

## ACT 197

H.B. NO. 1246

A Bill for an Act Relating to Metal.

*Be It Enacted by the Legislature of the State of Hawaii:*

SECTION 1. Section 445-231, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

““Copper” means copper in all different forms, including tubing, sheets (includes plates), gutters, down spouts, bars, bare wire or cable, insulated wire or cable, and aluminum/copper coil used in air conditioning and refrigeration.”

SECTION 2. Chapter 708, Hawaii Revised Statutes, is amended by adding a new section to part IV to be appropriately designated and to read as follows:

**“§708- Theft of copper.** (1) A person commits the offense of theft of copper if the person commits theft of copper that weighs a pound or more, but not including legal tender of the United States.

(2) Theft of copper is a class C felony.”

SECTION 3. Section 445-233, Hawaii Revised Statutes, is amended to read as follows:

**“§445-233 Statement required.** (a) Every scrap dealer, when the dealer purchases scrap within the State, shall obtain a written statement signed by the seller ~~[or the seller’s agent]~~ certifying that the seller ~~[or the seller’s agent]~~ has the lawful right to sell and dispose of the scrap. This statement shall also contain the seller’s name; the seller’s business or residence address; the seller’s occupation; a description, including serial numbers and other identifying marks, when practical, of every scrap; the amount received by the seller; the date, time, and place of the sale; and the license number of any vehicle used to deliver the property to the place of purchase.

(b) If the scrap presented for purchase is copper, in whole or in part, the seller shall provide a copy of a receipt that describes, with particularity:

- (1) The exact item that is being offered for sale;
- (2) Who issued the receipt;
- (3) The date of sale of the item prior to the item’s being offered to the scrap dealer; and
- (4) The price, if any, of the item when obtained by the seller.

(c) If a receipt is not available, the seller shall provide to the scrap dealer a notarized declaration, describing with particularity:

- (1) The exact item that is being offered for sale;
- (2) Who sold or otherwise transferred the item to the seller;
- (3) The date of sale of the item; and
- (4) The price, if any, of the item when obtained by the seller.

(d) If the seller does not provide a copy of the receipt or the notarized declaration as required by subsections (b) and (c), the scrap dealer shall not purchase the copper, in whole or in part, and shall report the attempted sale to the police.

(e) If the scrap dealer purchases any copper, in whole or in part, the scrap dealer shall take a photograph or photographs of all of the copper offered for sale.

(f) The scrap dealer shall also require the seller to verify the seller's identity by presenting [proper] a valid photo identification[-] card or license issued by a federal or state government agency authorized to issue such identification. If the scrap being offered for sale is copper, in whole or in part, the scrap dealer shall:

- (1) Take a photograph of the seller; or
- (2) Make a photocopy of the identification card or license of the seller.

(g) The scrap dealer shall keep at the dealer's place of business the signed written statement, the receipt or notarized declaration required by subsections (b) and (c), the photographs required by subsection (e), and the photocopy of the identification card or license and photograph of the seller required by subsection (f), if applicable, from the seller for a period of two years after the date of purchase and the statement, the receipt or notarized declaration required by subsections (b) and (c), the photographs required by subsection (e), and the photocopy and photograph required by subsection (f), if applicable, may be examined at any time by the treasurer [or], the chief of police[-], the attorney general, the prosecuting attorney, or their designees.

(h) Public utilities, as defined in section 269-1, shall be exempt from the requirements of subsections (b) and (c). When the seller is a public utility, the scrap dealer shall not be required to obtain the statement required by subsection (a), and the scrap dealer shall not be prohibited by subsection (d) from purchasing the copper from the public utility."

SECTION 4. Section 445-235, Hawaii Revised Statutes, is amended to read as follows:

**"§445-235 Prohibitions; penalty.** Any person who violates sections 445-232 and 445-233, or any person who falsifies a statement required by section 445-233, shall be guilty of a misdemeanor[-] and shall be sentenced in accordance with chapter 706, except that the court shall impose a minimum sentence of:

- (1) A fine of \$1,000 for the first offense;
- (2) A fine of \$3,000 for the second offense; and
- (3) A fine of \$5,000 and the suspension of the scrap dealer's license for a period of six months for the third or subsequent offense; provided that if the third or subsequent offense occurs within a five-year period from the occurrence of two prior offenses, the scrap dealer shall be subject to license revocation."

SECTION 5. This Act shall not affect the rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 6. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.<sup>1</sup>

**SECTION 7.** This Act shall take effect on July 1, 2007, and shall be repealed on July 1, 2009; provided that sections 445-233 and 445-235, Hawaii Revised Statutes, shall be reenacted in the form in which they read on the day before the effective date of this Act.

(Approved June 19, 2007.)

**Note**

1. Edited pursuant to HRS §23G-16.5.