

*Partnership to Combat Critical Infrastructure
Copper Theft Webinar*

**Law Enforcement & Legal Elements
Necessary for Prosecution**

February 28, 2012

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The theft of copper and other precious metals is hardly new,¹ although the targets have changed over time. As copper prices have reached all-time highs, burglars and thieves are accessing new sources of metal. The criminal charges available also have changed over time. In 2011, the Iowa legislature amended two statutes to specifically address the potential risk to public-utility critical infrastructure.

What began as House File 299 during the 2011 Iowa legislative session became law on July 1, 2011. That legislation consisted of two primary initiatives:

- (1) **Local ordinances are authorized.**² Municipalities and counties can pass ordinances to require salvage dealers to maintain complete records of their supplies. Failure to comply can result in a suspension or revocation of the salvage dealer's permit or license.
- (2) **Penalties are increased for trespass on public utility property.**³ It is a class "D" felony to trespass on public utility property, which carries a sentence of up to 5 years in prison and a fine of \$7500.

The options for criminal charges include far more than these two additions. Copper thieves typically commit one or more of the following crimes:

Burglary

The elements of Burglary are as follows:

- (1) breaking or remaining in
- (2) an occupied structure
- (2) intent to commit a felony, assault or theft

The crime of Burglary was not designed to protect property rights, as Theft statutes are; instead, burglary is considered to be an offense against the security of habitation or occupancy.⁴

An occupied structure must be large enough for a person to fit into it.⁵ The occupied structure need not be locked.⁶ A driveway is an "occupied structure."⁷ There is a rebuttable presumption that a person who breaks into a structure that contains valuable property did so with the intent to steal.⁸ Actual theft is not required.⁹

713.6A. Burglary in the third degree

1. All burglary which is not burglary in the first degree or burglary in the second degree is burglary in the third degree. Burglary in the third degree is a class "D" felony, except as provided in subsection 2.

2. Burglary in the third degree involving a burglary of an unoccupied motor vehicle or motor truck as defined in section 321.1, or a vessel defined in section 462A.2, is an aggravated misdemeanor for a first offense. A second or subsequent conviction under this subsection is punishable under subsection 1.

3. For purposes of determining whether the person should register as a sex offender pursuant to the provisions of chapter 692A, the fact finder shall make a determination as provided in section 692A.126.

¹ United States ex rel. Drury v. Lewis, 200 U.S. 1, 26 S.Ct. 229, 50 L.Ed. 343 (1906) (thieves who stole copper eaves from a building at an arsenal, and one thief was shot and killed by a pursuing military officer); State v. Chanen, 209 Iowa 784, 229 N.W. 143 (1930) (scrap metal dealer convicted of receiving stolen property when customers brought in military medals shortly after the items were reported stolen from a nearby cemetery)

² Iowa Code § 714.27 (effective July 1, 2011).

³ Iowa Code § 716.7(2), (3), (5A), (6) (effective July 1, 2011).

⁴ State v. Miller, 622 N.W.2d 782 (Iowa Ct. App. 2000)

⁵ See State v. Williams, 409 N.W.2d 187 (1987).

⁶ State v. Sylvester, 331 N.W.2d 130 (Iowa 1983).

⁷ State v. Baker, 560 N.W.2d 10 (Iowa 1997).

⁸ State v. Morelock, 164 N.W.2d 819 (Iowa 1969).

Even when a person enters property consensually, when that consent is revoked, the person can be guilty of burglary.¹⁰ Joint ownership does not give the joint owner the right, license or privilege to destroy the property.¹¹ The presence of a restraining order against defendant removed any “right, license or privilege” to enter the home, so the defendant could be charged with burglary.¹²

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The intent to commit an assault might be formed after the person enters the premises or after the person has remained on the property without permission.¹⁶

In Iowa, the seriousness of the offense is based on aggravating factors, including possession of a dangerous weapon or explosive device, presence of persons on the property, commission of sexual abuse, and bodily injury resulting from the burglary. In addition, attempted burglary is also punished under the Iowa statute.

“Burglary” is distinguished from “criminal trespass” in that burglary requires that property upon which crime occurs must be occupied, while criminal trespass does not, and burglary requires intent to commit a felony, assault or theft, and criminal trespass merely requires intent to commit a public offense.¹⁷

A separate crime of Possession of Burglar Tools also could be charged. The elements of Possession of Burglar's Tools are:

- (1) possess any key or tool or instrument or device or explosive
- (2) with the intent to use it
- (3) to commit a burglary

713.7 Possession of burglar's tools.

Any person who possesses any key, tool, instrument, device or any explosive, with the intent to use it in the perpetration of a burglary, commits an aggravated misdemeanor.

Burglar's tools may be ordinary items that could be used for legitimate purposes.¹⁸ Proof of the intent to use the tools to commit burglary (at the time of the possession) is essential.¹⁹ It is not necessary, however, to show that the tools were to be used at a particular time or place.²⁰

⁹ *State v. Ellis*, 350 N.W.2d 178 (Iowa 1984).

¹⁰ *State v. Franklin*, 368 N.W.2d 716 (Iowa 1985). *See also State v. Taft*, 506 N.W.2d 757 (Iowa 1993) (an intruder has no right, license, or privilege to remain in the home when the child residing there tells him to leave and the child's mother confirms that directive by phone).

¹¹ *State v. Zeien*, 505 N.W.2d 498 (1993).

¹² *State v. Peck*, 539 N.W.2d 170 (Iowa 1995).

¹³ *State v. Franklin*, 368 N.W.2d 716 (Iowa 1985). *See also State v. Taft*, 506 N.W.2d 757 (Iowa 1993) (an intruder has no right, license, or privilege to remain in the home when the child residing there tells him to leave and the child's mother confirms that directive by phone).

¹⁴ *State v. Zeien*, 505 N.W.2d 498 (1993).

¹⁵ *State v. Peck*, 539 N.W.2d 170 (Iowa 1995).

¹⁶ *State v. Dible*, 538 N.W.2d 267 (Iowa 1995).

¹⁷ *State v. Phillips*, 378 N.W.2d 316 (Iowa Ct. App. 1985).

¹⁸ *State v. Caya*, 519 N.W.2d 419 (Iowa Ct. App. 1994); *State v. Knudtson*, 195 N.W.2d 698 (Iowa 1972); *Maher v. Lainson*, 247 Iowa 297, 72 N.W.2d 516 (1955).

¹⁹ *State v. Van Voltenburg*, 260 Iowa 200, 147 N.W.2d 869 (1967); *State v. Hobbs*, 252 Iowa 432, 107 N.W.2d 238 (1961).

²⁰ *State v. Salkil*, 441 N.W.2d 386 (Iowa Ct. App. 1989).

