

House Bill 872 (AS PASSED HOUSE AND SENATE)

By: Representatives Shaw of the 176th, Smith of the 131st, Brockway of the 101st, Ramsey of the 72nd, Watson of the 163rd, and others

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 law enforcement; to change
 9 certain provisions relating to inspections by law enforcement officers; to change certain
 10 provisions relating to payment by secondary metals recyclers for regulated metal property;
 11 to provide for powers, duties, and authority of sheriffs and other law enforcement officers;
 12 to provide for registration and fees; to provide for certain data bases to be created and
 13 maintained and certain forms and rules and regulation to be promulgated therefor; to provide
 14 for criminal offenses and penalties; to provide for forfeiture of certain property and
 15 procedure therefor; to provide for local regulation of the sale and purchase of regulated metal
 16 property; to amend Article 1 of Chapter 8 of Title 16 of the Official Code of Georgia
 17 Annotated, relating to theft, so as to make certain changes for purposes of conformity; to
 18 amend Code Section 40-3-36 of the Official Code of Georgia Annotated, relating to
 19 cancellation of certificate of title for scrap, dismantled, or demolished vehicles, salvage
 20 certificate of title, administrative enforcement, and removal of license plates, so as to revise
 21 certain provisions relating to the use of a form to transfer title to a motor vehicle to be sold
 22 or disposed of as scrap metal or parts; to provide for verification that a vehicle is not subject
 23 to any secured interest or lien; to provide for additional changes to said Code section, relating
 24 to the use of a form to transfer title to a motor vehicle to be sold or disposed of as scrap metal
 25 or parts and verification that a vehicle is not subject to any secured interest or lien, subject
 26 to a contingency; to provide for definitions; to amend Code Section 40-3-56 of the Official
 27 Code of Georgia Annotated, relating to satisfaction of security interests and liens, so as to
 28 change certain provisions relating to the release of security interests and liens; to provide for

29 related matters; to provide effective dates and contingencies; to provide for applicability; to
 30 amend an Act approved May 11, 2011 (Ga. L. 2011, p. 355), relating to drivers' licenses, so
 31 as to revise effective dates and a funding contingency; to repeal conflicting laws; and for other
 32 purposes.

33 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

34 **PART I**
 35 **SECTION 1-1.**

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

39 "ARTICLE 14

40 10-1-350.

41 As used in this article, the term:

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

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

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

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

52 (5) 'Deliverer' means any individual who takes or transports the regulated metal property
 53 to the secondary metals recycler.

54 ~~(1)~~(6) 'Ferrous metals' means any metals containing significant quantities of iron or steel.

55 ~~(2)~~(7) 'Law enforcement officer' means any duly constituted peace officer of the State
 56 of Georgia or of any county, municipality, or political subdivision thereof.

57 ~~(3)~~(8) 'Nonferrous metals' means stainless steel beer kegs and metals not containing
 58 significant quantities of iron or steel, including, without limitation, copper, brass,
 59 aluminum, bronze, lead, zinc, nickel, and alloys thereof.

60 ~~(4)~~(9) 'Person' means an individual, partnership, corporation, joint venture, trust,
61 association, ~~and~~ or any other legal entity.

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

68 ~~(6)~~(11) 'Purchase transaction' means a transaction in which a the secondary metals
69 recycler gives consideration in exchange for regulated metal property.

70 ~~(7)~~(12) 'Regulated metal property' means any item composed primarily of any ferrous
71 metals or nonferrous metals; and includes aluminum property, copper property, and
72 catalytic converters but shall not include batteries, aluminum beverage containers, used
73 beverage containers, or similar beverage containers.

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

81 (14) 'Seller' means the rightful owner of the regulated metal property or the individual
82 authorized by the rightful owner of the regulated metal property to conduct the purchase
83 transaction.

84 10-1-351.

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

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

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

93 (3) A secondary metals recycler who provides the documentation required in paragraphs
94 (1) and (2) of this subsection received from a contractor or seller.

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

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

102 (2) A seller with a copy of a police report showing that such seller's real property was
103 involved in a fire; or

104 (3) A secondary metals recycler who provides the documentation required in paragraphs
105 (1) and (2) of this subsection received from a contractor or seller.

106 10-1-352.

