

Bill No. SB 556



287234

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
2/19/2008	.	
	.	
	.	

1 The Committee on Commerce (Oelrich) recommended the following  
 2 **amendment:**

**Senate Amendment (with title amendment)**

5 Delete everything after the enacting clause  
6 and insert:

8 Section 1. Subsections (5), (6), and (7) of section  
9 538.18, Florida Statutes, are amended to read:

10 538.18 Definitions.--As used in this part, the term:

11 (5) "Personal identification card" means any government-  
 12 issued photographic identification card ~~a driver's license or~~  
 13 ~~identification card issued by the Department of Highway Safety~~  
 14 ~~and Motor Vehicles under s. 322.03 or s. 322.051, or a similar~~  
 15 ~~card issued by another state, a military identification card, a~~

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16 ~~passport, or an appropriate work authorization issued by the~~  
17 ~~United States Bureau of Citizenship and Immigration Services.~~

18 (6) "Purchase transaction" means a transaction in which a  
19 secondary metals recycler gives consideration ~~having a value in~~  
20 ~~excess of \$10 in exchange~~ for regulated metals property.

21 (7) "Regulated metals property" means any item composed  
22 primarily of any nonferrous metals, but shall not include  
23 aluminum beverage containers, used beverage containers, or  
24 similar beverage containers. The term shall include stainless  
25 steel beer kegs.

26 Section 2. Section 538.19, Florida Statutes, is amended to  
27 read:

28 538.19 Records required.--

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

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

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

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

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

39 (d) The weight, quantity, or volume, and a description of  
40 the type of regulated metals property purchased in a purchase  
41 transaction.

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



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44 (f) A signed statement from the person delivering the  
45 regulated metals property stating that she or he is the rightful  
46 owner of, or is entitled to sell, the regulated metals property  
47 being sold. If the purchase involves a stainless steel beer keg,  
48 the seller must provide written documentation from the  
49 manufacturer that the seller is the owner of the stainless steel  
50 beer keg or is an employee or agent of the manufacturer.

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

54 (h) A description of the person from whom the goods were  
55 acquired, including:

56 1. Full name, current residential address, workplace, and  
57 home and work phone numbers.

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

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

61 4. Vehicle description to include the make, model, and tag  
62 number of the vehicle and trailer of the person selling the  
63 regulated metals property.

64 5. Any other information required by the form approved by  
65 the Department of Law Enforcement.

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

68 (j) ~~(h)~~ A photograph, videotape, or similar likeness of the  
69 person receiving consideration in which such person's facial  
70 features are clearly visible.

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71       (3) Any secondary metals recycler that maintains an  
72 electronic database containing the information required in  
73 paragraph (2) (h), along with an oath of ownership with a  
74 signature of the seller of the secondary metals being purchased  
75 by the secondary metals recycler and a right thumbprint that has  
76 no smudges and smears on the oath of ownership for each purchase  
77 transaction, shall be exempt from the records requirement of  
78 paragraph (2) (h). A secondary metals recycler complies with the  
79 requirements of this section if it maintains an electronic  
80 database containing the information required by paragraph (2) (h)  
81 as long as the electronic information required by paragraph  
82 (2) (h), along with an electronic oath of ownership with an  
83 electronic signature of the seller of the secondary metals being  
84 purchased by the secondary metals recyclers and an electronic  
85 image of the seller's right thumbprint that has no smudges and  
86 smears, can be downloaded onto a paper form in the image of the  
87 form approved by the Department of Law Enforcement as provided  
88 in subsection (2).

89       (4)(3)- A secondary metals recycler shall maintain or cause  
90 to be maintained the information required by this section for  
91 not less than 5 years from the date of the purchase transaction.

92       (5) If a purchase transaction involves the transfer of  
93 regulated metals property from a secondary metals recycler  
94 registered with the department to another secondary metals  
95 recycler registered with the department, the secondary metals  
96 recycler receiving the regulated metals property shall record  
97 the name and address of the secondary metals recycler from which

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98 it received the regulated metals property in lieu of the  
99 requirements of paragraph (2) (h).

