



REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

STAFF REPORT
June 5, 2008

Honorable Members of the
Law and Legislation Committee

Subject: Legislative Position: Support AB 844 – Scrap Metal Theft.

Location/Council District: Citywide.

Recommendation: Adopt a support position on AB 844 related to junk dealers and recyclers: nonferrous material.

Contact: Patti Bisharat, Director of Governmental Affairs, City Manager's Office, (916) 808-8197.

Presenter: Patti Bisharat, Director of Governmental Affairs, City Manager's Office, (916) 808-8197.

Department: City Manager's Office

Division: Governmental Affairs

Organization Number: 0310

Description/Analysis

Issue: Over \$6 million worth of metal was reported stolen in the Central Valley in 2006. The Agricultural Crime Technology and Operations Network Project reports a 100% increase in metal theft incidents in 2005, and a 400% increase in thefts in 2006. Copper prices have increased 400% and aluminum prices have more than doubled in the last five years. Copper and other metals are being stolen from telephone and power lines, construction sites, power generators, air conditioning units on top of schools, and irrigation pipes, among other sources. This measure offers a long-term solution by making it more cumbersome for criminals to sell stolen metal.

Law enforcement agencies around the state have concluded from arrests made that the common denominator among metal thieves is that they are looking for quick, easy money. By requiring all purchases by junk dealers and recyclers of the specified metals to be paid by check, with a 3-day holding period, will create a paper trail of the transaction and will make metal theft less appealing to those looking to obtain quick cash. Also, the photo requirement and requiring the address and a copy of the seller's identification will act as a deterrent and will assist law enforcement with their subsequent investigations.

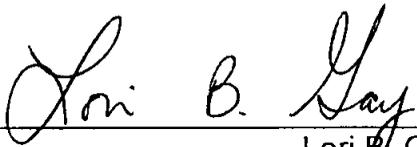
Policy Considerations: This bill is consistent with the City's Operational principles of promoting public safety and livability and creating economic vitality.

Environmental Considerations: None.

Rationale for Recommendation: The Streets Division reports that in FY07, costs due to copper wire theft topped \$103,000. Costs for FY08 are at \$80,000, with an average of one new stolen wire report every week. City parks are also impacted by scrap metal theft of irrigation, lighting and backflow prevention systems, water fountain bowls and even aluminum bleacher seats. The Department of Utilities reports that, since fall of 2006, the City has lost 151 backflow devices to scrap metal thieves for a total loss of \$300,000. AB 844 decreases the incentives and increases the impediments associated with the sale of stolen scrap metal. It will allow law enforcement a more pro-active role in preventing the theft and effortless sale of stolen materials, in addition to providing helpful information for follow-up investigations after the fact. The Sacramento Police Department agrees with supporting AB 844.

Financial Considerations: None.

Emerging Small Business Development (ESBD): None.

Respectfully Submitted by: 
Lori B. Gay
Administrative Assistant

Approved by: 
Patti Bisharat
Director of Governmental Affairs

Recommendation Approved:

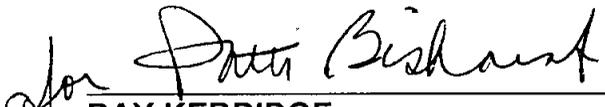

RAY KERRIDGE
City Manager

Table of Contents:

Pg 1 Report
Pg 3 Attachments

Attachments

Pg 3 Draft Position Letter
Pg 4 Bill Text
Pg 11 Bill Analysis

June 5, 2008

The Honorable Tom Berryhill
California State Assembly
State Capitol, Room 4116
Sacramento, CA 95814

**RE: AB 844 (Berryhill and Maze) Junk dealers and recyclers: nonferrous material.
NOTICE OF SUPPORT.**

Dear Assembly Member Berryhill:

The City of Sacramento is pleased to support AB 844.

On behalf of the City of Sacramento, I am pleased to express the City's support for Assembly Bill 844, relating to junk dealers and recyclers: nonferrous material. In recent years, scrap metal theft has become an increasing public safety issue for Sacramento. AB 844 will assist in stemming the tide of these crimes by requiring additional identification of consumers who recycle nonferrous materials, requiring a three-day delay in payment to consumers and will allow local governments to go beyond state law when they feel the local public safety warrants a stronger ordinance for these thefts.