107 No secondary metals recycler shall purchase a burial object unless it is purchased from:

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

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

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

122 (4) A seller with verifiable documentation, such as a receipt from or contract with a
123 licensed funeral director, registered cemetery owner, or manufacturer or distributor of
124 burial objects, evidencing that such person is the rightful owner of the burial object; or

125 (5) A secondary metals recycler who provides the documentation required in paragraphs
126 (1) through (4) of this Code section received from a funeral director, cemetery owner,
127 manufacturer or distributor of burial objects, or a seller.

128 ~~10-1-351~~. 10-1-353.

129 (a) A secondary metals recycler shall maintain a legible record of all purchase transactions
130 ~~to which such secondary metals recycler is a party~~. Such record shall include the following
131 information:

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

133 (2) The date of the transaction;

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

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

141 ~~(4)(5)~~ (5) The amount of consideration given in a purchase transaction for the regulated
142 metal property and a copy of the check or voucher or documentation evidencing the
143 electronic funds transfer given as consideration for such purchase transaction;

144 ~~(5)(6)~~ (6) A signed and sworn affidavit from the ~~person receiving consideration in the~~
145 ~~purchase transaction~~ seller stating that ~~he or she~~ such person is the rightful owner of the
146 regulated metal property or ~~is entitled~~ has been authorized to sell the regulated metal
147 property being sold;

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

160 ~~(6)(8)~~ (8) A photocopy scanned or photocopied copy of a valid personal identification card
161 of the ~~person delivering the regulated metal property to the secondary metals recycler~~
162 seller and the deliverer, if such person is different from the seller;

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

167 ~~(7)(10)~~ The distinctive number from, and type of, the personal identification card of the
 168 ~~person delivering the regulated metal property to the secondary metals recycler~~ seller and
 169 the deliverer, if such person is different from the seller; and

170 ~~(8)(11)~~ The vehicle license tag number or vehicle identification number, state of issue,
 171 and the type of vehicle, if available, used to deliver the regulated metal property to the
 172 secondary metals recycler. For purposes of this paragraph, the term 'type of vehicle' shall
 173 mean an automobile, pickup truck, van, or truck; and

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

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

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

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

189 ~~10-1-352.~~ 10-1-354.

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

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

195 (2) Any and all records required to be maintained under Code Section ~~10-1-351~~
 196 10-1-353.

197 ~~10-1-352.1: 10-1-355.~~

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

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

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

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

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

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

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

215 (b) Any check, electronic funds transfer, or voucher shall be payable only to the person
 216 recorded as the seller of the regulated metal property to the secondary metals recycler.

217 (c) Any voucher shall be provided to the seller at the time of the purchase transaction or
 218 mailed to the seller at the address indicated on the personal identification card of the seller
 219 presented at the time of such transaction. If the voucher is provided to the seller at the time
 220 of the purchase transaction and not mailed to the seller, the secondary metals recycler shall
 221 not redeem the voucher for three days from the date of the purchase transaction. The
 222 voucher shall include the date of purchase, name of the seller, the amount paid for the
 223 regulated metal property, a detailed description of the regulated metal property purchased,
 224 information as to whether the voucher was mailed or provided at the time of the purchase
 225 transaction, the first date on which the voucher may be redeemed, and the date on which
 226 the voucher expires. The voucher may only be redeemed for cash by the person whose
 227 name appears on the voucher as the seller or by such person's heirs or legal representative.
 228 If a voucher is not redeemed by the person whose name appears on the voucher as the seller
 229 or by such person's heirs or legal representative within six months of the date of the
 230 transaction, the voucher shall expire and the secondary metals recycler shall not be required
 231 to honor the voucher after the expiration date.

232 (d) A secondary metals recycler shall be prohibited from: (1) redeeming or cashing any
 233 check or electronic funds transfer paid to a seller for regulated metal property; and (2)

234 providing or permitting any mechanism on the premises of the secondary metals recycler
235 for the redemption or cashing of any check or electronic funds transfer.

236 ~~(c)~~(e) The provisions of this Code section shall not apply to any transaction between
237 business entities.

238 ~~10-1-353~~: 10-1-356.

