

The Senate Regulated Industries and Utilities Committee offered the following substitute to HB 872:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling
2 and other trade practices, so as to provide for the comprehensive revision of provisions
3 regarding secondary metals recyclers; to provide for definitions, procedures, conditions,
4 limitations, and prohibitions relating to the buying and selling of regulated metal property;
5 to provide that secondary metals recyclers shall only purchase coil and certain copper wire
6 from certain persons; to provide that secondary metals recyclers shall only purchase burial
7 objects from certain persons; to change certain provisions relating to records secondary
8 metals recyclers are to required to maintain and provide to sheriffs; to change certain
9 provisions relating to inspections by law enforcement officers; to change certain provisions
10 relating to payment by secondary metals recyclers for regulated metal property; to provide
11 for powers, duties, and authority of sheriffs and other law enforcement officers; to provide
12 for permits and fees; to provide for a state-wide data base; to provide for criminal offenses
13 and penalties; to provide for forfeiture of certain property and procedure therefor; to provide
14 for local regulation of the sale and purchase of regulated metal property; to amend Article 1
15 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft, so as to
16 make certain changes for purposes of conformity; to amend Code Section 40-3-36 of the
17 Official Code of Georgia Annotated, relating to cancellation of certificate of title for scrap,
18 dismantled, or demolished vehicles, salvage certificate of title, administrative enforcement,
19 and removal of license plates, so as to revise certain provisions relating to the use of a form
20 to transfer title to a motor vehicle to be sold or disposed of as scrap metal or parts; to provide
21 for verification that a vehicle is not subject to any secured interest or lien; to provide for
22 additional changes to said Code section, relating to the use of a form to transfer title to a
23 motor vehicle to be sold or disposed of as scrap metal or parts and verification that a vehicle
24 is not subject to any secured interest or lien, subject to a contingency; to provide for
25 definitions; to amend Code Section 40-3-56 of the Official Code of Georgia Annotated,
26 relating to satisfaction of security interests and liens, so as to change certain provisions
27 relating to the release of security interests and liens; to provide for related matters; to provide

28 effective dates and a contingency; to provide for applicability; to repeal conflicting laws; and
29 for other purposes.

30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

31 **PART I**
32 **SECTION 1-1.**

33 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
34 trade practices, is amended by revising Article 14, relating to secondary metals recyclers, to
35 read as follows:

36 "ARTICLE 14

37 10-1-350.

38 As used in this article, the term:

39 (1) 'Aluminum property' means aluminum forms designed to shape concrete.

40 (2) 'Burial object' means any product manufactured for or used for identifying or
41 permanently decorating a grave site, including, without limitation, monuments, markers,
42 benches, and vases and any base or foundation on which they rest or are mounted.

43 (3) 'Coil' means any copper, aluminum, or aluminum-copper condensing coil or
44 evaporation coil including its tubing or rods. The term shall not include coil from a
45 window air-conditioning system, if contained within the system itself, or coil from an
46 automobile condenser.

47 (4) 'Copper property' means any copper wire, copper tubing, copper pipe, or any item
48 composed completely of copper.

49 (5) 'Deliverer' means any person who takes or transports the regulated metal property to
50 the secondary metals recycler.

51 ~~(1)~~(6) 'Ferrous metals' means any metals containing significant quantities of iron or steel.

52 ~~(2)~~(7) 'Law enforcement officer' means any duly constituted peace officer of the State
53 of Georgia or of any county, municipality, or political subdivision thereof.

54 ~~(3)~~(8) 'Nonferrous metals' means stainless steel beer kegs and metals not containing
55 significant quantities of iron or steel, including, without limitation, copper, brass,
56 aluminum, bronze, lead, zinc, nickel, and alloys thereof.

57 ~~(4)~~(9) 'Person' means an individual a natural person, partnership, corporation, joint
58 venture, trust, association, and or any other legal business entity.

59 ~~(5)~~(10) 'Personal identification card' means a current and unexpired driver's license or
 60 identification card issued by the Department of Driver Services or a similar card issued
 61 by another state, a military identification card, or an appropriate work authorization
 62 issued by the U.S. Citizenship and Immigration Services of the Department of Homeland
 63 Security, which shall contain the individual's name, address, and photograph.

64 ~~(6)~~(11) 'Purchase transaction' means a transaction in which a the secondary metals
 65 recycler gives consideration in exchange for regulated metal property.

66 ~~(7)~~(12) 'Regulated metal property' means any item composed primarily of any ferrous
 67 metals or nonferrous metals; and includes aluminum property, copper property, and
 68 catalytic converters but shall not include batteries, aluminum beverage containers, used
 69 beverage containers, or similar beverage containers.

70 ~~(8)~~(13) 'Secondary metals recycler' means any person who is engaged, from a fixed
 71 location or otherwise, in the business in this state of paying compensation for ~~ferrous or~~
 72 ~~nonferrous metals~~ regulated metal property that ~~have~~ has served ~~their~~ its original
 73 economic purpose, whether or not engaged in the business of performing the
 74 manufacturing process by which ~~ferrous metals or nonferrous metals are~~ regulated metal
 75 property is converted into raw material products consisting of prepared grades and having
 76 an existing or potential economic value.