Thank you for introducing this important piece of legislation.

Sincerely,

SANDY SHEEDY, CHAIR
Law and Legislation Committee

cc: Senator Dave Cox
Senator Darrell Steinberg
Assembly Member Dave Jones
Assembly Member Alan Nakanishi
Assembly Member Roger Niello
Assembly Member Bill Maze
Mayor Fargo and Members of the City Council
David Jones, Emanuels and Jones and Associates

AMENDED IN SENATE APRIL 30, 2008

AMENDED IN SENATE JUNE 26, 2007

AMENDED IN SENATE JUNE 19, 2007

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY MAY 1, 2007

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 844

Introduced by Assembly Members Berryhill and Maze

(Principal coauthor: Assembly Member Galgiani)

(Principal coauthors: Senators Cogdill and Maldonado)

(Coauthors: Assembly Members Emmerson, Garcia, Ma, and Parra)

(Coauthor: Senator Denham)

February 22, 2007

An act to amend Section 21609 of, and to add Sections 21608.5 and 21610 to, the Business and Professions Code, relating to junk dealers.

LEGISLATIVE COUNSEL'S DIGEST

AB 844, as amended, Berryhill. Junk dealers and recyclers: nonferrous material.

Existing law requires junk dealers and recyclers, as defined, to keep written records of all sales and purchases made in the course of their business. Existing law requires these records to include specified information, including, among other things, the place and date of each sale or purchase of junk, a description of the item of junk, and the personal and vehicle information of the person purchasing or

transporting the junk. Existing law exempts certain purchases of scrap metals by a junk dealer or recycler from these provisions. A violation of these provisions regulating junk dealers and recyclers is a crime.

This bill would prohibit a junk dealer or recycler from providing payment for nonferrous material, as defined, unless, ~~except as specified,~~ the payment is made by check, the check *is mailed to the seller* or is provided no earlier than 3 days after the date of sale, and the dealer or recycler obtains certain identifying information, as specified, *and a photograph of the nonferrous material* to be retained by the dealer or recycler for a certain period of time. The bill would specify that this provision does not apply *if the junk dealer or recycler has on file or receives certain information from the seller and does not apply* to the redemption of nonferrous materials of a certain value at a recycling center, as specified, or to coin dealers or automobile ~~recyclers dismantlers~~. ~~The bill would also prohibit a city, county, city and county, or a state agency from adopting reporting, identification, or payment requirements for transactions by junk dealers or recyclers involving nonferrous material, except as specified.~~ *The bill would require a court to order a person or a junk dealer or recycler to pay specified damages if the person is convicted of the theft of, or the junk dealer or recycler is convicted of the sale of, property that has been placed on hold by a peace officer. The bill would also authorize a local governing body to adopt and enforce laws that provide consumer protections greater than those in state law regulating junk dealers and recyclers.*

Because a violation of the bill's provisions would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21608.5 is added to the Business and
- 2 Professions Code, to read:
- 3 21608.5. (a) A junk dealer or recycler in this state shall not
- 4 provide payment for nonferrous material unless, in addition to

1 meeting the written record requirements of Sections 21605 and
2 21606, all of the following requirements are met:

3 (1) The payment for the material is made by check. *The check*
4 *may be mailed to the seller at the address provided pursuant to*
5 *paragraph (2) or may be collected by the seller from the junk*
6 *dealer or recycler on the third business day after the date of sale.*

7 ~~(2) The junk dealer or recycler provides the check no earlier~~
8 ~~than three business days after the date of sale. The check may be~~
9 ~~mailed to the seller or may be collected by the seller from the junk~~
10 ~~dealer or recycler.~~

11 ~~(3) The junk dealer or recycler obtains a photograph and an~~
12 ~~address of the seller, or a copy of the valid driver's license of the~~
13 ~~seller containing a photograph and an address of the seller, or a~~
14 ~~copy of a state or federal government-issued identification card~~
15 ~~containing a photograph and an address of the seller. The junk~~
16 ~~dealer or recycler shall preserve the photograph and the address~~
17 ~~or the copies obtained pursuant to this paragraph for a period of~~
18 ~~two years after the date of sale.~~