239 (a) Whenever a law enforcement officer has reasonable cause to believe that any item of
240 regulated metal property in the possession of a secondary metals recycler has been stolen,
241 the law enforcement officer may issue a hold notice to the secondary metals recycler. The
242 hold notice shall be in writing, shall be delivered to the secondary metals recycler, shall
243 specifically identify those items of regulated metal property that are believed to have been
244 stolen and that are subject to the notice, and shall inform the secondary metals recycler of
245 the information contained in this Code section. Upon receipt of the notice issued in
246 accordance with this Code section, the secondary metals recycler receiving the notice shall
247 not process or remove the items of regulated metal property identified in the notice, or any
248 portion thereof, from the premises of or place of business of the secondary metals recycler
249 for 15 calendar days after receipt of the notice by the secondary metals recycler, unless
250 sooner released by a law enforcement officer.

251 (b) No later than the expiration of the 15 day period, a law enforcement officer may issue
252 a second hold notice to the secondary metals recycler, which shall be an extended hold
253 notice. The extended hold notice shall be in writing, shall be delivered to the secondary
254 metals recycler, shall specifically identify those items of regulated metal property that are
255 believed to have been stolen and that are subject to the extended hold notice, and shall
256 inform the secondary metals recycler of the information contained in this Code section.
257 Upon receipt of the extended hold notice issued in accordance with this Code section, the
258 secondary metals recycler receiving the extended hold notice shall not process or remove
259 the items of regulated metal property identified in the notice, or any portion thereof, from
260 the premises of or place of business of the secondary metals recycler for 30 calendar days
261 after receipt of the extended hold notice by the secondary metals recycler, unless sooner
262 released by a law enforcement officer.

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

267 ~~10-1-354.~~ 10-1-357.

268 (a) If the secondary metals recycler contests the identification or ownership of the
 269 regulated metal property, the party other than the secondary metals recycler claiming
 270 ownership of any regulated metal property in the possession of a secondary metals recycler
 271 may, provided that a timely report of the theft of the regulated metal property was made
 272 to the proper authorities, bring an action in the superior or state court of the county in
 273 which the secondary metals recycler is located. The petition for such action shall include
 274 a description of the means of identification of the regulated metal property utilized by the
 275 petitioner to determine ownership of the regulated metal property in the possession of the
 276 secondary metals recycler.

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

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

290 ~~10-1-355.~~ 10-1-358.

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

- 292 (1) Organizations, corporations, or associations registered with the state as charitable,
 293 philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored
 294 organizations or associations or from any nonprofit corporations or associations;
 295 (2) A law enforcement officer acting in an official capacity;
 296 (3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof
 297 of such status to the secondary metals recycler;
 298 (4) Any public official acting under judicial process or authority who has presented proof
 299 of such status to the secondary metals recycler;
 300 (5) A sale on the execution, or by virtue, of any process issued by a court if proof thereof
 301 has been presented to the secondary metals recycler; or

302 (6) A manufacturing, industrial, or other commercial vendor that generates or sells
 303 regulated metal property in the ordinary course of its business, provided that such vendor
 304 is not a secondary metals recycler.

305 ~~10-1-356.~~ 10-1-359.

306 It shall be unlawful for:

307 (1) A secondary metals recycler to engage in the purchase or sale of regulated metal
 308 property between the hours of ~~9:00~~ 7:00 P.M. and ~~6:00~~ 7:00 A.M.; and

309 (2) Any person ~~to give a false statement of ownership or to give a false or altered~~
 310 ~~identification or vehicle tag number and receive money or other consideration from a~~
 311 ~~secondary metals recycler in return for regulated metal property~~ personal identification
 312 card, vehicle license tag number, or vehicle identification number to a secondary metals
 313 recycler as part of a purchase transaction.

314 10-1-360.

315 (a) It shall be unlawful for any secondary metals recycler to purchase regulated metal
 316 property in any amount without being registered pursuant to this Code section. If the
 317 secondary metals recycler is a person other than an individual, such person shall register
 318 with the sheriff of each county in which the secondary metals recycler maintains a place
 319 of business. If the secondary metals recycler is an individual, he or she shall register with
 320 the sheriff of the county in which he or she resides or if such individual is a nonresident of
 321 this state, he or she shall register with the sheriff of the county in Georgia where he or she
 322 primarily engages or intends to primarily engage in business as a secondary metals
 323 recycler. The secondary metals recycler shall declare on a form promulgated by the
 324 Secretary of State and provided by the sheriff that such secondary metals recycler is
 325 informed of and will comply with the provisions of this article. The forms and information
 326 required for such registration shall be promulgated by the Secretary of State. The sheriff
 327 shall register the secondary metals recycler and shall keep a record of each registration.
 328 Each registration shall be valid for a 12 month period.

