

House Bill 461

By: Representatives Shaw of the 176<sup>th</sup>, Strickland of the 111<sup>th</sup>, Stephens of the 165<sup>th</sup>, Maxwell of the 17<sup>th</sup>, Watson of the 172<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated,  
2 relating to secondary metals recyclers, so as to change certain provisions relating to the  
3 buying and selling of regulated metal property; to provide for and change certain definitions;  
4 to change certain provisions relating to verifiable documentation required; to provide for  
5 certain restrictions on the purchase of catalytic converters by secondary metals recyclers; to  
6 change certain provisions relating to requirements for purchase of burial objects; to change  
7 certain provisions relating to records of transactions, false statements in required affidavits,  
8 and penalty for making a false statement in execution of affidavit; to provide an exemption  
9 for used motor vehicle dealers and used motor vehicle parts dealers under certain  
10 circumstances; to change certain provisions relating to required information from secondary  
11 metals recyclers and role of the Georgia Bureau of Investigation; to provide for the  
12 information maintained in data base established by the Georgia Bureau of Investigation to  
13 be considered a trade secret and exempt from disclosure; to provide access to such data base  
14 by certain employees; to limit the use of the data base by such employees to certain purposes;  
15 to provide for penalties; to provide for the promulgation of certain rules and regulations by  
16 the Georgia Bureau of Investigation; to provide for applicability; to provide for related  
17 matters; to repeal conflicting laws; and for other purposes.

18 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

19 **SECTION 1.**

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

23 "10-1-350.

24 As used in this article, the term:

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

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

29 (3) 'Business license' means a business license, an occupational tax certificate, and other  
 30 document required by a county or municipal corporation and issued by the appropriate  
 31 agency of such county or municipal corporation to engage in a profession or business.

32 ~~(3)~~(4) 'Coil' means any copper, aluminum, or aluminum-copper condensing coil or  
 33 evaporation coil including its tubing or rods. The term shall not include coil from a  
 34 window air-conditioning system, if contained within the system itself, or coil from an  
 35 automobile condenser.

36 ~~(4)~~(5) 'Copper property' means any copper wire, copper tubing, copper pipe, or any item  
 37 composed completely of copper.

38 ~~(5)~~(6) 'Deliverer' means any individual who takes or transports the regulated metal  
 39 property to the secondary metals recycler.

40 ~~(6)~~(7) 'Ferrous metals' means any metals containing significant quantities of iron or steel.

41 ~~(7)~~(8) 'Law enforcement officer' means any duly constituted peace officer of the State  
 42 of Georgia or of any county, municipality, or political subdivision thereof.

43 ~~(8)~~(9) 'Nonferrous metals' means stainless steel beer kegs and metals not containing  
 44 significant quantities of iron or steel, including, without limitation, copper, brass,  
 45 aluminum, bronze, lead, zinc, nickel, and alloys thereof.

46 ~~(9)~~(10) 'Person' means an individual, partnership, corporation, joint venture, trust,  
 47 association, or any other legal entity.

48 ~~(10)~~(11) 'Personal identification card' means a current and unexpired driver's license or  
 49 identification card issued by the Department of Driver Services or a similar card issued  
 50 by another state, a military identification card, or a current work authorization issued by  
 51 the federal government, which shall contain the individual's name, address, and  
 52 photograph.

53 ~~(11)~~(12) 'Purchase transaction' means a transaction in which the secondary metals  
 54 recycler gives consideration in exchange for regulated metal property.

55 ~~(12)~~(13) 'Regulated metal property' means any item composed primarily of any ferrous  
 56 metals or nonferrous metals and includes aluminum property, copper property, and  
 57 catalytic converters but shall not include ~~batteries~~, aluminum beverage containers, used  
 58 beverage containers, or similar beverage containers.

59 ~~(13)~~(14) 'Secondary metals recycler' means any person who is engaged, from a fixed  
 60 location or otherwise, in the business in this state of paying compensation for regulated  
 61 metal property that has served its original economic purpose, whether or not engaged in  
 62 the business of performing the manufacturing process by which regulated metal property

63 is converted into raw material products consisting of prepared grades and having an  
64 existing or potential economic value.

65 ~~(14)~~(15) 'Seller' means the rightful owner of the regulated metal property or the  
66 individual authorized by the rightful owner of the regulated metal property to conduct the  
67 purchase transaction."

68 **SECTION 2.**

69 Said article is further amended by revising Code Section 10-1-351, relating to verifiable  
70 documentation required, as follows:

71 "10-1-351.

