

House Bill 4140

Sponsored by Representative WALLAN, Senators PROZANSKI, ANDERSON; Representatives LEWIS, LIVELY, MARSH (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 **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

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.

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 161.005, 164.365 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 a public utility, telecommunications *[carrier]* **provider**, railroad, public transportation facility or medical facility; or

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

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.

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

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

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

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

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

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

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

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

SCRAP METAL THEFT ALERT SYSTEM

SECTION 2. Sections 3 to 9 of this 2026 Act are added to and made a part of ORS 165.116 to 165.124.

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

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

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

(2) The department may adopt rules necessary to administer the provisions of this section.

SECTION 4. A scrap metal business shall:

(1) Register with or subscribe to a scrap metal theft alert system described in section 3 of this 2026 Act to receive alerts regarding thefts of metal property in the relevant geographic area;

(2) Maintain the registration or subscription;

(3) On a daily basis, download the scrap metal theft alerts generated by the system;

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

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

SCRAP METAL SELLER REGISTRATION

SECTION 5. (1)(a) An individual may not sell, trade or contract to sell or trade 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 under

section 7 of this 2026 Act.

(b) Notwithstanding paragraph (a) of this subsection, an individual not registered under section 7 of this 2026 Act may sell, trade or contract to sell or trade nonferrous metal property or commercial metal property to a scrap metal business without registering with the department if the aggregate value of the metal property sold or traded does not exceed \$_____ within a 90-day period. The total value of metal property included in a single transaction under this paragraph may not exceed \$_____.

(2) Violation of subsection (1) of this section is a Class A misdemeanor.

SECTION 6. Section 5 of this 2026 Act does not apply to:

(1) The persons described in ORS 165.124 (1)(a) to (e);

(2) A person to whom a license has been issued under ORS 479.630;

(3) A person to whom a journeyman plumber license has been issued under ORS 693.030;

(4) A person to whom a Section 608 Technician Certification has been issued by the United States Environmental Protection Agency; and

(5) Any other similar persons designated by the Department of Justice by rule as a licensed professional that regularly or periodically sells or delivers metal property to a scrap metal business in the course of the person's applicable business activity.

SECTION 7. (1) An individual is qualified to be registered as a scrap metal seller with the Department of Justice under this section if the individual:

(a) Is not prohibited from selling, purchasing, receiving, trading or entering into a contract, agreement or pledge to sell, purchase, receive or trade metal property under state or federal law, including successfully completing a background check as described under subsection (3) of this section;

(b) Applies to the department in a form and manner prescribed by the department; and

(c) Pays any fee adopted by the department by rule.

(2) An application for registration under this section must state the applicant's legal name, current address and telephone number, date and place of birth, physical description and any additional information determined necessary by department rules.

(3)(a) The department shall request that the Department of State Police conduct a criminal background check to determine the eligibility of an individual to be registered under this section by reviewing state and federal databases including the:

(A) Oregon computerized criminal history system;

(B) Law Enforcement Data System;

(C) Databases maintained by the Federal Bureau of Investigation; and

(D) National Crime Information Center.

(b) An individual is ineligible to be registered under this section if the individual, within five years of the criminal background check, has been convicted of:

(A) A felony or misdemeanor for which an essential element is fraud; or

(B) Burglary, robbery or theft.

(c) For the purpose of requesting a state or nationwide criminal records check under this section, the Department of Justice may require the fingerprints of an individual who applies for registration as a scrap metal seller under this section.

(4)(a) Within 30 days of receiving an application for registration as a scrap metal seller under this section, if the department has verified the information contained in the application and determined that the applicant has met each of the qualifications described in sub-

section (1) of this section, the department shall register the individual as a scrap metal seller and issue proof of registration to the individual.

(b) The department may refuse to register an individual as a scrap metal seller under this section or may suspend or revoke the registration if the department determines that the individual violated a provision of this section or a rule adopted by the department under section 9 of this 2026 Act.

(5)(a) Registration under this section is valid for one year from the date of registration, unless revoked.

(b) An individual may renew an unexpired registration by repeating the procedures set forth in subsection (1) of this section.

(6) An individual registered as a scrap metal seller under this section shall:

(a) Maintain a copy of the proof of registration as long as the registration is valid.

(b) Present a copy of the proof of registration to a scrap metal business when required under ORS 165.117.

(7) The department shall establish and maintain an electronic searchable database of all individuals registered as a scrap metal seller under this section. The department shall maintain the database by ensuring that new registrations are added to the database, renewed registrations are assigned a new expiration date and expired or revoked registrations are marked expired or revoked but maintained in the database.

SECTION 8. All fees received by the Department of Justice under section 7 of this 2026 Act shall be deposited in the Department of Justice Operating Account created in ORS 180.180. Amounts deposited under this section are continuously appropriated to the department to carry out the provisions of sections 6, 7, 8 and 9 of this 2026 Act.

SECTION 9. The Department of Justice shall adopt rules necessary to administer the provisions of sections 6, 7, 8 and 9 of this 2026 Act. The rules must:

(1) Include procedures for applying for and renewing registration as a scrap metal seller under section 7 of this 2026 Act; and

(2) Provide that any fee adopted by the department under section 7 (1)(c) of this 2026 Act be in an amount reasonably calculated to cover the cost of administering the provisions of sections 6, 7, 8 and 9 of this 2026 Act, not to exceed an annual total of \$500 per individual.

