

1 A bill to be entitled

2 An act relating to secondary metals recycling; amending s.
3 538.19, F.S.; requiring additional information to be
4 recorded by secondary metals recyclers; providing audit
5 authority and enforcement and reporting requirements for
6 the Department of Revenue; creating s. 538.195, F.S.;
7 requiring specified information to be reported by
8 secondary metals recyclers to the Department of Law
9 Enforcement for specified transactions; providing for
10 forms; requiring retention of certain metals received for
11 a specified period; providing penalties for failure to
12 report; amending s. 538.23, F.S.; providing criminal
13 penalties for specified violations by secondary metals
14 recyclers; amending s. 538.25, F.S.; providing specified
15 administrative penalties for certain violations by
16 secondary metals recyclers; amending s. 538.26, F.S.;
17 prohibiting purchases of certain regulated metals from
18 minors; prohibiting purchases of or removal of insulation
19 from certain metallic wire; providing exceptions; creating
20 s. 538.27, F.S.; prohibiting cash payments and payments on
21 site at the time of the transaction in certain regulated
22 metals transactions; requiring receipts meeting specified
23 requirements for certain transactions; providing
24 exceptions; creating s. 538.28, F.S.; prohibiting sale of
25 certain items; providing exceptions; providing penalties;
26 providing an effective date.

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28 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 538.19, Florida Statutes, is amended to read:

538.19 Records required.--

(1) A secondary metals recycler shall maintain a legible record of all purchase transactions to which such secondary metals recycler is a party.

(2) The following information must be maintained for each purchase transaction:

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

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

(c) The date and time of the transaction.

(d) A photograph of the regulated metals property purchased ~~The weight, quantity, or volume,~~ and a description, including weight, quantity, or volume, of the type of regulated metals property purchased ~~in a purchase transaction.~~

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

(f) A signed statement from the person delivering the regulated metals property stating that she or he is the rightful owner of, or is entitled to sell, the regulated metals property being sold.

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

55 (h) A photograph, videotape, or similar likeness of the
56 person receiving consideration in which such person's facial
57 features are clearly visible.

58 (i) The name; physical description, including gender,
59 height, weight, race, and eye and hair color; physical address;
60 date of birth; and signature of the person delivering the
61 regulated metals property and a photocopy of that person's
62 current personal identification card. The secondary metals
63 recycler must validate as much of the information provided by
64 the person delivering the regulated metals property under this
65 paragraph as possible by using a personal identification card
66 provided by that person.

67 (j) The sales tax number, if applicable, of the person
68 delivering the regulated metals property.

69 (k) The number and state of issuance of the license tag on
70 the motor vehicle used to deliver the regulated metals, if
71 applicable.

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

75 (4) The department is authorized to perform routine,
76 random audits of the records of secondary metals recyclers and
77 shall enforce the provisions of this section and report any
78 suspicious purchases or sales of metal recorded pursuant to this
79 section to the applicable local law enforcement agency. Nothing
80 in this subsection shall be construed to prevent a local law
81 enforcement agency from enforcing this section in any other
82 manner consistent with law.

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83 Section 2. Section 538.195, Florida Statutes, is created
84 to read:

85 538.195 Report to the Department of Law Enforcement;
86 exemption; penalties.--

87 (1) A secondary metals recycler shall deliver to the
88 Department of Law Enforcement, on a paper or electronic form
89 designed and made available by that department, a record of the
90 receipt of regulated metals property within 24 hours after
91 receipt, unless the metals were received from an industrial
92 account or a secondary metals recycler for which a record is
93 required to be kept by s. 538.19. The record of receipt shall
94 include all information required by s. 538.19(2) (a), (c), (d),
95 (e), (i), and (k), excluding the signature of the person
96 delivering the regulated metals property.

97 (2) For receipt of copper or aluminum wire with a diameter
98 of three-eighths of an inch or larger and for transactions with
99 a value over \$100, a secondary metals recycler shall hold in its
100 custody any regulated metal received in a reportable transaction
101 for 7 days after filing the report required by subsection (1) in
102 the same size, shape, and condition in which the regulated metal
103 was received on its business premises. This subsection does not
104 apply to:

105 (a) Transactions with industrial accounts or other
106 secondary metals recyclers.

107 (b) Purchases of used aluminum beverage containers or
108 ferrous regulated metals.

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109 (c) Purchases of regulated metal authorized for release by
 110 a law enforcement officer with jurisdiction over the secondary
 111 metals recycler.

112 (3) A person who fails to file a report required by this
 113 section commits:

114 (a) For the first offense, a misdemeanor of the second
 115 degree, punishable as provided in s. 775.082 or s. 775.083.

116 (b) For a second or subsequent offense, a misdemeanor of
 117 the first degree, punishable as provided in s. 775.082 or s.
 118 775.083.

119 Section 3. Subsection (1) of section 538.23, Florida
 120 Statutes, is amended to read:

121 538.23 Violations and penalties.--

122 (1) A secondary metals recycler who ~~shall, upon conviction~~
 123 ~~of~~ knowingly and intentionally:

124 (a) Violates ~~Violating~~ s. 538.20 or s. 538.21;

125 (b) Engages ~~Engaging~~ in a pattern of failing to keep
 126 records as required by s. 538.19; or

127 (c) Violates ~~Violating~~ s. 538.26(4), (6), or (7)

128
 129 commits ~~be guilty of~~ a misdemeanor of the first degree,
 130 punishable as provided in s. 775.082.

