

The House Committee on Regulated Industries offers the following substitute to HB 461:

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## SECTION 2.

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

"10-1-351.

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

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

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

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

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

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

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

(3) A secondary metals recycler who provides ~~the documentation required in paragraphs (1) and (2) of this subsection received from a contractor or seller~~ proof of registration pursuant to Code Section 10-1-359.1 and a signed statement stating that the

required information concerning the purchase transaction involving such copper wire was provided by such secondary metals recycler to the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5.

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

(1) Attached to a vehicle; or

(2) Purchased from:

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

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

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

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

(E) A seller with:

(i) Verifiable documentation, such as a receipt or work order, indicating that the catalytic converter is the result of a replacement of a catalytic converter performed by a used motor vehicle dealer, new motor vehicle dealer, or motor vehicle repairer. Such documentation shall include a notation as to the make, model, and year of the vehicle in which such catalytic converter was replaced; and

(ii) A copy of a certificate of title or registration showing ownership of or interest in the vehicle in which the catalytic converter was replaced; or

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

**SECTION 3.**

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

"10-1-352.

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

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

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

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

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

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

**SECTION 4.**

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

169 "10-1-353.

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

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

174 (2) The date of the transaction;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**SECTION 5.**

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

"10-1-358.1.

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

**SECTION 6.**

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

"10-1-359.5.

(a) Each secondary metals recycler shall provide to the Georgia Bureau of Investigation or its designee for each purchase transaction which takes place on or after July 1, 2015, all of the information required by subsection (a) of Code Section 10-1-353, for each transaction, except for the amount of consideration given in a purchase transaction for the regulated metal property specified in paragraph (5) of subsection (a) of such Code section; to the Georgia Bureau of Investigation. A secondary metals recycler who maintains on file with the Georgia Bureau of Investigation or its designee a copy of the statement forms such secondary metals recycler requires each seller to sign pursuant to paragraphs (6) and (7) of subsection (a) of Code Section 10-1-353 may satisfy the requirements of these paragraphs by providing to the Georgia Bureau of Investigation or its designee a copy of the individual seller's signature and shall not be required to provide the actual statement signed by each seller, provided the actual statements are maintained by the secondary metals recycler pursuant to subsection (b) of Code Section 10-1-353 and available for inspection pursuant to Code Section 10-1-354.

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

(c) The data base shall be accessible and searchable by:

(1) All law enforcement agencies in this state; and

(2) Employees of electric suppliers, as defined in Code Section 46-3-3, and employees of telecommunications companies, as defined in Code Section 46-5-162, provided that such employees have been certified by the Georgia Peace Officer Standards and Training Council as having successfully completed the course of training required by Chapter 8 of Title 35, the 'Georgia Peace Officer Standards and Training Act.'



(d)(1) It shall be unlawful to use the data base established pursuant to subsection (b) of this Code section for any purpose other than the investigation of alleged crimes related to the theft of regulated metal property.

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

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

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

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

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

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

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

## **SECTION 7.**

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