Theft

The methods of committing Theft, include:

- (1) Taking
- (2) Misappropriation
- (3) Deception
- (4) Exercise control over stolen property
- (5) Disposing of secured property
- (6) Bad checks²¹
- (7) Public utility theft

Ownership of the property need not be shown; it is only necessary to show that the victim had possessory rights in the property.²² The unexplained possession of recently stolen property justifies an inference of guilt of the possessor.²³ The inference must be based on evidence that (1) the property was stolen; (2) the defendant possessed the stolen property; and (3) the possession was reasonably recent.²⁴

Theft based on misappropriation may be charged when the defendant fails to return property within 72 hours of a rental agreement deadline.²⁵

The degrees of theft depend on the value of the property stolen.²⁶

714.1. Theft defined

A person commits theft when the person does any of the following:

1. Takes possession or control of the property of another, or property in the possession of another, with the intent to deprive the other thereof.
2. Misappropriates property which the person has in trust, or property of another which the person has in the person's possession or control, whether such possession or control is lawful or unlawful, by using or disposing of it in a manner which is inconsistent with or a denial of the trust or of the owner's rights in such property, or conceals found property, or appropriates such property to the person's own use, when the owner of such property is known to the person.
 - a. Failure by a bailee or lessee of personal property to return the property within seventy-two hours after a time specified in a written agreement of lease or bailment shall be evidence of misappropriation.
 - b. If a time is not specified in the written agreement of lease or bailment for the expiration or termination of the lease or bailment or for the return of the personal property, failure by a lessee or bailee to return the property within five days after proper notice to the lessee or bailee shall be evidence of misappropriation. For the purposes of this paragraph, "proper notice" means a written notice of the expiration or termination of the lease or bailment agreement sent to the lessee or bailee by certified or restricted certified mail at the address of the lessee or bailee specified in the agreement. The notice shall be considered effective on the date of the mailing of the notice regardless of whether or not the lessee or bailee signs a receipt for the notice.
3. Obtains the labor or services of another, or a transfer of possession, control, or ownership of the property of another, or the beneficial use of property of another, by deception. Where compensation for goods and services is ordinarily paid immediately upon the obtaining of such goods or the rendering of such services, the refusal to pay or leaving the premises without payment or offer to pay or without having obtained from the owner or operator the right to pay subsequent to leaving the premises gives rise to an inference that the goods or services were obtained by deception.
4. Exercises control over stolen property, knowing such property to have been stolen, or having reasonable cause to believe that such property has been stolen, unless the person's purpose is to promptly restore it to the owner or to deliver it to an appropriate public officer. The fact that the person is found in possession of property which has been stolen from two or more persons on separate occasions, or that the person is a dealer or other person familiar with the value of such property and has acquired it for a consideration which is far below its reasonable value, shall be evidence from which the court or jury may infer that the person knew or believed that the property had been stolen.
5. Takes, destroys, conceals or disposes of property in which someone else has a security interest, with intent to defraud the secured party.

²¹ *State v. Hogrefe*, 557 N.W.2d 871 (Iowa 1996) (theft is when person writes a check without any intention of ever paying it and knowing that the defendant cannot pay the check).

²² *State v. Jackson*, 251 Iowa 537, 101 N.W.2d 731 (1960).

²³ *State v. Jones*, 289 N.W.2d 597 (Iowa 1980); *State v. Rosewall*, 239 N.W.2d 171 (Iowa 1976).

²⁴ *State v. Brightman*, 252 Iowa 1278, 110 N.W.2d 315 (1961).

²⁵ *State v. Bugely*, 408 N.W.2d 394 (Iowa Ct. App. 1987).

²⁶ Continuing theft can be charged for all items possessed between the time of arrest and the three years before the arrest. *State v. Harrison*, 561 N.W.2d 28 (Iowa 1997).

Under current law, there is no attempted theft in Iowa. The property must actually be taken in order to charge theft.

714.1. Theft defined – continued

6. Makes, utters, draws, delivers, or gives any check, share draft, draft, or written order on any bank, credit union, person, or corporation, and obtains property, the use of property, including rental property, or service in exchange for such instrument, if the person knows that such check, share draft, draft, or written order will not be paid when presented.

Whenever the drawee of such instrument has refused payment because of insufficient funds, and the maker has not paid the holder of the instrument the amount due thereon within ten days of the maker's receipt of notice from the holder that payment has been refused by the drawee, the court or jury may infer from such facts that the maker knew that the instrument would not be paid on presentation. Notice of refusal of payment shall be by certified mail, or by personal service in the manner prescribed for serving original notices.

Whenever the drawee of such instrument has refused payment because the maker has no account with the drawee, the court or jury may infer from such fact that the maker knew that the instrument would not be paid on presentation.

7. Obtains gas, electricity or water from a public utility or obtains cable television or telephone service from an unauthorized connection to the supply or service line or by intentionally altering, adjusting, removing or tampering with the metering or service device so as to cause inaccurate readings.

8. Knowingly and without authorization accesses or causes to be accessed a computer, computer system, or computer network, or any part thereof, for the purpose of obtaining computer services, information, or property or knowingly and without authorization and with the intent to permanently deprive the owner of possession, takes, transfers, conceals, or retains possession of a computer, computer system, or computer network or any computer software or computer program, or computer data contained in a computer, computer system, or computer network.

9. a. Obtains the temporary use of video rental property with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner.

b. Lawfully obtains the temporary use of video rental property and fails to return the video rental property by the agreed time with the intent to deprive the owner of the use and possession of the video rental property without the consent of the owner.

The aggregate value of the video rental property involved shall be the original retail value of the video rental property.

10. Any act that is declared to be theft by any provision of the Code.

714.2. Degrees of theft

1. The theft of property exceeding ten thousand dollars in value, or the theft of property from the person of another, or from a building which has been destroyed or left unoccupied because of physical disaster, riot, bombing, or the proximity of battle, or the theft of property which has been removed from a building because of a physical disaster, riot, bombing, or the proximity of battle, is theft in the first degree. Theft in the first degree is a class "C" felony.

2. The theft of property exceeding one thousand dollars but not exceeding ten thousand dollars in value or theft of a motor vehicle as defined in chapter 321 not exceeding ten thousand dollars in value, is theft in the second degree. Theft in the second degree is a class "D" felony. However, for purposes of this subsection, "motor vehicle" does not include a motorized bicycle as defined in section 321.1, subsection 40, paragraph "b".

3. The theft of property exceeding five hundred dollars but not exceeding one thousand dollars in value, or the theft of any property not exceeding five hundred dollars in value by one who has before been twice convicted of theft, is theft in the third degree. Theft in the third degree is an aggravated misdemeanor.

4. The theft of property exceeding two hundred dollars in value but not exceeding five hundred dollars in value is theft in the fourth degree. Theft in the fourth degree is a serious misdemeanor.

5. The theft of property not exceeding two hundred dollars in value is theft in the fifth degree. Theft in the fifth degree is a simple misdemeanor.