19 ~~(b) The requirements of paragraphs (1) and (2) of subdivision~~
20 ~~(a) shall not apply if, during any three-month period commencing~~
21 ~~on or after the effective date of this section, the junk dealer or~~
22 ~~recycler completes five or more separate transactions per month~~
23 ~~with the seller, and in order for the requirements of paragraphs (1)~~
24 ~~and (2) of subdivision (a) to continue to be inapplicable, the seller~~
25 ~~must continue to complete five or more separate transactions per~~
26 ~~month with the junk dealer or recycler.~~

27 ~~(c) The requirement of paragraph (2) of subdivision (a) shall~~
28 ~~not apply if, in addition to obtaining the identifying information~~
29 ~~required in paragraph (3) of subdivision (a), the junk dealer or~~
30 ~~recycler obtains a photograph of the nonferrous material being~~
31 ~~purchased. This photograph shall be preserved for a period of two~~
32 ~~years after the date of sale.~~

33 ~~(2) The junk dealer or recycler does one of the following and~~
34 ~~preserves the items for a period of two years after the date of sale:~~

35 ~~(A) Obtains a photograph or video of the seller, a copy of a~~
36 ~~valid driver's license or a copy of a state or federal~~
37 ~~government-issued identification card, and a gas or electric utility~~
38 ~~bill addressed to the seller at an address other than a post office~~
39 ~~box with a payment date no more than two months prior to the~~
40 ~~date of the sale.~~

AB 844

— 4 —

1 (B) Obtains a copy of the valid driver's license of the seller
2 containing a photograph and an address of the seller.

3 (C) Obtains a copy of a state or federal government-issued
4 identification card containing a photograph and an address of the
5 seller.

6 (3) The junk dealer or recycler obtains a photograph of the
7 nonferrous material being purchased and preserves the photograph
8 for a period of two years after the date of sale.

9 (d)

10 (b) This section shall not apply if, on the date of sale, the junk
11 dealer or recycler has on file or receives all of the following
12 information:

13 (1) The name, physical business address, and business telephone
14 number of the seller's business.

15 (2) The business license number or tax identification number
16 of the seller's business.

17 (3) A copy of the valid driver's license of the person delivering
18 the nonferrous material on behalf of the seller to the junk dealer
19 or the recycler.

20 (e)

21 (c) This section shall not apply to the redemption of nonferrous
22 material having a value of not more than ~~twenty dollars (\$20)~~ *ten*
23 *dollars (\$10)* in a single transaction, when the primary purpose of
24 the transaction is the redemption of beverage containers under the
25 California Beverage Container Recycling and Litter Reduction
26 Act, as set forth in Division 12.1 (commencing with Section 14500)
27 of the Public Resources Code. ~~For purposes of this subdivision,~~
28 ~~"primary purpose" means the value of the beverage containers~~
29 ~~being redeemed is greater than the value of the nonferrous material~~
30 ~~being sold.~~

31 (f)

32 (d) This section shall not apply to coin dealers or automobile
33 ~~recyclers dismantlers~~, as defined in Section 220 of the Vehicle
34 Code.

35 (g)

36 (e) For the purposes of this section, "nonferrous material" means
37 copper, copper alloys, stainless steel, or aluminum but does not
38 include beverage containers, as defined in Section 14505 of the
39 Public Resources Code, *that are subject to a redemption payment*
40 *pursuant to Section 14560 of the Public Resources Code.*

1 ~~SEC. 2. Section 21610 is added to the Business and Professions~~
2 ~~Code, to read:~~

3 ~~21610. This article shall not prohibit the enactment,~~
4 ~~amendment, or enforcement of an ordinance or resolution by a~~
5 ~~city, county, or city and county relating to junk dealers or recyclers~~
6 ~~that is consistent with this article, except that no city, county, city~~
7 ~~and county, or state agency shall adopt reporting, identification,~~
8 ~~or payment requirements for transactions by junk dealers or~~
9 ~~recyclers involving nonferrous material as defined in Section~~
10 ~~21608.5.~~