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

73 (1) A contractor licensed or certificated pursuant to Chapter 14 of Title 43 ~~who or by~~  
74 another state that provides a copy of ~~his or her~~ such valid license or certificate at the time  
75 of ~~sale~~ the purchase transaction that is scanned or photocopied by the secondary metals  
76 recycler or whose scanned or photocopied license or certificate is on file with the  
77 secondary metals recycler;

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

82 (3) A secondary metals recycler who provides ~~the documentation required in paragraphs~~  
83 ~~(1) and (2) of this subsection received from a contractor or seller~~ proof of registration  
84 pursuant to Code Section 10-1-359.1 and a signed statement stating that the required  
85 information concerning the purchase transaction involving such coil was provided by  
86 such secondary metals recycler to the Georgia Bureau of Investigation pursuant to Code  
87 Section 10-1-359.5.

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

91 (1) A contractor licensed or certificated pursuant to Chapter 14 of Title 43 ~~who or by~~  
92 another state that provides a copy of ~~his or her~~ such valid license or certificate at the time  
93 of ~~sale~~ the purchase transaction that is scanned or photocopied by the secondary metals  
94 recycler or whose scanned or photocopied license or certificate is on file with the  
95 secondary metals recycler;

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

98 (3) A secondary metals recycler who provides ~~the documentation required in~~  
99 ~~paragraphs (1) and (2) of this subsection received from a contractor or seller~~ proof of  
100 registration pursuant to Code Section 10-1-359.1 and a signed statement stating that the  
101 required information concerning the purchase transaction involving such copper wire was  
102 provided by such secondary metals recycler to the Georgia Bureau of Investigation  
103 pursuant to Code Section 10-1-359.5.

104 (c) No secondary metals recycler shall purchase a catalytic converter unless such catalytic  
105 converter is:

106 (1) Attached to a vehicle; or

107 (2) Purchased from:

108 (A) A used motor vehicle dealer or used motor vehicle parts dealer licensed pursuant  
109 to Chapter 47 of Title 43 or by another state that provides a copy of such valid license  
110 at the time of the purchase transaction that is scanned or photocopied by the secondary  
111 metals recycler or whose scanned or photocopied license is on file with the secondary  
112 metals recycler;

113 (B) A new motor vehicle dealer that provides a copy of a valid business license at the  
114 time of the purchase transaction that is scanned or photocopied by the secondary metals  
115 recycler or whose scanned or photocopied business license is on file with the secondary  
116 metals recycler;

117 (C) A motor vehicle repairer that provides a copy of a valid business license at the time  
118 of the purchase transaction that is scanned or photocopied by the secondary metals  
119 recycler or whose scanned or photocopied business license is on file with the secondary  
120 metals recycler;

121 (D) A manufacturer or distributor of catalytic converters that provides a copy of a valid  
122 business license at the time of the purchase transaction that is scanned or photocopied  
123 by the secondary metals recycler or whose scanned or photocopied business license is  
124 on file with the secondary metals recycler;

125 (E) A seller with verifiable documentation, such as a receipt or work order, indicating  
126 that the catalytic converter is the result of a replacement of a catalytic converter  
127 performed by a used motor vehicle dealer, new motor vehicle dealer, or motor vehicle  
128 repairer; or

129 (F) A secondary metals recycler who provides proof of registration pursuant to Code  
130 Section 10-1-359.1 and a signed statement stating that the required information  
131 concerning the purchase transaction involving such catalytic converter was provided  
132 by such secondary metals recycler to the Georgia Bureau of Investigation pursuant to  
133 Code Section 10-1-359.5."

134 **SECTION 3.**

135 Said article is further amended by revising Code Section 10-1-352, relating to requirements  
136 for purchase of burial objects, as follows:

137 "10-1-352.

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

139 (1) A funeral director licensed ~~under the provisions of~~ pursuant to Chapter 18 of Title 43  
140 or by another state who provides a copy of his or her valid license at the time of ~~sale~~ the  
141 purchase transaction that is scanned or photocopied by the secondary metals recycler or  
142 whose scanned or photocopied license is on file with the secondary metals recycler;

143 (2) A cemetery owner registered pursuant to Code Section 10-14-4 or with another state  
144 ~~who~~ that provides a copy of ~~his or her~~ such valid registration at the time of ~~sale~~ the  
145 purchase transaction that is scanned or photocopied by the secondary metals recycler or  
146 whose scanned or photocopied registration is on file with the secondary metals recycler;