Criminal Trespass

The elements of the crime of Criminal Trespass include:

- (1) entering in or upon or remaining on
- (2) property of another
- (3) without permission/authority or after being told to leave
- (4) with intent to commit a public offense or remove/use property or wrongly using property

Physical damage must be demonstrated; simply going on to property to commit a theft is not enough to show Criminal Trespass.²⁷ Protesters who are on public street or sidewalk, near a

²⁷ *State v. Chase*, 335 N.W.2d 630 (Iowa 1983).

political rally, are not trespassing on the property of another person,²⁸ but protesters who disrupt a public official in his public office and who do damage to property have committed Criminal Trespass,²⁹ and protesters who enter upon a private road in order to protest have committed Criminal Trespass.³⁰ Similarly, a man who entered onto a private driveway in order to assault a passenger in a vehicle parked there, committed Criminal Trespass.³¹

Criminal Mischief

The elements of Criminal Mischief include:

- (1) intentionally
 damage/deface/alter/destroy
- (2) tangible property
- (3) without right to do so

716.1 Criminal mischief defined. Any damage, defacing, alteration, or destruction of tangible property is criminal mischief when done intentionally by one who has no right to so act.
716.2 Multiple acts. Whenever criminal mischief is committed upon more than one item of property at approximately the same location or time period, so that all of these acts of mischief can be attributed to a single scheme, plan or conspiracy, such acts shall be considered as a single act of criminal mischief.

The property must be possessed by the victim; it is not necessary to show that the victim owned the property.³² A tenant can be charged with criminal mischief for damage to the landlord's property.³³ Degrees of Criminal Mischief depend on damage done or type of property.

Ongoing Criminal Conduct

Iowa's Ongoing Criminal Conduct statute begins by setting out the definitions of terms to be used in the statute, and includes both civil liability provisions and criminal sanctions. It sets out "violations," which can form the basis for a civil action and, for most violations, also can be punished by criminal prosecution.

Definitions

The statute specifically defines certain terms that apply in the Ongoing Criminal Conduct statute, including the following:

"Criminal network" means:

- (1) any combination of persons who either
 - (a) collaborate
 - (b) act in concertto carry on or further the activities/purposes of a network
- (2) for financial gain on a continuing basis
- (3) engaging in conduct that is an indictable offense (whether charged or not)

²⁸ *McCabe v. Macaulay*, 551 F. Supp. 2d 771 (N.D. Iowa 2007)

²⁹ *State v. Williams*, 238 N.W.2d 302 (Iowa 1976)

³⁰ *State v. Hutchison*, 721 N.W.2d 776 (Iowa 2006)

³¹ *State v. Clay*, 455 N.W.2d 272 (Iowa Ct. App. 1990)

³² *State v. Leasman*, 137 Iowa 191, 114 N.W. 1032 (1908).

³³ *State v. Mann*, 463 N.W.2d 883 (Iowa 1990).

- (4) need not know identity of others
- (5) membership in network may change
- (6) members may stand in an arm's length relationship

The drafters of the model act report that the term "criminal network" is defined broadly:

The concept of a "criminal network," is somewhat broader than the enterprise concept. It refers to entire criminal industries. A network may be made up of numerous enterprises, and it may contain numerous components, each made up of participants who have no contact with participants in other components³⁴.

"Enterprise" means:

- (1) sole proprietorship
- (2) partnership
- (3) corporation
- (4) trust
- (5) other legal entity
- (6) unchartered union
- (7) association
- (8) group of persons associated in fact (even though not a legal entity)
- (9) lawful or unlawful enterprises

The term "enterprise" is adapted from the federal RICO definition³⁵.

"Proceeds" means:

property of any kind

- (1) acquired or derived directly or indirectly
- (2) produced through or realized through
- (3) caused by an act or omission

"Property" means:

- (1) anything of value
- (2) interest in property
- (3) any benefit, privilege, claim or right with respect to anything of value
- (4) real or personal, tangible or intangible
- (5) without reduction for expenses incurred for acquisition, maintenance, production or any other purpose

"Specified unlawful activity" means:

- (1) any act (preparatory or completed)
- (2) committed for financial gain on a continuing basis
- (3) punishable as an indictable offense under the laws of the state in which it occurred and under the laws of this state

³⁴ Model Laws at F-194.

³⁵ Model Laws at F-194. The federal RICO statute is found at 18 U.S.C. sec. 1962.

The term "specified unlawful activity" is written broadly to include all facets of organized criminality, from core offenses involving financial gain, to providing goods and services, to "support services such as violence, corruption, obstruction of justice, money laundering and fencing.³⁶" The term includes only crimes committed for financial gain³⁷.

Criminal Provisions

The statute also includes criminal provisions that are designed to address the special problems presented by a well-organized criminal network. The four alternative versions of specified unlawful activity influenced enterprises are based on the federal RICO statute, except that the "pattern" requirement of the federal statute, which has been variously interpreted, is omitted³⁸. The statute reaches investments in enterprises as well as in real estate³⁹. Enterprise liability will be limited if the enterprise did not encourage or tolerate the specified unlawful activity⁴⁰. The elements of the crimes are set out in toto below.

1. Specified Unlawful Activity Influenced Enterprises

Investment of tainted proceeds; acquiring interests via unlawful activity; conduct business via unlawful activity; conspiracy or attempt to violate, solicit or facilitate

Alternative # 1: Investment of tainted proceeds (class B felony)

- 1) knowingly
- 2) received any proceeds of specified unlawful activity
- 3) use or invest any part of the proceeds, either directly or indirectly
- 4) in the acquisition of any interest in any enterprise
or
any real property
or
in the establishment or operation of any enterprise

Alternative #2: Acquiring interests via unlawful activity (class B felony)

- 1) knowingly
- 2) acquire or maintain, either directly or indirectly
- 3) any interest in or control of any enterprise or real property
- 4) through specified unlawful activity

³⁶ Model Laws at F-194.

³⁷ Model Laws at F-194.

³⁸ Model Laws at F-195.

³⁹ Model Laws at F-195.

⁴⁰ Enterprise liability is addressed in Iowa Code section 708A.3(8). *See* Model Laws at F-195, F-201. *See also* Ariz. R. Stat. 13-305.

Alternative #3: Conduct business via unlawful activity
(class B felony)

- 1) knowingly
- 2) conduct the affairs of any enterprise
- 3) through specified unlawful activity

OR

- 1) knowingly
- 2) participate, directly or indirectly
- 3) in any enterprise that the person knows is being conducted through specified unlawful activity

Alternative #4: Conspiracy or attempt to violate, solicit or facilitate
(class B felony)

- 1) conspire or attempt to violate or solicit or facilitate
- 2) any of the above

2. Facilitation of a Criminal Network

With knowledge of the criminal goal, facilitate crime objectives by violence or intimidation (person or property); silencing or influencing witnesses or potential witnesses (or attempting to do so); tampering with evidence; assist the criminal network (except for legal services); corrupting public officials; making a false statement to gain a benefit or a license

Elements: (class B felony)

- (1) a person
- (2) acting
- (3) with knowledge of the financial goals and criminal objectives of a criminal network
- (4) to knowingly
- (5) facilitate criminal objectives of the network by
 - (a) engaging in violence or intimidation or inciting/inducing another to engage in violence or intimidation
 - (b) inducing or attempting to induce a witness to testify falsely or withhold testimony or absent themselves from the jurisdiction
 - (c) attempting, through bribery, misrepresentation or force to obstruct, delay, prevent communication of information to authorities
 - (d) injuring or damaging another person's body or property because that person provided information to criminal justice authorities
 - (e) attempting to suppress by concealment, alteration or destruction any physical evidence that might aid in bringing offender to justice
 - (f) making any property available to a member of the criminal network
 - (g) making any service (other than legal services) available to a member of a criminal network

