

The Senate Committee on Natural Resources and the Environment offered the following substitute to SB 591:

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 provide that it shall be illegal for certain
3 persons to purchase, possess, obtain, or sell or attempt to purchase, possess, obtain, or sell
4 used, detached catalytic converters, used utility wire, or used communications copper; to
5 provide for definitions; to regulate and limit the payment allowed by secondary metals
6 recyclers; to provide that certain catalytic converters, used utility wire, and used
7 communications copper and the vehicles transporting them are contraband; to provide for
8 penalties; to provide for related matters; to provide for effective dates and applicability; to
9 repeal conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **PART ONE**

12 **SECTION 1-1.**

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

16 "10-1-350.

17 As used in this article, the term:

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

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

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

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

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

31 (6) 'Copper wire' means any wire, cables, bus bars, or waveguides containing any portion
32 of copper, whether or not coated with insulation.

33 ~~(6)~~(7) 'Deliverer' means any individual who takes or transports the regulated metal
34 property to the secondary metals recycler.

35 ~~(7)~~(8) 'Ferrous metals' means any metals containing significant quantities of iron or steel.

36 ~~(8)~~(9) 'Law enforcement officer' means any duly constituted peace officer of the State
37 of Georgia or of any county, municipality, or political subdivision thereof.

38 ~~(9)~~(10) 'Nonferrous metals' means stainless steel beer kegs and metals not containing
39 significant quantities of iron or steel, including, without limitation, copper, brass,
40 aluminum, bronze, lead, zinc, nickel, and alloys thereof.

41 ~~(10)~~(11) 'Person' means an individual, partnership, corporation, joint venture, trust,
42 association, or any other legal entity.

~~(11)~~(12) '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.

~~(12)~~(13) 'Purchase transaction' means a transaction in which the secondary metals recycler gives consideration in exchange for regulated metal property.

~~(13)~~(14) '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 aluminum beverage containers, used beverage containers, or similar beverage containers.

~~(14)~~(15) '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.

~~(15)~~(16) '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.

(17) 'Used communications copper' means utility-grade copper that is commonly used by a lawful provider of communications services provider for providing communications services, including, without limitation, utility-grade wires or cables, bus bars, and waveguides.

(18) 'Used utility wire' means any wire or cable containing aluminum or copper, or any ferrous metals or other nonferrous metals, that is commonly used by a utility that provides electric or telecommunications service."

SECTION 1-2.

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 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;

(2) A seller with verifiable documentation, such as a receipt or work order, indicating that 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 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 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;

(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 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.

(d)(1) As used in this subsection, the term 'used, detached catalytic converter' means motor vehicle exhaust system parts that are used for controlling the exhaust emissions from motor vehicles and that contain a catalyst metal, but shall not include a catalytic converter that has been tested, certified, and labeled for reuse in accordance with applicable United States Environmental Protection Agency Clean Air Act regulations, as may from time to time be amended.

(2) It shall be unlawful for any person to purchase or to solicit or advertise for the purchase of used utility wire, used communications copper, or a used, detached catalytic converter, or any nonferrous parts of a catalytic converter, unless such person is:

(A) A registered secondary metals recycler in accordance with Code Section 10-1-359.1 and in full compliance with all requirements prescribed by this article;

(B) A lawful provider of communications or electric service; or

(C) A person or entity acting pursuant to a written contract with a lawful provider of communications or electric service.

(3) It shall be unlawful for any person to possess, transport, or sell a used, detached catalytic converter, or any nonferrous parts of a catalytic converter, unless such person is authorized to buy, possess, transport, or sell catalytic converters pursuant to subsection (c) of this Code section and is in possession of the licenses, registrations, or other documentation required by that subsection. It shall be unlawful for any person to possess, transport, or sell any used utility wire or used communications copper unless such person is a lawful provider of electric or communications service, a person or entity acting pursuant to a written contract with a lawful provider of electric or communications service, a licensed contractor, or a registered secondary metals recycler in accordance with Code Section 10-1-359.1.

(4) Unless specifically exempted as provided in paragraph (2) or (3) of this subsection, any person in possession of used utility wire, used communications copper, or a used, detached catalytic converter in violation of this Code section shall be presumed to be in possession of contraband and any such items, and any vehicles used in their transportation, shall be subject to forfeiture unless provided otherwise by law.

