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CHAMBER ACTION

Senate

House

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

3
4 Senate Amendment (with title amendment)

5 Delete everything after the enacting clause
6 and insert:

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

9 538.18 Definitions.--As used in this part, the term:

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

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

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

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

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

27 538.19 Records required.--

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

88       (4)(3)- A secondary metals recycler shall maintain or cause  
89 to be maintained the information required by this section for  
90 not less than 5 years from the date of the purchase transaction.

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

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

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

101 538.23 Violations and penalties.--

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

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

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

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

109 4. Violates s. 538.235,

110  
111 commits ~~be guilty of~~ a misdemeanor of the first degree,  
112 punishable as provided in s. 775.082.

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

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

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

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124 775.084, if the value of the money or other consideration  
125 received is less than \$300.

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

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

131 538.235 Method of payment.--A secondary metals recycler  
132 shall not enter into any cash transaction in excess of \$1,000 in  
133 payment for the purchase of regulated metals property. Payment  
134 in excess of \$1,000 for the purchase of regulated metals  
135 property shall be made by check issued to the seller of the  
136 metal and payable to the seller.

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

139 538.25 Registration.--

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

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

146 538.26 Certain acts and practices prohibited.--It is  
147 unlawful for a secondary metals recycler to do or allow any of  
148 the following acts:

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



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

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

155  
156 ===== T I T L E A M E N D M E N T =====

157 And the title is amended as follows:

158 Delete everything before the enacting clause  
159 and insert:

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

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