- (h) inducing or committing any act or omission by a public servant in violation of the public servant's official duty
- (i) obtaining any benefit for a member of a criminal network by means of false or fraudulent pretenses, representation, promises or material omissions
- (j) making a false sworn statement regarding a material issue, believing it to be false, or making any statement, believing it to be false, regarding a material issue to a public servant in connection with an application for any benefit, privilege or license, or in connection with any official investigation or proceeding

Criminal networks cannot operate completely independently; they must rely on others to provide them with goods and services. This statute specifies the "explicit duty of each citizen to refrain from facilitating known criminal networks.⁴¹" It does not create a duty of care to inquire into whether actions are part of a criminal network, but it does reach conduct that occurs with knowledge of the operation of a criminal network⁴². "It is based on the accepted criminal prohibition of aiding and abetting a conspiracy or an illicit enterprise, and the related prohibition of facilitation of any offense.⁴³" This alternative often forms the basis for civil actions, which "may be more effective as a deterrent.⁴⁴" The drafters of the model law concluded: "When the facilitation is done with knowledge of the criminal nature of the criminal network and that the conduct will facilitate its criminal objectives, civil liability is appropriate.⁴⁵" The statute is written broadly enough to encompass a wide variety of actions that benefit the criminal network.

3. Acts of Specified Unlawful Activity

This section also "sets up civil remedies for all such conduct as 'violations' of this Act.⁴⁶" The specified conduct must be "committed for financial gain and the conduct constituting a violation here must be continuing and substantial.⁴⁷"

Elements: (class B felony)

- (1) a person
- (2) commits specified unlawful activity

Penalties

All criminal violations of the Ongoing Criminal Conduct statute, set out above, are punished as class B felonies, carrying a maximum prison term of 25 years⁴⁸. No monetary fines are provided for class B felonies⁴⁹.

⁴¹ Model Laws at F-196.

⁴² Model Laws at F-196.

⁴³ Model Laws at F-196.

⁴⁴ Model Laws at F-196.

⁴⁵ Model Laws at F-196.

⁴⁶

⁴⁷ Model Laws at F-196. The language is similar to the language in the federal Continuing Criminal Enterprise law, 21 U.S.C. sec. 848.

General Criminal Principles

In proving any offense, the prosecution must prove the various **elements** of the crime. The "elements" of the crime simply refers to the various component parts of the acts and the intent required to prove a crime. Thus, for example, the elements of the crime of robbery are (1) the intent to commit a theft and (2) an assault or threat of assault in furtherance of the intent to commit a theft.

All criminal cases must be proven **beyond a reasonable doubt**. This means that the facts proven must, by virtue of their probative force, establish guilt. The jury must be fully satisfied, or entirely convinced of guilt. It does not mean that there is absolutely no doubt, but that there is no reasonable doubt.

Proof

Under Iowa law, a crime may be proven by direct or circumstantial evidence. The prosecution has the burden to prove the crime beyond a reasonable doubt. Direct and circumstantial evidence are equally probative.⁵⁰

A reasonable doubt is a doubt based upon reason and common sense, and not the mere possibility of innocence. A reasonable doubt is the kind of doubt that would make a reasonable person hesitate to act. Proof beyond a reasonable doubt, therefore, must be proof of such a convincing character that a reasonable person would not hesitate to rely and act upon it. However, proof beyond a reasonable doubt does not mean proof beyond all possible doubt.⁵¹

Parties to a Crime

A crime may be committed by a single person acting alone, or it may be committed with the assistance of several people. In addition, a person who commits a crime may get assistance from someone else after committing the crime. All of these parties may be subject to criminal liability for their actions.

The **principal** is the person who is primarily responsible or solely responsible for committing the crime. For example, the person who goes into a store, points a gun at the clerk, and says, "Your money or your life," is the principal in the robbery.

703.1 Aiding and abetting. All persons concerned in the commission of a public offense, whether they directly commit the act constituting the offense or aid and abet its commission, shall be charged, tried and punished as principals. The guilt of a person who aids and abets the commission of a crime must be determined upon the facts which show the part the person had in it, and does not depend upon the degree of another
...

⁴⁸ Iowa Code sec. 902.9(1).

⁴⁹ Iowa Code sec. 902.9(1).

⁵⁰ State v. Blair, 347 N.W.2d 416, 421 (Iowa 1984).

⁵¹ State v. McFarland, 287 N.W.2d 162 (Iowa 1980). See also Iowa Crim. Jury Inst. 100.10 (2009).

The principal may be assisted by someone else, who may qualify as an **aiders or abettors**. The person who aids or abets a crime is equally culpable, and will face the same punishment as the principal.⁵² In order to show that a person aids or abets, it is necessary to show that the person:

- (a) assented or lent countenance and approval to the criminal act, either by
 - (1) knowing participation
 - or
 - (2) encouragement prior to the crime

and

- (b) had the intent, or knowledge that principal has the required intent⁵³

Thus, for example, the person who knows about the robbery and contributes to the effort only by driving the robbery vehicle will be equally guilty of the crime of robbery.⁵⁴

Joint criminal conduct is a variation on aiding and abetting. Again, the culpability is the same as for the principal. Liability under a joint criminal conduct theory is somewhat limited, and often is confused with aiding and abetting or accessory after the fact.

To prove joint criminal conduct, it is necessary to show:

- (a) the persons were acting in concert
 - (b) that the person knowingly participated in a public offense
 - (c) a “different crime” must be committed by another person in furtherance of the defendant’s offense,
- and (d) the commission of the “different crime” was foreseeable.⁵⁵

Thus, for example, a person who agrees to help his friend assault a police officer with a chair, also will be held responsible if his cohort, in the course of the assault on the officer, pulls out the officer's gun and shoots him.⁵⁶ A defendant who rode along in a truck operated by a drunk driver could be held vicariously liable for the deaths caused by the collision.⁵⁷

The **accessory after the fact** does not know about the crime in advance, and has not participated in the commission of the crime. After the crime has been committed, however, the accessory after the fact learns about the crime and helps the perpetrator to escape detection. The culpability of the accessory after the fact depends on the seriousness of the crime that was committed. If the perpetrator committed a felony, the

703.3 Accessory after the fact. Any person having knowledge that a public offense has been committed and that a certain person committed it, and who does not stand in the relation of husband or wife to the person who committed the offense, who harbors, aids or conceals the person who committed the offense, with the intent to prevent the apprehension of the person who committed the offense, commits an aggravated misdemeanor if the public offense committed was a felony, or commits a simple misdemeanor if the public offense was a misdemeanor.

⁵² *State v. Baker*, 560 N.W.2d 10 (Iowa 1997).