(5) Each unlawfully possessed or obtained used, detached catalytic converter, used utility wire, or used communications copper shall be considered a separate offense."

SECTION 1-3.

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

"10-1-353.

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

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

(2) The date of the transaction;

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

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

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

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

(7) A signed statement from the seller stating that he or she understands that: 'A secondary metals recycler is 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. No ferrous metals, nonferrous metals, aluminum property, copper property, or catalytic converters (aluminum beverage containers, used beverage containers, or similar beverage containers are exempt) may be purchased by a secondary metals recycler unless such secondary metals recycler is registered pursuant to Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated';

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

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

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

(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;

(12) The vehicle license tag number or vehicle identification number, state of issue, and the make, model, and color of the vehicle used to deliver the regulated metal property to the secondary metals recycler; and

(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 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 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

230 violation shall subject the seller to the civil and criminal liability provided in Code
231 Section 10-1-359.2."

232 **SECTION 1-4.**

233 Said article is further amended by revising Code Section 10-1-355, relating to conditions and
234 limitations on payments for regulated metal property and exception for transaction between
235 business entities, as follows:

236 "10-1-355.

237 (a) A secondary metals recycler shall pay only by check, electronic funds transfer, cash,
238 or voucher for regulated metal property and shall make any such payment as specifically
239 provided for in this Code section.

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

242 (c) Any voucher shall be provided to the seller at the time of the purchase transaction or
243 mailed to the seller at the address indicated on the personal identification card of the seller
244 presented at the time of such transaction. If the voucher is provided to the seller at the time
245 of the purchase transaction and not mailed to the seller, the secondary metals recycler shall
246 not redeem the voucher for three days from the date of the purchase transaction. The
247 voucher shall include the date of purchase, name of the seller, the amount paid for the
248 regulated metal property, a detailed description of the regulated metal property purchased,
249 information as to whether the voucher was mailed or provided at the time of the purchase
250 transaction, the first date on which the voucher may be redeemed, and the date on which
251 the voucher expires. The voucher may only be redeemed for cash by the person whose
252 name appears on the voucher as the seller or by such person's heirs or legal representative.
253 If a voucher is not redeemed by the person whose name appears on the voucher as the seller
254 or by such person's heirs or legal representative within six months of the date of the

transaction, the voucher shall expire and the secondary metals recycler shall not be required to honor the voucher after the expiration date.

(d) A secondary metals recycler shall not:

(1) Pay to any seller more than \$100.00 in cash for any transaction, limited to two transactions per seller, per day;

(2) Pay cash to any seller for catalytic converters or coils as defined in Code Section 10-1-350;

(3) Pay cash to any seller for used utility wire;

(4) Pay cash to any seller for used communications copper;

(5) Pay cash to any seller for copper wire; or

(6) Pay cash to any seller for a battery.

~~(d)~~(e) A secondary metals recycler shall be prohibited from: (1) redeeming or cashing any check or electronic funds transfer paid to a seller for regulated metal property; and (2) providing or permitting any mechanism on the premises of the secondary metals recycler for the redemption or cashing of any check or electronic funds transfer.

~~(e)~~(f) The provisions of this Code section shall not apply to any transaction, other than a transaction related to catalytic converters, between business entities."

SECTION 1-5.

Said article is further amended by revising Code Section 10-1-358, relating to purchases of regulated metal property exempted from application of article, as follows:

"10-1-358.

This article shall not apply to purchases of regulated metal property, other than catalytic converters, from:

(1) Organizations, corporations, or associations registered with the state as charitable, philanthropic, religious, fraternal, civic, patriotic, social, or school-sponsored organizations or associations or from any nonprofit corporations or associations;

- (2) A law enforcement officer acting in an official capacity;
- (3) A trustee in bankruptcy, executor, administrator, or receiver who has presented proof of such status to the secondary metals recycler;
- (4) Any public official acting under judicial process or authority who has presented proof of such status to the secondary metals recycler;
- (5) A sale on the execution, or by virtue, of any process issued by a court if proof thereof has been presented to the secondary metals recycler; or
- (6) A manufacturing, industrial, or other commercial vendor that generates ~~or~~ and sells regulated metal property in the ordinary course of its business, provided that such vendor is not a secondary metals recycler."

