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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/09/2012	.	
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The Committee on Commerce and Tourism (Montford) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (1) of section 538.03, Florida Statutes, is reordered and amended, paragraphs (m) through (q) of subsection (2) of that section are redesignated as paragraphs (k) through (o), respectively, and present paragraphs (k), (l), and (n) of that subsection are amended, to read:

538.03 Definitions; applicability.—

(1) As used in this part, the term:

(g) ~~(a)~~ "Secondhand dealer" means any person, corporation,



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13 or other business organization or entity that ~~which~~ is not a
14 secondary metals recycler subject to part II and that ~~which~~ is
15 engaged in the business of purchasing, consigning, or trading
16 secondhand goods. A secondary metals recycler may not act as a
17 secondhand dealer without also conforming to the requirements
18 for a secondhand dealer pursuant to this part.

19 (f) ~~(b)~~ "Precious metals dealer" means a secondhand dealer
20 who normally or regularly engages in the business of buying used
21 precious metals for resale. The term does not include those
22 persons involved in the bulk sale of precious metals from one
23 secondhand or precious metals dealer to another.

24 (i) ~~(e)~~ "Secondhand store" means the place or premises at
25 which a secondhand dealer is registered to conduct business as a
26 secondhand dealer or conducts business.

27 (c) ~~(d)~~ "Consignment shop" means a shop engaging in the
28 business of accepting for sale, on consignment, secondhand goods
29 that ~~which~~, having once been used or transferred from the
30 manufacturer to the dealer, are then received into the
31 possession of a third party.

32 (a) ~~(e)~~ "Acquire" means to obtain by purchase, consignment,
33 or trade.

34 (h) ~~(f)~~ "Secondhand goods" means personal property
35 previously owned or used, which is not regulated metals property
36 regulated under part II and which is purchased, consigned, or
37 traded as used property. Such secondhand goods do not include
38 office furniture, pianos, books, clothing, organs, coins, motor
39 vehicles, costume jewelry, cardio and strength training or
40 conditioning equipment designed primarily for indoor use, and
41 secondhand sports equipment that is not permanently labeled with



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42 a serial number. For purposes of this paragraph, "secondhand
43 sports equipment" does not include golf clubs.

44 (j)~~(g)~~ "Transaction" means any purchase, consignment, or
45 trade of secondhand goods by a secondhand dealer.

46 (e)~~(h)~~ "Precious metals" means any item containing any
47 gold, silver, or platinum, or any combination thereof, excluding
48 any chemical or any automotive, photographic, electrical,
49 medical, or dental materials or electronic parts.

50 (d)~~(i)~~ "Department" means the Department of Revenue.

51 (b) "Appropriate law enforcement official" means the
52 sheriff of the county in which a secondhand dealer is located
53 or, if the secondhand dealer is located within a municipality,
54 both the police chief of the municipality and the sheriff;
55 however, the sheriff or police chief may designate as the
56 appropriate law enforcement official for that county or
57 municipality, as applicable, any law enforcement officer working
58 within that respective county or municipality. This paragraph
59 does not limit the authority or duties of the sheriff.

60 (2) This chapter does not apply to:

61 ~~(k) Any person purchasing, consigning, or trading~~
62 ~~secondhand goods at a flea market regardless of whether at a~~
63 ~~temporary or permanent business location at the flea market.~~

64 ~~(l) Any auction business as defined in s. 468.382(1).~~

65 (1)~~(n)~~ A business that contracts with other persons or
66 entities to offer its secondhand goods for sale, purchase,
67 consignment, or trade via an Internet website, and that
68 maintains a shop, store, or other business premises for this
69 purpose, if all of the following apply:

