

Senate Bill 203

By: Senators Harp of the 29th, Staton of the 18th, Mullis of the 53rd, Shafer of the 48th, Hamrick of the 30th and others

AS PASSED

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 a definition; to change provisions relating to actions to
4 recover property; to change provisions relating to penalties for violating Article 14 of
5 Chapter 1 of Title 10; to change certain penalties for certain theft crimes; to provide for
6 legislative findings and preemption; to provide for related matters; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to
11 secondary metals recyclers, is amended by revising paragraph (3) of Code Section 10-1-350,
12 relating to definitions, as follows:

13 "(3) 'Nonferrous metals' means stainless steel beer kegs and metals not containing
14 significant quantities of iron or steel, including, without limitation, copper, brass,
15 aluminum, bronze, lead, zinc, nickel, and alloys thereof."

16 **SECTION 1.1.**

17 Said article is further amended by revising Code Section 10-1-354, relating to contesting
18 identification or ownership of regulated metal property and action to recover property, as
19 follows:

20 "10-1-354.

21 (a) If the secondary metals recycler contests the identification or ownership of the
22 regulated metal property, the party other than the secondary metals recycler claiming
23 ownership of any regulated metal property in the possession of a secondary metals recycler
24 may, provided that a timely report of the theft of the regulated metal property was made
25 to the proper authorities, bring an action in the superior or state court of the county in

1 which the secondary metals recycler is located. The petition for such action ~~must~~ shall
 2 include a description of the means of identification of the regulated metal property utilized
 3 by the petitioner to determine ownership of the regulated metal property in the possession
 4 of the secondary metals recycler.

5 (b) When a lawful owner recovers stolen regulated metal property from a secondary metals
 6 recycler who has complied with the provisions of this article, and the person who sold the
 7 regulated metal property to the secondary metals recycler is convicted of theft by taking,
 8 theft by conversion, a violation of this article, ~~or~~ theft by receiving stolen property, or
 9 criminal damage to property in the first degree, the court shall order the defendant to make
 10 full restitution, including, without limitation, attorneys' fees, court costs, and other
 11 expenses to the secondary metals recycler or lawful owner, as appropriate.

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

18 SECTION 2.

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

21 "10-1-357.

22 (a) Any person selling regulated metal property to a secondary metals recycler in violation
 23 of any provision of this article shall be guilty of a misdemeanor ~~unless the transaction or~~
 24 ~~transactions in violation of this article are~~ unless the value of the regulated metals property,
 25 in its original and undamaged condition, in addition to any costs which are, or would be,
 26 incurred in repairing or in the attempt to recover any property damaged in the theft or
 27 removal of such regulated metal property, is in an aggregate amount which exceeds
 28 \$500.00, in which case such person shall be guilty of a felony and, upon conviction, shall
 29 be punished by a fine of not more than \$5,000.00 or by imprisonment for not less than one
 30 nor more than five years, or both.

31 (b) Any secondary metals recycler knowingly and intentionally engaging in any practice
 32 which constitutes a violation of this article shall be guilty of a misdemeanor, ~~provided that~~
 33 ~~if a secondary metals recycler knowingly and intentionally engages in a pattern of practices~~
 34 ~~which constitute violations of this article and the transactions included in this pattern are~~
 35 unless the value of the regulated metals property, in its original and undamaged condition,
 36 in addition to any costs which are, or would be, incurred in repairing or in the attempt to

1 recover any property damaged in the theft or removal of such regulated metal property, is
2 in an aggregate amount which exceeds \$500.00, such secondary metals recycler shall be
3 guilty of a felony and, upon conviction, shall be punished by a fine of not more than
4 \$5,000.00 or by imprisonment for not less than one nor more than five years, or both."

5 **SECTION 3.**

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

7 "10-1-358.

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

12 **SECTION 4.**

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

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

22 **SECTION 5.**

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