

BILL ANALYSIS

Senate Research Center
85R2123 TSR-F

S.B. 208
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Natural Resources & Economic Development
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Public Safety (DPS) has growing concerns with the incidence and dangers associated with undetonated explosive devices that knowingly or unknowingly are presented for sale at metal recycling entities throughout Texas. DPS reports that unexploded munitions are often recovered from sites that are currently or have previously been used by the military. Some of these former military properties have been transferred to public uses.

Despite the inherent hazards, the sale of these explosive devices is technically legal and unregulated in Texas.

The presence of unexploded explosive devices at metal recycling entities poses a threat to the general public and areas nearby the recycling entity. They pose a more immediate danger to unsuspecting workers as these dormant devices have exploded, causing injury including dismemberment to persons in proximity.

S.B. 208 prohibits the public from knowingly presenting for sale at a metal recycling entity, an explosive device or component of an explosive device.

S.B. 208 prohibits a metal recycling entity from knowingly purchasing from the public, an explosive device or component of an explosive device.

S.B. 208 contains criminal penalties for the seller and metal recycling entities that would knowingly sell or purchase an explosive device. A metal recycling entity is also prohibited from knowingly storing an explosive device on its premises.

The provisions of S.B. 208 do not apply to firearms or certain ammunition that does not contain explosive ingredients. A similar bill, S.B.1194 was filed during the 84th Legislative Session.

As proposed, S.B. 208 amends current law relating to the regulation of metal recycling entities, provides an administrative penalty, and creates a criminal offense.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Public Safety Commission in SECTION 5 (Section 1956.041, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1956.001, Occupations Code, by amending Subdivision (6-a) and adding Subdivisions (6-b) and (6-c), as follows:

(6-a) Defines "explosive component."

(6-b) Defines "explosive weapon."

(6-c) Redesignates existing Subdivision (6-a) as Subdivision (6-c) and makes no further changes to this subdivision.

SECTION 2. Amends Section 1956.015(a), Occupations Code, to require the Texas Department of Public Safety (DPS) to use a statewide electronic reporting system to track the sale or attempted sale of an explosive component or explosive weapon reported to DPS under Section 1956.036(f).

SECTION 3. Amends Section 1956.036, Occupations Code, by adding Subsection (f), to require a metal recycling entity to report to DPS by telephone, e-mail, or through the DPS website each sale or attempted sale to the entity of an explosive component or explosive weapon as soon as possible after the sale or attempted sale, but not later than the close of business on the entity's first working day after the date of the sale or attempted sale.

SECTION 4. Amends Section 1956.040, Occupations Code, by adding Subsections (c-1), (c-2), (c-3), (c-4), (c-5), and (d-1), as follows:

(c-1) Provides that a person commits an offense if the person knowingly sells an explosive component or an explosive weapon to a metal recycling entity.

(c-2) Provides that a metal recycling entity commits an offense if the entity knowingly buys an explosive component or explosive weapon.

(c-3) Provides that, except as provided by Subsection (c-5), an offense under Subsection (c-1)(1) or (c-2)(1) is a Class A misdemeanor. Provides that, except as provided by Subsection (c-5), an offense under Subsection (c-1)(2) or (c-2)(2) is a third degree felony.

(c-4) Provides that a metal recycling entity commits an offense if the entity knowingly stores or allows to be stored on the entity's premises an explosive component or explosive weapon. Provides that, except as provided by Subsection (c-5), an offense under this subsection is a Class A misdemeanor.

(c-5) Provides that an offense under Subsection (c-1), (c-2), or (c-4) is a second degree felony if it is shown at the trial of the offense that a person suffered death or serious bodily injury, as defined by Section 1.07 (Definitions), Penal Code, as a result of the detonation of an explosive component or explosive weapon.

(d-1) Authorizes the court to order the defendant to make restitution to certain parties on the conviction of an offense under Subsection (c-1), (c-2), or (c-4).

SECTION 5. Amends Section 1956.041, Occupations Code, by amending Subsections (a) and (b) and adding Subsections (b-1) and (f), as follows:

(a) Authorizes the Public Safety Commission (commission), after notice and an opportunity for a hearing, to impose an administrative penalty on a person who violates this subchapter (Practice by Certificate Holders), Subchapter A-2 (Certificate of Registration), or a commission rule or order under this chapter (Metal Recycling Entities), rather than on a person who violates Section 1956.036.

(b) Prohibits the amount of the administrative penalty from exceeding \$1,000 for each violation. Prohibits the aggregate penalty for multiple violations from exceeding \$10,000.

(b-1) Requires the commission, by rule, to adopt a standardized penalty schedule for a violation based on Subsection (b).

(f) Requires an administrative penalty collected under this section to be deposited in a special account in the general revenue fund and authorizes it to be appropriated only to DPS.

SECTION 6. Makes application of Section 1956.041, Occupations Code, as amended by this Act, prospective.

SECTION 7. Effective date: September 1, 2017.