70 1. The secondhand goods must be available on the website



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71 for viewing by the public at no charge;
72 2. The records of the sale, purchase, consignment, or trade
73 must be maintained for at least 2 years;
74 3. The records of the sale, purchase, consignment, or
75 trade, and the description of the secondhand goods as listed on
76 the website, must contain the serial number of each item, if
77 any;
78 4. The secondhand goods listed on the website must be
79 searchable based upon the state or zip code;
80 5. The business must provide the appropriate law
81 enforcement official ~~agency~~ with the name or names under which
82 it conducts business on the website;
83 6. The business must allow the appropriate law enforcement
84 official ~~agency~~ to inspect its business premises at any time
85 during normal business hours;
86 7. Any payment by the business resulting from such a sale,
87 purchase, consignment, or trade must be made to the person or
88 entity with whom the business contracted to offer the goods and
89 must be made by check or via a money services business licensed
90 under part II of chapter 560; and
91 8.a. At least 48 hours after the estimated time of
92 contracting to offer the secondhand goods, the business must
93 verify that any item having a serial number is not stolen
94 property by entering the serial number of the item into the
95 Department of Law Enforcement's stolen article database located
96 at the Florida Crime Information Center's public access system
97 website. The business shall record the date and time of such
98 verification on the contract covering the goods. If such
99 verification reveals that an item is stolen property, the



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100 business shall immediately remove the item from any website on
101 which it is being offered and notify the appropriate law
102 enforcement official agency; or

103 b. The business must provide the appropriate law
104 enforcement official agency with an electronic copy of the name,
105 address, phone number, driver ~~driver's~~ license number, and
106 issuing state of the person with whom the business contracted to
107 offer the goods, as well as an accurate description of the
108 goods, including make, model, serial number, and any other
109 unique identifying marks, numbers, names, or letters that may be
110 on an item, in a format agreed upon by the business and the
111 appropriate law enforcement official agency. This information
112 must be provided to the appropriate law enforcement official
113 ~~agency~~ within 24 hours after entering into the contract unless
114 other arrangements are made between the business and the law
115 enforcement official agency.

116 Section 2. Subsections (1), (6), and (7) of section 538.04,
117 Florida Statutes, are amended to read:

118 538.04 Recordkeeping requirements; penalties.—

119 (1) A secondhand dealer ~~dealers~~ shall complete a secondhand
120 dealers transaction form at the time of the actual transaction.
121 A secondhand dealer shall maintain a copy of a completed
122 transaction form on the registered premises for at least 1 year
123 after the date of the transaction. However, the secondhand
124 dealer shall maintain a copy of the transaction form for not
125 less than 3 years. Unless other arrangements are ~~have been~~
126 agreed upon by the secondhand dealer and the appropriate law
127 enforcement official agency, the secondhand dealer shall, within
128 24 hours after acquiring ~~the acquisition of~~ any secondhand



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129 goods, deliver to such official ~~the police department of the~~
130 ~~municipality where the goods were acquired or, if the goods were~~
131 ~~acquired outside of a municipality, to the sheriff's department~~
132 ~~of the county where the goods were acquired,~~ a record of the
133 transaction on a form approved by the Department of Law
134 Enforcement. Such record shall contain:

135 (a) The time, date, and place of the transaction.

136 (b) A complete and accurate description of the goods
137 acquired, including the following information, if applicable:

138 1. Brand name.

139 2. Model number.

140 3. Manufacturer's serial number.

141 4. Size.

142 5. Color, as apparent to the untrained eye.

143 6. Precious metal type, weight, and content if known.

144 7. Gemstone description, including the number of stones, if
145 applicable.

146 8. In the case of firearms, the type of action, caliber or
147 gauge, number of barrels, barrel length, and finish.

148 9. Any other unique identifying marks, numbers, or letters.

149 (c) A description of the person from whom the goods were
150 acquired, including:

151 1. Full name, current residential address, workplace, and
152 home and work phone numbers.

153 2. Height, weight, date of birth, race, gender, hair color,
154 eye color, and any other identifying marks.

155 3. The right thumbprint, free of smudges and smears, of the
156 person from whom the goods were acquired.

157 (d) Any other information required by the form approved by



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158 the Department of Law Enforcement.