SECTION 1-6.

Said article is further amended by revising Code Section 10-1-359.2, relating to penalties for violations, as follows:

"10-1-359.2.

(a) Except as provided for in subsection (d) of Code Section 10-1-359.1, any person who buys or sells regulated metal property in violation of any provision of this article:

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

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

(3) For a third or subsequent offense or when such regulated metal property is unlawfully obtained and results in property damage exceeding \$1,500.00, shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than one nor more than ten years.

Each unlawfully possessed or obtained used, detached catalytic converter, as such term is defined in subsection (d) of Code Section 10-1-351, used utility wire, or used communications copper shall be considered a separate offense under this Code section.

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

SECTION 1-7.

Said article is further amended by revising Code Section 10-1-359.3, relating to forfeiture and items declared contraband, as follows:

"10-1-359.3.

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

(1) 'Crime' means:

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

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

(C) A criminal violation of this article.

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

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

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

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

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

and

(3) Any used, detached catalytic converter, as such term is defined in subsection (d) of Code Section 10-1-351, used utility wire, or used communications copper possessed in violation of said subsection and any vehicle used in the transportation of such used, detached catalytic converter, used utility ware, or used communications copper.

(c) Any property subject to forfeiture pursuant to subsection (b) of this Code section shall be forfeited in accordance with the procedures set forth in ~~Code Section 16-13-49~~ Chapter 16 of Title 9."

PART TWO

SECTION 2-1.

Article 14 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated, relating to secondary metals recyclers, is amended by revising Code Section 10-1-355, relating to conditions and limitations on payments for regulated metal property and exception for transaction between business entities, as follows:

"10-1-355.

(a) A secondary metals recycler shall pay only by check, electronic funds transfer, ~~cash,~~ or voucher for regulated metal property ~~and shall make any such payment as specifically provided for in this Code section.~~

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

(c) Any voucher shall be provided to the seller at the time of the purchase transaction or mailed to the seller at the address indicated on the personal identification card of the seller presented at the time of such transaction. If the voucher is provided to the seller at the time of the purchase transaction and not mailed to the seller, the secondary metals recycler shall not redeem the voucher for three days from the date of the purchase transaction. The voucher shall include the date of purchase, name of the seller, the amount paid for the regulated metal property, a detailed description of the regulated metal property purchased,

information as to whether the voucher was mailed or provided at the time of the purchase transaction, the first date on which the voucher may be redeemed, and the date on which the voucher expires. The voucher may only be redeemed for cash by the person whose name appears on the voucher as the seller or by such person's heirs or legal representative. If a voucher is not redeemed by the person whose name appears on the voucher as the seller or by such person's heirs or legal representative within six months of the date of the transaction, the voucher shall expire and the secondary metals recycler shall not be required to honor the voucher after the expiration date.

~~(d) A secondary metals recycler shall not:~~

~~(1) Pay to any seller more than \$100.00 in cash for any transaction;~~

~~(2) Pay cash to any seller for catalytic converters or coils as defined in Code Section 10-1-350;~~

~~(3) Pay cash to any seller for used utility wire;~~

~~(4) Pay cash to any seller for used communications copper;~~

~~(5) Pay cash to any seller for copper wire; or~~

~~(6) Pay cash to any seller for a battery.~~

~~(e)~~(d) A secondary metals recycler shall be prohibited from: (1) redeeming or cashing any check or electronic funds transfer paid to a seller for regulated metal property; and (2) providing or permitting any mechanism on the premises of the secondary metals recycler for the redemption or cashing of any check or electronic funds transfer.

~~(f)~~(e) The provisions of this Code section shall not apply to any transaction, ~~other than a transaction related to catalytic converters,~~ between business entities."

PART THREE

SECTION 3-1.

Parts One and Three of this Act shall become effective on July 1, 2022, and shall apply to all transactions occurring on and after such date. Part Two of this Act shall become effective

384 on January 1, 2025, and shall apply to all transactions occurring on and after such date,
385 provided that Part Two shall not affect the prosecution of any crimes for conduct under the
386 previous law while such law was effective and shall not abate any prosecutions thereunder.

387

SECTION 3-2.

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