329 (b) The record of each registration shall be entered into an electronic data base accessible
 330 statewide. Such data base shall be established through coordination with the Secretary of
 331 State and shall be searchable by all law enforcement agencies in this state.

332 (c) The sheriff shall be authorized to:

333 (1) Assess and require payment of a reasonable registration fee prior to registering the
 334 secondary metals recycler, not to exceed \$200.00;

335 (2) Delegate to personnel in the sheriff's office the registration of secondary metals
 336 recyclers and entering into the data base of the records of such registrations; and

337 (3) Enter into contracts with the governing authority of a county, municipality, or
 338 consolidated government for such governing authority to provide for the registration of
 339 secondary metals recyclers and the entering into the data base of the records of such
 340 registrations by other law enforcement agencies or by staff of the governing authority.
 341 Any such contract shall provide for reimbursement to such governing authority for the
 342 registrations or entry of the records of such registrations into the data base.

343 (d) Any secondary metals recycler convicted of violating this Code section shall be guilty
 344 of a misdemeanor of a high and aggravated nature.

345 ~~10-1-357. 10-1-361.~~

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

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

362 (a) Except as provided for in subsection (d) of Code Section 10-1-360, any person who
 363 buys or sells regulated metal property in violation of any provision of this article:

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

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

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

369 (b) Any person who buys or sells regulated metal property in violation of any provision
 370 of this article shall be liable in a civil action to any person who was the victim of a crime
 371 involving such regulated metal property for the full value of the regulated metal property,

372 any repairs and related expenses incurred as a result of such crime, litigation expenses, and
 373 reasonable attorneys' fees.

374 10-1-362.

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

376 (1) 'Crime' means:

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

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

382 (C) A criminal violation of this article.

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

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

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

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

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

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

392 ~~10-1-358.~~ 10-1-363.

393 (a) The General Assembly finds that this article is a matter of state-wide concern. This
 394 article supersedes and preempts all rules, regulations, codes, ordinances, and other laws
 395 adopted by any county, municipality, consolidated government, or other local
 396 governmental agency regarding the sale or purchase of regulated metal property except as
 397 allowed in this Code section.

398 (b) Political subdivisions of this state may enact rules, regulations, codes, ordinances, and
 399 other laws:

400 (1) Affecting the land use and zoning relating to secondary metals recyclers; and

401 (2) Issuing occupational tax certificates to secondary metals recyclers, imposing
 402 occupational taxes, imposing regulatory fees as allowed in Code Section 48-13-9, or
 403 revoking their occupational tax certificates."

404 **SECTION 1-2.**

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

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

415 **SECTION 1-3.**

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

420 "(2) Notwithstanding any other provision of this article to the contrary, if the owner or
421 authorized agent of the owner has not obtained a title in his or her name for the vehicle
422 to be transferred, or has lost the title for the vehicle to be transferred, he or she may sign
423 a statement swearing that, in addition to the foregoing conditions, the vehicle is worth
424 \$850.00 or less and is at least 12 model years old. The statement described in this
425 paragraph may be used only to transfer such a vehicle to a licensed used motor vehicle
426 parts dealer under Code Section 43-47-7 or scrap metal processor under Code Section
427 43-43-1. The department shall promulgate a form for the statement which shall include,
428 but not be limited to:

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

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

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

434 (D) A certification that the owner:

435 (i) Never obtained a title to the vehicle in his or her name; or

436 (ii) Was issued a title for the vehicle, but the title was lost or stolen;

437 (E) A certification that the vehicle:

438 (i) Is worth \$850.00 or less;