⁵³ *State v. Lott*, 255 N.W.2d 105 (Iowa 1977); *State v. Wedebrand*, 602 N.W.2d 186 (Iowa Ct. App. 1999).

⁵⁴ *State v. LeCompte*, 327 N.W.2d 221 (Iowa 1982)

⁵⁵ *State v. Jefferson*, 574 N.W.2d 268 (Iowa 1997); *State v. Speaks*, 576 N.W.2d 629 (Iowa Ct. App. 1998)

⁵⁶ *State v. Phams*, 342 N.S.2d 792 (Iowa 1983)

⁵⁷ *State v. Satern*, 516 N.W.2d 839 (Iowa 1994)

accessory after the fact will be guilty of an aggravated misdemeanor. If the perpetrator committed a misdemeanor, the accessory after the fact will be guilty of a simple misdemeanor.

The requirements for proof of accessory after the fact are as follows:

- (a) knowledge that a public offense was committed by a certain person
- (b) not husband or wife of the perpetrator
- (c) harbors, aids, conceals the perpetrator with intent to prevent apprehension

Jurisdiction

In order to hear any criminal case, a court must have **jurisdiction**, that is, the legal authority to hold a trial and impose punishment upon conviction. Jurisdiction may be in either **state** court or **federal** court. In state court, the state district court (including district judges, associate district judges and magistrates) can hear cases that arise from state statute, county ordinance or municipal ordinance. In federal court, the federal district court (including district court judges and magistrate judges) can hear only cases arising from federal statutes. It is possible to bring both state and federal charges for the same conduct. There are greater restrictions on whether actions can be punished under both state and local law.

Some metal thefts have occurred in locations near the Iowa border. As a result, some thefts have occurred in one state and the stolen items have been sold in another state. Under Iowa law, a crime occurs in Iowa if any element of the crime was committed in Iowa. Thus, for example, if the individual steals items that are located in Iowa at the time of the theft, Iowa would have jurisdiction to charge the individual with Theft (under the “taking” alternative). If the individual has stolen items in a neighboring state but sells the items in Iowa, knowing them to be stolen, Iowa would have jurisdiction to charge the individual with Theft (under the “exercising control over stolen property” alternative).

Restitution

Under Iowa law, the victim of a theft is entitled to restitution from the offender.⁵⁸ “The victim is entitled to full restitution to the extent of the damage caused by the crime.”⁵⁹ The amount of restitution will depend on the facts proven at trial, or in a hearing after a conviction. “[A] restitution order must rest on a causal connection between the established criminal act and the injuries to the victim.” Once this causal connection is established by a preponderance of the evidence, the victim is entitled to recovery of all damages.⁶⁰ Valuation may be based on market values or replacement costs.

⁵⁸ Iowa Code § 910.2 (2011).

⁵⁹ State v. Wagner, 484 N.W.2d 212, 216 (Iowa Ct.App.1992).

⁶⁰ State v. Holmberg, 449 N.W.2d 376, 377 (Iowa 1989).

Civil Liability

The cost of copper thefts often goes beyond the value of the metal itself. Unfortunately, it is not unusual for the theft of copper wiring to result in injuries to offenders or to others who attempt to restore the facility or who do not realize that the theft has created a danger. For example:

- A federal employee died from injuries he sustained when he entered a building from which vandals had stolen copper wire, and the employee was struck by an arc flash when he tried to clean up after the vandalism and copper theft. The employee spent 8 days in a burn unit before he died.⁶¹

Iowa Examples

May-July 2011
Des Moines, IA

AT&T told Des Moines police that thieves have stolen copper wire from 5 cell phone towers. Three wires were pulled from an underground conduit and another was pulled out of a distribution panel to a power cabinet.

August 2011
Des Moines, IA

800 pounds of copper stolen from a construction trailer parked outside of Roosevelt High School.

August 2007
Onawa, IA

Earl Thelander was killed when his home exploded. Thieves had stolen copper and had cut the propane gas lines, which triggered an explosion several hours later when Mr. Thelander plugged in a fan. He was blown across the basement. Four days later, he died of his injuries.

April/May 2011
Des Moines, IA

More than \$10,000 worth of copper was taken from a business in northern Polk County.

July-August 2011
Woodbine, IA

Copper thieves were stealing copper ground wires from rural electric poles, including live wires.

July 2011
Allison, IA

The Butler County REC reported that 89 spools of copper wire (weighing 25 pounds each) were stolen from a warehouse in Allison. The pickup used in the theft was abandoned in a nearby farm field.

April 2011
Waterloo

Copper thieves were caught stealing metal from homes on Sans Souci Island that were abandoned after the floods of 2008.

December 2011
Clinton, IA

Clinton police report a dramatic increase in copper thefts in the last half of 2011.

⁶¹ Eubank v. Kansas City Power & Light Co., 626 F.3d 424 (8th Cir. 2010) (no actionable negligence by federal government, so no subject matter jurisdiction).

Iowa Code, Effective July 1, 2011

(amended portions noted in **bold** type)

714.27. Copper theft--ordinance authorized--penalty

1. The governing body of a political subdivision in which copper theft has been reported may consider the adoption of a copper theft ordinance requiring a salvage dealer to maintain complete, accurate, and legible records in the English language of all purchases and receipt of salvaged materials. Such records shall be maintained and located at the place of business of the salvage dealer for a minimum of one year from the date of purchase or receipt by the salvage dealer.

2. The ordinance may require a salvage dealer to maintain one or more of the following records:

a. The identity of the person from whom the salvaged material was received or purchased, including name and address; date of birth; Iowa driver's license number, Iowa nonoperator's identification card number, or social security number in conjunction with photo identification; sex, age, height, and race.

b. The vehicle license plate number of the vehicle that delivered the salvaged material to the salvage dealer, if applicable.

c. The date and hour of the purchase or receipt of the salvaged material.

d. A reasonably accurate inventory and description of the salvaged material obtained.

e. The value of or amount paid for the salvaged material.

f. The weight or other measurable quantity of the salvaged material.

g. From whom and at what time and place the salvaged material was obtained by the person from whom it was purchased or received, if known.

h. The date and manner of disposition by the salvage dealer of the salvaged material by each article or in bulk.

i. The name and address of the person to whom the salvaged material was sold or otherwise disposed of.

3. a. (1) In the event that a political subdivision issues a license or permit to a salvage dealer for the operation of a salvage business, the ordinance may provide for the suspension, revocation, or nonrenewal of the license or permit in the event the ordinance is violated by the salvage dealer. A suspension, revocation, or nonrenewal shall not take effect without notice delivered to the licensee or permittee in the regular mail addressed to the licensee or permittee at the licensed premises a minimum of ten days prior to a date set for hearing

before a magistrate or district associate judge. The notice shall inform the licensee or permittee of the time, date, and place of hearing, the purpose of the hearing, and shall set out briefly the reasons for the hearing.

(2) A decision regarding whether to suspend or revoke a license or permit, or deny its renewal, shall be at the discretion of the magistrate or district associate judge, based upon the circumstances surrounding the violation and its severity.

