

Senate Bill 82

By: Senators Unterman of the 45th, Chance of the 16th and Staton of the 18th

**AS PASSED SENATE**

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
 2 relating to secondary metals recyclers, so as to change provisions relating to transaction  
 3 records; to provide for accessibility for review of transaction records to law enforcement  
 4 personnel; to prohibit the sale or purchase of certain metals; to provide for criminal penalties  
 5 for certain unlawful conduct; to regulate payments to persons selling copper items to  
 6 secondary metals recyclers; to provide jurisdiction for municipal courts to try and dispose  
 7 of certain cases; to exempt computers and computer equipment; to provide for related  
 8 matters; to repeal conflicting laws; and for other purposes.

9 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

10

**SECTION 1.**

11 Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to  
 12 secondary metals recyclers, is amended by revising Code Section 10-1-351, relating to record  
 13 of transactions, as follows:

14 "10-1-351.

15 (a) A secondary metals recycler shall maintain a legible record of all purchase transactions  
 16 to which such secondary metals recycler is a party. ~~Such record shall include on a form~~  
 17 prescribed by the state revenue commissioner which shall require the following  
 18 information:

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

20 (2) The date of the transaction;

21 (3) The weight, quantity, or volume and a description of the type of regulated metal  
 22 property purchased, utilizing the specifications of the Institute of Scrap Recycling  
 23 Industries Circular as the standard as such specifications existed on the effective date of  
 24 this paragraph, in a purchase transaction together with a dated and time-stamped  
 25 photograph of the purchased metal property and the name of the photographer. For  
 26 purposes of this paragraph, the term 'type of regulated metal property' shall include a

27 general physical description, such as wire, tubing, extrusions, ~~or~~ castings, automotive  
28 part, or farm equipment;

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

31 (5) A signed statement from the person receiving consideration in the purchase  
32 transaction ~~stating~~ certifying under oath that he or she is the rightful owner of the  
33 regulated metal property or ~~is entitled~~ is an employee, agent, or other person authorized  
34 to sell and dispose of the regulated metal property on behalf of the rightful owner being  
35 sold; obtained the metal and the physical address where the metal was obtained by such  
36 person; provided, however, that, in the case of motor vehicles, in addition to such  
37 certification, the person shall also provide the title to such motor vehicle or, if such motor  
38 vehicle has no title, other official documentation of ownership. The entity purchasing a  
39 motor vehicle that is titled shall cancel the title to such motor vehicle in accordance with  
40 Code Section 40-3-36;

41 Falsification of the statement required by this Code section shall be a violation of Code  
42 Section 16-10-71 and upon conviction shall be punishable pursuant to such Code section.

43 (6) The name and address of the person delivering the regulated metal property to the  
44 secondary metals recycler along with a photocopy or electronic scan of the driver's  
45 license or state or federally issued photo identification card of the person delivering the  
46 regulated metal property to the secondary metals recycler. If the secondary metals  
47 recycler has a copy of the valid photo identification of the person delivering the regulated  
48 metal property on file, the secondary metals recycler shall examine the photo  
49 identification, but may reference such photo identification on file without making a  
50 separate photo copy or electronic scan for each subsequent transaction. If the person  
51 delivering the regulated metal property does not have a driver's license or a state or  
52 federally issued photo identification card, then the secondary metals recycler shall not  
53 complete the transaction;

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

56 (8) The vehicle license tag number, state of issue, and the type of vehicle, if available,  
57 used to deliver the regulated metal property to the secondary metals recycler. For  
58 purposes of this paragraph, the term 'type of vehicle' shall mean an automobile, pickup  
59 truck, van, or truck; and

60 (9) Such other information as the state revenue commissioner may require.

61 (b) A secondary metals recycler shall maintain or cause to be maintained the information  
62 and records required by subsection (a) of this Code section for not less than two years from

63 the date of the purchase transaction and shall make such information and records readily  
 64 accessible for review by law enforcement personnel upon request.

65 (c)(1) Unless accompanied by a signed statement certifying under oath that the seller is  
 66 the rightful owner of the regulated metal property or is an employee, agent, or other  
 67 person authorized to sell and dispose of the regulated metal property on behalf of the  
 68 rightful owner, it shall be a violation to knowingly sell or attempt to sell to a secondary  
 69 metals recycler or for a secondary metals recycler to knowingly purchase or attempt to  
 70 purchase the following types of metal:

71 (A) Metal bearing a visible identifying mark of an electric, telephone, cable, water,  
 72 railroad, other public utility, or government entity;

73 (B) Utility access covers;

74 (C) Street light poles and fixtures;

75 (D) Road and bridge guard rails;

76 (E) Highway or street signs;

77 (F) Water meter covers;

78 (G) Traffic directional and control signs;

79 (H) Traffic light signals; and

80 (I) Historical markers, or grave markers and vases.

