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HOUSE BILL 26-1101

BY REPRESENTATIVE(S) Espenoza and Soper, Gonzalez R., Marshall, McCluskie;
also SENATOR(S) Lindstedt and Pelton B., Amabile, Frizell, Jodeh, Kipp, Roberts, Simpson, Weissman, Coleman.

CONCERNING ADDING CRIMINAL OFFENSES RELATED TO CRITICAL INFRASTRUCTURE COMPONENTS TO CRIMINAL OFFENSES INVOLVING COMMODITY METALS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, 18-13-111, **amend** (1)(a), (1)(b) introductory portion, (1)(c) introductory portion, (1)(c)(I), (1)(d)(I), (1)(d)(II), (1)(e), (1.3)(a) introductory portion, (1.3)(a)(I), (1.3)(a)(III), (1.3)(b), (1.5)(a), (1.5)(b), (2), (3) introductory portion, (4), (5) introductory portion, (5)(c), (5)(d), (6), (10)(a)(II), and (10)(a)(III); **repeal** (5)(e), (5)(f), (5)(g), (5)(h), and (8); and **add** (1.6), (3)(f), (5.5), (10)(a)(IV), and (14) as follows:

18-13-111. Purchases of commodity metals, critical infrastructure material, or detached catalytic converters - violations - creation - composition - reports - legislative declaration - definitions.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(1) (a) Except as otherwise provided in subsection (3) of this section, every owner, keeper, or proprietor of a junk shop, junk store, salvage yard, or junk cart or other vehicle and every collector of or dealer in junk, salvage, or other secondhand property shall keep a book or register detailing all transactions involving commodity metals, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converters.

(b) The owner, keeper, proprietor, collector, or dealer shall record the identification of a seller of commodity metals, CRITICAL INFRASTRUCTURE MATERIALS, or detached catalytic converters in the book or register and the method by which the seller verified the seller's identity. The seller shall verify the seller's identity by one of the following:

(c) The owner, keeper, proprietor, collector, or dealer shall require the seller of a commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter to provide for the book or register:

(I) A signed affidavit, sworn and affirmed under penalty of law, that the seller is the owner of the commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter or is otherwise entitled to sell the commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter. The owner, keeper, proprietor, collector, or dealer shall provide the affidavit form to the seller.

(d) The owner, keeper, proprietor, collector, or dealer shall include the following in the book or register:

(I) The date and place of each purchase of the commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter; and

(II) The description and quantity of the commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter purchased.

(e) The book or register shall be made available to ~~any peace officer~~ A LAW ENFORCEMENT AGENCY OR MUNICIPAL CODE ENFORCEMENT AGENCY for inspection ~~at any reasonable time~~ UPON REQUEST.

(1.3) (a) A purchaser of commodity metals, CRITICAL INFRASTRUCTURE MATERIALS, or detached catalytic converters shall:

(I) Sign up with the scrap theft alert system maintained by the Institute of Scrap Recycling Industries, Incorporated, or its successor organization, to receive alerts regarding thefts of commodity metals, CRITICAL INFRASTRUCTURE MATERIALS, or detached catalytic converters in the purchaser's geographic area;

(III) Use the alerts to identify potentially stolen commodity metals, CRITICAL INFRASTRUCTURE MATERIALS, or detached catalytic converters, including training the purchaser's employees to use the alerts during the purchaser's daily operations.

(b) A purchaser of commodity metals, CRITICAL INFRASTRUCTURE MATERIALS, or detached catalytic converters shall maintain for ninety days copies of any theft alerts received and downloaded pursuant to subsection (1.3)(a) of this section. A purchaser shall also maintain documentation that the purchaser educates employees about, and provides to employees, scrap theft alerts.

(1.5) (a) An owner, keeper, proprietor, collector, or dealer is permitted to pay a seller in cash for any commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter transaction of three hundred dollars or less.

