

By the Committees on Criminal Justice; Commerce; and Senators
Constantine, Crist and Lynn

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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; providing
22 that if a person acts as a secondary metals recycler but
23 is not registered with the Department of Revenue, the
24 person commits a felony of the third degree; providing
25 criminal penalties; creating s. 538.235, F.S.; prohibiting
26 secondary metals recyclers from entering into cash
27 transactions in certain circumstances; amending s. 538.25,
28 F.S.; requiring the Department of Revenue to provide a law
29 enforcement official, upon request, with specified

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30 information regarding certain secondary metals recyclers;
31 amending s. 538.26, F.S.; prohibiting the purchase of any
32 regulated metals property when presented at the property
33 of a secondary metals recycler and not transported in a
34 motor vehicle; providing an effective date.

35
36 Be It Enacted by the Legislature of the State of Florida:

37
38 Section 1. Subsections (5), (6), and (7) of section 538.18,
39 Florida Statutes, are amended to read:

40 538.18 Definitions.--As used in this part, the term:

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

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

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

56 Section 2. Section 538.19, Florida Statutes, is amended to
57 read:

58 538.19 Records required.--

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

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

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

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

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

69 (d) The weight, quantity, or volume, and a description of
70 the type of regulated metals property purchased in a purchase
71 transaction.

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

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

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

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

86 1. Full name, current residential address, workplace, and
87 home and work phone numbers.

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

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

91 4. Vehicle description to include the make, model, and tag
92 number of the vehicle and trailer of the person selling the
93 regulated metals property.

94 5. Any other information required by the form approved by
95 the Department of Law Enforcement.

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

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

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

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117 form approved by the Department of Law Enforcement as provided in
118 subsection (2).

119 ~~(4)(3)~~ A secondary metals recycler shall maintain or cause
120 to be maintained the information required by this section for not
121 less than 5 years from the date of the purchase transaction.

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

130 Section 3. Section 538.23, Florida Statutes, is amended to
131 read:

132 538.23 Violations and penalties.--

133 (1) (a) Except as provided in paragraph (b), a secondary
134 metals recycler who shall, ~~upon conviction of knowingly and~~
135 ~~intentionally:~~

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

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

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

140 4. Violates s. 538.235,

141
142 Commits ~~be guilty of~~ a misdemeanor of the first degree,
143 punishable as provided in s. 775.082.

144 (b) A secondary metals recycler who commits a third or
145 subsequent violation of paragraph (a) commits a felony of the

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146 third degree, punishable as provided in s. 775.082, s. 775.083,
147 or s. 775.084.

148 (2) A secondary metals recycler is presumed to know upon
149 receipt of stolen regulated metals property in a purchase
150 transaction that the regulated metals property has been stolen
151 from another if the secondary metals recycler knowingly and
152 intentionally fails to maintain the information required in s.
153 538.19 and shall, upon conviction of a violation of s. 812.015,
154 be punished as provided in s. 812.014(2) or (3).

155 (3) Any person who knowingly gives false verification of
156 ownership or who gives a false or altered identification and who
157 receives money or other consideration from a secondary metals
158 recycler in return for regulated metals property commits ~~shall,~~
159 ~~upon conviction, be guilty of:~~

160 (a) A felony ~~misdemeanor~~ of the third ~~first~~ degree,
161 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.
162 775.084, if the value of the money or other consideration
163 received is less than \$300.

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

167 (4) If ~~When~~ a lawful owner recovers stolen regulated metals
168 property from a secondary metals recycler who has complied with
169 ~~the provisions of~~ this part, and the person who sold the
170 regulated metals property to the secondary metals recycler is
171 convicted of theft, a violation of this section, or dealing in
172 stolen property, the court shall order the defendant to make full
173 restitution, including, without limitation, attorneys' fees,
174 court costs, and other expenses to the secondary metals recycler

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175 pursuant to s. 775.089.

176 (5) A person acting as a secondary metals recycler who is
177 not registered with the department under s. 538.25 commits a
178 felony of the third degree punishable as provided in s. 775.082,
179 s. 775.083, or 775.084.

180 Section 4. Section 538.235, Florida Statutes, is created to
181 read:

182 538.235 Method of payment.--A secondary metals recycler
183 shall not enter into any cash transaction in excess of \$1,000 in
184 payment for the purchase of regulated metals property. Payment in
185 excess of \$1,000 for the purchase of regulated metals property
186 shall be made by check issued to the seller of the metal and
187 payable to the seller.

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

190 538.25 Registration.--

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

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

197 538.26 Certain acts and practices prohibited.--It is
198 unlawful for a secondary metals recycler to do or allow any of
199 the following acts:

200 (4) Purchase regulated metals property from any seller who
201 presents such property for sale at the registered location of the
202 secondary metals recycler when such property was not transported
203 in a motor vehicle ~~unless the seller can prove ownership of the~~

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204 | ~~regulated metals property.~~

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