77 (14) 'Seller' means the rightful owner of the regulated metal property or the person
 78 authorized by the rightful owner of the regulated metal property to conduct the purchase
 79 transaction; provided, however, that if the rightful owner of the regulated metal property
 80 is a person other than a natural person, such owner shall authorize a natural person to
 81 conduct the purchase transaction.

82 10-1-351.

83 (a) No secondary metals recycler shall purchase any coil unless it is purchased from:

84 (1) A contractor licensed pursuant to Chapter 14 of Title 43 who provides a copy of his
 85 or her valid license at the time of sale that is scanned or photocopied by the secondary
 86 metals recycler or whose scanned or photocopied license is on file with the secondary
 87 metals recycler; or

88 (2) A seller with verifiable documentation, such as a receipt or work order, indicating that
 89 the coils are the result of a replacement of condenser coils or a heating or air-conditioning
 90 system performed by a contractor licensed pursuant to Chapter 14 of Title 43.

91 (b) No secondary metals recycler shall purchase any copper wire which appears to have
 92 been exposed to heat, charred, or burned in an attempt to remove insulation surrounding
 93 it unless it is purchased from:

94 (1) A contractor licensed pursuant to Chapter 14 of Title 43 who provides a copy of his
 95 or her valid license at the time of sale that is scanned or photocopied by the secondary
 96 metals recycler or whose scanned or photocopied license is on file with the secondary
 97 metals recycler; or

98 (2) A seller with a copy of a police report showing that such seller's real property was
 99 involved in a fire.

100 10-1-352.

101 (a) No secondary metals recycler shall purchase a burial object unless it is purchased from:

102 (1) A funeral director licensed under the provisions of Chapter 18 of Title 43 or by
 103 another state who provides a copy of his or her valid license at the time of sale that is
 104 scanned or photocopied by the secondary metals recycler or whose scanned or
 105 photocopied license is on file with the secondary metals recycler;

106 (2) A cemetery owner registered pursuant to Code Section 10-14-4 or with another state
 107 who provides a copy of his or her valid registration at the time of sale that is scanned or
 108 photocopied by the secondary metals recycler or whose scanned or photocopied
 109 registration is on file with the secondary metals recycler;

110 (3) A manufacturer or distributor of burial objects who provides a copy of his or her
 111 valid business license at the time of sale that is scanned or photocopied by the secondary
 112 metals recycler and a letter from the owner or operator of the manufacturing or
 113 distributing business expressly recognizing the seller as an employee or authorized agent
 114 of the manufacturer or distributor or whose scanned or photocopied business license and
 115 letter are on file with the secondary metals recycler; or

116 (4) A person with verifiable documentation, such as a receipt from or contract with a
 117 licensed funeral director, registered cemetery owner, or manufacturer or distributor of
 118 burial objects, evidencing that such person is the rightful owner of the burial object.

119 (b) Any person who sells or purchases a burial object as scrap metal in violation of this
 120 Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by
 121 imprisonment for not less than five years nor more than 20 years.

122 ~~10-1-351~~: 10-1-353.

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

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

127 (2) The date of the transaction;

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

132 (4) A digital photograph or photographs or a digital video image or images of the
 133 regulated metal property which shows the regulated metal property in a reasonably clear
 134 manner;

135 ~~(4)~~(5) The amount of consideration given in a purchase transaction for the regulated
 136 metal property and a copy of the check or voucher or documentation evidencing the
 137 electronic funds transfer given as consideration for such purchase transaction;

138 ~~(5)~~(6) A signed and sworn affidavit from the person receiving consideration in the
 139 purchase transaction stating that he or she is the rightful owner of the regulated metal
 140 property or is entitled has been authorized by the rightful owner of the regulated metal
 141 property to sell the regulated metal property being sold;

142 (7) A signed and sworn affidavit from the seller stating that he or she understands that:
 143 'A secondary metals recycler is any person who is engaged, from a fixed location or
 144 otherwise, in the business in this state of paying compensation for regulated metal
 145 property that has served its original economic purpose, whether or not engaged in the
 146 business of performing the manufacturing process by which regulated metal property is
 147 converted into raw material products consisting of prepared grades and having an existing
 148 or potential economic value. No ferrous metals, nonferrous metals, aluminum property,
 149 copper property, or catalytic converters (batteries, aluminum beverage containers, used
 150 beverage containers, or similar beverage containers are exempt) may be purchased by a
 151 secondary metals recycler unless such secondary metals recycler is a holder of a valid
 152 permit issued pursuant to Article 14 of Chapter 1 of Title 10 of the Official Code of
 153 Georgia Annotated';

154 ~~(6)~~(8) A photocopy scanned or photocopied copy of a valid personal identification card
 155 of the person delivering the regulated metal property to the secondary metals recycler
 156 seller and the deliverer, if such person is different from the seller;