11 *SEC. 2. Section 21609 of the Business and Professions Code*
12 *is amended to read:*

13 21609. (a) Whenever any peace officer has probable cause to
14 believe that property in the possession of a junk dealer or recycler
15 is stolen, in lieu of seizing the property, the peace officer as defined
16 in subdivision (b) of Section 21606. 5, at his or her option, may
17 place a hold on the property for a period not to exceed 90 days.
18 When a peace officer places a hold on the property, the peace
19 officer shall give the junk dealer or recycler a written notice at the
20 time the hold is placed, describing the item or items to be held plus
21 the case number. During that period the junk dealer or recycler
22 shall not release or dispose of the property, except pursuant to a
23 court order or upon receipt of a written authorization signed by
24 any peace officer who is a member of the law enforcement agency
25 of which the peace officer placing the hold on the property is a
26 member. Except as specifically set forth in this section, a junk
27 dealer or recycler shall not be subject to civil liability for
28 compliance with this section.

29 (b) Whenever property that is in the possession of a junk dealer
30 or recycler is subject to a hold and the property is required by a
31 peace officer in a criminal investigation, the junk dealer or recycler,
32 upon reasonable notice, shall produce the property at reasonable
33 times and places or may deliver the property to any peace officer
34 upon the request of any peace officer who is a member of the law
35 enforcement agency of which the peace officer placing the hold
36 on the property is a member.

37 (c) Whenever property that is in the possession of a junk dealer
38 or recycler is subject to a hold and the property is no longer
39 required for the purpose of criminal investigation, the law

1 enforcement agency that placed the hold on the property shall
2 undertake the following:

3 (1) With respect to the property being held, if the law
4 enforcement agency has no knowledge of the property on hold
5 being reported as stolen, the property shall be released upon written
6 notice to the ~~scrap metal~~ junk dealer or recycler. The notice shall
7 be provided in a timely fashion.

8 (2) If the law enforcement agency has knowledge that the
9 property has been reported stolen, the law enforcement agency
10 shall notify the person who reported the stolen property of the
11 name and address of the junk dealer or recycler holding the
12 property and authorize the release of the property to that person.

13 The law enforcement agency that placed the property on hold
14 shall release the hold after 60 days has elapsed following the
15 delivery of the notice to the person who reported the property
16 stolen.

17 (3) If a victim seeks to recover property that is subject to a hold,
18 the junk dealer or recycler shall advise the victim of the name and
19 badge number of the peace officer who placed the hold on the
20 property and the name of the law enforcement agency of which
21 the officer is a member. If the property is not required to be held
22 pursuant to a criminal prosecution the hold shall be released.

23 (d) Upon conviction of any person for the theft of property
24 placed on hold pursuant to this section, the court shall order the
25 defendant to pay the junk dealer or recycler reasonable costs for
26 storage of the property.

27 (e) *Upon conviction of any person for the theft of, or of any junk
28 dealer or recycler for the sale of, property placed on hold pursuant
29 to this section, the court shall order the defendant to pay the victim
30 for both the value of the material stolen and the reasonable
31 collateral damage caused in the commission of the theft.*

32 *SEC. 3. Section 21610 is added to the Business and Professions
33 Code, to read:*

34 *21610. Nothing in this chapter shall prevent a local governing
35 body from adopting and enforcing laws that provide consumer
36 protections greater than those set forth in this chapter.*

37 ~~SEC. 3.~~

38 *SEC. 4. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school*

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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BILL ANALYSIS

Hearing Date: July 2, 2007

Bill No: AB 844

SENATE COMMITTEE ON BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT

Senator Mark Ridley-Thomas, Chair

Bill No: AB 844 - Author: Berryhill

As Amended: June 26, 2007

Fiscal: Yes

SUBJECT: Junk dealers & recyclers: nonferrous material.

SUMMARY: Requires junk dealers and recyclers to comply with additional recordkeeping and identification procedures and new payment restrictions when purchasing nonferrous materials, as defined, and provides that nothing shall prohibit a city or county from enforcing an ordinance that is not inconsistent with the requirements of this measure, except that no city, county or state agency may adopt reporting, identification, or payment requirements for transactions by junk dealers or recyclers involving nonferrous material.

