

Senate Bill 296 - Prefile

By: Senator McKoon of the 29th

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 define a certain term; to provide that  
3 secondary metal recyclers shall not pay cash for certain items; to provide that is unlawful for  
4 a person to wilfully and maliciously cut, mutilate, deface, or otherwise injure any personal  
5 or real property, including any fixtures or improvements, for the purpose of obtaining  
6 nonferrous metals; to provide for penalties; to provide that secondary metals recyclers shall  
7 obtain a permit; to provide that persons desiring to sell nonferrous metals shall obtain a  
8 permit; to provide for offenses; to provide for penalties; to provide an exception; to provide  
9 an effective date; to repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

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

15 "10-1-350.

16 As used in this article, the term:

17 (1) 'Ferrous metals' means any metals containing significant quantities of iron or steel.

18 (2) 'Fixed site' means any site occupied by a secondary metals recycler as the owner of  
19 the site or as a lessee of the site under a lease or other rental agreement providing for  
20 occupation of the site by a secondary metals recycler for a total duration of not less than  
21 364 days.

22 ~~(2)~~(3) 'Law enforcement officer' means any duly constituted peace officer of the State  
23 of Georgia or of any county, municipality, or political subdivision thereof.

24 ~~(3)~~(4) 'Nonferrous metals' means stainless steel beer kegs and metals not containing  
25 significant quantities of iron or steel, including, without limitation, copper, brass,  
26 aluminum, bronze, lead, zinc, nickel, and alloys thereof.

27 ~~(4)~~(5) 'Person' means an individual, partnership, corporation, joint venture, trust,  
28 association, and any other legal entity.

29 ~~(5)~~(6) 'Personal identification card' means a current and unexpired driver's license or  
30 identification card issued by the Department of Driver Services or a similar card issued  
31 by another state, a military identification card, or an appropriate work authorization  
32 issued by the U.S. Citizenship and Immigration Services of the Department of Homeland  
33 Security, which shall contain the individual's name, address, and photograph.

34 ~~(6)~~(7) 'Purchase transaction' means a transaction in which a secondary metals recycler  
35 gives consideration in exchange for regulated metal property.

36 ~~(7)~~(8) 'Regulated metal property' means any item composed primarily of any nonferrous  
37 metals, but shall not include aluminum beverage containers, used beverage containers,  
38 or similar beverage containers.

39 ~~(8)~~(9) 'Secondary metals recycler' means any person who is engaged, from a fixed  
40 location or otherwise, in the business of paying compensation for ferrous or nonferrous  
41 metals that have served their original economic purpose, whether or not engaged in the  
42 business of performing the manufacturing process by which ferrous metals or nonferrous  
43 metals are converted into raw material products consisting of prepared grades and having  
44 an existing or potential economic value."

45 **SECTION 2.**

46 Said article is further amended by deleting the word "and" at the end of paragraph (7) of  
47 subsection (a) of Code Section 10-1-351, relating to record of transactions; by deleting the  
48 period at the end of paragraph (8) of said subsection and inserting "; and"; and by adding a  
49 new paragraph at the end of said subsection to read as follows:

50 "(9) A photocopy of the permit issued by the sheriff pursuant to Code Section 10-1-359."

51 **SECTION 3.**

52 Said article is further amended by revising subsection (b) of Code Section 10-1-352.1,  
53 relating to payment by recyclers for copper property, catalytic converters, or aluminum  
54 property, as follows:

55 "(b) A secondary metals recycler may pay by check or by cash for any copper property,  
56 catalytic converter, or aluminum property as follows:

57 (1) Cash payments shall ~~occur no earlier than 24 hours after the~~ not be made for copper  
58 property, catalytic converter, or aluminum property ~~is provided to the secondary metals~~  
59 recycler; and

60 (2) Checks shall be payable only to the person named who was recorded as delivering  
61 the copper property, catalytic converter, or aluminum property to the secondary metals

62 recycler; provided, however, that if such person is delivering the copper property,  
 63 catalytic converter, or aluminum property on behalf of a governmental entity or a  
 64 nonprofit or for profit business, the check may be payable to such business or entity and  
 65 may also be transmitted to such business or entity."

#### 66 SECTION 4.

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

68 "10-1-359.

69 (a)(1) It is unlawful for a person to wilfully and maliciously cut, mutilate, deface, or  
 70 otherwise injure any personal or real property, including any fixtures or improvements,  
 71 for the purpose of obtaining nonferrous metals in any amount.

