

BILL ANALYSIS

S.B. 208
By: West
Environmental Regulation
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Interested parties have raised concerns regarding the dangers associated with undetonated explosive devices that are knowingly or unknowingly presented for sale at metal recycling entities and note that the presence of such devices at metal recycling entities poses a threat to the general public. S.B. 208 seeks to address these concerns by providing for the regulation of metal recycling entities with regard to explosive devices.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill expressly does one or more of the following: creates a criminal offense, increases the punishment for an existing criminal offense or category of offenses, or changes the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Public Safety Commission in SECTION 5 of this bill.

ANALYSIS

S.B. 208 amends the Occupations Code to specify that the information a county, municipality, or political subdivision of the state that issues a metal recycling entity license or permit to a business is required to submit to the Department of Public Safety (DPS) on each business issued a license or permit includes inspection reports for the business, information regarding violations of provisions relating to metal recycling entities by the business, and information regarding disciplinary actions initiated against the business. The bill requires a metal recycling entity to report to DPS by telephone, by email, or through the DPS website the entity's possession of an explosive device unknowingly purchased or otherwise obtained by the entity not later than the close of business on the entity's first working day after the date the possession of the device is discovered. The bill authorizes a metal recycling entity to also report to an appropriate law enforcement authority or the nearest military installation the possession of an explosive device that the entity unknowingly purchased or otherwise obtained so that the explosive device may be removed from the entity or disposed of as soon as possible. The bill defines "explosive device" as a device or material that contains explosive powder, primer, fluid, or gas or a detonator and excludes certain items from the term.

S.B. 208 creates a Class A misdemeanor offense for a person who knowingly sells an explosive device to a metal recycling entity and for a metal recycling entity that knowingly buys an explosive device or that knowingly stores or allows to be stored on the entity's premises an explosive device, and specifies the period in which a metal recycling entity is considered to store an explosive device on the entity's premises. The bill enhances the penalty for such an offense to a second degree felony if it is shown at the trial of the offense that a person suffered death or serious bodily injury as a result of the detonation of an explosive device. The bill authorizes a

court on conviction of such an offense to order the defendant to make restitution to the state or a political subdivision of the state for the costs incurred by the state or subdivision for responding to the offense and any removal, cleaning, sanitizing, demolition, reconstruction, or other treatment required as a result of the offense, and to the owner of any property damaged as a result of the offense.

S.B. 208 expands the conduct for which the Public Safety Commission may impose an applicable administrative penalty against a person from a violation of certain reporting requirements applicable to metal recycling entities to a violation of provisions relating to practices by metal recycling entity certificate holders or to a certificate of registration or a violation of a rule or order of the commission under provisions relating to metal recycling entities. The bill also includes in that conduct a metal recycling entity's conduct that would constitute knowingly buying an explosive device or knowingly storing or allowing to be stored on the entity's premises an explosive device, caps at \$1,000 for each violation the amount of an administrative penalty for engaging in such conduct involving an explosive device or for a violation of the bill's requirement for a metal recycling entity to report to DPS the entity's possession of an explosive device unknowingly purchased or otherwise obtained by the entity, and caps at \$10,000 the aggregate penalty for multiple violations. The bill requires the commission by rule to adopt a standardized penalty schedule for a violation based on prescribed criteria, requires an administrative penalty collected under certain provisions relating to practices by metal recycling entity certificate holders to be deposited in a special account in the general revenue fund, and restricts appropriation of the penalty to DPS.

EFFECTIVE DATE

September 1, 2017.