

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** CS/CS/HB 339 Secondary Metals Recyclers  
**SPONSOR(S):** Economic Development & Community Affairs Policy Council, Patterson  
**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 478

---

	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Military &amp; Local Affairs Policy Committee</u>	<u>13 Y, 0 N</u>	<u>Fudge</u>	<u>Hoagland</u>
2)	<u>Agriculture &amp; Natural Resources Policy Committee</u>	<u>15 Y, 2 N, As CS</u>	<u>Deslatte</u>	<u>Reese</u>
3)	<u>Economic Development &amp; Community Affairs Policy Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Fudge</u>	<u>Tinker</u>
4)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

---

**SUMMARY ANALYSIS**

A secondary metals recycler is a scrap metal dealer. Secondary metal recyclers purchase used metals salvaged from building demolition, remodeling, etc., and refine those metals into raw materials used to make new products. Secondary metal recyclers are currently regulated under ch. 539, Part II, F.S., and must be registered with the Department of Revenue.

In 2008, the Legislature passed CS/CS/HB 105 increasing the regulation of secondary metal recyclers. Since the passage of this act, at least one local government has enacted a more restrictive regulation of secondary metal recyclers requiring a 3 day “tag and hold.” This increased regulation may increase the cost on these businesses.

The bill provides a uniform process statewide and preempts municipal or county ordinances relating specifically to secondary metals recyclers holding such metals.

The bill also amends s. 538.03, F.S., expanding the definition for secondhand goods to exclude certain items.

This bill does not appear to have a significant fiscal impact on state or local government. Regulatory costs for affected secondary metals recyclers will be reduced.

The bill has an effective date of July 1, 2009.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

A secondary metals recycler is a scrap metal dealer. Secondary metal recyclers purchase used metals salvaged from building demolition, remodeling, etc., and refine those metals into raw materials used to make new products. Secondary metal recyclers are currently regulated under ch. 539, Part II, F.S., and must be registered with the Department of Revenue.

In 2008, the Legislature passed CS/CS/HB 105 increasing the regulation of secondary metal recyclers by:

- Requiring secondary metals recyclers to gather more detailed information about the sellers of regulated metals and allowing that information to be stored on an electronic database.
- Expanding the definition of regulated metals to include stainless steel beer kegs.
- Increasing the penalty secondary metals recyclers face for repeated noncompliance with statutory requirements from a first degree misdemeanor to a third degree felony.
- Increasing the penalty for sellers of regulated metals who give false information to secondary metals recyclers to second and third degree felonies based on the dollar amount received by the seller.
- Requiring the Department of Revenue to release the names of any registered secondary metals recycler to a law enforcement official upon request.
- Requiring all regulated metals be transported to a secondary metals recycler in a motor vehicle.
- Requiring payments for all transactions in excess of \$1000 be made by check.

Section 538.03, F.S., provides the definition for secondhand goods to mean personal property previously owned or used, which is not regulated metals properly regulated under ch. 538, Part II, F.S., and which is purchased, consigned, or traded as used property.

##### **Effect of Proposed Changes**

Between the passage of HB 105 and its enactment, the City of West Palm Beach enacted an ordinance that included a 3 day "tag and hold" that required recycling facilities to hold the materials it receives for 3 days. The Institute for Scrap Recycling Industries and Trademark Metals Recycling contends that a 3 day "tag and hold" requires 3 times the land and facility to hold the material. Moreover, current law

provides that if law enforcement suspects that an item is stolen, the metal recycler must hold the item for 15 days upon notification by law enforcement and for an additional 45 days if that hold is extended.<sup>1</sup>

The bill provides a uniform process statewide and preempts municipal or county ordinances, enacted after December 31, 2008, relating specifically to secondary metals recyclers holding such metals.

The bill also amends s. 538.03, F.S., expanding the definition for secondhand goods to exclude: cardio and strength training or conditioning equipment designed primarily for indoor use from the definition of secondhand goods.

**B. SECTION DIRECTORY:**

Section 1: Amends s. 538.03, F.S., amending the definition for secondhand goods.

Section 2: Creates subsection (4) of s. 538.21, F.S., providing a uniform process statewide and preempts municipal or county ordinances relating specifically to secondary metals recyclers holding such metals.

Section 3: Provides an effective date of July 1, 2009.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Providing a uniform process statewide and preempts municipal or county ordinances relating specifically to secondary metals recyclers holding such metals, which may reduce costs for recyclers who must comply with more stringent local regulations.

**D. FISCAL COMMENTS:**

None.

---

<sup>1</sup> Section 538.21, F.S.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take an action requiring expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 10, 2009, the Agriculture & Natural Resources Policy Committee adopted two amendments and passed HB 339 as a committee substitute.

The first amendment amends s. 538.03, F.S., expanding the definition for secondhand goods to exclude exercise equipment.

The second amendment provides a uniform process statewide and preempts municipal or county ordinances relating specifically to secondary metals recyclers holding such metals.

On April 1, 2009, the Economic Development & Community Affairs Policy Council adopted two amendments. The first amendment deleted the term exercise equipment to further describe the types of items excluded from secondhand goods. The second amendment excludes those ordinances adopted prior to December 31, 2008, from preemption.