(3) A licensee or permittee whose license or permit or renewal has been revoked or denied because of a violation of this section shall not be eligible for another such license or permit for a period of one hundred eighty days after the revocation or denial.

b. In the event a political subdivision does not issue a license or permit to a salvage dealer for the operation of a salvage business, the ordinance may provide for such penalty provision as the governing body of the political subdivision may deem appropriate.

716.7. Trespass defined

1. The term “property” shall include any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure whether publicly or privately owned.

2. The term “trespass” shall mean one or more of the following acts:

a. Entering upon or in property without the express permission of the owner, lessee, or person in lawful possession with the intent to commit a public offense, to use, remove therefrom, alter, damage, harass, or place thereon or therein anything animate or inanimate, or to hunt, fish or trap on or in the property, including the act of taking or attempting to take a deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, which is on or in the property by a person who is outside the property. This paragraph does not prohibit the unarmed pursuit of game or fur-bearing animals by a person who lawfully injured or killed the game or fur-bearing animal which comes to rest on or escapes to the property of another.

b. Entering or remaining upon or in property without justification after being notified or requested to abstain from entering or to remove or vacate therefrom by the owner, lessee, or person in lawful possession, or the agent or employee of the owner, lessee, or person in lawful possession, or by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of the property.

c. Entering upon or in property for the purpose or with the effect of unduly interfering with the lawful use of the property by others.

d. Being upon or in property and wrongfully using, removing therefrom, altering, damaging, harassing, or placing thereon or therein anything animate or inanimate, without the implied or actual permission of the owner, lessee, or person in lawful possession.

e. Entering or remaining upon or in railway property without lawful authority or without the consent of the railway corporation which owns, leases, or operates the railway property. This paragraph does not apply to passage over a railroad right-of-way, other than a track, railroad roadbed, viaduct, bridge, trestle, or railroad yard, by an unarmed person if the person has not been notified or requested to abstain from entering on to the right-of-way or to vacate the right-of-way and the passage over the right-of-way does not interfere with the operation of the railroad.

f. Entering or remaining upon or in public utility property without lawful authority or without the consent of the public utility that owns, leases, or operates the public utility property. This paragraph does not apply to passage over public utility right-of-way by a person if the person has not been notified or requested by posted signage or other means to abstain from entering onto the right-of-way or to vacate the right-of-way.

3. The term “trespass” shall not mean entering upon the property of another for the sole purpose of retrieving personal property which has accidentally or inadvertently been thrown, fallen, strayed, or blown onto the property of another, provided that the person retrieving the property takes the most direct and accessible route to and from the property to be retrieved, quits the property as quickly as is possible, and does not unduly interfere with the lawful use of the property. **This subsection does not apply to public utility property where the person has been notified or requested by posted signage or other means to abstain from entering.**

4. The term “trespass” does not mean the entering upon the right-of-way of a public road or highway.

5. For purposes of this section, “railway property” means all tangible real and personal property owned, leased, or operated by a railway corporation with the exception of any administrative building or offices of the railway corporation.

For purposes of this section, “railway corporation” means a corporation, company, or person owning, leasing, or operating any railroad in whole or in part within this state.

5A. For purposes of this section, “public utility property” means any land, dwelling, building, conveyance, vehicle, or other temporary or permanent structure owned, leased, or operated by a public utility and that is completely enclosed by a physical barrier of any kind. For the purposes of this section, a “public utility” is a public utility as defined in section 476.1 or an electric transmission line as provided in chapter 478.

6. This section shall not apply to the following persons:

a. Representatives of the state department of transportation, the federal railroad administration, or the national transportation safety board who enter or remain upon or in railway property while engaged in the performance of official duties.

b. Employees of a railway corporation who enter or remain upon or in railway property while acting in the course of employment.

c. Any person who is engaged in the operation of a lawful business on railway station grounds or in the railway depot.

d. Representatives of the Iowa utilities board, the federal energy regulatory commission, or the federal communications commission who enter or remain upon or in public utility property while engaged in the performance of official duties.

e. Employees of a public utility who enter or remain upon or in public utility property while acting in the course of employment.

716.8. Penalties

1. Any person who knowingly trespasses upon the property of another commits a simple misdemeanor.

2. Any person committing a trespass as defined in section 716.7, **other than a trespass as defined in section 716.7, subsection 2, paragraph “F”**, which results in injury to any person or damage in an amount more than two hundred dollars to anything, animate or inanimate, located thereon or therein commits a serious misdemeanor.

3. A person who knowingly trespasses on the property of another with the intent to commit a hate crime, as defined in section 729A.2, commits a serious misdemeanor.

4. A person committing a trespass as defined in section 716.7 with the intent to commit a hate crime which results in injury to any person or damage in an amount more than two hundred dollars to anything, animate or inanimate, located thereon or therein commits an aggravated misdemeanor.

5. A person who commits a trespass while hunting deer, other than a farm deer as defined in section 170.1 or preserve whitetail as defined in section 484C.1, commits a simple misdemeanor. The person shall also be subject to civil penalties as provided in sections 481A.130 and 481A.131. A deer taken by a person while committing such a trespass shall be subject to seizure as provided in section 481A.12.

6. Any person who commits a trespass as defined in section 716.7, subsection 2, paragraph “F”, commits a class “D” felony.

