

House Bill 461 (COMMITTEE SUBSTITUTE)

By: Representatives Shaw of the 176th, Strickland of the 111th, Stephens of the 165th, Maxwell of the 17th, Watson of the 172nd, 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 pursuant to Chapter 14 of Title 43 ~~who or by another state that~~
74 provides a copy of ~~his or her~~ such valid license at the time of ~~sale~~ the purchase
75 transaction that is scanned or photocopied by the secondary metals recycler or whose
76 scanned or photocopied license is on file with the secondary metals recycler;

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

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

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

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

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

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

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

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

104 (1) Attached to a vehicle; or

105 (2) Purchased from:

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

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

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

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

123 (E) A seller with:

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

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

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

136 **SECTION 3.**

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

139 "10-1-352.

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

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

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

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

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

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

165 **SECTION 4.**

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

169 "10-1-353.

170 (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;

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

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

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

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

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

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

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

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

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

242 **SECTION 5.**

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

244 "10-1-358.1.

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

248 **SECTION 6.**

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

252 "10-1-359.5.

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

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

271 (c) The data base shall be accessible and searchable by:272 (1) All all law enforcement agencies in this state; and

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

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

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

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

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

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

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

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

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

298 **SECTION 7.**

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