(b) If the transaction costs more than three hundred dollars OR INVOLVES CRITICAL INFRASTRUCTURE MATERIAL THAT THE PAYING PARTY KNOWS OR SHOULD HAVE KNOWN WAS PART OF CRITICAL INFRASTRUCTURE, the owner, keeper, proprietor, collector, or dealer shall pay the seller of a commodity metal or detached catalytic converter by check unless the seller is paid by means of any process in which a picture of the seller is taken when the money is paid. FOR THE PURPOSES OF THIS SUBSECTION (1.5)(b), THE PAYING PARTY SHOULD HAVE KNOWN THE COMMODITY METALS WERE PART OF CRITICAL INFRASTRUCTURE IF EVIDENCE EXISTS THAT THE INSULATING CASING OF THE COMMODITY METAL WAS BURNED OR SMOLDERED OFF.

(1.6) (a) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER WHO KNOWINGLY POSSESSES CRITICAL INFRASTRUCTURE MATERIAL IN VIOLATION OF THIS SECTION COMMITS UNLAWFUL POSSESSION OF CRITICAL INFRASTRUCTURE MATERIALS.

(b) (I) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER WHO TAKES POSSESSION OF CRITICAL INFRASTRUCTURE MATERIAL AS PART OF A LOAD OF OTHERWISE NONCRITICAL INFRASTRUCTURE MATERIALS WITH AN AFFIDAVIT STATING THAT THE TRANSFEROR MAY LAWFULLY TRANSFER THE NONCRITICAL INFRASTRUCTURE MATERIAL HAS A DUTY TO NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY OR MUNICIPAL CODE ENFORCEMENT AGENCY BY THE END OF THE NEXT BUSINESS DAY AFTER DISCOVERING THE CRITICAL INFRASTRUCTURE MATERIALS. THE CRITICAL INFRASTRUCTURE MATERIAL MUST BE SET ASIDE AND MUST NOT BE SOLD, PENDING A DETERMINATION AS TO ITS LEGAL STATUS MADE BY A LAW ENFORCEMENT AGENCY OR MUNICIPAL CODE ENFORCEMENT AGENCY.

(II) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER DOES NOT VIOLATE THIS SUBSECTION (1.6) IF THE OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER HAS AN AFFIDAVIT STATING THAT THE TRANSFEROR MAY LAWFULLY TRANSFER THE CRITICAL INFRASTRUCTURE MATERIAL.

(III) AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER WHO UNKNOWINGLY TAKES POSSESSION OF CRITICAL INFRASTRUCTURE MATERIAL AS PART OF A LOAD OF OTHERWISE NONCRITICAL INFRASTRUCTURE MATERIALS WITH AN AFFIDAVIT STATING THAT THE TRANSFEROR MAY LAWFULLY TRANSFER THE NONCRITICAL INFRASTRUCTURE MATERIAL AND KNOWINGLY DOES NOT NOTIFY THE APPROPRIATE LAW ENFORCEMENT AGENCY OR MUNICIPAL CODE ENFORCEMENT AGENCY BY THE END OF THE NEXT BUSINESS DAY AFTER BECOMING AWARE THEY ARE IN POSSESSION OF CRITICAL INFRASTRUCTURE MATERIALS IN VIOLATION OF THIS SUBSECTION (1.6)(b) COMMITS FAILURE TO REPORT STOLEN CRITICAL INFRASTRUCTURE MATERIALS.

(2) Except as otherwise provided in subsection (3) of this section, the owner, keeper, proprietor, collector, or dealer of any commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter shall make a digital photographic record, video record, or other record that identifies the seller and the commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter that the seller is selling. The digital photographic record, video record, or other record format shall be retained for one hundred eighty days, and the owner shall permit a law enforcement officer OR MUNICIPAL CODE ENFORCEMENT OFFICER to make inspections of the record.

(3) The following transactions and materials are exempt from the requirements specified in subsections (1), ~~(1.6)~~, and (2) of this section:

(f) THE PURCHASE OF CRITICAL INFRASTRUCTURE MATERIALS WHEN THE OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER HAS A WRITTEN CONTRACT WITH THE ORIGINAL SOURCE COMPANY THAT CLAIMS AND AFFIRMS THAT THE CRITICAL INFRASTRUCTURE MATERIAL BELONGS TO THE OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER.

(4) The information entered in the book or register, as provided in subsection (1) of this section, need not be kept for a period longer than three years after the date of purchase of the commodity metal, CRITICAL INFRASTRUCTURE MATERIAL, or detached catalytic converter.