72 (2) A person who violates a provision of this subsection is guilty of a misdemeanor  
 73 unless the value of the regulated metals property, in its original and undamaged  
 74 condition, in addition to any costs which are, or would be, incurred in repairing or in the  
 75 attempt to recover any property damaged in the theft or removal of such regulated metals  
 76 property, is in an aggregate amount which exceeds \$3,000.00, in which case such person  
 77 shall be guilty of a felony and, upon conviction, shall be punished by a fine of not more  
 78 than \$5,000.00 or by imprisonment for not less than one nor more than five years, or  
 79 both.

80 (3) A person who violates the provisions of this subsection resulting in bodily injury to  
 81 another person that creates a substantial risk of death, or causes permanent disfigurement  
 82 or protracted loss or impairment of the function of any bodily member or organ, is guilty  
 83 of a felony and, upon conviction, shall be imprisoned not more than 15 years.

84 (4) A person who violates the provisions of this subsection resulting in the death of  
 85 another person is guilty of a felony and, upon conviction, shall be imprisoned not more  
 86 than 30 years.

87 (5) A person who violates the provisions of this subsection resulting in disruption of  
 88 communication or electrical service to critical infrastructure for more than ten customers  
 89 of the communication or electrical service is guilty of a misdemeanor and, upon  
 90 conviction, shall be fined in the discretion of the court or imprisoned not more than three  
 91 years, or both.

92 (b)(1) Each secondary metals recycler shall obtain from the sheriff of each county in  
 93 which such secondary metals recycler's fixed sites are located a permit to purchase  
 94 nonferrous metals. The sheriff shall issue the permit to the secondary metals recycler if  
 95 the secondary metals recycler has a fixed site located in the sheriff's county and declares  
 96 on a form provided by the sheriff that he or she is informed of and will comply with the  
 97 provisions of this article. The sheriff shall keep a record of all permits issued pursuant

98 to this subsection containing, at a minimum, the date of issuance and the name and  
99 address of the permit holder. Each permit shall be valid for 24 months.

100 (2) It is unlawful to sell nonferrous metals in any amount to a secondary metals recycler  
101 unless the secondary metals recycler has a valid permit to purchase nonferrous metals  
102 issued pursuant to this subsection and the seller has a valid permit to transport and sell  
103 nonferrous metals issued pursuant to subsection (c) of this Code section.

104 (c)(1) Any person or entity desiring to transport or sell nonferrous metals to a secondary  
105 metals recycler shall obtain a permit to transport and sell nonferrous metals from the  
106 sheriff of the county in which the person resides or the entity is located. If the person is  
107 not a resident or the entity is not located in Georgia, the person or entity shall obtain a  
108 permit to transport and sell nonferrous metals from the sheriff of the county in which the  
109 secondary metals recycler purchasing the nonferrous metals is located. The sheriff shall  
110 issue the permit only if the person or entity declares on a form provided by the sheriff that  
111 the person or entity is informed of and will comply with the provisions of this article.  
112 The sheriff shall keep a record of all permits issued pursuant to this subsection  
113 containing, at a minimum, the date of issuance, the name and address of the permit  
114 holder, a photocopy of the permit holder's identification, the license plate number of the  
115 permit holder's motor vehicle, and the permit holder's photograph. The permit is valid  
116 for 12 months.

117 (2) It is unlawful to purchase nonferrous metals in any amount for the purpose of  
118 recycling the nonferrous metals unless the purchaser is a secondary metals recycler who  
119 has a valid permit to purchase nonferrous metals issued pursuant to subsection (b) of this  
120 Code section and the seller has a valid permit to transport and sell nonferrous metals  
121 issued pursuant to this subsection.

122 (d) Except as otherwise provided in this Code section, any person who knowingly violates  
123 a provision of this Code section shall be guilty of a misdemeanor of a high and aggravated  
124 nature and, upon a first conviction, shall be subject to incarceration for a period not to  
125 exceed one year and a fine not to exceed \$10,000.00. Each violation shall constitute a  
126 separate offense. In addition, any person who buys or sells nonferrous metals in violation  
127 of any provision of this article shall be liable to any person who was the victim of a crime  
128 involving such nonferrous metals for the full value of the metals and any repairs and related  
129 expense necessitated by the crime, plus a reasonable attorney's fee.

130 (e) The provisions of this Code section shall not apply to the purchase or sale of aluminum  
131 cans."

132 **SECTION 5.**

133 This Act shall become effective upon its approval by the Governor or upon its becoming law  
134 without such approval.

135 **SECTION 6.**

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