159 (6) If the appropriate law enforcement official agency
160 supplies a secondhand dealer with appropriate software and the
161 secondhand dealer has computer capability, the secondhand dealer
162 must ~~transactions shall be~~ electronically transmit secondhand
163 dealer transactions required by this section to such official
164 ~~transferred~~. If a secondhand dealer does not have computer
165 capability, the appropriate law enforcement official agency may
166 provide the secondhand dealer with a computer and all equipment
167 necessary to ~~equipment for the purpose of~~ electronically
168 transmit ~~transferring~~ secondhand dealer transactions. The
169 appropriate law enforcement official agency shall retain
170 ownership of the computer, unless otherwise agreed upon, and
171 the secondhand dealer shall maintain the computer in good
172 working order, except for ordinary wear and ~~tear~~ excepted. A ~~If~~
173 ~~the~~ secondhand dealer who transmits ~~transfers~~ secondhand dealer
174 transactions electronically, ~~the secondhand dealer~~ is not
175 required to also deliver ~~to the appropriate law enforcement~~
176 ~~agency~~ the original or paper copies of the secondhand
177 transaction forms to the appropriate law enforcement official.
178 However, such official may, for purposes ~~the purpose~~ of a
179 criminal investigation, ~~the appropriate law enforcement agency~~
180 ~~may~~ request ~~that~~ the secondhand dealer to deliver the ~~produce an~~
181 original ~~of a~~ transaction form that was ~~has been~~ electronically
182 transmitted ~~transferred~~. The secondhand dealer shall deliver the
183 ~~this~~ form to the appropriate law enforcement official agency
184 within 24 hours after receipt of the request.

185 (7) If the original transaction form is lost or destroyed
186 by the appropriate law enforcement official agency, a copy may



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187 be used by the secondhand dealer as evidence in court. When an
188 electronic image of a customer's identification is accepted for
189 a transaction, the secondhand dealer must maintain the
190 electronic image in order to meet the recordkeeping requirements
191 applicable to the original transaction form. If a criminal
192 investigation occurs, the secondhand dealer shall, upon request,
193 provide a clear and legible copy of the image to the appropriate
194 law enforcement official agency.

195 Section 3. Section 538.18, Florida Statutes, is reordered
196 and amended to read:

197 538.18 Definitions.—As used in this part, the term:

198 (1) "Appropriate law enforcement official" means the
199 sheriff of the county in which a secondary metals recycler is
200 located or, if the secondary metals recycler is located within a
201 municipality, the police chief of the municipality in which the
202 secondary metals recycler is located; however, the sheriff or
203 police chief may designate as the appropriate law enforcement
204 official for the county or municipality, as applicable, any law
205 enforcement officer working within that respective county or
206 municipality. This subsection does not limit the authority or
207 duties of the sheriff.

208 (3)(1) "Ferrous metals" means any metals containing
209 significant quantities of iron or steel.

210 (4)(2) "Fixed location" means any site occupied by a
211 secondary metals recycler as owner of the site or as lessee of
212 the site under a lease or other rental agreement providing for
213 occupation of the site by the secondary metals recycler for a
214 total duration of not less than 364 days.

215 (5)(3) "Money" means a medium of exchange authorized or



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216 adopted by a domestic or foreign government as part of its
217 currency.

218 (6)~~(4)~~ "Nonferrous metals" means metals not containing
219 significant quantities of iron or steel, including, without
220 limitation, copper, brass, aluminum, bronze, lead, zinc, nickel,
221 and alloys thereof, excluding precious metals subject to
222 regulation under part I.

223 (7)~~(5)~~ "Personal identification card" means a valid Florida
224 driver license, a Florida identification card issued by the
225 Department of Highway Safety and Motor Vehicles, an equivalent
226 form of identification issued by another state, a passport, or
227 an employment authorization issued by the United States Bureau
228 of Citizenship and Immigration Services that contains an
229 individual's photograph and current address ~~any government-~~
230 ~~issued photographic identification card.~~

231 (8)~~(6)~~ "Purchase transaction" means a transaction in which
232 a secondary metals recycler gives consideration for regulated
233 metals property.