131 Section 4. Subsection (4) of section 538.25, Florida
 132 Statutes, is amended to read:

133 538.25 Registration.--

134 (4) In addition to the fine provided in subsection (3),
 135 registration under this section may be denied or any
 136 registration granted may be revoked, restricted, or suspended by

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137 the department if, ~~after October 2, 1989,~~ and within a 24-month
 138 period immediately preceding such denial, revocation,
 139 restriction, or suspension:

140 (a) The applicant or registrant has been convicted of
 141 knowingly and intentionally:

142 1. Violating s. 538.195, s. 538.20, ~~or s. 538.21~~, s.
 143 538.27, or s. 538.28;

144 2. Engaging in a pattern of failing to keep records as
 145 required by s. 538.19;

146 3. Making a material false statement in the application
 147 for registration; or

148 4. Engaging in a fraudulent act in connection with any
 149 purchase or sale of regulated metals property;

150 (b) The applicant or registrant has been convicted of, or
 151 entered a plea of guilty or nolo contendere to, a felony
 152 committed by the secondary metals recycler against the laws of
 153 the state or of the United States involving theft, larceny,
 154 dealing in stolen property, receiving stolen property, burglary,
 155 embezzlement, obtaining property by false pretenses, possession
 156 of altered property, or any felony drug offense or of knowingly
 157 and intentionally violating the laws of the state relating to
 158 registration as a secondary metals recycler; or

159 (c) The applicant has, after receipt of written notice
 160 from the department of failure to pay sales tax, failed or
 161 refused to pay, within 30 days after the secondary metals
 162 recycler's receipt of such written notice, any sales tax owed to
 163 the department.

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164 Section 5. Subsections (6) and (7) are added to section
 165 538.26, Florida Statutes, to read:

166 538.26 Certain acts and practices prohibited.--It is
 167 unlawful for a secondary metals recycler to do or allow any of
 168 the following acts:

169 (6) Purchase regulated metals from a minor, other than
 170 used aluminum beverage containers or materials consisting of a
 171 metal product in its original manufactured form that is
 172 comprised of no more than 20 percent by weight of nonferrous
 173 metal.

174 (7) (a) Purchase or otherwise receive metallic wire that
 175 was burned in whole or in part to remove insulation unless the
 176 secondary metals recycler receives from the regulated metal
 177 seller written evidence that identifies the person delivering
 178 the wire and written evidence that the wire was lawfully burned.

179 (b) Accept aluminum wire or copper wire with a diameter of
 180 three-eighths of an inch or larger that has had the insulation
 181 removed.

182 (c) Remove the insulation from aluminum wire or copper
 183 wire with a diameter of three-eighths of an inch or larger until
 184 after the 7-day period prescribed by s. 538.195(2).

185
 186 This subsection does not apply to transactions with industrial
 187 accounts or between secondary metals recyclers.

188 Section 6. Section 538.27, Florida Statutes, is created to
 189 read:

190 538.27 Payment.--

191 (1) A secondary metals recycler shall not:

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192 (a) Provide payment for any regulated metals on site at
193 the time of the regulated metals transaction. Payment shall be
194 made by mailing a check or money order to a physical address
195 provided by the seller through personal identification as
196 provided in s. 538.19(2)(i). The check or money order shall be
197 made payable to the business name for an industrial account.

198 This paragraph applies to:

199 1. All transactions with an industrial account, unless the
200 industrial account annually preregisters employees with the
201 secondary metals recycler who shall be authorized sellers on
202 behalf of the industrial account.

203 2. All transactions, except transactions with industrial
204 accounts exempted under subparagraph 1., that are purchases of:

205 a. Copper or aluminum wire with a diameter of three-eighths
206 of an inch or larger; or

207 b. Three hundred dollars or more.

208 (b) Conduct a series of transactions for one vehicle load
209 of regulated metals to avoid the requirements of this section.

210 (c) Participate in more than one cash transaction per day
211 for regulated metals with any one seller.

212 (2) For each regulated metals transaction, the secondary
213 metals recycler shall provide a receipt to the person delivering
214 the regulated metals on site at the time of the transaction that
215 includes the following information:

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

217 (b) An identifying description and weight of the specific
218 regulated metals received.

219 (c) The dollar amount of the transaction.

220 (3) This section does not apply to transactions involving
 221 used aluminum beverage containers or materials consisting of a
 222 metal product in its original manufactured form that is
 223 comprised of no more than 20 percent by weight of nonferrous
 224 metal.

225 Section 7. Section 538.28, Florida Statutes, is created to
 226 read:

227 538.28 Sales of certain items prohibited.--

228 (1) Notwithstanding any provision of law, rule, or
 229 regulation to the contrary, it is unlawful to sell, offer for
 230 sale, or purchase as junk any metal item bearing markings of any
 231 governmental entity, utility company, cemetery, or railroad,
 232 including street signs, propane containers for fueling
 233 forklifts, or funeral markers.

234 (2) This section does not apply to the sale, offer for
 235 sale, or purchase as junk of such items by a duly authorized
 236 employee or representative of any governmental entity acting
 237 within his or her official capacity or by a duly authorized
 238 employee or representative of a utility company, cemetery, or
 239 railroad authorized to act on behalf of his or her employer.

240 (3) A person who violates this section commits a
 241 misdemeanor of the first degree, punishable as provided in s.
 242 775.082 or s. 775.083.

243 Section 8. This act shall take effect July 1, 2008.