Existing law:

- 1) Defines "junk" as any and all secondhand and used machinery and all ferrous (containing iron) and nonferrous (excludes iron) scrap metals and alloys, including any and all secondhand second-hand and used furniture, pallets, or other personal property, excluding livestock.
- 2) Provides that "scrap metals and alloys" includes, but is not limited to, materials and equipment commonly used in construction, agricultural operations and electrical power generation, railroad equipment, oil well rigs, nonferrous materials, stainless steel, and nickel which are offered for sale to any junk dealer or recycler, but does not include scrap iron, household generated waste, or aluminum beverage containers, as defined.
- 3) Defines "junk dealer" as any person engaging in the business of buying, selling and dealing in junk; any person purchasing, gathering, collecting, soliciting, or procuring junk; or, any person operating, carrying on, conducting, or maintaining a junk yard or place where junk is gathered together and stored or kept for shipment, sale or transfer.
- 4) Defines "recycler" as any processor, recycling center, or noncertified recycler, as defined, who buys or sells scrap metal that constitutes "junk."

AB 844
Page 2

5) Requires every junk dealer and every recycler to maintain a written record of each sale or purchase made in the course of his or her business. The record shall include the place and date of the sale; the name, driver's license number and state of issue, and the vehicle license plate number and state of issue of any motor vehicle used in the transporting of the junk; the name and address of each person to whom the junk is sold and the motor vehicle license number of the person; a description of the junk purchased or sold; and, a statement indicating that the seller of junk owns it or is authorized to sell it.

6) Requires every junk dealer and recycler to preserve the written record required by Item # 5) above for at least two years.

7) Allows for periodic inspection by any officer holding a warrant, any person appointed by the sheriff or any county or appointed by the head of the police department of any city, or any officer holding a court order directing him or her to examine the record or property.

8) Specifies that any person who makes or causes to be made any false or fictitious statement regarding the written record required in Item # 5) above, shall be guilty of a misdemeanor, and that any junk dealer or recycler who fails to keep the written record as required in Item # 5) above, or who refuses to provide the written record when properly requested or destroys the written record, shall be guilty of a misdemeanor and provides increased fines and penalties for knowing or willful violation of these requirements.

9) Specifies procedures to be followed by any peace officer who has probable cause to believe that property in the possession of the junk dealer or recycler is stolen including, in lieu of seizing the property, placing a hold on the property for a specified period.

10) Exempts from the aforementioned requirements secondhand furniture merchants, pawnbrokers, secondhand car dealers or merchants in connection with auto sale agencies, persons selling new tires or batteries and taking in part payment used articles of the same kind, secondhand oil well supply and equipment dealers, and secondhand clothing merchants and rag pickers.

11) Exempts also those persons who buy or sell junk acquired in the conduct of any business other than that of a junk dealer, those who purchase scrap metal by check which is issued by the company which owns the scrap metal, and those who purchase or receive from another junk dealer scrap metal which already has a written record.

AB 844
Page 3

This bill:

1) Defines "nonferrous material" as copper, copper alloys, stainless steel, or aluminum but excludes beverage containers, as defined.

2) Prohibits a junk dealer or recycler from providing payment for nonferrous material unless, in addition to meeting all the written record requirements specified in Item # 5) above, the payment for the material is made by check, the check is provided no earlier than 3 days after the date of the sale, and the junk dealer or recycler obtains a photograph and address of the seller, or a copy of the valid driver's license of the seller containing a photograph and address of the seller, or a copy of a state or federal government-issued identification card containing a photograph and address of the seller, to be kept for a period of two years.

3) Exempts a seller from the payment-by-check if the seller during any three month period after January 1, 2008, averages five or more separate transactions with the seller, and the seller continues to average five or more separate transactions per month.

4) Allows immediate payment by check if the junk dealer or recycler obtains photo identification of the seller and the address of the seller as required in Item # 2) above and a photograph of the nonferrous material being purchased.

5) Provides that sales of nonferrous material shall be exempt from the requirements of Item # 2) above, if the junk dealer or recycler receives all of the following information:

a) The name, physical business address, and business telephone number of the seller's business;

b) The business license number or tax identification number of the seller's business;

c) A copy of the valid driver's license of the person delivering the nonferrous material on behalf of the seller to the junk dealer or recycler.

