recent thefts of
6 monuments and memorials at the War in the Pacific World War II Memorial to the

1 people of Guam, the walk of fame tribute to the cultural master artists in Skinner
2 Plaza, the Don Pedro Martinez memorial plaque at the San Antonio Bridge Park,
3 and the theft of flower vases at gravesites have enraged the community. While law
4 enforcement officials continue to investigate and apprehend the individuals
5 responsible for these crimes against the community, scrap metal dealers need to be
6 more diligent in receiving non-ferrous metals and forthcoming in furnishing vital
7 information to law enforcement officials as they investigate these crimes.

8 It is the intent of the *I Liheslaturan Guåhan* to strengthen the reporting
9 requirements of scrap metal dealers and enact penalties for non-compliance.

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

12 **“Chapter 74**

13 **Scrap Metal Dealers.**

14 **§74101. Definitions.**

15 **§74102. Hours to Receive Scrap Metal Limited.**

16 **§74103. Records Required For Purchasing Non-Ferrous Metal**
17 **Property from the General Public.**

18 **§74104. Requirements for Purchasing or Receiving Non-Ferrous**
19 **Metal Property from the General Public.**

20 **§74105. Record for Commercial Accounts.**

21 **§74106. Reporting to Law Enforcement Officials.**

22 **§74107. Preserving Evidence of Metal Theft.**

23 **§74108. Civil Penalties.**

24 **§74109. Exemptions.**

25 **§74101. Definitions.** As used in this Chapter, the following words and
26 phrases are defined to mean:

1 (a) *Commercial account* means a relationship between a
2 scrap metal business and a commercial enterprise that is ongoing and
3 properly documented under §74104 of this Chapter.

4 (b) *Commercial enterprise* means a corporation, partnership,
5 limited liability company, association, government department *or*
6 agency, public corporation, *or* any other legal *or* commercial entity.

7 (c) *Commercial metal property* means: Utility access covers;
8 street light poles and fixtures; road and bridge guardrails; highway *or*
9 street signs; water meter covers; traffic directional and control signs;
10 traffic light signals; any metal property marked with the name of a
11 commercial enterprise, including, but *not* limited to, a telephone,
12 commercial mobile radio services, cable, electric, water, natural gas
13 *or* other utility; unused *or* undamaged building construction materials
14 consisting of copper pipe, tubing, *or* wiring, *or* aluminum wire,
15 siding, downspouts, *or* gutters; aluminum *or* stainless steel fence
16 panels made from one (1) inch tubing, forty-two inches (42") high
17 with four inch (4") gaps; aluminum decking, bleachers, *or* risers;
18 historical markers; statue plaques; grave markers and funeral vases; *or*
19 agricultural irrigation wheels, sprinkler heads, and pipes.

20 (d) *Nonferrous metal property* means metal property for
21 which the value of the metal property is derived from the property's
22 content of copper, brass, aluminum, bronze, lead, zinc, nickel, and
23 their alloys. *Nonferrous metal property* does *not* include precious
24 metals.

25 (e) *Precious metals* means gold, silver, and platinum.

26 (f) *Record* means a paper, electronic *or* other method of
27 storing information.

1 (g) *Scrap metal business* means a scrap metal supplier, scrap
2 metal recycling center, and scrap metal processor.

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

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

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

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

1 employee *or* agent of the commercial enterprise *or* scrap metal
2 business.

3 **§74102. Hours to Receive Scrap Metal Limited.** A scrap metal
4 business *shall* not receive, transact *or* purchase any scrap metal products
5 during the hours from 5:00 PM to 8:00 AM.

6 **§74103. Records Required For Purchasing Non-Ferrous Metal**
7 **Property from the General Public.** (a) At the time of a transaction, every
8 scrap metal business doing business in Guam *shall* produce, wherever that
9 business is conducted, an accurate and legible record of each transaction
10 involving nonferrous metal property. These records must be written in the
11 English language, documented on a standardized form *or* in electronic form,
12 and contain at least the following information:

13 (1) the name and signature of the person with whom the
14 transaction is made;

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

16 (3) the name of the employee representing the scrap metal
17 business in the transaction;

18 (4) the name, street address, and telephone number of the
19 person with whom the transaction is made;

20 (5) the license plate number of the motor vehicle used to
21 deliver the nonferrous metal property subject to the transaction;

22 (6) a description of the motor vehicle used to deliver the
23 nonferrous metal property subject to the transaction;

24 (7) the current driver's license number *or* other government-
25 issued picture identification card number of the seller *or* a photocopy
26 of the seller's drivers license *or* other government-issued picture
27 identification card;

1 (8) a description of the predominant types of nonferrous
2 metal property subject to the transaction, including the property's
3 classification code as provided in the Institute of Scrap Recycling
4 Industries Scrap Specifications Circular, 2007, and weight, quantity,
5 or volume; and

6 (9) a photographic record of the items purchased prior to
7 separation by category.

8 (b) For every transaction that involves nonferrous metal property,
9 every scrap metal business doing business in Guam *shall* require the person
10 with whom a transaction is being made to sign a declaration. The
11 declaration may be included as part of the transactional record required
12 under Subsection (1) of this Section, *or* on a receipt for the transaction. The
13 declaration must state substantially the following:

14 "I, the undersigned, affirm under penalty of law that the
15 property that is subject to this transaction is not, to the best of
16 my knowledge, stolen property."