(5) A person who violates subsection (1) of this section by failing to keep a book or register, ~~any~~ A person who knowingly gives false information with respect to the information required to be maintained in the book or register provided for in subsection (1) of this section, and ~~any~~ A person who violates subsection (1.3), (1.5), or (2) of this section commits:

(c) A class 1 misdemeanor if the amount is one thousand dollars or more but less than two thousand dollars; AND

(d) A class 6 felony if the amount is two thousand dollars or more. ~~but less than five thousand dollars;~~

(e) ~~A class 5 felony if the amount is five thousand dollars or more but less than twenty thousand dollars;~~

(f) ~~A class 4 felony if the amount is twenty thousand dollars or more but less than one hundred thousand dollars;~~

(g) ~~A class 3 felony if the amount is one hundred thousand dollars or more but less than one million dollars; and~~

(h) ~~A class 2 felony if the amount is one million dollars or more.~~

(5.5) (a) UNLAWFUL POSSESSION OF CRITICAL INFRASTRUCTURE MATERIALS, AS DESCRIBED IN SUBSECTION (1.6)(a) OF THIS SECTION, IS:

(I) A CLASS 2 MISDEMEANOR IF THE AMOUNT IS LESS THAN ONE THOUSAND DOLLARS;

(II) A CLASS 1 MISDEMEANOR IF THE AMOUNT IS ONE THOUSAND DOLLARS OR MORE BUT LESS THAN TWO THOUSAND DOLLARS; AND

(III) A CLASS 6 FELONY IF THE AMOUNT IS TWO THOUSAND DOLLARS OR MORE.

(b) FAILURE TO REPORT STOLEN CRITICAL INFRASTRUCTURE MATERIALS, AS DESCRIBED IN SUBSECTION (1.6)(b) OF THIS SECTION, IS:

(I) A CLASS 2 MISDEMEANOR IF THE AMOUNT IS LESS THAN ONE THOUSAND DOLLARS;

(II) A CLASS 1 MISDEMEANOR IF THE AMOUNT IS ONE THOUSAND DOLLARS OR MORE BUT LESS THAN TWO THOUSAND DOLLARS; AND

(III) A CLASS 6 FELONY IF THE AMOUNT IS TWO THOUSAND DOLLARS OR MORE.

(6) There is a ~~rebuttable presumption~~ PERMISSIVE INFERENCE that metal purchased by a dealer for the purpose of recycling is a commodity metal if the commodity metal has a value of fifty cents per pound or greater for purposes of recycling the commodity metal.

~~(8) As used in this section, unless the context otherwise requires:~~

~~(a) (Deleted by amendment, L. 2007, p. 759, § 1, effective July 1, 2007.)~~

~~(a.5) "Applicable facility" means dealers, owners, keepers, or proprietors of a junk shop, junk store, salvage yard, or other secondhand property.~~

~~(b) "Book or register" means any written or electronic record of transactions kept by any owner, keeper, proprietor, collector, or dealer, including sequentially numbered receipts containing the information required by subsection (1) of this section.~~

~~(b.5) "Commodity metal" means copper, a copper alloy, such as bronze or brass, or aluminum. "Commodity metal" does not include precious metals, such as gold, silver, or platinum.~~

~~(c) (Deleted by amendment, L. 2007, p. 759, § 1, effective July 1, 2007.)~~

~~(d) "Dealer" means any person, business, or entity that buys, sells, or distributes, for the purpose of recycling, processing, or smelting, any commodity metal or detached catalytic converter on a wholesale basis. For the purposes of this subsection (8)(d), a transaction between a dealer and a motor vehicle dealer is not a wholesale sale.~~

~~(e) (Deleted by amendment, L. 2011, (HB 11-1130), ch. 106, p. 330, § 1, effective April 13, 2011.)~~

~~(f) "Detached catalytic converter" means a post-combustion device that:~~

~~(f) Oxidizes hydrocarbons and carbon monoxide gases or reduces oxides of nitrogen;~~

~~(f) Is designed or intended for use as part of an emission control system; and~~

~~(f) Was previously installed on a motor vehicle and subsequently removed.~~

(10)(a) The general assembly hereby finds, determines, and declares that:

(II) ~~Such~~ THE thefts impact every community in Colorado; ~~and~~

(III) The regulation of commodity metal or detached catalytic converter purchases is a matter of statewide concern; AND

(IV) THEFTS OF COMMODITY METALS THAT MAKE UP CRITICAL INFRASTRUCTURE MATERIALS REPRESENTS A SIGNIFICANT THREAT TO COLORADO CITIZENS.