6) Provides that the requirements under this measure, for the sale and purchase of nonferrous material, shall not prohibit the enactment, amendment, or enforcement of an ordinance or resolution by a city, county, or city and county relating to junk dealers or recyclers that is not inconsistent with the requirements of this measure, except that no city, county, or state agency shall adopt reporting, identification, or payment requirements for transactions by junk dealers or recyclers involving nonferrous material.

FISCAL EFFECT: According to the Assembly Appropriations Committee Analysis, dated May 31, 2007, there are potential non-reimbursable costs to local government for enforcement, offset to some extent by fine revenues.

AB 844
Page 4

COMMENTS:

1. Purpose and Background. This measure is sponsored by the California Farm Bureau (CFB) and the California State Sheriffs' Association (CSSA). The CFB indicates that over \$6 million worth of metal was reported stolen in the eight Central Valley counties in 2006. According to the Author, the Agricultural Crime Technology and Operations Network Project reports a 100% increase in metal theft incidents in 2005, and a 400% increase in thefts in 2006. Irrigation pumps are commonly targeted by thieves for their copper wire and because of copper's high value. (A recent article in the Fresno Bee, dated May 6, 2007, noted that copper prices have increased 400% and aluminum prices have more than doubled in the last five years.) CFB claims that some farmers have had the same pumps targeted repeatedly and that the cost of repairing a pump ranges from \$1,000 to \$3,000, not accounting for additional damage caused when the thief removes copper wire from the irrigation pump or the harm to crops that go without water.

A March 14, 2007, article in the Los Angeles Times, "Building Sites Leave Copper Thieves Well-Connected," points out how thieves' appetite for methamphetamines has fueled the growing problem of copper and other metals being stolen from telephone and power lines, construction sites, power generators, air conditioning units on top of schools, and irrigation pipes, among other sources. CFB asserts that this problem is a statewide problem and needs a statewide fix and that this measure will "achieve a long lasting solution to the problem by making it more difficult for criminals to sell stolen metal."

According to the Author, law enforcement agencies around the state have concluded from arrests made that the common denominator among metal thieves is that they are drug users looking for quick, easy money to feed their habit. By requiring all purchases by junk dealers and recyclers of the specified metals to be paid by check with a 3-day holding period will not only create a paper trail of the transaction but will also make metal theft less appealing to those looking to obtain quick cash to purchase drugs. Also the photo requirement and requiring the address and copy of the seller's identification will act as a deterrent and will assist law enforcement in their investigations.

2. Similar Legislation. AB 2289 (Ruskin, Chapter 461, Statutes 2006) required businesses that recycle, shred, or destroy plastic bulk merchandise containers, prior to purchasing five or more containers, to obtain proof of ownership from the seller and verify his or her identity.

AB 844
Page 5

SB 447 (Maldonado, 2007) requires a junk dealer to include in the written records currently maintained for all sales and purchases of junk or scrap metals the thumbprint of the seller of junk. It also requires that specified information be provided to the sheriff of the county in which the junk dealer received or purchased the junk on forms approved or provided by the Department of Justice.

3. Arguments in Support. Pacific Gas and Electric Company (PG&E) is in support of this measure and indicates that theft of copper and other alloys from their facilities, junction boxes, poles, and other areas poses a serious public safety problem for PG&E and its customers, not to mention the cost impacts in order to replace stolen material. PG&E states that annually as a result of theft, PG&E suffers over a million dollars in damages, which ultimately increases costs to all customers. PG&E is extremely concerned that current financial incentives, as a result of high copper prices, and weaker reporting and payment guidelines for junk dealers and recyclers create an environment that promotes the purchase and selling of stolen material. AT&T also is in support of this measure and indicates that the value of copper stolen from its facilities is over \$700,000. Pacific Power indicates that it has suffered more than \$500,00 in loss resulting from metal theft in 2006 and is in support of this bill.

Liberty Mutual is in support of this measure and indicates that their policyholders have filed an increasing number of claims in which thieves have stolen large amounts of copper from their homes or place of business, and has recently settled several claims that have resulted in payouts of over \$300,000.