147 (3) A manufacturer or distributor of burial objects ~~who~~ that provides a copy of ~~his or her~~  
148 a valid business license at the time of ~~sale~~ the purchase transaction that is scanned or  
149 photocopied by the secondary metals recycler ~~and a letter from the owner or operator of~~  
150 ~~the manufacturing or distributing business expressly recognizing the seller as an~~  
151 ~~employee or authorized agent of the manufacturer or distributor or whose scanned or~~  
152 ~~photocopied business license and letter are on file with the secondary metals recycler;~~

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

156 (5) A secondary metals recycler who provides ~~the documentation required in~~  
157 ~~paragraphs (1) through (4) of this Code section received from a funeral director, cemetery~~  
158 ~~owner, manufacturer or distributor of burial objects, or a seller~~ proof of registration  
159 pursuant to Code Section 10-1-359.1 and a signed statement stating that the required  
160 information concerning the purchase transaction involving such burial object was  
161 provided by such secondary metals recycler to the Georgia Bureau of Investigation  
162 pursuant to Code Section 10-1-359.5."

163 **SECTION 4.**

164 Said article is further amended by revising Code Section 10-1-353, relating to record of  
165 transaction, false statements in required affidavits transactions, and penalty for making false  
166 statement in execution of affidavit, as follows:

167 "10-1-353.

168 (a) ~~▲~~ Except as provided in subsection (c), a secondary metals recycler shall maintain a  
 169 legible record of all purchase transactions. Such record shall include the following  
 170 information:

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

172 (2) The date of the transaction;

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

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

180 (5) The amount of consideration given in a purchase transaction for the regulated metal  
 181 property and a copy of the check or voucher or documentation evidencing the electronic  
 182 funds transfer given as consideration for such purchase transaction;

183 (6) A signed ~~and sworn affidavit~~ statement from the seller stating that such person is the  
 184 rightful owner of the regulated metal property or has been authorized to sell the regulated  
 185 metal property being sold;

186 (7) A signed ~~and sworn affidavit~~ statement from the seller stating that he or she  
 187 understands that: 'A secondary metals recycler is any person who is engaged, from a fixed  
 188 location or otherwise, in the business in this state of paying compensation for regulated  
 189 metal property that has served its original economic purpose, whether or not engaged in  
 190 the business of performing the manufacturing process by which regulated metal property  
 191 is converted into raw material products consisting of prepared grades and having an  
 192 existing or potential economic value. No ferrous metals, nonferrous metals, aluminum  
 193 property, copper property, or catalytic converters (~~batteries, aluminum~~ aluminum  
 194 beverage containers, used beverage containers, or similar beverage containers are  
 195 exempt) may be purchased by a secondary metals recycler unless such secondary metals  
 196 recycler is a ~~holder of a valid permit issued~~ registered pursuant to Article 14 of Chapter 1  
 197 of Title 10 of the Official Code of Georgia Annotated';

198 (8) A scanned or photocopied copy of a valid personal identification card of the seller  
 199 and of the deliverer, if such person is different from the seller;

200 (9) The type of and distinctive number from the personal identification card of the seller  
 201 and of the deliverer, if such person is different from the seller;

202 (10) The name and date of birth of the seller and of the deliverer, if such person is  
 203 different from the seller;

204 ~~(9)~~(11) A photograph, videotape, or digital recording depicting a recognizable facial  
 205 image of the seller and of the deliverer, if such person is different from the seller,  
 206 employing technology allowing the image to be retained in electronic storage and in a  
 207 transferable format;

208 ~~(10) The distinctive number from, and type of, the personal identification card of the~~  
 209 ~~seller and the deliverer, if such person is different from the seller;~~

210 ~~(11)~~(12) The vehicle license tag number or vehicle identification number, state of issue,  
 211 and the ~~type of vehicle, if available;~~ make, model, and color of the vehicle used to deliver  
 212 the regulated metal property to the secondary metals recycler. ~~For purposes of this~~  
 213 ~~paragraph, the term 'type of vehicle' shall mean an automobile, pickup truck, van, or~~  
 214 ~~truck; and~~

215 ~~(12)~~(13) A scanned or photocopied copy of the verifiable documentation, reports,  
 216 licenses, certificates, and registrations; required pursuant to Code Sections 10-1-351  
 217 and 10-1-352.