157 (9) A photograph, videotape, or digital recording depicting a recognizable facial image
 158 of the seller and the deliverer, if such person is different from the seller, employing
 159 technology allowing the image to be retained in electronic storage and in a transferable
 160 format;

161 ~~(7)~~(10) The distinctive number from, and type of, the personal identification card of the
 162 person delivering the regulated metal property to the secondary metals recycler seller and
 163 the deliverer, if such person is different from the seller; and

164 ~~(8)~~(11) The vehicle license tag number or vehicle identification number, state of issue,
 165 and the type of vehicle, if available, used to deliver the regulated metal property to the
 166 secondary metals recycler. For purposes of this paragraph, the term 'type of vehicle' shall
 167 mean an automobile, pickup truck, van, or truck;

168 (12) A scanned or photocopied copy of the verifiable documentation, reports, licenses,
 169 and registrations, required pursuant to Code Sections 10-1-351 and 10-1-352; and

170 (13) A scanned or photocopied copy of the permit issued by the sheriff pursuant to Code
 171 Section 10-1-360, if the regulated metal property is purchased from a secondary metals
 172 recycler.

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

176 (c) A secondary metals recycler shall provide all of the information required by
 177 subsection (a) of this Code section for each transaction, except for the amount of
 178 consideration given in a purchase transaction for the regulated metal property specified in
 179 paragraph (5) of subsection (a) of this Code section, to the sheriff of the county from which
 180 a secondary metals recycler has been issued a permit pursuant to Code Section 10-1-360;
 181 provided, however, that if the secondary metals recycler has been issued more than one
 182 permit, then such information shall only be provided to the sheriff of the county in which
 183 the purchase transaction took place.

184 ~~(c)~~(d) When the metal being purchased is a motor vehicle, the person offering to sell the
 185 motor vehicle to a secondary metals recycler shall either provide the title to such motor
 186 vehicle or fully execute a ~~cancellation of certificate of title for scrap vehicles~~ statement on
 187 a form as promulgated by the Department of Revenue, Motor Vehicle Division, designated
 188 as MV-1SP, in accordance with Code Section 40-3-36. The secondary metals recycler
 189 shall forward the title or MV-1SP form to the Department of Revenue within 72 hours of
 190 receipt of the title or form.

191 (e) It shall be unlawful to make a false statement in executing the affidavit required by
 192 either paragraph (6) or (7) of subsection (a) of this Code section, and the making of a false
 193 statement shall be punishable as an act of false swearing under Code Section 16-10-71.

194 ~~10-1-352.~~ 10-1-354.

195 During the usual and customary business hours of a secondary metals recycler, a law
 196 enforcement officer shall, after properly identifying himself or herself as a law enforcement
 197 officer, have the right to inspect:

198 (1) Any and all ~~purchased~~ regulated metal property in the possession of the secondary
 199 metals recycler; and

200 (2) Any and all records required to be maintained under Code Section ~~10-1-351~~
 201 10-1-353.

202 ~~10-1-352.1. 10-1-355.~~

203 ~~(a) As used in this Code section, the terms:~~

204 ~~(1) 'Aluminum property' means aluminum forms designed to shape concrete.~~

205 ~~(2) 'Copper property' means any copper wire, copper tubing, copper pipe, or any item~~
 206 ~~composed completely of copper.~~

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

209 ~~(1) Cash payments shall occur no earlier than 24 hours after the copper property,~~
 210 ~~catalytic converter, or aluminum property is provided to the secondary metals recycler;~~
 211 ~~and~~

212 ~~(2) Checks shall be payable only to the person named who was recorded as delivering~~
 213 ~~the copper property, catalytic converter, or aluminum property to the secondary metals~~
 214 ~~recycler; provided, however, that if such person is delivering the copper property,~~
 215 ~~catalytic converter, or aluminum property on behalf of a governmental entity or a~~
 216 ~~nonprofit or for profit business, the check may be payable to such business or entity and~~
 217 ~~may also be transmitted to such business or entity.~~

218 ~~(c) The provisions of this Code section shall not apply to any transaction between business~~
 219 ~~entities:~~

220 ~~(a) A secondary metals recycler shall pay only by check, voucher, or electronic funds~~
 221 ~~transfer for regulated metal property.~~

222 ~~(b) If the seller of the regulated metal property is an employee or authorized agent of a~~
 223 ~~business entity as evidenced by a copy of a valid business license and a letter from the~~
 224 ~~owner or operator of the business expressly recognizing the seller as an employee or~~
 225 ~~authorized agent, then payment for the regulated metal property shall be made only by~~
 226 ~~check or electronic funds transfer, at the option of the seller, made payable to the business~~
 227 ~~entity and mailed to or electronically transferred using the address of such business entity~~
 228 ~~14 days immediately following the sale.~~

229 ~~(c)(1) If the seller of the regulated metal property is not an employee or authorized agent~~
 230 ~~of a business entity or elects to be paid in his or her name, the payment for the regulated~~
 231 ~~metal property shall be by check, electronic funds transfer, or voucher, at the option of~~
 232 ~~the seller.~~

233 ~~(2) If the seller elects payment by check or electronic funds transfer pursuant to~~
 234 ~~paragraph (1) of this subsection, the check or electronic funds transfer shall be made~~
 235 ~~payable only to the natural person who was recorded as the seller of the regulated metal~~

236 property to the secondary metals recycler and mailed to or electronically transferred using
 237 the address indicated on the personal identification card of the seller presented at the time
 238 of such sale 14 days immediately following the sale.