100 Section 3. Subsections (1) and (3) of section 538.23,  
101 Florida Statutes, are amended to read:

102 538.23 Violations and penalties.--

103 (1) (a) Except as provided in paragraph (b), a secondary  
104 metals recycler who shall, upon conviction of knowingly and  
105 intentionally:

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

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

109 3.(c) Violates ~~Violating~~ s. 538.26(4); or

110 4. Violates s. 538.235,

111  
112 commits ~~be guilty of~~ a misdemeanor of the first degree,  
113 punishable as provided in s. 775.082.

114 (b) A secondary metals recycler who commits a third or  
115 subsequent violation of paragraph (a) commits a felony of the  
116 third degree, punishable as provided in s. 775.082, s. 775.083,  
117 or s. 775.084.

118 (3) Any person who knowingly gives false verification of  
119 ownership or who gives a false or altered identification and who  
120 receives money or other consideration from a secondary metals  
121 recycler in return for regulated metals property commits ~~shall,~~  
122 ~~upon conviction, be guilty of:~~

123 (a) A felony ~~misdemeanor~~ of the third ~~first~~ degree,  
124 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.

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125 775.084, if the value of the money or other consideration  
126 received is less than \$300.

127 (b) A felony of the second ~~third~~ degree, punishable as  
128 provided in s. 775.082, s. 775.083, or s. 775.084, if the value  
129 of the money or other consideration received is \$300 or more.

130 Section 4. Section 538.235, Florida Statutes, is created  
131 to read:

132 538.235 Method of payment.--A secondary metals recycler  
133 shall not enter into any cash transaction in excess of \$1,000 in  
134 payment for the purchase of regulated metals property. Payment  
135 in excess of \$1,000 for the purchase of regulated metals  
136 property shall be made by check issued to the seller of the  
137 metal and payable to the seller.

138 Section 5. Subsection (6) is added to section 538.25,  
139 Florida Statutes, to read:

140 538.25 Registration.--

141 (6) Upon the request of a law enforcement official, the  
142 Department of Revenue shall release to the official the name and  
143 address of any secondary metals recycler registered to do  
144 business within the official's jurisdiction.

145 Section 6. Subsection (4) of section 538.26, Florida  
146 Statutes, is amended to read:

147 538.26 Certain acts and practices prohibited.--It is  
148 unlawful for a secondary metals recycler to do or allow any of  
149 the following acts:

150 (4) Purchase regulated metals property from any seller who  
151 presents such property for sale at the registered location of  
152 the secondary metals recycler when such property was not



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153 transported in a motor vehicle ~~unless the seller can prove~~  
154 ~~ownership of the regulated metals property.~~

155 Section 7. This act shall take effect October 1, 2008.

156  
157 ===== T I T L E A M E N D M E N T =====

158 And the title is amended as follows:

159 Delete everything before the enacting clause  
160 and insert:

161 A bill to be entitled  
162 An act relating to secondary metals recyclers; amending s.  
163 538.18, F.S.; revising the definition of "personal  
164 identification card"; deleting an exclusion of  
165 transactions under a specified amount from the definition  
166 of "purchase transaction" for specified purposes; revising  
167 the definition of "regulated metals property"; amending s.  
168 538.19, F.S.; revising recordkeeping requirements for  
169 purchase transactions; providing for additional seller  
170 information to be obtained; requiring an image of the  
171 regulated metals being sold; providing an exemption from a  
172 specified recordkeeping provision if the same information  
173 is maintained in an electronic database meeting specified  
174 requirements; providing a substitute recordkeeping  
175 requirement for certain transactions between registered  
176 secondary metals recyclers; amending s. 538.23, F.S.;  
177 providing for enhanced penalties for third or subsequent  
178 violations of a specified provision; providing enhanced  
179 penalties for violations of specified provisions relating  
180 to false verification of ownership or false or altered

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181 identification of a seller of regulated metals; creating  
182 s. 538.235, F.S.; prohibiting secondary metals recyclers  
183 from entering into cash transactions in certain  
184 circumstances; amending s. 538.25, F.S.; requiring the  
185 Department of Revenue to provide a law enforcement  
186 official, upon request, with specified information  
187 regarding certain secondary metals recyclers; amending s.  
188 538.26, F.S.; prohibiting the purchase of any regulated  
189 metals property when presented at the property of a  
190 secondary metals recycler and not transported in a motor  
191 vehicle; providing an effective date.