81 (2) A person convicted of a first offense of a violation of this subsection shall be guilty  
 82 of a misdemeanor. Any person who violates this subsection for the second or any  
 83 subsequent offense shall be guilty of a felony and, upon conviction thereof, shall be  
 84 punished by a fine of not more than \$1,000.00 or by imprisonment for not less than one  
 85 nor more than five years, or both.

86 (d) Any person who knowingly and willfully makes a false statement in the statement  
 87 required by paragraph (5) of subsection (a) or subsection (c) of this Code section shall be  
 88 guilty of false swearing and shall be subject to any penalties therefor prescribed by Code  
 89 Section 16-10-71."

## 90 SECTION 2.

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

92 "10-1-352.1.

93 (a) For purposes of this Code section, the term 'copper property' means any copper wire,  
 94 copper tubing, copper pipe, or any item composed completely of copper.

95 (b) A secondary metals recycler may pay cash for any copper property only if the amount  
 96 of the consideration of such item or items is \$100.00 or less. Payment for any copper  
 97 property exceeding the value of \$100.00 shall be issued by check. Such check shall be  
 98 payable only to the person named in paragraph (6) of subsection (a) of Code Section

99 10-1-351 and shall be transmitted to such person providing identification as required in  
 100 paragraph (6) of subsection (a) of Code Section 10-1-351; provided, however, that if such  
 101 person is delivering the copper property on behalf of a governmental entity or a nonprofit  
 102 or for profit business, the check may be payable to such business or entity and may also be  
 103 transmitted to such business or entity."

104 **SECTION 2A.**

105 Said article is further amended by revising Code Section 10-1-355, relating to purchases of  
 106 regulated metal property exempted from application of article, as follows:

107 "10-1-355.

108 (a) This article shall not apply to purchases of regulated metal property from:

- 109 (1) Organizations, corporations, or associations registered with the state as charitable,  
 110 philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored  
 111 organizations or associations or from any nonprofit corporations or associations;  
 112 (2) A law enforcement officer acting in an official capacity;  
 113 (3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof  
 114 of such status to the secondary metals recycler;  
 115 (4) Any public official acting under judicial process or authority who has presented proof  
 116 of such status to the secondary metals recycler;  
 117 (5) A sale on the execution, or by virtue, of any process issued by a court if proof thereof  
 118 has been presented to the secondary metals recycler; or  
 119 (6) A manufacturing, industrial, or other commercial vendor that generates or sells  
 120 regulated metal property in the ordinary course of its business.

121 (b) This article shall not apply to purchases of computers or computer equipment."

122 **SECTION 3.**

123 Said article is further amended by revising Code Section 10-1-356, relating to prohibited  
 124 acts, as follows:

125 "10-1-356.

126 (a) It shall be unlawful for:

- 127 (1) A secondary metals recycler to engage in the purchase or sale of regulated metal  
 128 property between the hours of 9:00 P.M. and 6:00 A.M.; and  
 129 (2) Any person to give a false statement of ownership or to give a false or altered  
 130 identification or vehicle tag number and receive money or other consideration from a  
 131 secondary metals recycler in return for regulated metal property.

132 (b) Any person who violates paragraph (1) of subsection (a) of this Code section shall be  
 133 guilty of a misdemeanor.

134 (c) Any person who violates paragraph (2) of subsection (a) of this Code section shall be  
135 guilty of a felony and, upon conviction thereof, shall be punished by a fine of not more than  
136 \$1,000.00 or by imprisonment for not less than one nor more than five years, or both."

137 **SECTION 4.**

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

140 "10-1-357.

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

149 (b) Any secondary metals recycler knowingly and intentionally engaging in any practice  
150 which constitutes a violation of this article shall be guilty of a misdemeanor unless the  
151 value of the regulated metals property, in its original and undamaged condition, in addition  
152 to any costs which are, or would be, incurred in repairing or in the attempt to recover any  
153 property damaged in the theft or removal of such regulated metal property, is in an  
154 aggregate amount which exceeds \$500.00, such secondary metals recycler shall be guilty  
155 of a felony and, upon conviction, shall be punished by a fine of not more than \$5,000.00  
156 or by imprisonment for not less than one nor more than five years, or both.

157 (c) Municipal courts are granted jurisdiction to try and dispose of cases in which a person  
158 is charged with any misdemeanor violation of this article."

159 **SECTION 5.**

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