439 (ii) Is at least 12 model years old; and

- 440 (iii) Is not subject to any secured interest or lien;
- 441 (F) An acknowledgment that the owner realizes this form will be filed with the
442 department and that it is a felony, punishable by imprisonment for not fewer than one
443 nor more than three years or a fine of not less than \$1,000.00 nor more than \$5,000.00,
444 or both, to knowingly falsify any information on this statement;
- 445 (G) The owner's signature and the date of the transaction;
- 446 (H) The name, address, and National Motor Vehicle Title Information System
447 identification number of the business acquiring the vehicle;
- 448 (I) A certification by the business that \$850.00 or less was paid to acquire the vehicle;
449 ~~and~~
- 450 (J) A certification that the business has verified by an on-line method determined by
451 the commissioner that the vehicle is not currently subject to any secured interest or lien;
452 provided, however, that such certification shall not be required until such an on-line
453 method has been established and is available; and
- 454 ~~(K)~~ (K) The business agent's signature and date along with a printed name and title if
455 the agent is signing on behalf of a corporation.
- 456 (3)(A) The secondary metals recycler, used motor vehicle parts dealer, or scrap metal
457 processor shall mail or otherwise deliver the statement required under paragraph (2) of
458 this subsection to the department within 72 hours of the completion of the transaction,
459 requesting that the department cancel the Georgia certificate of title and registration.
- 460 (B) Notwithstanding the requirement to mail or otherwise deliver the statement
461 required under paragraph (2) of this subsection to the department, the department shall
462 provide a mechanism for the receipt of the information required to be obtained in the
463 statement by electronic means, at no cost to the secondary metals recycler, used motor
464 vehicle parts dealer, or scrap metal processor, in lieu of the physical delivery of the
465 statement, in which case the secondary metals recycler, used motor vehicle parts dealer,
466 or scrap metal processor shall maintain the original statement for a period of not less
467 than two years.
- 468 (C) Within 48 hours of each day's close of business, the secondary metals recycler,
469 used motor vehicle parts dealer, or scrap metal processor who purchases or receives
470 motor vehicles for scrap or for parts shall deliver in a format approved by the
471 department, either by facsimile or by other electronic means to be made available by
472 the department by January 1, 2012, a list of all such vehicles purchased that day for
473 scrap or for parts. That list shall contain the following information:
- 474 (i) The name, address, and contact information for the reporting entity;
- 475 (ii) The vehicle identification numbers of such vehicles;
- 476 (iii) The dates such vehicles were obtained;

- 477 (iv) The names of the individuals or entities from whom the vehicles were obtained,
 478 for use by law enforcement personnel and appropriate governmental agencies only;
 479 (v) A statement of whether the vehicles were, or will be, crushed or disposed of, or
 480 offered for sale or other purposes;
 481 (vi) A statement of whether the vehicle is intended for export out of the United
 482 States; and
 483 (vii) The National Motor Vehicle Title Information System identification number of
 484 the business acquiring the vehicle.

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

488 (D) For purposes of this subsection, the term 'motor vehicle' shall not include a vehicle
 489 which has been crushed or flattened by mechanical means such that it is no longer the
 490 motor vehicle as described by the certificate of title, or such that the vehicle
 491 identification number is no longer visible or accessible, in which case the purchasing
 492 or receiving secondary metals recycler, used motor vehicle parts dealer, or scrap metal
 493 processor shall verify that the seller has reported the vehicles in accordance with this
 494 subsection. Such verification may be in the form of a certification from the seller or
 495 contract between the seller and the purchasing or receiving secondary metals recycler,
 496 used motor vehicle parts dealer, or scrap metal processor which clearly identifies the
 497 seller by a government issued photograph identification card, or employer identification
 498 number, and shall be maintained for a period of not less than two years.

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

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

507 (G) All records required under the provisions of this Code section shall be maintained
 508 for a period of two years by the reporting entity and shall include a scanned or
 509 photocopied copy of the seller's or seller's representative's driver's license or state
 510 issued identification card."

511 **SECTION 1-4.**

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

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

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

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

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

520 **SECTION 1-5.**

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

524 "(a)(1) If any security interest or lien listed on a certificate of title is satisfied, the holder
525 thereof shall, within ten days ~~after demand~~, execute a release in the form the
526 commissioner prescribes and mail or deliver the release to the commissioner and the
527 owner, provided that as an alternative to a handwritten signature, the commissioner may
528 authorize use of a digital signature as long as appropriate security measures are
529 implemented which assure security and verification of the digital signature process, in
530 accordance with regulations promulgated by the commissioner. For the purposes of the
531 release of a security interest or lien the 'holder' of the lien or security interest is the parent
532 bank or other lending institution and any branch or office of the parent institution may
533 execute such release."

