

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 style="text-align:center">**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.