

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce and Tourism Committee

BILL: CS/SB 622

INTRODUCER: Commerce and Tourism Committee and Senator Hays

SUBJECT: Secondhand dealers and secondary metals recyclers

DATE: April 12, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------|----------------|-----------|--------|
| 1. | McCarthy | Cooper | CM | Fav/CS |
| 2. | | | CJ | |
| 3. | | | BC | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

CS/SB 622 (the bill) imposes new requirements and limits on secondary metals recyclers in their retention and transmission of purchase transaction records to local law enforcement. This bill:

- Requires recyclers to deliver purchase transaction records to the Sheriff or, if in a city, the Chief of Police within 24 hours, rather than only maintain such records;
- Expands the reporting requirements of recyclers that submit purchase transaction information electronically, and requires that the electronic submission of the information be approved by the appropriate law enforcement official;
- Requires recyclers to submit purchase transaction information electronically if the appropriate law enforcement official supplies the appropriate software and, if necessary, the appropriate hardware; and
- Requires recyclers to provide the original transaction form, when requested by the appropriate law enforcement official, for purposes of a criminal investigation.

The bill creates a uniform definition for “appropriate law enforcement official” for the provisions relating to reporting of purchase transactions by secondhand dealers and secondary metals recyclers.

This bill amends the following sections of the Florida Statutes: 538.03, 538.04, 538.18, and 538.19.

II. Present Situation:

A **secondhand dealer** is any person, who is not a secondary metals recycler and who is engaged in the business of purchasing, consigning, or trading secondhand goods.¹ Secondhand dealers are responsible for maintaining a record of all sale transactions. A copy of a completed transaction form must be maintained for at least 3 years. The secondhand dealers must provide local law enforcement with a record of each transaction within 24 hours of the transaction on a form approved by FDLE. The form may be submitted by electronic transmission if the secondhand dealer is capable of doing so and if the law enforcement agency permits.²

A **secondary metals recycler (recycler)** is any person who is engaged in the business of gathering or obtaining ferrous or nonferrous metals, or is in the business of performing the manufacturing process by which ferrous metals or nonferrous metals are converted into raw material products.³ Recyclers are required to maintain legible records of all purchase transactions to which the recycler is a party. A recycler must keep the information required for a period of 5 years from the date of the purchase transaction.⁴ During the usual and customary business hours of a recycler, a law enforcement officer has the right to inspect all purchased regulated metals property in the possession of the recycler, as well as all records required to be maintained.⁵

III. Effect of Proposed Changes:

This bill creates a uniform definition for “appropriate law enforcement official” for the provisions relating to reporting of purchase transactions by secondhand dealers and secondary metals recyclers.

“Appropriate law enforcement official” means the sheriff of the county in which a (business) is located *or*, in the case of a (business) located within a municipality, the police chief of the municipality in which the (business) is located; however, any sheriff or police chief may designate as the appropriate law enforcement official for the county or Municipality, as applicable, any law enforcement officer working within the county or municipality headed by that sheriff or police chief. This subsection does not limit the power and responsibilities of the sheriff. (*Emphasis added*)

As previously stated, current law requires secondhand dealers to report to the sheriff if the business is located in the unincorporated area of the county. If the business is located within a municipality, the business is required to report to the police department of the municipality.

The definition also includes a provision stating that the definition “does not limit the power and responsibilities of the sheriff.”

¹ See s. 538.03(1)(a), F.S.

² See s. 538.04, F.S.

³ See s. 538.18(8), F.S.

⁴ See s. 538.19(4), F.S.

⁵ See s. 538.20, F.S.

The bill also imposes new reporting requirements on secondary metals recyclers and require, if the business is located in a municipality, purchase transaction records be submitted to the Sheriff or the Chief of Police.

Section 1 amends s. 538.03, F.S., to create a definition for “appropriate law enforcement official” for the provisions relating to reporting of purchase transactions by *secondhand dealers*, consistent with the definition used for secondary metals recyclers as proposed in this bill.

Section 2 amends s. 538.04, F.S., to designate the “appropriate law enforcement official” – as defined in Section 1 of the bill – as the entity to whom *secondhand dealers* must submit purchase transactions.

Section 3 amends s. 538.18, F.S., to create a definition for “appropriate law enforcement official” for the provisions relating to reporting of purchase transactions by *secondary metals recyclers*, consistent with the definition used for secondhand dealers, as proposed in this bill.

Section 4 amends s. 538.19, F.S., to impose additional reporting requirements on *secondary metals recyclers*.

Currently, s. 538.19(1), F.S., requires recyclers to maintain a record of purchase transactions on forms approved by the Department of Law Enforcement. Subsection (2) specifies the information that must be included in the purchase transaction form. Such records must be maintained for 5 years and be available for inspection by law enforcement officers. Subsection (1) is amended to require such transaction forms be delivered to the appropriate law enforcement official within 24 hours of the transaction.

Currently, recyclers that maintain an electronic database containing a limited amount of the information required on the approved purchase transaction forms – a description of the seller, oath of ownership, and right thumbprint of the seller – that can be downloaded onto a paper form approved by the Department of Law Enforcement, are deemed in compliance with the requirements of the entire section. Section 538.19(3), F.S., is amended to require all of the reporting requirements of subsection (2) be satisfied, and that electronic submission of the information be approved by the appropriate law enforcement official.

Subsection (4) is created to require recyclers to submit purchase transaction information electronically if the appropriate law enforcement official supplies the appropriate software and the recycler has the hardware to accommodate the software. If the recycler does not have the appropriate hardware, the appropriate law enforcement official is authorized to provide the equipment. The conditions for the provision and ownership of such equipment is specified. In addition, the recycler is required to provide the original transaction form within 24 hours, when requested by the appropriate law enforcement official, for purposes of a criminal investigation.

Section 5 provides and effective date of July, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill places a reporting requirement on secondary metals recyclers. To the extent that the recycler, or his staff, would have to be trained on a computer system or manually transmit the transaction reports to the appropriate law enforcement agency, there will be an indeterminate cost to the business.

C. Government Sector Impact:

The cost to law enforcement in providing computer equipment to secondary metals recyclers cannot be determined at this time. There should be some cost savings for law enforcement to the extent that data is transmitted electronically, thereby, decreasing the data input costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism Committee on April 12, 2011:

The original bill expanded the reporting requirements on secondhand dealers and secondary metals recyclers, whose place of business are located in municipalities. These businesses would be required to deliver – either copies of or electronically – records of purchase transactions to *both* the Sheriff and the Chief of Police.

The CS deleted this requirement, thereby retaining the reporting requirements to a single entity, as is required by current law.

B. Amendments:

None

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