534 "(c) Except for liens and security interests listed on certificates of title for mobile homes,
535 cranes, or vehicles which weigh more than 10,000 pounds gross vehicle weight, which
536 shall be satisfied only in conformity with subsections (a) and (b) of this Code section, any
537 lien or security interest for a vehicle which is 11 model years old or less shall be considered
538 satisfied and release shall not be required after ten years from the date of issuance of a title
539 on which such lien or security interest is listed. For a vehicle which is 12 model years old
540 and greater, any lien or security interest shall be considered satisfied and a release shall not
541 be required after four years from the date of issuance of a title on which such lien or
542 security interest is listed. None of the provisions of this Code section shall preclude the
543 perfection of a new lien or security agreement, or the perfection of an extension of a lien
544 or security agreement beyond a period of ten years for a vehicle which is 11 model years
545 old or less or beyond a period of more than four years for a vehicle which is 12 model years
546 old or greater, by application for a new certificate of title on which such lien or security
547 agreement is listed. In order to provide for the continuous perfection of a lien or security
548 interest originally entered into for a period of more than ten years for a vehicle which is 11

549 model years old or less or more than four years for a vehicle which is 12 model years old
 550 and greater, other than a mobile home, crane, or vehicle which weighs more than 10,000
 551 pounds gross vehicle weight, an application for a second title on which the lien or security
 552 interest is listed must be submitted to the commissioner or the commissioner's duly
 553 authorized tag agent before ten years from the date of the original title on which such lien
 554 or security interest is listed. Otherwise the lien or security interest shall be perfected as of
 555 the date of receipt of the application by the commissioner or the commissioner's duly
 556 authorized county tag agent."

557 **PART II**

558 **SECTION 2-1.**

559 Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to selling and other
 560 trade practices, is amended by adding a new Code section to read as follows:

561 "10-1-360.1.

562 (a) Each secondary metals recycler shall provide all of the information required by
 563 subsection (a) of Code Section 10-1-353 for each transaction, except for the amount of
 564 consideration given in a purchase transaction for the regulated metal property specified in
 565 paragraph (5) of subsection (a) of such Code section, to the Georgia Bureau of
 566 Investigation.

567 (b) The Georgia Bureau of Investigation shall establish and maintain a data base of all
 568 information required to be provided pursuant to subsection (a) of this Code section. Such
 569 data base shall be accessible and searchable by all law enforcement agencies in this state.
 570 The Georgia Bureau of Investigation shall promulgate rules and regulations and establish
 571 procedures necessary to carry into effect, implement, and enforce the provisions of this
 572 Code section. Such rules and regulations shall include, but shall not be limited to, the time,
 573 manner, and method of the transmittal of the information by the secondary metals recyclers
 574 to the Georgia Bureau of Investigation."

575 **PART IV**

576 **SECTION 4-1.**

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

579 (b) Part II of this Act shall become effective only upon the effective date of a specific
 580 appropriation of funds for the purposes of this Act as expressed in a line item making

581 specific reference to such funds in a General Appropriations Act enacted by the General
582 Assembly.

583 **SECTION 4-2.**

584 (1) An Act approved May 11, 2011 (Ga. L. 2011, p. 355) is amended by revising Section 21
585 as follows:

586 "SECTION 21.

587 (a) Sections 1 through 22 of this Act shall become effective on January 1, 2012.

588 (b) Section .2 of this Act shall become effective only upon the effective date of a specific
589 appropriation of funds for the purposes of Section .2 of this Act as expressed in a line item
590 making specific reference to the full funding of Section .2 of this Act in an appropriations
591 Act enacted by the General Assembly.

592 (c)(1) Paragraph (2) of subsection (a) of Code Section 40-3-36, as amended in Section .1 of
593 this Act, shall become effective on January 1, 2012.

594 (2) All other provisions of Section .1 shall become effective on July 1, 2012."

595 **SECTION 4-3.**

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