

The House Committee on Judiciary Non-civil offers the following substitute to SB 203:

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 14 of Chapter 1 of Title 10 and Code Section 16-8-12 of the Official Code
2 of Georgia Annotated, relating to secondary metals recyclers and penalties for certain theft
3 crimes, respectively, so as to change provisions relating to actions to recover property; to
4 change provisions relating to penalties for violating Article 14 of Chapter 1 of Title 10; to
5 change certain penalties for certain theft crimes; to provide for legislative findings and
6 preemption; to provide for related matters; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
10 secondary metals recyclers, is amended by revising Code Section 10-1-354, relating to
11 contesting identification or ownership of regulated metal property and action to recover
12 property, as follows:

13 "10-1-354.

14 (a) If the secondary metals recycler contests the identification or ownership of the
15 regulated metal property, the party other than the secondary metals recycler claiming
16 ownership of any regulated metal property in the possession of a secondary metals recycler
17 may, provided that a timely report of the theft of the regulated metal property was made
18 to the proper authorities, bring an action in the superior or state court of the county in
19 which the secondary metals recycler is located. The petition for such action ~~must~~ shall
20 include a description of the means of identification of the regulated metal property utilized
21 by the petitioner to determine ownership of the regulated metal property in the possession
22 of the secondary metals recycler.

23 (b) When a lawful owner recovers stolen regulated metal property from a secondary metals
24 recycler who has complied with the provisions of this article, and the person who sold the
25 regulated metal property to the secondary metals recycler is convicted of theft by taking,
26 theft by conversion, a violation of this article, ~~or~~ theft by receiving stolen property, or

1 criminal damage to property in the first degree, the court shall order the defendant to make
 2 full restitution, including, without limitation, attorneys' fees, court costs, and other
 3 expenses to the secondary metals recycler or lawful owner, as appropriate.

4 (c) When a lawful owner recovers stolen regulated metal property from a secondary metals
 5 recycler who has knowingly and intentionally not complied with the provisions of this
 6 article, and the secondary metals recycler is convicted of theft by taking, theft by
 7 conversion, theft by receiving stolen property, or a violation of this article, the court shall
 8 order the defendant to make full restitution, including, without limitation, attorneys' fees,
 9 court costs, and other expenses to the lawful owner."

10 SECTION 2.

11 Said article is further amended by revising Code Section 10-1-357, relating to penalties for
 12 violations of the article, as follows:

13 "10-1-357.

14 (a) Any person selling regulated metal property to a secondary metals recycler in violation
 15 of any provision of this article shall be guilty of a misdemeanor ~~unless the transaction or~~
 16 ~~transactions in violation of this article are~~ unless the value of the regulated metals property,
 17 in its original and undamaged condition, in addition to any costs which are, or would be,
 18 incurred in repairing or in the attempt to recover any property damaged in the theft or
 19 removal of such regulated metal property, is in an aggregate amount which exceeds
 20 \$500.00, in which case such person shall be guilty of a felony and, upon conviction, shall
 21 be punished by a fine of not more than \$5,000.00 or by imprisonment for not less than one
 22 nor more than five years, or both.

23 (b) Any secondary metals recycler knowingly and intentionally engaging in any practice
 24 which constitutes a violation of this article shall be guilty of a misdemeanor, ~~provided that~~
 25 ~~if a secondary metals recycler knowingly and intentionally engages in a pattern of practices~~
 26 ~~which constitute violations of this article and the transactions included in this pattern are~~
 27 unless the value of the regulated metals property, in its original and undamaged condition,
 28 in addition to any costs which are, or would be, incurred in repairing or in the attempt to
 29 recover any property damaged in the theft or removal of such regulated metal property, is
 30 in an aggregate amount which exceeds \$500.00, such secondary metals recycler shall be
 31 guilty of a felony and, upon conviction, shall be punished by a fine of not more than
 32 \$5,000.00 or by imprisonment for not less than one nor more than five years, or both."

33 SECTION 3.

34 Said article is further amended by adding a new Code section to read as follows:

1 "10-1-358.
2 The General Assembly finds that this article is a matter of state-wide concern. This article
3 supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted
4 by any county, municipality, consolidated government, or other local governmental agency
5 regarding the sale or purchase of regulated metal property."

6 **SECTION 4.**

7 Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to penalties for
8 violation of Code Sections 16-8-2 through 16-8-9, is revised in subsection (a) by striking "or"
9 at the end of paragraph (7), by replacing the period with "; or" at the end of paragraph (8),
10 and by adding a new paragraph to read as follows:

11 "(9) Notwithstanding the provisions of paragraph (1) of this subsection, if the property
12 of the theft was ferrous metals or regulated metal property, as such terms are defined in
13 Code Section 10-1-350, and the aggregate amount of such property, in its original and
14 undamaged condition, exceeds \$500.00, by imprisonment for not less than one nor more
15 than five years, a fine of not more than \$5,000.00, or both."

16 **SECTION 5.**

17 All laws and parts of laws in conflict with this Act are repealed.