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

221 ~~(c) When the metal being purchased is a motor vehicle, the seller shall either provide the~~  
 222 ~~title to such motor vehicle or fully execute a statement on a form as promulgated by the~~  
 223 ~~Department of Revenue in accordance with Code Section 40-3-36. The secondary metals~~  
 224 ~~recycler shall forward the title or form to the Department of Revenue within 72 hours of~~  
 225 ~~receipt of the title or form. When the regulated metal property being purchased is a vehicle,~~  
 226 ~~the secondary metals recycler shall:~~

227 ~~(1) If Code Section 40-3-36 is applicable, purchase such vehicle in compliance with such~~  
 228 ~~Code section and shall not be required to maintain a record of the purchase transaction~~  
 229 ~~as provided in subsection (a) of this Code section or to provide such record to the Georgia~~  
 230 ~~Bureau of Investigation pursuant to Code Section 10-1-359.5; or~~

231 ~~(2) If Code Section 40-3-36 is not applicable, maintain a record of such purchase~~  
 232 ~~transaction as provided in subsection (a) of this Code section and provide such record to~~  
 233 ~~the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5.~~

234 (d) ~~It shall be unlawful to make a false statement in executing the affidavit required by~~  
 235 ~~either paragraph (6) or (7) of subsection (a) of this Code section, and the making of a false~~  
 236 ~~statement shall be punishable as an act of false swearing under Code Section 16-10-71. It~~  
 237 ~~shall be a violation of this article to sign the statement required by either paragraph (6)~~  
 238 ~~or (7) of subsection (a) of this Code section knowing it to be false, and such violation shall~~  
 239 ~~subject the seller to the civil and criminal liability provided in Code Section 10-1-359.2."~~

240 **SECTION 5.**

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

242 "10-1-358.1.

243 The provisions of this article shall not apply to a vehicle purchased in compliance with  
 244 Code Section 40-3-36 by a used motor vehicle dealer or used motor vehicle parts dealer  
 245 licensed pursuant Chapter 47 of Title 43."

246 **SECTION 6.**

247 Said article is further amended by revising Code Section 10-1-359.5, relating to required  
 248 information from secondary metals recyclers and role of the Georgia Bureau of Investigation,  
 249 as follows:

250 "10-1-359.5.

251 (a) Each secondary metals recycler shall provide to the Georgia Bureau of Investigation  
 252 for each purchase transaction which takes place on or after July 1, 2015, all of the  
 253 information required by subsection (a) of Code Section 10-1-353, for each transaction,  
 254 except for the amount of consideration given in a purchase transaction for the regulated  
 255 metal property specified in paragraph (5) of subsection (a) of such Code section, to the  
 256 Georgia Bureau of Investigation.

257 (b) The Georgia Bureau of Investigation shall establish and maintain a data base of all  
 258 information required to be provided pursuant to subsection (a) of this Code section. Such  
 259 information shall be considered to be a trade secret and shall be exempt from disclosure  
 260 under the provisions of Article 4 of Chapter 18 of Title 50.

261 (c) The data base shall be accessible and searchable by:262 (1) All law enforcement agencies in this state; and

263 (2) Employees of electric suppliers, as defined in Code Section 46-3-3, and employees  
 264 of telecommunications companies, as defined in Code Section 46-5-162, provided that  
 265 such employees:

266 (A) Are licensed to engage in the private detective business pursuant to Chapter 38 of  
 267 Title 43; or

268 (B) Have been certified by the Georgia Peace Officer Standards and Training Council  
 269 as having successfully completed the course of training required by Chapter 8 of  
 270 Title 35, the 'Georgia Peace Officer Standards and Training Act.'

271 (d)(1) It shall be unlawful for employees of electric suppliers and of telecommunications  
 272 companies to use the data base for any purpose other than the investigation of alleged  
 273 crimes related to the theft of regulated metal property.

274 (2) Any person who violates or conspires to violate paragraph (1) of this subsection shall  
 275 be guilty of a felony and, upon conviction, shall receive the following punishment:

276 (A) Upon a first conviction, imprisonment for not less than one nor more than five  
277 years or a fine of not more than \$5,000.00, or both; or

278 (B) Upon a second or subsequent conviction, imprisonment for not less than five nor  
279 more than ten years or a fine of not more than \$40,000.00, or both.

280 (e) The Georgia Bureau of Investigation shall promulgate rules and regulations and  
281 establish procedures necessary to carry into effect, implement, and enforce the provisions  
282 of this Code section and ensure compliance with applicable federal and state laws. Such  
283 rules and regulations shall include, but shall not be limited to;

284 (1) The ~~the~~ time, manner, and method of the transmittal of the information by the  
285 secondary metals recyclers to the Georgia Bureau of Investigation;

286 (2) The manner and method by which employees of electric suppliers and  
287 telecommunications companies may access and search the data base and any prerequisites  
288 thereto; and

289 (3) The specific information the employees of the electric suppliers and  
290 telecommunications companies may access and search within the data base."

291 **SECTION 7.**

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