

Senate Bill 591

By: Senators Hatchett of the 50th and Ginn of the 47th

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:

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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.

43 ~~(11)~~(12) 'Personal identification card' means a current and unexpired driver's license or
44 identification card issued by the Department of Driver Services or a similar card issued
45 by another state, a military identification card, or a current work authorization issued by
46 the federal government, which shall contain the individual's name, address, and
47 photograph.

48 ~~(12)~~(13) 'Purchase transaction' means a transaction in which the secondary metals
49 recycler gives consideration in exchange for regulated metal property.

50 ~~(13)~~(14) 'Regulated metal property' means any item composed primarily of any ferrous
51 metals or nonferrous metals and includes aluminum property, copper property, and
52 catalytic converters but shall not include aluminum beverage containers, used beverage
53 containers, or similar beverage containers.

54 ~~(14)~~(15) 'Secondary metals recycler' means any person who is engaged, from a fixed
55 location or otherwise, in the business in this state of paying compensation for regulated
56 metal property that has served its original economic purpose, whether or not engaged in
57 the business of performing the manufacturing process by which regulated metal property
58 is converted into raw material products consisting of prepared grades and having an
59 existing or potential economic value.

60 ~~(15)~~(16) 'Seller' means the rightful owner of the regulated metal property or the
61 individual authorized by the rightful owner of the regulated metal property to conduct the
62 purchase transaction.

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

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

SECTION 1-2.

70

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

73 "10-1-351.

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

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

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

83 (3) A secondary metals recycler who provides proof of registration pursuant to Code
84 Section 10-1-359.1 and a signed statement stating that the required information
85 concerning the purchase transaction involving such coil was provided by such secondary
86 metals recycler to the Georgia Bureau of Investigation pursuant to Code Section
87 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 pursuant to Chapter 14 of Title 43 or by another state that
92 provides a copy of such valid license at the time of the purchase transaction that is
93 scanned or photocopied by the secondary metals recycler or whose scanned or
94 photocopied license is on file with the secondary metals recycler;

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

97 (3) A secondary metals recycler who provides proof of registration pursuant to Code
98 Section 10-1-359.1 and a signed statement stating that the required information
99 concerning the purchase transaction involving such copper wire was provided by such
100 secondary metals recycler to the Georgia Bureau of Investigation pursuant to Code
101 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.
127 Such documentation shall include a notation as to the make, model, and year of the
128 vehicle 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 (d)(1) As used in this subsection, the term 'used, detached catalytic converter' means
137 motor vehicle exhaust system parts that are used for controlling the exhaust emissions
138 from motor vehicles and that contain a catalyst metal, but shall not include a catalytic
139 converter that has been tested, certified, and labeled for reuse in accordance with
140 applicable United States Environmental Protection Agency Clean Air Act regulations, as
141 may from time to time be amended.

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

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

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

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

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

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

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

168

SECTION 1-3.

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

171 "10-1-353.

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

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

176 (2) The date of the transaction;

- 177 (3) The weight, quantity, or volume and a description of the type of regulated metal
178 property purchased in a purchase transaction. For purposes of this paragraph, the term
179 'type of regulated metal property' shall include a general physical description, such as
180 wire, tubing, extrusions, or castings;
- 181 (4) A digital photograph or photographs or a digital video image or images of the
182 regulated metal property which shows the regulated metal property in a reasonably clear
183 manner;
- 184 (5) The amount of consideration given in a purchase transaction for the regulated metal
185 property and a copy of the check or voucher or documentation evidencing the cash or
186 electronic funds transfer given as consideration for such purchase transaction;
- 187 (6) A signed statement from the seller stating that such person is the rightful owner of
188 the regulated metal property or has been authorized to sell the regulated metal property
189 being sold;
- 190 (7) A signed statement from the seller stating that he or she understands that: 'A
191 secondary metals recycler is any person who is engaged, from a fixed location or
192 otherwise, in the business in this state of paying compensation for regulated metal
193 property that has served its original economic purpose, whether or not engaged in the
194 business of performing the manufacturing process by which regulated metal property is
195 converted into raw material products consisting of prepared grades and having an existing
196 or potential economic value. No ferrous metals, nonferrous metals, aluminum property,
197 copper property, or catalytic converters (aluminum beverage containers, used beverage
198 containers, or similar beverage containers are exempt) may be purchased by a secondary
199 metals recycler unless such secondary metals recycler is registered pursuant to Article 14
200 of Chapter 1 of Title 10 of the Official Code of Georgia Annotated';
- 201 (8) A scanned or photocopied copy of a valid personal identification card of the seller
202 and of the deliverer, if such person is different from the seller;