(14) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "APPLICABLE FACILITY" MEANS A JUNK SHOP, JUNK STORE, SALVAGE YARD, OR OTHER SECONDHAND PROPERTY OPERATED BY A DEALER, OWNER, KEEPER, OR PROPRIETOR.

(b) "BOOK OR REGISTER" MEANS ANY WRITTEN OR ELECTRONIC RECORD OF TRANSACTIONS KEPT BY AN OWNER, KEEPER, PROPRIETOR, COLLECTOR, OR DEALER, INCLUDING SEQUENTIALLY NUMBERED RECEIPTS CONTAINING THE INFORMATION REQUIRED BY SUBSECTION (1) OF THIS SECTION.

(c) "COMMODITY METAL" MEANS COPPER; A COPPER ALLOY, SUCH AS BRONZE OR BRASS; OR ALUMINUM. "COMMODITY METAL" DOES NOT INCLUDE PRECIOUS METALS, SUCH AS GOLD, SILVER, OR PLATINUM.

(d) "COVERED INFRASTRUCTURE" MEANS:

(I) COMMUNICATION INFRASTRUCTURE, INCLUDING FIBER-OPTIC CABLES AND OTHER INFRASTRUCTURE USED FOR:

(A) INTERNET, INCLUDING BROADBAND INTERNET SERVICE;

(B) CABLE COMMUNICATIONS;

(C) WIRELESS COMMUNICATIONS;

(D) TELECOMMUNICATIONS; AND

(E) A PUBLIC SAFETY ANSWERING POINT, AS DEFINED IN SECTION 29-11-101;

(II) TRANSPORTATION INFRASTRUCTURE, INCLUDING INFRASTRUCTURE USED FOR:

(A) LIGHT RAIL, AS DEFINED IN SECTION 29-35-103;

(B) PASSENGER RAIL;

- (C) FREIGHT RAIL;
- (D) A PUBLIC ROADWAY SYSTEM; AND
- (E) BRIDGES;
- (III) HOUSING INFRASTRUCTURE;
- (IV) AN ELECTRIC VEHICLE CHARGING STATION; AND
- (V) PUBLIC UTILITY INFRASTRUCTURE.

(e) "CRITICAL INFRASTRUCTURE MATERIAL" MEANS ANY COMPONENT OR PART USED IN COVERED INFRASTRUCTURE THAT IS MADE OF OR CONTAINS A COMMODITY METAL, THE THEFT OF WHICH POSES AN IMMINENT THREAT TO LIFE OR THE PHYSICAL SAFETY OF A PERSON, INCLUDING THROUGH SERIOUS HARM TO THE BASIC SUPPLY OF COVERED INFRASTRUCTURE TO THE POPULATION OR TO THE EXERCISE OF A CORE FUNCTION OF COVERED INFRASTRUCTURE.

(f) "DEALER" MEANS ANY PERSON, BUSINESS, OR ENTITY THAT BUYS, SELLS, OR DISTRIBUTES, FOR THE PURPOSE OF RECYCLING, PROCESSING, OR SMELTING, ANY COMMODITY METAL OR DETACHED CATALYTIC CONVERTER ON A WHOLESALE BASIS. FOR THE PURPOSES OF THIS SUBSECTION (14)(f), A TRANSACTION BETWEEN A DEALER AND A MOTOR VEHICLE DEALER IS NOT A WHOLESALE SALE.

(g) "DETACHED CATALYTIC CONVERTER" MEANS A POST-COMBUSTION DEVICE THAT:

(I) OXIDIZES HYDROCARBONS AND CARBON MONOXIDE GASES OR REDUCES OXIDES OF NITROGEN;

(II) IS DESIGNED OR INTENDED FOR USE AS PART OF AN EMISSION CONTROL SYSTEM; AND

(III) WAS PREVIOUSLY INSTALLED ON A MOTOR VEHICLE AND SUBSEQUENTLY REMOVED.

SECTION 2. Applicability. This act applies to offenses committed

on or after July 1, 2026.

SECTION 3. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

James Rashad Coleman, Sr.
PRESIDENT OF
THE SENATE

Vanessa Reilly
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Esther van Mourik
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO