

House Bill 1373

By: Representatives Smyre of the 132nd, Hugley of the 133rd, Smith of the 131st, Buckner of the 130th, and Smith of the 129th

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 transaction records; to provide for
4 transmission of transaction records to the applicable sheriff's department; to regulate
5 payments to persons selling copper items to secondary metals recyclers; to increase penalties,
6 require a surety bond, and provide for damages; to change provisions relating to the
7 superseding nature of the article; to provide for related matters; to repeal conflicting laws;
8 and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

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 Code Section 10-1-351, relating to record
12 of transactions, as follows:

13 "10-1-351.

14 (a) A secondary metals recycler shall maintain a legible record of all purchase transactions
15 to which such secondary metals recycler is a party. Such record shall include the following
16 information:

17 (1) The name and address of the secondary metals recycler;

18 (2) The date of the transaction;

19 (3) The weight, quantity, or volume and a description of the type of regulated metal
20 property purchased in a purchase transaction. For purposes of this paragraph, the term
21 'type of regulated metal property' shall include a general physical description, such as
22 wire, tubing, extrusions, or castings;

23 (4) The amount of consideration given in a purchase transaction for the regulated metal
24 property;

25

26 (5) A signed statement from the person receiving consideration in the purchase
 27 transaction stating that he or she is the rightful owner of the regulated metal property or
 28 is entitled to sell the regulated metal property being sold;

29 (6) ~~A photocopy of a valid personal identification card~~ A copy of a valid driver's license
 30 or other state or federal government issued identification card containing the name,
 31 address, and photograph of the person delivering the regulated metal property to the
 32 secondary metals recycler;

33 (7) The distinctive number from, and type of, the personal identification card of the
 34 person delivering the regulated metal property to the secondary metals recycler; ~~and~~

35 (8) The vehicle identification number, license tag number, state of issue, and the ~~type~~
 36 make and model of the vehicle, if available, used to deliver the regulated metal property
 37 to the secondary metals recycler. ~~For purposes of this paragraph, the term 'type of~~
 38 ~~vehicle' shall mean an automobile, pickup truck, van, or truck; and~~

39 (9) A detailed written description from the person receiving consideration in the
 40 purchase transaction describing the source from which he or she obtained the regulated
 41 metal property.

42 (b) A secondary metals recycler shall maintain or cause to be maintained the information
 43 required by subsection (a) of this Code section for not less than two years from the date of
 44 the purchase transaction.

45 (c) When the metal being purchased is a motor vehicle, the person offering to sell the
 46 motor vehicle to a secondary metals recycler shall either provide the title to such motor
 47 vehicle or fully execute a cancellation of certificate of title for scrap vehicles form as
 48 promulgated by the Department of Revenue, Motor Vehicle Division, designated as
 49 MV-1SP, in accordance with Code Section 40-3-36. The secondary metals recycler shall
 50 forward the title or MV-1SP form to the Department of Revenue within 72 hours of receipt
 51 of the title or form.

52 (d) On and after July 1, 2010, secondary metals recyclers shall transmit a copy of the
 53 information required by subsection (a) of this Code section for each purchase transaction
 54 which occurred, within five days of such transaction, to the sheriff's department for the
 55 jurisdiction in which the secondary metals recycler is located."

56 SECTION 2.

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

58 "10-1-352.2.

59 A secondary metals recycler may pay cash for any ferrous metals or regulated metal
 60 property only if the amount of the consideration of such item or items is \$50.00 or less.

61 Payment for any ferrous metals or regulated metal property exceeding the value of \$50.00

62 shall be issued by check. Such check shall be payable only to the person named in
 63 paragraph (6) of subsection (a) of Code Section 10-1-351 and shall be transmitted to such
 64 person providing identification as required in paragraph (6) of subsection (a) of Code
 65 Section 10-1-351."

66 **SECTION 3.**

67 Said article is further amended by revising Code Section 10-1-357, relating to penalties for
 68 violations, as follows:

69 "10-1-357.

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

78 (b) Any secondary metals recycler knowingly and intentionally engaging in any practice
 79 which constitutes a violation of this article shall be guilty of a misdemeanor unless the
 80 value of the regulated metals property, in its original and undamaged condition, in addition
 81 to any costs which are, or would be, incurred in repairing or in the attempt to recover any
 82 property damaged in the theft or removal of such regulated metal property, is in an
 83 aggregate amount which exceeds ~~\$500.00~~ \$50.00, such secondary metals recycler shall be
 84 guilty of a felony and, upon conviction, shall be punished by a fine of not more than
 85 ~~\$5,000.00~~ \$50,000.00 or by imprisonment for not less than ~~one~~ five nor more than ~~five~~ 15
 86 years, or both.

87 (c) Each secondary metals recycler shall obtain a surety bond issued by a surety company
 88 authorized to do business in this state in an amount not less than \$500,000.00. The bond
 89 or trust account shall be in favor of the state for the benefit of any person who is damaged
 90 by any violation of this article or by the misfeasance or malfeasance of a secondary metals
 91 recycler. Any person harmed by the misfeasance or malfeasance of a secondary metals
 92 recycler may bring an action against the bond or trust account to recover damages suffered,
 93 which shall include, without limitation, reasonable attorney's fees."

94 **SECTION 4.**

95 Said article is further amended by revising Code Section 10-1-358, relating to the
 96 superseding nature of the article, to read as follows:

97 "10-1-358.

98 ~~The General Assembly finds that this article is a matter of state-wide concern. This article~~
 99 ~~supersedes and preempts all rules, regulations, codes, ordinances, and other laws adopted~~
 100 ~~by any county, municipality, consolidated government, or other local governmental agency~~
 101 ~~regarding the sale or purchase of regulated metal property. Any county, municipality,~~
 102 ~~consolidated government, or other local governing authority may adopt ordinances or~~
 103 ~~resolutions not in conflict with this article regarding the sale or purchase of regulated metal~~
 104 ~~property and such ordinances or resolutions shall be cumulative to this article.~~"

105 **SECTION 5.**

106 Code Section 16-8-12 of the Official Code of Georgia Annotated, relating to penalties for
 107 violation of Code Sections 16-8-2 through 16-8-9, is amended by revising paragraph (9) of
 108 subsection (a) as follows:

109 "(9) Notwithstanding the provisions of paragraph (1) of this subsection, if the property
 110 of the theft was ferrous metals or regulated metal property, as such terms are defined in
 111 Code Section 10-1-350, and the sum of the aggregate amount of such property, in its
 112 original and undamaged condition, plus any reasonable costs which are or would be
 113 incurred in the repair or the attempt to recover any property damaged in the theft or
 114 removal of such regulated metal property, exceeds \$500.00, by imprisonment for not less
 115 than ~~one~~ five nor more than ~~five~~ ten years, a fine of not more than ~~\$5,000.00~~ \$25,000.00,
 116 or both."

117 **SECTION 6.**

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