234 (9)~~(7)~~ "Regulated metals property" means any item composed
235 primarily of any nonferrous metals. The term does, ~~but shall~~ not
236 include aluminum beverage containers, used beverage containers,
237 or similar beverage containers; however, ~~-~~ the term includes
238 ~~shall include~~ stainless steel beer kegs and items made of
239 ferrous metal obtained from any restricted regulated metals
240 property.

241 (11)~~(8)~~ "Secondary metals recycler" means any person who:

242 (a) Is engaged, from a fixed location or otherwise, in the
243 business of purchase transactions, gathering or obtaining
244 ferrous or nonferrous metals that have served their original



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245 economic purpose, or is in the business of performing the
246 manufacturing process by which ferrous metals or nonferrous
247 metals are converted into raw material products consisting of
248 prepared grades and having an existing or potential economic
249 value; or

250 (b) Has facilities for performing the manufacturing process
251 by which ferrous metals or nonferrous metals are converted into
252 raw material products consisting of prepared grades and having
253 an existing or potential economic value, other than by the
254 exclusive use of hand tools, by methods including, without
255 limitation, processing, sorting, cutting, classifying, cleaning,
256 baling, wrapping, shredding, shearing, or changing the physical
257 form or chemical content thereof.

258
259 A secondary metals recycler may not act as a secondhand dealer
260 without also conforming to the requirements of a secondhand
261 dealer pursuant to this part.

262 (2) ~~(9)~~ "Department" means the Department of Revenue.

263 (10) "Restricted regulated metals property" means any
264 regulated metals property listed in s. 538.26(4) (b) the sale of
265 which is restricted as provided in s. 538.26(4) (a).

266 (12) "Utility" means a public utility or electric utility
267 as defined in s. 366.02 or a person, firm, cooperative,
268 association, or political subdivision, whether private,
269 municipal, county, or cooperative, which is engaged in the sale,
270 generation, provision, or delivery of heat, water, oil, sewer
271 service, or telephone, telegraph, radio, telecommunications, or
272 communications service.

273 Section 4. Paragraph (u) of subsection (1) of section



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274 319.30, Florida Statutes, is amended to read:

275 319.30 Definitions; dismantling, destruction, change of
276 identity of motor vehicle or mobile home; salvage.—

277 (1) As used in this section, the term:

278 (u) "Secondary metals recycler" means secondary metals
279 recycler as defined in s. 538.18 ~~538.18(8)~~.

280 Section 5. Section 538.19, Florida Statutes, is amended to
281 read:

282 538.19 Records required; limitation of liability.—

283 (1) A secondary metals recycler shall maintain a legible
284 paper record of all purchase transactions to which such
285 secondary metals recycler is a party. A secondary metals
286 recycler shall also maintain a legible electronic record, in the
287 English language, of all such purchase transactions. The
288 appropriate law enforcement official may provide data
289 specifications regarding the electronic record format, but such
290 format must be approved by the Department of Law Enforcement. An
291 electronic record of a purchase transaction shall be
292 electronically transmitted to the appropriate law enforcement
293 official no later than 10 a.m. of the business day following the
294 date of the purchase transaction. A secondary metals recycler
295 who transmits such records electronically is not required to
296 also deliver the original or paper copies of the transaction
297 forms to the appropriate law enforcement official. However, such
298 official may, for purposes of a criminal investigation, request
299 the secondary metals recycler to deliver the original
300 transaction form that was electronically transmitted. The
301 secondary metals recycler shall deliver the form to the
302 appropriate law enforcement official within 24 hours after



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303 receipt of the request.

304 (2) The following information must be maintained on the a
305 form approved by the Department of Law Enforcement for each
306 purchase transaction:

307 (a) The name and address of the secondary metals recycler.

308 (b) The name, initials, or other identification of the
309 individual entering the information on the ticket.