SECTION 10. 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) Either a photocopy of a current, valid scrap metal seller registration issued under section 7 of this 2026 Act to the individual with whom the scrap metal business conducts the transaction or a photocopy of a document demonstrating that the individual is exempt from the registration requirement under section 6 of this 2026 Act. This sub-subparagraph does not apply if the individual is not registered as a scrap metal seller under section 7 of this 2026 Act and the total value of the metal property included in the transaction does not exceed \$_____.

[(viii)] (ix) 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)] (x) 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 or on a receipt issued to the individual with whom the scrap metal business conducts the transaction, that states:

I, _____, AFFIRM UNDER PENALTY OF LAW THAT THE PROPERTY I AM SELLING IN THIS TRANSACTION IS NOT, TO THE BEST OF MY KNOWLEDGE, STOLEN PROPERTY.

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

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

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

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

5 (b) Conduct a transaction with an individual if the individual does not at the time of the trans-
6 action consent to the creation of the record described in subsection (1) of this section and produce
7 for inspection a valid driver license or other valid government-issued photo identification that be-
8 longs to the individual **and, if applicable, either the valid scrap metal seller registration issued**
9 **to the individual under section 7 of this 2026 Act or a document demonstrating that the in-**
10 **dividual is exempt from the registration requirement under section 6 of this 2026 Act.**

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

20 (d) Purchase metal property from a nonprofit corporation other than by electronic funds trans-
21 fer, stored value card or stored value device, or by mailing a nontransferable check, made payable
22 to the nonprofit corporation, for the amount of the purchase price to the business address provided
23 under subsection (4)(a)(B) of this section. Payment must be made not earlier than three business days
24 after the date of the purchase. The check, electronic funds transfer or stored value device must be
25 drawn on or must draw from an account that the scrap metal business maintains with a financial
26 institution, as defined in ORS 706.008. A stored value card may be issued by a money transmission
27 business licensed under ORS 717.200 to 717.320 or exempt from the licensing requirement under ORS
28 717.210.

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

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

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

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

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

10 (A) A commercial seller; or

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

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

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

18 (4) Before purchasing or receiving metal property from a commercial seller, a scrap metal busi-
19 ness shall:

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

24 (A) The full name of the commercial seller;

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

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

28 (b) Create a metal property record as part of the commercial account at the time and in the
29 location that the scrap metal business purchases or receives metal property from a commercial
30 seller that contains the following information:

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

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

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

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

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

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

(G) For private metal property sold or transferred by a commercial seller other than a dismantler, the following information for the vehicle from which the private metal property was removed:

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

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

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

(c) Require all signatories to the metal property record to declare the accuracy of the information contained in the record by including on the metal property record in conspicuous type, "I AFFIRM BY MY SIGNATURE THAT UNDER PENALTY OF LAW THAT THE INFORMATION I PROVIDED AND REFLECTED ON THIS FORM IS TRUE AND ACCURATE."

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

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

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

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

SECTION 11. ORS 161.005 is amended to read:

161.005. ORS 161.005 to 161.055, 161.065, 161.085 to 161.125, 161.150 to 161.175, 161.190 to 161.275, 161.290 to 161.373, 161.405 to 161.485, 161.505 to 161.585, 161.605, 161.615 to 161.685, 161.705 to 161.737, 162.005, 162.015 to 162.035, 162.055 to 162.115, 162.135 to 162.205, 162.225 to 162.375, 162.405 to 162.425, 162.465, 163.005, 163.095, 163.107, 163.115, 163.125 to 163.145, 163.149, 163.160 to 163.208, 163.191, 163.196, 163.215 to 163.257, 163.261, 163.263, 163.264, 163.266, 163.275, 163.285, 163.305 to 163.467, 163.429, 163.432, 163.433, 163.472, 163.505 to 163.575, 163.665 to 163.693, 163.700, 163.701, 163.715, 163.720, 164.005, 164.015 to 164.135, 164.138, 164.140, 164.205 to 164.270, 164.305 to 164.377, 164.395 to 164.415, 164.805, 164.857, 164.886, 165.002 to 165.102, 165.109, 165.118, 165.805, 165.815, 166.005 to 166.095, 166.119, 166.125, 166.128, 166.350, 166.382, 166.384, 166.660, 167.002 to 167.027, 167.057, 167.060 to 167.100, 167.117, 167.122 to 167.162, 167.203 to 167.252, 167.310 to 167.340, 167.350, 167.810 and 167.820 **and section 5 of this 2026 Act** shall be known and may be cited as Oregon Criminal Code of 1971.

APPLICABILITY

SECTION 12. Section 5 of this 2026 Act and the amendments to ORS 164.365 and 165.117 by sections 1 and 10 of this 2026 Act apply to conduct occurring on or after the effective date of this 2026 Act.

CAPTIONS

SECTION 13. The unit captions used in this 2026 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any

1 **legislative intent in the enactment of this 2026 Act.**

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