Other States

Alabama	1975 § 13A-8-34	A secondary metals recycler shall maintain a legible record of all purchase transactions to which the secondary metals recycler is a party
Arizona	44-1642 28-2091	Relates to scrap metal dealer record of purchase, a photo copy of driver license, fingerprints and validation of recorded information; provides for industrial accounts, relates to defacing, damaging or tampering with any utility, agriculture infrastructure, property, construction site or existing structure for purposes of obtaining nonferrous metals, requires later payment by check for scrap metal
Arkansas	A.C. A. s 5-36-123 A.C. A. s 17-44-102 A.C. A. s 17-44-103	Establishes the crime of scrap metal theft. Scrap metal means copper, copper alloy, copper utility wire, any bronze, or any aluminum. Penalty increased if damage caused to property during theft is greater than \$250. All dealers or purchasers within this state of scrap metal shall prepare and maintain records of all purchases of scrap copper utility wire. A seller shall not sell and a scrap metal recycler shall not purchase the following scrap metal unless reasonable, written documentation is provided that the seller is the owner of the scrap metal or is an employee, agent, or other person authorized to sell the scrap metal on behalf of the owner: (1) Scrap metal marked with the initials of an electrical, a telephone, a cable, other public utility, or a brewer; (2) Utility access covers; (3) Street light poles and fixtures; (4) Road and bridge guard rails; (5) Highway or street signs; (6) Water meter covers; (7) Metal beer kegs including those made of stainless steel that are clearly marked as being the property of the beer manufacturer; (8) Traffic directional and control signs; (9) Traffic light signals; (10) Any scrap metal marked with the name of a government entity; (11) Property owned by a telephone, a cable, a electric, a water, or other utility or by a railroad and marked or otherwise identified as such; and (12) Unused and undamaged building construction or utility materials consisting of copper, pipe, tubing or wiring, or aluminum wire, historical markers, or grave markers and vases.
California	West's Ann.Cal.Bus. & Prof.Code s 21605 West's Ann.Cal.Bus. & Prof.Code s 21608	Every junk dealer and every recycler in this state is hereby required to keep a written record of all sales and purchases made in the course of his or her business. A junk dealer or recycler who fails in any respect to keep the written record is guilty of a misdemeanor. Every junk dealer or recycler who refuses, upon demand pursuant to exhibit the required written record or who destroys that record within two years after making the final entry of a purchase or sale of junk is guilty of a misdemeanor. The violation for a first offense is a fine of not less than \$1,000 or imprisonment in the county jail for not less than 30 days, or both that fine and imprisonment; for a second offense, \$2,000 or imprisonment in the county jail for not less than 30 days, or by both; for a third or any subsequent violation,\$4,000 or imprisonment in the county jail for not less than six months.
Connecticut	13a-123	Requires scrap metal processors to comply with licensing and registration requirements applicable to junk dealers; requires scrap metal processors to maintain records that are open to examination.
Delaware	24 Del.C. s 2302	Every scrap metal processor shall create a record and provide information on a form to be supplied by the Delaware State Police or on another form that has been previously approved by the law enforcement agency having primary jurisdiction over the area in which the scrap metal processor's business is located with respect to copper, silver, gold or brass purchased or otherwise acquired.
Florida	538.19	
Georgia	§ 10-1-351 § 10-1-352 § 10-1-356	A secondary metals recycler shall maintain a legible record of all purchase transactions to which such secondary metals recycler is a party. If the purchase involves a stainless steel beer keg, the seller must provide written documentation from the manufacturer that the seller is the owner of the stainless steel beer keg or is an employee or agent of the manufacturer. A secondary metals recycler shall maintain a legible record of all purchase transactions to which such secondary metals recycler is a party. During the usual and customary business hours of a secondary metals recycler, a law enforcement officer shall, after properly identifying himself as a law enforcement officer, have the right to inspect: (1) Any and all purchased regulated metal property in the possession of the secondary metals recycler; and (2) any and all records required to be maintained. It shall be unlawful for: (1) A secondary metals recycler to engage in the purchase or sale of regulated metal property between the hours of 9:00 P.M. and 6:00 A.M.; and (2) Any person to give a false statement of ownership or to give a false or altered identification or vehicle tag number and receive money or other consideration from a secondary metals recycler in return for regulated metal property.
Hawaii	§445-232 §445-233 §445-235 §708-835.7	Requires licensing of scrap dealers with state treasurer. Every scrap dealer, when the dealer purchases scrap within the State, shall obtain a written statement signed by the seller certifying that the seller has the lawful right to sell and dispose of the scrap. Violation results in (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. 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. Theft of copper is a class C felony
Illinois	625 ILCS 5/5-401.3-4	Requires scrap metal dealers to keep records of transactions. This includes the purchase of beer kegs.
Indiana	Ind. Code 25-37.5-1-2	Requires valuable metal dealers to make and retain copies of government issued photo identification to verify the identity of persons whom dealers purchase valuable metal; provides a dealer may not accept a metal beer keg if the keg is clearly marked as the property of a brewery or the keg's markings have been made illegible.
Kansas	K.S.A. 50-6,110	It shall be unlawful for any person to sell any item or items of regulated scrap metal to a scrap metal dealer in

		<p>this state unless such person presents to such scrap metal dealer the seller's name, address and place of business, if any.</p> <p>Every scrap metal dealer shall keep a register in which the dealer shall at the time of purchase or receipt cross-reference to previously received information, or enter the name, residence or place of business, if any, of the person from whom the scrap metal dealer purchased or received the item, a description made in accordance with the commodity code standards of the trade of items purchased, the price paid for such item or items, and a copy of the seller's photo driver's license card or another government-issued photo identification card.</p>
Kentucky	KRS s 243.897 KRS s 433.890	<p>Every recycler, dealer in junk or metals, dealer in secondhand articles, vendor of bottles or rags, collector of or dealer in articles found in ashes, garbage, or other refuse shall keep records of purchases of any catalytic converter, railroad rails, nonferrous metal or an alloy thereof,</p> <p>or an object containing nonferrous metal or an alloy No recycler, scrap metal dealer, or scrap yard operator may purchase any metal beer keg, whether damaged or undamaged, except from the brewer or its authorized representative if the keg is clearly marked as the property of a brewery manufacturer; or the keg's identification markings have been made illegible.</p>
Maine	30-A MRSA § 3772 30-A MRSA § 3777	<p>Requires keeping records of all scrap metal purchases. Prohibits purchasing scrap metal (including beer kegs) without signed statement that property is not stolen. A person in violation commits a civil violation for which a fine of not less than \$50 and not more than \$1,500 may be adjudged.</p>
Michigan	M.C.L.A. 750.537 M.C.L.A. 750.538	<p>Applies the Penal Code to any unlawful barter, transfer, sale, or shipment of copper or silver by person working in mine Applies the Penal Code to unlawful sales, transfers, or shipments of copper or silver by persons not engaged in business of mining or producing.</p>
Minnesota	325E.21	<p>Appropriates money for public safety; relates to sentencing provisions; regulates scrap metal dealers.</p> <p>Requires video surveillance cameras or similar devices positioned to record or photograph a frontal view showing the face of each seller or prospective seller of scrap metal who enters the location. The scrap metal dealer shall also photograph the seller's or prospective seller's vehicle, including license plate, either by video camera or still digital camera, so that an accurate and complete description of it may be obtained from the recordings made by the cameras. The camera must record and display the accurate date and time and must be turned on at all times when the location is open for business and at any other time when scrap metal is purchased.</p>
Mississippi	Miss. Code Ann. s 97-17-71	<p>"Metal property" is defined as railroad track materials, copper materials and aluminum materials and electrical, communications or utility brass, stainless steel sinks, catalytic converters not attached to a motor vehicle and metal beer kegs.</p> <p>Every scrap metal dealer or other purchaser shall keep an accurate and legible record of purchases. A scrap metal dealer or other purchaser shall not enter into any cash transactions in payment for the purchase of metal property. A violation is a misdemeanor, and shall be punished by a fine not to exceed \$1,000 per offense, unless the purchase transaction or transactions related to the violation, in addition to any costs which are, or would be, incurred in repairing or in the attempt to recover any property damaged in the theft of or removal of the metal property, exceeds \$500, in which case the person shall be guilty of a felony and shall be imprisoned in the custody of the Department of Corrections for a term not to exceed ten years, fined not more than 10,000.00 or both.</p>
Nevada	N.R.S. 519.090	<p>Examination of books of assayer and purchaser upon affidavit of theft or other unlawful taking; Every assayer and purchaser shall keep and preserve a book of records for copper and copper bullion.</p>
New Hampshire	322:6-a 322:12-a	<p>Dealers shall keep records sufficient to the licensing authority of the accumulation, storage, and handling of commodities as a junk or scrap metal dealer.</p> <p>No junk or scrap metal dealer licensed by a governing body shall purchase any metal keg for malt beverages or pieces of such metal keg, unless the seller is the brewer whose name or marking appears on the keg. If the brewer's name or marking has been removed or obliterated, the licensee shall not purchase the keg.</p>
New Mexico	N. M. S. A. 1978, s 57-30-4 N. M. S. A. 1978, s 57-30-5	<p>The secondhand metal dealer or the dealer's agent shall visually verify he accuracy of the personal identification document and vehicle identification presented by the seller at the time of the dealer's purchase of regulated material.</p> <p>A secondhand metal dealer shall keep an accurate and legible written record, in a form approved by the department, of each purchase made in the course of the dealer's business from a person of copper or brass material, bronze material, aluminum material in excess of ten pounds; or steel material in excess of one ton, except that a written record shall be kept of each purchase of a stainless steel beer keg.</p>
New York	McKinney's General Business Law § 60	<p>Provides definitions of junk metal and junk dealer; provides for certain required identification and reporting procedures on the purchase of metal.</p>
North Carolina	N.C. Gen. Stat. 66-11.1	<p>Unlawful for any person to transport or have in his possession on highways of this State, in any vehicle other than a vehicle used in the ordinary course of business for the purpose of transporting such copper, an amount of such copper of an aggregate weight of more than 25 pounds, unless specifically permitted or registered.</p>
Ohio	4737.04(6)(B) 4737.99	<p>Every scrap metal dealer shall maintain a record book or electronic file, in which the dealer shall keep an accurate and complete record of all articles purchased or received by the dealer in the course of the dealer's daily business.</p> <p>Violation carries fine not less than twenty-five nor more than one thousand dollars and the costs of prosecution.</p>
Oklahoma	21 Okl.St. Ann. s 1727 21 Okl.St. Ann. s 1728	<p>Copper stealing, removing, or aiding in copper theft is a felony met with certain penalties</p> <p>Any person who shall receive, transport, or possess in this state stolen copper wire, copper cable, or copper tubing under such circumstances that he knew or should have known that the same was stolen shall upon conviction thereof be guilty of a felony and shall be confined in the State Penitentiary for a term of not less than one year nor more than five years, or shall be confined in the county jail for not less than ninety days nor more than two hundred days, or shall be fined not less than \$100.00 nor more than \$500.00, or both such fine and imprisonment.</p>
Rhode Island	House Bill No.7482	<p>Provides that each person purchasing or receiving old or used metals other than junked automobiles or automobile parts maintain a record of each purchase or receipt. The record must include the date of the transaction, the name, address, telephone number and signature of the person from whom the old or used metals</p>