310 (c) The date and time of the transaction.

311 (d) The weight, quantity, or volume, and a description of
312 the type of regulated metals property purchased in a purchase
313 transaction.

314 (e) The amount of consideration given in a purchase
315 transaction for the regulated metals property.

316 (f) A signed statement from the person delivering the
317 regulated metals property stating that she or he is the rightful
318 owner of, or is entitled to sell, the regulated metals property
319 being sold. If the purchase involves a stainless steel beer keg,
320 the seller must provide written documentation from the
321 manufacturer that the seller is the owner of the stainless steel
322 beer keg or is an employee or agent of the manufacturer.

323 (g) The distinctive number from the personal identification
324 card of the person delivering the regulated metals property to
325 the secondary metals recycler.

326 (h) A description of the person from whom the regulated
327 metals property was ~~goods were~~ acquired, including:

328 1. Full name, current residential address, workplace, and
329 home and work phone numbers.

330 2. Height, weight, date of birth, race, gender, hair color,
331 eye color, and any other identifying marks.



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332 3. The right thumbprint, free of smudges and smears.

333 4. Vehicle description to include the make, model, and tag
334 number of the vehicle and trailer of the person selling the
335 regulated metals property.

336 5. Any other information required by the form approved by
337 the Department of Law Enforcement.

338 (i) A photograph, videotape, or digital image of the
339 regulated metals being sold.

340 (j) A photograph, videotape, or similar likeness of the
341 person receiving consideration in which such person's facial
342 features are clearly visible.

343 ~~(3) Any secondary metals recycler that maintains an~~
344 ~~electronic database containing the information required in~~
345 ~~paragraph (2) (h), along with an oath of ownership with a~~
346 ~~signature of the seller of the secondary metals being purchased~~
347 ~~by the secondary metals recycler and a right thumbprint that has~~
348 ~~no smudges and smears on the oath of ownership for each purchase~~
349 ~~transaction, shall be exempt from the records requirement of~~
350 ~~paragraph (2) (h).~~ A secondary metals recycler complies with the
351 requirements of this section if it maintains an electronic
352 database containing the information required by subsection (2)
353 ~~paragraph (2) (h)~~ as long as the electronic information required
354 by subsection (2) ~~paragraph (2) (h)~~, along with an electronic
355 oath of ownership with an electronic signature of the seller of
356 the secondary metals being purchased by the secondary metals
357 recyclers and an electronic image of the seller's right
358 thumbprint that has no smudges and smears, can be downloaded
359 onto a paper form in the image of the form approved by the
360 Department of Law Enforcement as provided in subsection (2).



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361 (4) A secondary metals recycler shall maintain or cause to
362 be maintained the information required by this section for not
363 less than 3 ~~5~~ years from the date of the purchase transaction.

364 ~~(5) If a purchase transaction involves the transfer of~~
365 ~~regulated metals property from~~ A secondary metals recycler
366 registered with the department who purchases a motor vehicle
367 from a licensed salvage motor vehicle dealer as defined in s.
368 320.27 or to another secondary metals recycler registered with
369 the department and uses a mechanical crusher to convert the
370 vehicle to scrap metal must obtain a signed statement from the
371 seller stating that the seller has surrendered the vehicle's
372 certificate of title to the Department of Highway Safety and
373 Motor Vehicles as provided in s. 319.30 or has otherwise
374 complied with the titling requirements provided by law for
375 conversion of the vehicle to scrap metal. A, the secondary
376 metals recycler is not liable for the seller's failure to comply
377 with the titling requirements provided by law for conversion of
378 a motor vehicle to scrap metal if the secondary metals recycler
379 obtains and maintains the seller's signed statement ~~receiving~~
380 ~~the regulated metals property shall record the name and address~~
381 ~~of the secondary metals recycler from which it received the~~
382 ~~regulated metals property in lieu of the requirements of~~
383 ~~paragraph (2)(h).~~

384 Section 6. Section 538.235, Florida Statutes, is amended to
385 read:

386 538.235 Method of payment.—

387 (1) A secondary metals recycler may ~~shall~~ not enter into
388 any cash transaction:

389 (a) In excess of \$1,000 ~~in payment~~ for the purchase of



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390 regulated metals property; or

391 (b) In any amount for the purchase of restricted regulated
392 metals property.