The California Business Properties Association and the Building Owners and Managers Association of California are in support of this measure and indicated that each year hundreds of thousands of dollars worth of brass and copper is stolen from properties. The Construction Industry Crime Prevention Program is in support and states that its industry suffers serious, continuous thefts and costlier collateral damage. An average theft brings the perpetrator \$400 that can often result in collateral damage up to \$40,000.

4. Policy Issue: Should this Measure Preempt both Local Cities and Counties from Enforcing a Current Ordinance that May Provide More Stringent Requirements? The bill in its current form would prohibit a city, county or state agency from adopting any reporting, identification, or payment requirements for transactions by junk dealers or recyclers involving nonferrous material. Any ordinance or resolution adopted by a city or county could not be inconsistent with the requirements of this measure. This language was placed in the bill in the Assembly Appropriations Committee. Although the bill has been amended since it left the Assembly, the bill as it is before the Committee contains this preemption language.

AB 844
Page 6

The Author indicates that it was not his intent to effect current local ordinances that may deal with this issue, and that in some instances certain counties have more restrictive and stringent requirements regarding the identification of those selling nonferrous material, the form of payment and the holding period, and what reporting and information should be provided by the junk dealer or recycler. An example given by the Author is Fresno County which currently allows only payment by check with a waiting period; there are no exceptions like this bill provides. According to the Author, counties which currently have ordinances that may be considered more restrictive or stringent are Fresno, Stanislaus, Tulare, Kern, Madera and Kings County, and possibly Los Angeles and San Francisco.

The California Chapter of the Institute of Scrap Recycling Industries (ISRI), Sun-Lite Metals and Atlas Iron & Metal Company indicated they would be opposed to this measure if there were changes to the preemption language (such as making the bill apply prospectively only, after January 1, 2007), or more importantly if the preemption language was deleted from the bill entirely.

As argued by opponents, the fundamental purpose for addressing the problem on an exclusive statewide basis is to create a unified statewide program that puts all recyclers and all local governments on an even playing field. To do otherwise will create a harmful, competitive imbalance in both the intrastate and interstate commodities markets as they relate to scrap metals.

NOTE: Double-referral to Environmental Quality Committee (Second).

SUPPORT AND OPPOSITION:

Support:

- California State Sheriffs' Association (Sponsor)
- California Farm Bureau Federation (Sponsor)
- Association of California Insurance Companies
- Associated General Contractors of California
- Associated General Contractors of San Diego
- AT&T
- Building Owners and Managers Association of California
- California Alliance for Consumer Protection
- California Association of Wine Grape Growers
- California Business Properties Association
- California Communications Association
- California Cotton Ginners and Growers Associations
- California Farm Bureau Federation
- California Fence Contractors' Association

AB 844

Page 7

- California Legislative Conference of the Plumbing, Heating and Piping Industry
- California State Pipe Trades Council
- Coalition of California Utility Employees
- Construction Industry Crime Prevention Program (CICP)
- Engineering Contractors' Association
- Flasher Barricade Association
- Golden State Builder's Exchanges (GSBE)
- Kern County Sheriff
- Lakewood, City of
- Liberty Mutual Group
- Lodi Chamber of Commerce Ag-Business Committee
- Los Angeles County District Attorney's Office
- Marin Builders' Exchange
- Modesto Irrigation District (MID)
- National Electrical Contractors Association (NECA)
- Pacific Gas & Electric Company (PG&E)
- Pacific Power
- San Bernardino County Sheriff
- San Diego County Board of Supervisors
- San Joaquin County Board of Education
- Sempra Energy
- Southern California Edison
- State Association of Electrical Workers
- State of California Auto Dismantlers Association
- Tulare County District Attorney
- Western Electrical Contractors Association (WECA-IEC)
- Western State Council of Sheet Metal Workers

Opposition (Only if Preemption Language is Changed or Removed from the Bill):

- Atlas Iron & Metal Company
- California Chapter of the Institute of Scrap Recycling Industries
- Coalition of Independent Recyclers
- Sun-Lite Metals

Consultant: Bill Gage