		are purchased or received, a description of the old or used metals, and the price paid for the old or used metals. The records must be produced at the request of law enforcement officials.
South Carolina	Code 1976 s 16-1-100 Code 1976 s 16-17-680	Crimes classified as misdemeanors include copper theft. Unlawful purchase or transportation of copper wire or copper pipe, aluminum, products containing a mixture of copper and aluminum, and stainless steel beer kegs or containers—except for aluminum cans.
South Dakota	SDCL s 34A-6-112	If the scrap metal business is notified by a law enforcement officer that an item of nonferrous metal property has been reported as stolen, a scrap metal business shall hold that property intact and safe from alteration, damage, or commingling, and shall place an identifying tag or other suitable identification on the property. The scrap metal business shall hold the property for a period of time as directed by the law enforcement agency up to a maximum of ten business days
Tennessee	62-9-102 62-9-103 62-9-108	Effective October 1, 2008, no scrap metal dealer shall purchase, deal or otherwise engage in the scrap metal business unless the dealer is registered with the Department of Commerce and Insurance. No scrap metal dealer may purchase or otherwise acquire scrap metal from a person unless that person presents a state or federally issued photo identification card that appears valid on its face to the dealer, and provides a thumbprint. No scrap metal dealer shall knowingly purchase or possess a metal beer keg, whether damaged or undamaged, or any reasonably recognizable part thereof, on any premises that the dealer uses to buy, sell, store, shred, melt, cut or otherwise alter scrap metal.
Utah	U.C.A. 1953 s 76-10-907	information required in a written or electronic log, in the English language. The dealer shall record a complete description of the regulated metal, including weight and metallic description, in accordance with scrap metal recycling industry standards; the full name and residence of each person selling the regulated metal; the vehicle type and license plate number, if applicable, of the vehicle transporting the regulated metal to the dealer; the price per pound and the amount paid for each type of regulated metal purchased by the dealer; the date, time, and place of the purchase; at least one form of identification; the seller's signature on a certificate stating that he has the legal right to sell the scrap metal or junk; and a digital photograph or still video of the seller, taken at the time of the sale, or a clearly legible photocopy of the seller's identification.
Virginia	Va. Code Ann. s 59.1-128	It shall be unlawful for any person, firm or corporation to barter, purchase, exchange, buy or accept from any person whomsoever, except the manufacturer thereof or his authorized agent, railroad, coal mining, industrial, manufacturing and public utility companies, or the authorized agents of such companies, governmental agencies, and licensed junk dealers, licensed scrap metal dealers, licensed electrical contractors and licensed merchants, any secondhand grooved or figure-eight copper trolley wire, bare or insulated heavy stranded copper or aluminum feeder wire, high voltage copper or aluminum transmission wire, or bare or insulated mining machine copper cables.
Washington	19.290.020 19.290.010 19.290.30	Requires every scrap metal business in the state to produce accurate and legible records of each transaction involving nonferrous metal property; provides the correct format for transaction documentation; prohibits transactions with a person who cannot produce specified identification or from a commercial seller who does not have a commercial account with the business. This includes purchase of catalytic converters.
West Virginia	W. Va. Code, s 61-3-49	Any person who knowingly or with fraudulent intent violates any provision of this section, including the knowing failure to make a report or the knowing falsification of any required information, is guilty of a misdemeanor and, upon conviction of a first offense thereof, shall be fined not less than one thousand dollars nor more than three thousand dollars; upon conviction of a second offense thereof, shall be fined not less than two thousand dollars and not more than four thousand dollars and the court in which the conviction occurred shall issue an order directing the tax commissioner to suspend for a period of six months any business registration certificate held by that person; and upon conviction of a third or subsequent offense thereof shall be fined not less than three thousand dollars and not more than five thousand dollars and, the court in which the conviction occurred shall issue an order directing the tax commissioner to cancel any business registration certificate held by that person and state the date said cancellation shall take effect.
Wisconsin	134.405	A scrap metal purchaser must collect identification from sellers and maintain these, along with information specific to each sale, in a system of records. A scrap metal dealer who knowingly violates this section and who has not knowingly committed a previous violation of this section is subject to a fine not to exceed \$1,000 or imprisonment not to exceed 90 days, or both. A scrap metal dealer who knowingly violates this section and who has knowingly committed one previous violation of this section is subject to a fine not to exceed \$10,000 or imprisonment not to exceed 9 months, or both. A scrap metal dealer who knowingly violates this section and who has knowingly committed more than one previous violation of this section is guilty of a Class I felony.