393 (2) Payment in excess of \$1,000 for the purchase of
394 regulated metals property shall be made by check issued to the
395 seller of the metal and payable to the seller.

396 (3) Payment for the purchase of restricted regulated metals
397 property shall be made by check issued to the seller of the
398 metal and payable to the seller or by electronic payment to the
399 seller's bank account or the seller's employer's bank account.

400 (a) Each check shall be mailed by the secondary metals
401 recycler directly to the street address of the seller which is
402 on file with the secondary metals recycler, unless otherwise
403 provided in this part. A check may not be mailed to a post
404 office box. Electronic payments shall be transmitted to an
405 account for which the seller is listed as an account holder or
406 an employee or agent of the seller.

407 (b) Each check or electronic payment shall be mailed or
408 transmitted by the secondary metals recycler to the seller
409 within 3 days after the purchase transaction, unless otherwise
410 provided in this section.

411 (c) The secondary metals recycler may provide a check at
412 the time of the purchase transaction rather than mailing the
413 check as required in paragraph (a), if the seller is:

414 1. An organization, corporation, or association registered
415 with the state as a charitable, philanthropic, religious,
416 fraternal, civic, patriotic, social, or school-sponsored
417 organization or association, or is a nonprofit corporation or
418 association;



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419 2. A law enforcement officer acting in an official
420 capacity;

421 3. A trustee in bankruptcy or an executor, administrator,
422 or receiver who has presented proof of such status to the
423 secondary metals recycler;

424 4. A public official acting under judicial process or
425 authority who has presented proof of such status to the
426 secondary metals recycler;

427 5. A sheriff acting under the authority of a court's writ
428 of execution, or by virtue of any process issued by a court, if
429 proof thereof has been presented to the secondary metals
430 recycler; or

431 6. A manufacturing, industrial, or other commercial vendor
432 that generates regulated materials in the ordinary course of
433 business.

434 Section 7. Section 538.26, Florida Statutes, is amended to
435 read:

436 538.26 Certain acts and practices prohibited.—It is
437 unlawful for a secondary metals recycler to do or allow any of
438 the following acts:

439 (1) Purchase regulated metals property, restricted
440 regulated metals property, or ferrous metals on weekdays before
441 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 1
442 p.m., or on Sundays. ~~between the hours of 9 p.m. and 6 a.m.~~

443 ~~(2) Fail to pay any sales tax owed to the department or~~
444 ~~fail to have a sales tax registration number.~~

445 ~~(3) Purchase regulated metals property at a location other~~
446 ~~than the place of business set forth on the registration.~~

447 (2)(4) Purchase regulated metals property, restricted



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448 regulated metals property, or ferrous metals from any seller who
449 presents such property for sale at the registered location of
450 the secondary metals recycler when such property was not
451 transported in a motor vehicle.

452 ~~(3)(5) Purchase regulated metals property, restricted~~
453 regulated metals property, or ferrous metals ~~in return for money~~
454 ~~from a trailer, a vehicle, or any location other than a fixed~~
455 ~~location or from any person who is required to prove ownership~~
456 ~~pursuant to subsection (4). However, regulated metals may be~~
457 ~~purchased from a nonfixed location, or from such person, with~~
458 ~~any negotiable or nonnegotiable instrument, including a check or~~
459 ~~draft or any other type of instrument purchased with money and~~
460 ~~sold for the purpose of making payments or transfers to others.~~

461 (4) (a) Purchase any restricted regulated metals property
462 listed in paragraph (b), unless the secondary metals recycler
463 obtains reasonable proof that the seller:

464 1. Owns such property. Reasonable proof of ownership may
465 include, but is not limited to, a receipt or bill of sale; or

466 2. Is an employee, agent, or contractor of the property's
467 owner who is authorized to sell the property on behalf of the
468 owner. Reasonable proof of authorization to sell the property
469 includes, but is not limited to, a signed letter on the owner's
470 letterhead, dated no later than 90 days before the sale,
471 authorizing the seller to sell the property.