239 (3) If the seller elects payment by voucher pursuant to paragraph (1) of this subsection,
 240 the secondary metals recycler shall mail the seller a voucher for the amount of regulated
 241 metal property purchased 14 days immediately following the sale. Such voucher shall
 242 made payable only to the natural person who was recorded as the seller of the regulated
 243 metal property to the secondary metals recycler and mailed to the address indicated on
 244 the personal identification card of the seller presented at the time of such sale. The
 245 voucher shall include the date of purchase, name of the seller, the amount paid for the
 246 regulated metal property, a detailed description of the regulated metal property
 247 purchased, and the date on which the voucher expires. The voucher may only be
 248 redeemed for cash by the person whose name appears on the voucher as the seller or by
 249 such person's heirs or legal representative. If a voucher is not redeemed by the person
 250 whose name appears on the voucher as the seller or by such person's heirs or legal
 251 representative within six months of the date of the transaction, the voucher shall expire
 252 and the secondary metals recycler shall not be required to honor the voucher after the
 253 expiration date.

254 ~~10-1-353.~~ 10-1-356.

255 (a) Whenever a law enforcement officer has reasonable cause to believe that any item of
 256 regulated metal property in the possession of a secondary metals recycler has been stolen,
 257 the law enforcement officer may issue a hold notice to the secondary metals recycler. The
 258 hold notice shall be in writing, shall be delivered to the secondary metals recycler, shall
 259 specifically identify those items of regulated metal property that are believed to have been
 260 stolen and that are subject to the notice, and shall inform the secondary metals recycler of
 261 the information contained in this Code section. Upon receipt of the notice issued in
 262 accordance with this Code section, the secondary metals recycler receiving the notice shall
 263 not process or remove the items of regulated metal property identified in the notice, or any
 264 portion thereof, from the premises of or place of business of the secondary metals recycler
 265 for 15 calendar days after receipt of the notice by the secondary metals recycler, unless
 266 sooner released by a law enforcement officer.

267 (b) No later than the expiration of the 15 day period, a law enforcement officer may issue
 268 a second hold notice to the secondary metals recycler, which shall be an extended hold
 269 notice. The extended hold notice shall be in writing, shall be delivered to the secondary
 270 metals recycler, shall specifically identify those items of regulated metal property that are
 271 believed to have been stolen and that are subject to the extended hold notice, and shall

272 inform the secondary metals recycler of the information contained in this Code section.
 273 Upon receipt of the extended hold notice issued in accordance with this Code section, the
 274 secondary metals recycler receiving the extended hold notice shall not process or remove
 275 the items of regulated metal property identified in the notice, or any portion thereof, from
 276 the premises of or place of business of the secondary metals recycler for 30 calendar days
 277 after receipt of the extended hold notice by the secondary metals recycler, unless sooner
 278 released by a law enforcement officer.

279 (c) At the expiration of the hold period or, if extended in accordance with this Code
 280 section, at the expiration of the extended hold period, the hold is automatically released and
 281 the secondary metals recycler may dispose of the regulated metal property unless other
 282 disposition has been ordered by a court of competent jurisdiction.

283 ~~10-1-354.~~ 10-1-357.

284 (a) If the secondary metals recycler contests the identification or ownership of the
 285 regulated metal property, the party other than the secondary metals recycler claiming
 286 ownership of any regulated metal property in the possession of a secondary metals recycler
 287 may, provided that a timely report of the theft of the regulated metal property was made
 288 to the proper authorities, bring an action in the superior or state court of the county in
 289 which the secondary metals recycler is located or in which the secondary metals recycler
 290 has been issued a permit pursuant to Code Section 10-1-360. The petition for such action
 291 shall include a description of the means of identification of the regulated metal property
 292 utilized by the petitioner to determine ownership of the regulated metal property in the
 293 possession of the secondary metals recycler.

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

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

307 ~~10-1-355:~~ 10-1-358.

308 This article shall not apply to purchases of regulated metal property from:

- 309 (1) Organizations, corporations, or associations registered with the state as charitable,
 310 philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored
 311 organizations or associations or from any nonprofit corporations or associations;
 312 (2) A law enforcement officer acting in an official capacity;
 313 (3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof
 314 of such status to the secondary metals recycler;
 315 (4) Any public official acting under judicial process or authority who has presented proof
 316 of such status to the secondary metals recycler;
 317 (5) A sale on the execution, or by virtue, of any process issued by a court if proof thereof
 318 has been presented to the secondary metals recycler; or
 319 (6) A manufacturing, industrial, or other commercial vendor that generates or sells
 320 regulated metal property in the ordinary course of its business.

321 ~~10-1-356:~~ 10-1-359.

