

By the Committee on Commerce; and Senators Constantine and Crist

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1 A bill to be entitled

2 An act relating to secondary metals recyclers; amending s.
3 538.18, F.S.; revising the definition of "personal
4 identification card"; deleting an exclusion of
5 transactions under a specified amount from the definition
6 of "purchase transaction" for specified purposes; revising
7 the definition of "regulated metals property"; amending s.
8 538.19, F.S.; revising recordkeeping requirements for
9 purchase transactions; providing for additional seller
10 information to be obtained; requiring an image of the
11 regulated metals being sold; providing an exemption from a
12 specified recordkeeping provision if the same information
13 is maintained in an electronic database meeting specified
14 requirements; providing a substitute recordkeeping
15 requirement for certain transactions between registered
16 secondary metals recyclers; amending s. 538.23, F.S.;
17 providing for enhanced penalties for third or subsequent
18 violations of a specified provision; providing enhanced
19 penalties for violations of specified provisions relating
20 to false verification of ownership or false or altered
21 identification of a seller of regulated metals; creating
22 s. 538.235, F.S.; prohibiting secondary metals recyclers
23 from entering into cash transactions in certain
24 circumstances; amending s. 538.25, F.S.; requiring the
25 Department of Revenue to provide a law enforcement
26 official, upon request, with specified information
27 regarding certain secondary metals recyclers; amending s.
28 538.26, F.S.; prohibiting the purchase of any regulated
29 metals property when presented at the property of a

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30 secondary metals recycler and not transported in a motor
31 vehicle; providing an effective date.

32
33 Be It Enacted by the Legislature of the State of Florida:

34
35 Section 1. Subsections (5), (6), and (7) of section 538.18,
36 Florida Statutes, are amended to read:

37 538.18 Definitions.--As used in this part, the term:

38 (5) "Personal identification card" means any government-
39 issued photographic identification card ~~a driver's license or~~
40 ~~identification card issued by the Department of Highway Safety~~
41 ~~and Motor Vehicles under s. 322.03 or s. 322.051, or a similar~~
42 ~~card issued by another state, a military identification card, a~~
43 ~~passport, or an appropriate work authorization issued by the~~
44 ~~United States Bureau of Citizenship and Immigration Services.~~

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

48 (7) "Regulated metals property" means any item composed
49 primarily of any nonferrous metals, but shall not include
50 aluminum beverage containers, used beverage containers, or
51 similar beverage containers. The term shall include stainless
52 steel beer kegs.

53 Section 2. Section 538.19, Florida Statutes, is amended to
54 read:

55 538.19 Records required.--

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

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

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

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

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

66 (d) The weight, quantity, or volume, and a description of
67 the type of regulated metals property purchased in a purchase
68 transaction.

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

71 (f) A signed statement from the person delivering the
72 regulated metals property stating that she or he is the rightful
73 owner of, or is entitled to sell, the regulated metals property
74 being sold. If the purchase involves a stainless steel beer keg,
75 the seller must provide written documentation from the
76 manufacturer that the seller is the owner of the stainless steel
77 beer keg or is an employee or agent of the manufacturer.

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

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

83 1. Full name, current residential address, workplace, and
84 home and work phone numbers.

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

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

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88 4. Vehicle description to include the make, model, and tag
89 number of the vehicle and trailer of the person selling the
90 regulated metals property.

91 5. Any other information required by the form approved by
92 the Department of Law Enforcement.

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

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

98 (3) Any secondary metals recycler that maintains an
99 electronic database containing the information required in
100 paragraph (2) (h), along with an oath of ownership with a
101 signature of the seller of the secondary metals being purchased
102 by the secondary metals recycler and a right thumbprint that has
103 no smudges and smears on the oath of ownership for each purchase
104 transaction, shall be exempt from the records requirement of
105 paragraph (2) (h). A secondary metals recycler complies with the
106 requirements of this section if it maintains an electronic
107 database containing the information required by paragraph (2) (h)
108 as long as the electronic information required by paragraph
109 (2) (h), along with an electronic oath of ownership with an
110 electronic signature of the seller of the secondary metals being
111 purchased by the secondary metals recyclers and an electronic
112 image of the seller's right thumbprint that has no smudges and
113 smears, can be downloaded onto a paper form in the image of the
114 form approved by the Department of Law Enforcement as provided in
115 subsection (2).

116 (4)~~(3)~~ A secondary metals recycler shall maintain or cause

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117 | to be maintained the information required by this section for not
118 | less than 5 years from the date of the purchase transaction.

119 | (5) If a purchase transaction involves the transfer of
120 | regulated metals property from a secondary metals recycler
121 | registered with the department to another secondary metals
122 | recycler registered with the department, the secondary metals
123 | recycler receiving the regulated metals property shall record the
124 | name and address of the secondary metals recycler from which it
125 | received the regulated metals property in lieu of the
126 | requirements of paragraph (2) (h).

127 | Section 3. Subsections (1) and (3) of section 538.23,
128 | Florida Statutes, are amended to read:

129 | 538.23 Violations and penalties.--

130 | (1) (a) Except as provided in paragraph (b), a secondary
131 | metals recycler who shall, ~~upon conviction of~~ knowingly and
132 | intentionally:

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

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

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

137 | 4. Violates s. 538.235,

138 |
139 | commits ~~be guilty of~~ a misdemeanor of the first degree,
140 | punishable as provided in s. 775.082.

141 | (b) A secondary metals recycler who commits a third or
142 | subsequent violation of paragraph (a) commits a felony of the
143 | third degree, punishable as provided in s. 775.082, s. 775.083,
144 | or s. 775.084.

145 | (3) Any person who knowingly gives false verification of

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146 ownership or who gives a false or altered identification and who
147 receives money or other consideration from a secondary metals
148 recycler in return for regulated metals property commits shall,
149 ~~upon conviction, be guilty of:~~

150 (a) A felony ~~misdemeanor~~ of the third ~~first~~ degree,
151 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
152 775.084, if the value of the money or other consideration
153 received is less than \$300.

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

157 Section 4. Section 538.235, Florida Statutes, is created to
158 read:

159 538.235 Method of payment.--A secondary metals recycler
160 shall not enter into any cash transaction in excess of \$1,000 in
161 payment for the purchase of regulated metals property. Payment in
162 excess of \$1,000 for the purchase of regulated metals property
163 shall be made by check issued to the seller of the metal and
164 payable to the seller.

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

167 538.25 Registration.--

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

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

174 538.26 Certain acts and practices prohibited.--It is

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175 unlawful for a secondary metals recycler to do or allow any of
176 the following acts:

177 (4) Purchase regulated metals property from any seller who
178 presents such property for sale at the registered location of the
179 secondary metals recycler when such property was not transported
180 in a motor vehicle ~~unless the seller can prove ownership of the~~
181 ~~regulated metals property.~~

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