472 (b) The purchase of any of the following regulated metals
473 property is subject to the restrictions provided in paragraph
474 (a):

475 1. A manhole cover.

476 2. An electric light pole or other utility structure and



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- 477 its fixtures, wires, and hardware that are readily identifiable
478 as connected to the utility structure.
- 479 3. A guard rail.
- 480 4. A street sign, traffic sign, or traffic signal and its
481 fixtures and hardware.
- 482 5. Communication, transmission, distribution, and service
483 wire from a utility, including copper or aluminum bus bars,
484 connectors, grounding plates, or grounding wire.
- 485 6. A funeral marker or funeral vase.
- 486 7. A historical marker.
- 487 8. Railroad equipment, including, but not limited to, a tie
488 plate, signal house, control box, switch plate, E clip, or rail
489 tie junction.
- 490 9. Any metal item that is observably marked upon reasonable
491 inspection with any form of the name, initials, or logo of a
492 governmental entity, utility company, cemetery, or railroad.
- 493 10. A copper, aluminum, or aluminum-copper condensing or
494 evaporator coil, including its tubing or rods, from an air-
495 conditioning or heating unit, excluding coils from window air-
496 conditioning or heating units and motor vehicle air-conditioning
497 or heating units.
- 498 11. An aluminum or stainless steel container or bottle
499 designed to hold propane for fueling forklifts.
- 500 12. A stainless steel beer keg.
- 501 13. A catalytic converter or any nonferrous part of a
502 catalytic converter unless purchased as part of a motor vehicle.
- 503 14. Metallic wire that has been burned in whole or in part
504 to remove insulation.
- 505 15. A brass or bronze commercial valve or fitting, referred



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506 to as a "fire department connection and control valve" or an
507 "FDC valve," that is commonly used on structures for access to
508 water for the purpose of extinguishing fires.

509 16. A brass or bronze commercial potable water backflow
510 preventer valve that is commonly used to prevent backflow of
511 potable water from commercial structures into municipal domestic
512 water service systems.

513 17. A shopping cart.

514 18. A brass water meter.

515 19. A storm grate.

516 20. A brass sprinkler head used in commercial agriculture.

517 Section 8. Section 538.28, Florida Statutes, is created to
518 read:

519 538.28 Local government regulation; preemption.-

520 (1) The regulation of purchase transactions involving
521 regulated metals property is preempted to the state. Except as
522 provided in subsection (2), an ordinance or regulation adopted
523 by a county or municipality relating to the purchase or sale of
524 regulated metals property or the registration or licensure of
525 secondary metals recyclers is void.

526 (2) This part does not preempt an ordinance or regulation
527 originally enacted by a county or municipality before March 1,
528 2012, and which meets the requirements found in this part.

529 Section 9. For the purpose of incorporating the amendments
530 made by this act to sections 538.19 and 538.235, Florida
531 Statutes, in references thereto, paragraph (a) of subsection (1)
532 of section 538.23, Florida Statutes, is reenacted and amended to
533 read:

534 538.23 Violations and penalties.-



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- 535 (1) (a) Except as provided in paragraph (b), a secondary
536 metals recycler who knowingly and intentionally:
537 1. Violates s. 538.20 or s. 538.21;
538 2. Engages in a pattern of failing to keep records required
539 by s. 538.19;
540 3. Violates s. 538.26(2) ~~538.26(4)~~; or
541 4. Violates s. 538.235,

542
543 commits a misdemeanor of the first degree, punishable as
544 provided in s. 775.082.