322 It shall be unlawful for:

- 323 (1) A secondary metals recycler to engage in the purchase or sale of regulated metal
 324 property between the hours of ~~9:00~~ 7:00 P.M. and ~~6:00~~ 7:00 A.M.; and
 325 (2) Any person ~~to give a false statement of ownership or to give a false or altered~~
 326 ~~identification or vehicle tag number and receive money or other consideration from a~~
 327 ~~secondary metals recycler in return for regulated metal property~~ personal identification
 328 card, vehicle license tag number, or vehicle identification number to a secondary metals
 329 recycler as part of a purchase transaction.

330 10-1-360.

331 (a) Each secondary metals recycler shall be required to obtain a permit before engaging
 332 in the purchase of regulated metal property. If the secondary metals recycler is a person
 333 other than a natural person, such person shall obtain a permit from the sheriff of each
 334 county in which the secondary metals recycler maintains a place of business. If the
 335 secondary metals recycler is a natural person, he or she shall obtain a permit from the
 336 sheriff of the county in which he or she resides or if such natural person is a nonresident
 337 of this state, he or she shall obtain a permit from the sheriff of the county in Georgia where
 338 he or she primarily engages or intends to primarily engage in business as a secondary
 339 metals recycler. The secondary metals recycler shall declare on a form provided by the
 340 sheriff that he or she is informed of and will comply with the provisions of this article. The

341 sheriff shall issue a permit to the secondary metals recycler and shall keep a record of each
 342 permit issued pursuant to this subsection. Each permit shall be valid for 12 months.

343 (b)(1) The sheriff shall enter into a state-wide electronic data base a record of all permits
 344 including, at a minimum, the date of issuance and the name and address of the permit
 345 holder. Such data base shall be established through coordination with the Georgia Bureau
 346 of Investigation and shall be accessible and searchable by all law enforcement officers
 347 in this state.

348 (2) The sheriff shall enter the information provided to him or her by a secondary metals
 349 recycler pursuant to subsection (c) of Code Section 10-1-353 into the data base
 350 established pursuant to paragraph (1) of this subsection.

351 (3) The sheriff shall be authorized to:

352 (A) Delegate to personnel in the sheriff's office the issuance of permits and entering
 353 into the data base of the records of the permits and the information provided to him or
 354 her by a secondary metals recycler pursuant to subsection (c) of Code Section 10-1-353;
 355 and

356 (B) Enter into contracts with the governing authority of a county, municipality, or
 357 consolidated government for such governing authority to provide by ordinance for the
 358 issuance of such permits and the entry of such information into the data base by other
 359 law enforcement agencies, by staff of the governing authority, or by secondary metals
 360 recyclers. Any such contract shall provide for reimbursement to such governing
 361 authority for permit issuance or entry of information into the data base, or both, as is
 362 applicable.

363 (4) The sheriff shall be authorized to assess and require payment of a reasonable permit
 364 fee prior to the issuance of each permit for the purpose of establishing and maintaining
 365 the data base, not to exceed \$200.00.

366 (c) It shall be unlawful for any secondary metals recycler to purchase regulated metal
 367 property in any amount without a valid permit required pursuant to subsection (a) of this
 368 Code section.

369 (d) Any person convicted of violating this Code section shall be guilty of a misdemeanor
 370 of a high and aggravated nature.

371 ~~10-1-357. 10-1-361.~~

372 ~~(a) Any person selling regulated metal property to a secondary metals recycler in violation~~
 373 ~~of any provision of this article shall be guilty of a misdemeanor unless the value of the~~
 374 ~~regulated metals property, in its original and undamaged condition, in addition to any costs~~
 375 ~~which are, or would be, incurred in repairing or in the attempt to recover any property~~
 376 ~~damaged in the theft or removal of such regulated metal property, is in an aggregate~~

377 amount which exceeds \$500.00, in which case such person shall be guilty of a felony and,
 378 upon conviction, shall be punished by a fine of not more than \$5,000.00 or by
 379 imprisonment for not less than one nor more than five years, or both.

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

388 (a) Except as provided for in subsection (b) of Code Section 10-1-352, subsection (e) of
 389 Code Section 10-1-353, and subsection (c) of Code Section 10-1-360, any person who buys
 390 or sells regulated metal property in violation of any provision of this article:

391 (1) For a first offense, shall be guilty of a misdemeanor;

392 (2) For a second offense, shall be guilty of a misdemeanor of a high and aggravated
 393 nature; and

394 (3) For a third or subsequent offense, shall be guilty of a felony and, upon conviction
 395 thereof, shall be punished by imprisonment for not less than one nor more than ten years.

396 (b) Any person who buys or sells regulated metal property in violation of any provision
 397 of this article shall be liable in a civil action to any person who was the victim of a crime
 398 involving such regulated metal property for the full value of the regulated metal property,
 399 any repairs and related expenses incurred as a result of such crime, litigation expenses, and
 400 reasonable attorneys' fees.

401 10-1-362.

