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**Testimony to the Senate Judiciary Committee
In Support of HB2312
March 14, 2011**

Senator Owens and committee members,

The scrap metal theft problem in Kansas continues. Central air conditioning units have become a target. I recently heard an ad for a monitored residential alarm service on a Topeka radio station claiming they can even protect your outdoor air conditioning unit from theft. Copper remains the predominant target. Brass and even cutting catalytic convertors off of cars are also targeted metals. Here are some examples:

- In February 2010 thieves stole the copper and brass components from a public pool in Topeka. The damage resulted in \$10,000-\$15,000 of repairs required to reopen the pool. Due to other factors the pool was not open for use last summer.
- In October 2010 thieves stole the copper pipe and fittings from a storm water pump station in Topeka. The cost to repair was estimated to be \$200,000 to \$300,000.
- In January 2011 thieves stole \$200,000 of copper and brass from a Topeka custom metal fabricating company.
- In December 2010 and again in January 2011 thieves stole copper wiring from Hamm's Quarry in Jefferson County. The first time disabling their conveyor system.
- In January 2011 thieves stole \$30,000 worth of copper and brass from a Topeka Fire Station construction site. The thieves were apprehended due to information supplied by a scrap metal dealer.
- In January 2011 thieves stole \$7000 worth of stainless steel and copper pipe from a business in Lawrence.
- In May 2010 thieves struck a KU construction site three times stealing over \$3000 of copper wire.
- In June 2010 thieves stole the underground electrical wiring from a park in Tonganoxie rendering the lights on a soccer field and walking trail inoperative.
- In August 2010 thieves stripped copper from a closed industrial site in Douglas County. News reports also indicated Douglas County has had recent cases of copper wiring being stripped from farm field equipment.

Although the laws passed in 2007 and 2009 have proven beneficial we have found some dealers are not following those statutes. Some do not record all of the transactions as the statutes require. The current law requires the scrap metal dealers to keep a register of who they buy certain metals from when the purchase exceeds a minimum purchase price. This has produced good results in

some investigations. According to the Topeka Capital Journal, one Topeka scrap metal dealer declared in 2009 a drop in their company's scrap metal purchases was attributed, ". . . to a new law requiring sellers to show a driver's license." The Topeka Police Department was reporting a 44% drop in metal thefts at the same time. Late last year, a significant theft of metal from a commercial radio transmission tower site near Pittsburg was solved, and the stolen items were recovered, in large part to information supplied by a scrap metal dealer's actions and records.

However, we have some of the scrap metal dealers who fail to follow these rules. To combat this lack of compliance, some local governments have added additional scrap metal controls. Wichita and Kansas City have been the leaders in this area. Wichita instituted a licensing program for all scrap metal dealers in their city several years ago and they modified the licensing process in early 2010. Licensing has proven to be the tool needed in Wichita to gain scrap metal dealer compliance with the other provisions of the scrap metal laws. This has resulted in information being available to police to initiate investigations aimed at particular persons of interest. Licensing is one of the provisions proposed in HB2312.

The other side of the equation to addressing this problem is to strengthen the sentencing provisions for these types of theft. It is important to understand these cases are not easy to investigate and bring to prosecution. There are many obstacles including matching the scrap metal to a particular crime and matching the person selling the material to the actual theft. We will only address these crimes through regulation making it more difficult to sell the stolen metal without being identified. Even if we fail to connect the person selling the material to a particular crime, the mere fact of "almost" getting caught and facing police questioning will deter some of these criminals. But we also have to send a message that these thefts will not be tolerated. Our proposal also includes enhancements to the theft statutes.

So what exactly does this bill do?

First, and most importantly it establishes a statewide licensing program for all scrap metal dealers in the state. You can find this in Sections 1-3 of the bill. Our proposal follows the existing cereal malt beverage licensing process. We chose this method because there is not a state agency with a particular interest in the scrap metal businesses. This process establishes consistent statewide licensing criteria and sanctions. This avoids creating an entirely new process to apply to this licensing. The licenses are obtained from the cities or counties. The teeth this puts into the law is the possibility of having the license suspended or revoked if the business does not follow the scrap metal statutes. The provisions of this licensing proposal is very similar to what is being used in Kansas City and Wichita. They have been working in both of those cities without causing any undue hardship on the dealers.

Second, the theft statute is modified to do the following when the theft is of regulated scrap metal. (Starting on page 5, line 6) These amendments:

- Defines "value" as used in cases of regulated scrap metal as the higher of either the value of the stolen items or the cost to restore the site of the theft to its pre-theft condition. (Page 6 lines 8-14)
 - This is designed to address the much greater cost of replacing the stolen pipes, wiring, and equipment as compared to the value of the metal as scrap. An excellent example is found in a news article in the Lawrence Journal World in

2008, "A thief walked out of a North Lawrence home with less than \$10 worth of copper water pipes and left behind thousands of dollars in damage."

- Another news report in the Lawrence Journal World said of the theft of copper wire from irrigation equipment, "The thefts have cost farmers between \$4,000 and \$11,000 per incident."
- Another news report about the theft of copper wire from street lights said, "Thieves may get only \$50 to \$100 worth of copper, but repairing a streetlight can cost the city \$2,000 or more."

Third, the statute uses the Wichita model of requiring payment by check for the purchase of scrap metal in excess of \$35 and other specific scrap metals which has proven effective in providing leads and evidence in metal thefts. (Page 9 lines 1-15)

We believe we have incorporated into this bill the key elements proven effective in Wichita. We did not incorporate other concepts that they have found helpful. These include:

- A requirement certain metal must be retained for 72 hours in all cases.
- A requirement that any air conditioning condenser must have a tag showing the refrigerant has been removed by a person licensed to do so.
- Mandatory daily reporting to law enforcement of the purchase log.

It is important that the state law allow cities or counties to be more restrictive or to have broader ordinances or resolutions to regulate scrap metal sales. For example, Wichita has created a class of "special regulated scrap metal" that addresses local issues relating to the aircraft and other industry in their city. We believe this is more appropriate than trying to regulate those things statewide that do not have a statewide application.

We are not asking anything of the scrap metal dealers that has not been in use in Wichita and proven workable with their scrap metal dealers. The use of these standards statewide will stop the thieves from merely dealer shopping for one that is not licensed or not following the existing statutory requirements. Our proposal also addresses the sanctions against the thieves.

During the bill process in the House we worked diligently with representatives of the scrap metal industry. We made many concessions and amendments to the bill to accommodate their concerns. Many of these were in the licensing area. Unfortunately, after many hours of work and agreeing to many changes still in this bill, we failed to totally satisfy their desires. We feel we have given a great deal of ground already on the licensing and other issues.

We strongly urge your support of HB2312 to help us address this continuing theft problem costing victims across our state hundreds of thousands of dollars in losses each year. Help us keep our businesses in business, our utilities to hold down costs, and your constituents from suffering huge expenses to repair damage from a theft which is often time many times the money the thief will gain.

Please recommend this bill favorably for passage.

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