- 203 (9) The type of and distinctive number from the personal identification card of the seller
204 and of the deliverer, if such person is different from the seller;
- 205 (10) The name and date of birth of the seller and of the deliverer, if such person is
206 different from the seller;
- 207 (11) A photograph, videotape, or digital recording depicting a recognizable facial image
208 of the seller and of the deliverer, if such person is different from the seller, employing
209 technology allowing the image to be retained in electronic storage and in a transferable
210 format;
- 211 (12) The vehicle license tag number or vehicle identification number, state of issue, and
212 the make, model, and color of the vehicle used to deliver the regulated metal property to
213 the secondary metals recycler; and
- 214 (13) A scanned or photocopied copy of the verifiable documentation, reports, licenses,
215 certificates, and registrations required pursuant to Code Sections 10-1-351 and 10-1-352.
- 216 (b) A secondary metals recycler shall maintain or cause to be maintained the information
217 required by subsection (a) of this Code section for not less than two years from the date of
218 the purchase transaction.
- 219 (c) When the regulated metal property being purchased is a vehicle, the secondary metals
220 recycler shall:
- 221 (1) If Code Section 40-3-36 is applicable, purchase such vehicle in compliance with such
222 Code section and shall not be required to maintain a record of the purchase transaction
223 as provided in subsection (a) of this Code section or to provide such record to the Georgia
224 Bureau of Investigation pursuant to Code Section 10-1-359.5; or
- 225 (2) If Code Section 40-3-36 is not applicable, maintain a record of such purchase
226 transaction as provided in subsection (a) of this Code section and provide such record to
227 the Georgia Bureau of Investigation pursuant to Code Section 10-1-359.5.
- 228 (d) It shall be a violation of this article to sign the statement required by either
229 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

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

257 (d) A secondary metals recycler shall not:

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

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

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

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

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

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

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

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

271 **SECTION 1-5.**

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

274 "10-1-358.

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

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

280 (2) A law enforcement officer acting in an official capacity;

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

290

SECTION 1-6.

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

293 "10-1-359.2.

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

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

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

299 (3) For a third or subsequent offense or when such regulated metal property is unlawfully
300 obtained and results in property damage exceeding \$3,000.00, shall be guilty of a felony
301 and, upon conviction thereof, shall be punished by imprisonment for not less than one nor
302 more than ten years.

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

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

311 **SECTION 1-7.**

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

314 "10-1-359.3.

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

316 (1) 'Crime' means:

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

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

322 (C) A criminal violation of this article.

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

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

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

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

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

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

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

337 **PART TWO**

338 **SECTION 2-1.**

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

343 "10-1-355.

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

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

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

357 transaction, the first date on which the voucher may be redeemed, and the date on which
 358 the voucher expires. The voucher may only be redeemed for cash by the person whose
 359 name appears on the voucher as the seller or by such person's heirs or legal representative.
 360 If a voucher is not redeemed by the person whose name appears on the voucher as the seller
 361 or by such person's heirs or legal representative within six months of the date of the
 362 transaction, the voucher shall expire and the secondary metals recycler shall not be required
 363 to honor the voucher after the expiration date.

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

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

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

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

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

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

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

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

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

378 **PART THREE**

379 **SECTION 3-1.**

380 Parts One and Three of this Act shall become effective on July 1, 2022, and shall apply to
 381 all transactions occurring on and after such date. Part Two of this Act shall become effective
 382 on January 1, 2025, and shall apply to all transactions occurring on and after such date,

383 provided that Part Two shall not affect the prosecution of any crimes for conduct under the
384 previous law while such law was effective and shall not abate any prosecutions thereunder.

385

SECTION 3-2.

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