402 (a) As used in this Code section, the term:

403 (1) 'Crime' means:

404 (A) Theft by taking in violation of Code Section 16-8-2, theft by conversion in
 405 violation of Code Section 16-8-4, or theft by receiving stolen property in violation of
 406 Code Section 16-8-7 if the subject of the theft was regulated metal property;

407 (B) Criminal damage to property in the first degree in violation of paragraph (2) of
 408 subsection (a) of Code Section 16-7-22; or

409 (C) A criminal violation of this article.

410 (2) 'Proceeds' shall have the same meaning as set forth in Code Section 16-13-49.

411 (3) 'Property' shall have the same meaning as set forth in Code Section 16-13-49.

412 (b) The following are declared to be contraband, and no person shall have a property right
 413 in them:

414 (1) Any property which is, directly or indirectly, used or intended for use in any manner
 415 to facilitate a crime and any proceeds derived or realized therefrom; and

416 (2) Any weapon possessed, used, or available for use in any manner to facilitate a crime.

417 (c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall
 418 be forfeited in accordance with the procedures set forth in Code Section 16-13-49.

419 ~~10-1-358: 10-1-363.~~

420 The General Assembly finds that although this article is a matter of state-wide concern,
 421 local regulation may nonetheless be appropriate in order to enhance further the ability of
 422 law enforcement personnel to perform their duties. ~~This article supersedes and preempts~~
 423 ~~all~~ Consequently, this article shall be supplementary to local regulation and shall not
 424 supersede or preempt any rules, regulations, codes, ordinances, and other laws adopted by
 425 any county, municipality, consolidated government, or other local governmental agency
 426 regarding the sale or purchase of regulated metal property."

427 **SECTION 1-2.**

428 Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia Annotated, relating to theft,
 429 is amended by revising paragraph (9) of subsection (a) of Code Section 16-8-12, relating to
 430 penalties for violation of Code Sections 16-8-2 through 16-8-9, as follows:

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

438 **SECTION 1-3.**

439 Code Section 40-3-36 of the Official Code of Georgia Annotated, relating to cancellation
 440 of certificate of title for scrap, dismantled, or demolished vehicles, salvage certificate of title,
 441 administrative enforcement, and removal of license plates, is amended by revising
 442 paragraphs (2) and (3) of subsection (a) as follows:

443 "(2) Notwithstanding any other provision of this article to the contrary, if the owner or
 444 authorized agent of the owner has not obtained a title in his or her name for the vehicle
 445 to be transferred, or has lost the title for the vehicle to be transferred, he or she may sign

446 a statement swearing that, in addition to the foregoing conditions, the vehicle is worth
 447 \$850.00 or less and is at least 12 model years old. The statement described in this
 448 paragraph may be used only to transfer such a vehicle to a secondary metals recycler, a
 449 ~~licensed~~ used motor vehicle parts dealer ~~under Code Section 43-47-7~~ licensed pursuant
 450 to Chapter 47 of Title 43, or scrap metal processor ~~under Code Section 43-43-1~~. The
 451 department shall promulgate a form for the statement which shall include, but not be
 452 limited to:

- 453 (A) A statement that the vehicle shall never be titled again; it must be dismantled or
 454 scrapped;
- 455 (B) A description of the vehicle, including the year, make, model, vehicle identification
 456 number, and color;
- 457 (C) The name, address, and driver's license number of the owner;
- 458 (D) A certification that the owner:
- 459 (i) Never obtained a title to the vehicle in his or her name; or
 460 (ii) Was issued a title for the vehicle, but the title was lost or stolen;
- 461 (E) A certification that the vehicle:
- 462 (i) Is worth \$850.00 or less;
 463 (ii) Is at least 12 model years old; and
 464 (iii) Is not subject to any secured interest or lien;
- 465 (F) An acknowledgment that the owner realizes this form will be filed with the
 466 department and that it is a felony, punishable by imprisonment for not fewer than one
 467 nor more than three years or a fine of not less than \$1,000.00 nor more than \$5,000.00,
 468 or both, to knowingly falsify any information on this statement;
- 469 (G) The owner's signature and the date of the transaction;
- 470 (H) The name, address, and National Motor Vehicle Title Information System
 471 identification number of the business acquiring the vehicle;
- 472 (I) A certification by the business that \$850.00 or less was paid to acquire the vehicle;
 473 ~~and~~
- 474 (J) A certification that the business has verified by an on-line method determined by
 475 the commissioner that the vehicle is not currently subject to any secured interest or lien;
 476 provided, however, that such certification shall not be required until such an on-line
 477 method has been established and is available; and
- 478 ~~(J)(K)~~ (K) The business agent's signature and date along with a printed name and title if the
 479 agent is signing on behalf of a corporation.
- 480 (3) The secondary metals recycler, used motor vehicle parts dealer, or scrap metal
 481 processor shall mail or otherwise deliver the statement required under paragraph (2) of

482 this subsection to the department within 72 hours of the completion of the transaction,
 483 requesting that the department cancel the Georgia certificate of title and registration."