545 Section 10. Subsection (2) of s. 812.145, Florida Statutes,
546 is amended to read:

547 812.145 Theft of copper or other nonferrous metals.—

548 (2) A person who knowingly and intentionally takes or
549 assists with the taking of copper or other nonferrous metals
550 from a utility or communications services provider, thereby
551 causing damage to the facilities of a utility or communications
552 services provider, interrupting or interfering with utility
553 service or communications services, or interfering with the
554 ability of a utility or communications services provider to
555 provide service, commits a felony of the first degree,
556 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

557 Section 11. (1) A public or private owner of metal property
558 is not civilly liable to a person who is injured during the
559 theft or attempted theft of metal property.

560 (2) A public or private owner of metal property is not
561 civilly liable to a person for injuries caused by a dangerous
562 condition created as a result of the theft or attempted theft of
563 the owner's metal property when the owner did not know, and



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564 could not have reasonably known, of the dangerous condition.

565 (3) This section does not create or impose a duty of care
566 upon an owner of metal property which would not otherwise exist
567 under common law.

568 Section 12. This act shall take effect July 1, 2012.

569
570 ===== T I T L E A M E N D M E N T =====

571 And the title is amended as follows:

572 Delete everything before the enacting clause
573 and insert:

574 A bill to be entitled
575 An act relating to transactions by secondhand dealers
576 and secondary metals recyclers; amending s. 538.03,
577 F.S.; requiring that a secondary metals recycler
578 conform to the requirements for a secondhand dealer;
579 defining the term "appropriate law enforcement
580 official"; deleting exemptions from regulation as a
581 secondhand dealer which relate to flea market
582 transactions and auction businesses; conforming
583 terminology; amending s. 538.04, F.S., relating to
584 recordkeeping requirements; conforming terminology and
585 clarifying provisions; amending s. 538.18, F.S.;
586 revising and providing definitions; amending s.
587 319.30, F.S.; conforming a cross-reference; amending
588 s. 538.19, F.S.; revising requirements for the types
589 of information that secondary metals recyclers must
590 obtain and maintain regarding purchase transactions,
591 including requirements for the maintenance and
592 transmission of electronic records of such



593 transactions; revising the period required for
594 secondary metals recyclers to maintain certain
595 information regarding purchase transactions involving
596 regulated metals property; limiting the liability of
597 secondary metals recyclers for the conversion of motor
598 vehicles to scrap metal under certain circumstances;
599 amending s. 538.235, F.S.; revising requirements for
600 payments made by secondary metals recyclers to sellers
601 of regulated metals property to prohibit certain cash
602 transactions; providing penalties; providing methods
603 of payment for restricted regulated metals property;
604 requiring that purchases of certain property be made
605 by check or by electronic payment; providing
606 procedures; amending s. 538.26, F.S.; prohibiting
607 secondary metals recyclers from purchasing regulated
608 metals property, restricted regulated metals property,
609 or ferrous metals during specified times or from
610 certain locations; prohibiting the purchase of
611 specified restricted regulated metals property without
612 obtaining certain proof of the seller's ownership and
613 authorization to sell the property; providing
614 penalties; creating s. 538.28, F.S.; preempting to the
615 state the regulation of secondary metals recyclers and
616 purchase transactions involving regulated metals
617 property; exempting county and municipal ordinances
618 and regulations enacted before March 1, 2012, from
619 preemption; reenacting and amending s. 538.23(1)(a),
620 F.S., relating to violations and penalties, to
621 incorporate the amendments made by this act to ss.



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622 538.19 and 538.235, F.S., in references thereto;
623 correcting a cross-reference; amending s. 812.145,
624 F.S.; including persons who assist in the taking of
625 certain metals as a felony of the first degree;
626 limiting the liability of a public or private owner of
627 metal property for injuries occurring during the theft
628 or attempted theft of metal property and for injuries
629 occurring as the result of the theft or attempted
630 theft; providing that no additional duty of care is
631 imposed on the owner of metal property; providing an
632 effective date.