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

21 (c) The record and declaration required under this Section must be
22 open to the inspection of any commissioned local *or* federal law
23 enforcement officer of Guam *or* any government department *or* agency at all
24 times during the ordinary hours of business *or* at reasonable times if
25 ordinary hours of business are not kept, and must be maintained wherever
26 that business is conducted for one (1) year following the date of the
27 transaction.

1 **§74104. Requirements for Purchasing *or* Receiving Non-Ferrous**
2 **Metal Property from the General Public.** (a) No scrap metal business may
3 enter into a transaction to purchase *or* receive nonferrous metal property
4 from any person who cannot produce at least one (1) piece of current
5 government-issued picture identification, including a valid driver's license *or*
6 identification card issued by any jurisdiction.

7 (b) No scrap metal business may purchase *or* receive commercial
8 metal property unless the seller:

9 (1) has a commercial account with the scrap metal business;

10 (2) can prove ownership of the property by producing
11 written documentation that the seller is the owner of the property; or

12 (3) can produce written documentation that the seller is an
13 employee *or* agent authorized to sell the property on behalf of a
14 commercial enterprise.

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

19 (d) Each transaction *shall* only be paid by a nontransferable check,
20 mailed by the scrap metal business to a street address provided under
21 §74103 of this Chapter, no earlier than ten (10) days after the transaction
22 was made. A transaction occurs on the date provided in the record required
23 under §74103 of this Chapter.

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

26 **§74105. Record for Commercial Accounts.** (a) Every scrap metal
27 business must create and maintain a permanent record with a commercial

1 enterprise, including another scrap metal business, in order to establish a
2 commercial account. That record, at a minimum, must include the following
3 information:

4 (1) the full name of the commercial enterprise *or* commercial
5 account;

6 (2) the business address and telephone number of the
7 commercial enterprise or commercial account; and

8 (3) the full name of the person employed by the commercial
9 enterprise who is authorized to deliver nonferrous metal property and
10 commercial metal property to the scrap metal business.

11 (b) The record maintained by a scrap metal business for a
12 commercial account must document every purchase *or* receipt of nonferrous
13 metal property and commercial metal property from the commercial
14 enterprise. The documentation must include, at a minimum, the following
15 information:

16 (1) the time, date, and value of the property being purchased
17 *or* received;

18 (2) a description of the predominant types of property being
19 purchased *or* received; and

20 (3) the signature of the person delivering the property to the
21 scrap metal business.

22 **§74106. Reporting to Law Enforcement Officials.** (a) Upon request
23 by any Commissioned Law Enforcement Officer of Guam, every scrap metal
24 business *shall* furnish a full, true, and correct transcript of the records from
25 the purchase *or* receipt of nonferrous metal property and commercial metal
26 property involving a specific individual, vehicle, *or* item of nonferrous metal
27 property *or* commercial metal property. This information may be

1 transmitted within a specified time of *not* less than two (2) business days to
2 the applicable law enforcement agency electronically, by facsimile
3 transmission *or* by modem *or* similar device, *or* by delivery of computer
4 disk subject to the requirements of, and approval by, the Chief of Police *or*
5 chief law enforcement officer.

6 (b) *If* the scrap metal business has good cause to believe that any
7 nonferrous metal property *or* commercial metal property in his *or* her
8 possession has been previously lost or stolen, the scrap metal business *shall*
9 promptly report that fact to the applicable commissioned law enforcement
10 officer of Guam, the Chief of Police, *or* the chief law enforcement officer,
11 together with the name of the owner, *if* known, and the date when and the
12 name of the person from whom it was received.

13 **§74107. Preserving Evidence of Metal Theft.** (a) Following
14 notification, either verbally *or* in writing, from a commissioned law
15 enforcement officer of Guam that an item of nonferrous metal property *or*
16 commercial metal property has been reported as stolen, a scrap metal
17 business *shall* hold that property intact and safe from alteration, damage, *or*
18 commingling, and *shall* place an identifying tag *or* other suitable
19 identification upon the property. The scrap metal business *shall*
20 immediately relinquish custody of the property to the appropriate law
21 enforcement entity.

22 (b) A commissioned law enforcement officer of Guam *shall* not
23 place on hold any item of nonferrous metal property *or* commercial metal
24 property unless that law enforcement agency reasonably suspects that the
25 property is a lost *or* stolen item. Any hold that is placed on the property
26 must be removed within ten (10) business days after the property on hold is

1 determined not to be stolen *or* lost and the property must be returned to the
2 owner *or* released.

3 **§74108. Civil Penalties.** (a) Each violation of the requirements of this
4 Chapter, *shall* be punishable, upon conviction, by a fine of *not more than*
5 One Thousand Dollars (\$1,000.00).

6 (b) Within two (2) years of being convicted of a violation of any of
7 the requirements of this Chapter, each subsequent violation *shall* be
8 punishable, upon conviction, by a fine of *not more than* Two Thousand
9 Dollars (\$2,000.00).

10 **§74109. Exemptions.** The provisions of this Chapter do *not* apply to
11 transactions conducted by the following:

12 (a) licensed motor vehicle dealers;

13 (b) licensed vehicle wreckers *or* hulk haulers;

14 (c) persons in the business of operating an automotive repair
15 facility; and

16 (d) persons in the business of buying or selling empty food
17 and beverage containers, including metal food and beverage
18 containers.”

19 **Section 3. Severability.** *If* any provision of this Law or its application to
20 any person or circumstance is found to be invalid or contrary to law, such
21 invalidity shall *not* affect other provisions or applications of this Law which can be
22 given effect without the invalid provisions application, and to this end the
23 provisions of this Law are severable.