484 **SECTION 1-4.**

485 Said Code section is further amended by adding a new subsection to read as follows:

486 "(j) As used in this Code section, the terms:

487 (1) 'Scrap metal processor' shall have the same meaning as set forth in Code
 488 Section 43-43-1.

489 (2) 'Secondary metals recycler' shall have the same meaning as set forth in Code
 490 Section 10-1-350.

491 (3) 'Used motor vehicle parts dealer' shall have the same meaning as set forth in Code
 492 Section 43-47-2."

493 **SECTION 1-5.**

494 Code Section 40-3-56 of the Official Code of Georgia Annotated, relating to satisfaction of
 495 security interests and liens, is amended by revising paragraph (1) of subsection (a) and
 496 revising subsection (c) as follows:

497 "(a)(1) If any security interest or lien listed on a certificate of title is satisfied, the holder
 498 thereof shall, within ten days ~~after demand~~, execute a release in the form the
 499 commissioner prescribes and mail or deliver the release to the commissioner and the
 500 owner, provided that as an alternative to a handwritten signature, the commissioner may
 501 authorize use of a digital signature as long as appropriate security measures are
 502 implemented which assure security and verification of the digital signature process, in
 503 accordance with regulations promulgated by the commissioner. For the purposes of the
 504 release of a security interest or lien the 'holder' of the lien or security interest is the parent
 505 bank or other lending institution and any branch or office of the parent institution may
 506 execute such release."

507 "(c) Except for liens and security interests listed on certificates of title for mobile homes,
 508 cranes, or vehicles which weigh more than 10,000 pounds gross vehicle weight, which
 509 shall be satisfied only in conformity with subsections (a) and (b) of this Code section, any
 510 lien or security interest for a vehicle which is 11 model years old or less shall be considered
 511 satisfied and release shall not be required after ten years from the date of issuance of a title
 512 on which such lien or security interest is listed. For a vehicle which is 12 model years old
 513 and greater, any lien or security interest shall be considered satisfied and a release shall not
 514 be required after four years from the date of issuance of a title on which such lien or
 515 security interest is listed. None of the provisions of this Code section shall preclude the
 516 perfection of a new lien or security agreement, or the perfection of an extension of a lien

517 or security agreement beyond a period of ten years for a vehicle which is 11 model years
 518 old or less or beyond a period of more than four years for a vehicle which is 12 model years
 519 old or greater, by application for a new certificate of title on which such lien or security
 520 agreement is listed. In order to provide for the continuous perfection of a lien or security
 521 interest originally entered into for a period of more than ten years for a vehicle which is 11
 522 model years old or less or more than four years for a vehicle which is 12 model years old
 523 and greater, other than a mobile home, crane, or vehicle which weighs more than 10,000
 524 pounds gross vehicle weight, an application for a second title on which the lien or security
 525 interest is listed must be submitted to the commissioner or the commissioner's duly
 526 authorized tag agent before ten years from the date of the original title on which such lien
 527 or security interest is listed. Otherwise the lien or security interest shall be perfected as of
 528 the date of receipt of the application by the commissioner or the commissioner's duly
 529 authorized county tag agent."

530 PART II

531 SECTION 2-1.

532 Code Section 40-3-36 of the Official Code of Georgia Annotated, as amended by
 533 Section 21(b) of Ga. L. 2011, p. 355, relating to cancellation of certificate of title for scrap,
 534 dismantled, or demolished vehicles, salvage certificate of title, administrative enforcement,
 535 and removal of license plates, is amended by revising paragraphs (2) and (3) of subsection
 536 (a) as follows:

537 "(2) Notwithstanding any other provision of this article to the contrary, if the owner or
 538 authorized agent of the owner has not obtained a title in his or her name for the vehicle
 539 to be transferred, or has lost the title for the vehicle to be transferred, he or she may sign
 540 a statement swearing that, in addition to the foregoing conditions, the vehicle is worth
 541 \$850.00 or less and is at least 12 model years old. The statement described in this
 542 paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle
 543 parts dealer under Code Section 43-47-7 or scrap metal processor under Code Section
 544 43-43-1. The department shall promulgate a form for the statement which shall include,
 545 but not be limited to:

546 (A) A statement that the vehicle shall never be titled again; it must be dismantled or
 547 scrapped;

548 (B) A description of the vehicle including the year, make, model, vehicle identification
 549 number, and color;

550 (C) The name, address, and driver's license number of the owner;

551 (D) A certification that the owner:

- 552 (i) Never obtained a title to the vehicle in his or her name; or
 553 (ii) Was issued a title for the vehicle, but the title was lost or stolen;
 554 (E) A certification that the vehicle:
 555 (i) Is worth \$850.00 or less;
 556 (ii) Is at least 12 model years old; and
 557 (iii) Is not subject to any secured interest or lien;
 558 (F) An acknowledgment that the owner realizes this form will be filed with the
 559 department and that it is a felony, punishable by imprisonment for not fewer than one
 560 nor more than three years or a fine of not less than \$1,000.00 nor more than \$5,000.00,
 561 or both, to knowingly falsify any information on this statement;
 562 (G) The owner's signature and the date of the transaction;
 563 (H) The name, address, and National Motor Vehicle Title Information System
 564 identification number of the business acquiring the vehicle;
 565 (I) A certification by the business that \$850.00 or less was paid to acquire the vehicle;
 566 and
 567 (J) A certification that the business has verified by an on-line method determined by
 568 the commissioner that the vehicle is not currently subject to any secured interest or lien;
 569 provided, however, that such certification shall not be required until such an on-line
 570 method has been established and is available; and
 571 ~~(K)~~(K) The business agent's signature and date along with a printed name and title if
 572 the agent is signing on behalf of a corporation.
 573 (3)(A) The secondary metals recycler, used motor vehicle parts dealer, or scrap metal
 574 processor shall mail or otherwise deliver the statement required under paragraph (2) of
 575 this subsection to the department within 72 hours of the completion of the transaction,
 576 requesting that the department cancel the Georgia certificate of title and registration.
 577 (B) Notwithstanding the requirement to mail or otherwise deliver the statement
 578 required under paragraph (2) of this subsection to the department, the department shall
 579 provide a mechanism for the receipt of the information required to be obtained in the
 580 statement by electronic means, at no cost to the secondary metals recycler, used motor
 581 vehicle parts dealer, or scrap metal processor, in lieu of the physical delivery of the
 582 statement, in which case the secondary metals recycler, used motor vehicle parts dealer,
 583 or scrap metal processor shall maintain the original statement for a period of not less
 584 than two years.
 585 (C) Within 48 hours of each day's close of business, the secondary metals recycler,
 586 used motor vehicle parts dealer, or scrap metal processor who purchases or receives
 587 motor vehicles for scrap or for parts shall deliver in a format approved by the
 588 department, either by facsimile or by other electronic means to be made available by

589 the department by January 1, 2012, a list of all such vehicles purchased that day for
590 scrap or for parts. That list shall contain the following information:

- 591 (i) The name, address, and contact information for the reporting entity;
592 (ii) The vehicle identification numbers of such vehicles;
593 (iii) The dates such vehicles were obtained;
594 (iv) The names of the individuals or entities from whom the vehicles were obtained,
595 for use by law enforcement personnel and appropriate governmental agencies only;
596 (v) A statement of whether the vehicles were, or will be, crushed or disposed of, or
597 offered for sale or other purposes;
598 (vi) A statement of whether the vehicle is intended for export out of the United
599 States; and
600 (vii) The National Motor Vehicle Title Information System identification number of
601 the business acquiring the vehicle.

602 There shall be no charge to ~~either~~ a secondary metals recycler, used motor vehicle parts
603 dealer, or scrap metal processor associated with providing this information to the
604 department.

605 (D) For purposes of this subsection, the term 'motor vehicle' shall not include a vehicle
606 which has been crushed or flattened by mechanical means such that it is no longer the
607 motor vehicle as described by the certificate of title, or such that the vehicle
608 identification number is no longer visible or accessible, in which case the purchasing
609 or receiving secondary metals recycler, used motor vehicle parts dealer, or scrap metal
610 processor shall verify that the seller has reported the vehicles in accordance with this
611 subsection. Such verification may be in the form of a certification from the seller or
612 contract between the seller and the purchasing or receiving secondary metals recycler,
613 used motor vehicle parts dealer, or scrap metal processor which clearly identifies the
614 seller by a government issued photograph identification card, or employer identification
615 number, and shall be maintained for a period of not less than two years.

616 (E) The information obtained by the department in accordance with this subsection
617 shall be reported to the National Motor Vehicle Title Information System, in a format
618 which will satisfy the requirement for reporting this information, in accordance with
619 rules adopted by the United States Department of Justice in 28 C.F.R. 25.56.

620 (F) The information obtained by the department in accordance with this subsection
621 shall be made available only to law enforcement agencies, and for purposes of
622 canceling certificates of title, and shall otherwise be considered to be confidential
623 business information of the respective reporting entities.

624 (G) All records required under the provisions of this Code section shall be maintained
625 for a period of two years by the reporting entity and shall include a scanned or

626 photocopied copy of the seller's or seller's representative's driver's license or state
627 issued identification card."

628 **SECTION 2-2.**

629 Said Code section is further amended by adding a new subsection to read as follows:

630 "(j) As used in this Code section, the terms:

631 (1) 'Scrap metal processor' shall have the same meaning as set forth in Code
632 Section 43-43-1.

633 (2) 'Secondary metals recycler' shall have the same meaning as set forth in Code
634 Section 10-1-350.

635 (3) 'Used motor vehicle parts dealer' shall have the same meaning as set forth in Code
636 Section 43-47-2."

637 **PART III**

638 **SECTION 3-1.**

639 (a) Except as provided in subsection (b) of this section, this Act shall become effective on
640 July 1, 2012, and shall apply to all offenses committed on or after such date.

641 (b) Part II of this Act shall become effective only upon Section .1 of Ga. L. 2011, p. 355
642 becoming effective as provided by Section 21(b) of that Act.

643 **SECTION 3-2.**

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