

By Senator Norman

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20121324

1 A bill to be entitled
2 An act relating to the theft of copper; amending s.
3 538.18, F.S.; redefining the terms "regulated metals
4 property" and "secondary metals recycler"; defining
5 the term "copper"; amending s. 538.23, F.S.; requiring
6 that a secondary metals recycler execute a bond in a
7 specified amount for the benefit of any person
8 wrongfully injured by malfeasance, misfeasance,
9 neglect of duty, or incompetence by the secondary
10 metals recycler for purchasing regulated metals
11 property stolen from an electrical substation site;
12 requiring that the bond be renewed annually; amending
13 s. 538.26, F.S.; prohibiting a secondary metals
14 recycler from purchasing regulated metals property
15 from a seller under certain circumstances; amending s.
16 812.145, F.S.; providing that a person who removes or
17 assists another to remove copper or other nonferrous
18 metals from an electrical substation site commits a
19 felony of the first degree; providing criminal
20 penalties; reenacting s. 319.30(1)(u), F.S., relating
21 to the dismantling, destruction, change of identity,
22 or salvage of a motor vehicle or mobile home, to
23 incorporate the amendment made to s. 538.18, F.S., in
24 a reference thereto; providing an effective date.

25
26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Subsections (7) and (8) of section 538.18,
29 Florida Statutes, are amended, and subsection (10) is added to

12-00986-12

20121324

30 that section, to read:

31 538.18 Definitions.—As used in this part, the term:

32 (7) "Regulated metals property" means any item composed
33 primarily of any nonferrous metals, including copper, but does
34 ~~shall~~ not include aluminum beverage containers, used beverage
35 containers, or similar beverage containers. The term includes
36 ~~shall include~~ stainless steel beer kegs.

37 (8) "Secondary metals recycler" means any person who:

38 (a) Is engaged, from a fixed location or otherwise, in the
39 business of gathering or obtaining ferrous or nonferrous metals
40 that have served their original economic purpose or is in the
41 business of performing the manufacturing process by which
42 ferrous metals or nonferrous metals are converted into raw
43 material products consisting of prepared grades and having an
44 existing or potential economic value; ~~or~~

45 (b) Has facilities for performing the manufacturing process
46 by which ferrous metals or nonferrous metals are converted into
47 raw material products consisting of prepared grades and having
48 an existing or potential economic value, other than by the
49 exclusive use of hand tools, by methods including, without
50 limitation, processing, sorting, cutting, classifying, cleaning,
51 baling, wrapping, shredding, shearing, or changing the physical
52 form or chemical content thereof; or—

53 (c) Purchases ferrous metals or nonferrous metals.

54 (10) "Copper" means the nonferrous metal known as copper,
55 and includes, but is not limited to, copper, copper alloy,
56 copper utility service wire, and copper communications service
57 wire.

58 Section 2. Section 538.23, Florida Statutes, is amended to

12-00986-12

20121324

59 read:

60 538.23 Violations and penalties.—

61 (1) (a) Except as provided in paragraph (b), a secondary
62 metals recycler who knowingly and intentionally:

63 1. Violates s. 538.20 or s. 538.21;

64 2. Engages in a pattern of failing to keep records required
65 by s. 538.19;

66 3. Violates s. 538.26~~(4)~~; or

67 4. Violates s. 538.235,

68

69 commits a misdemeanor of the first degree, punishable as
70 provided in s. 775.082.

71 (b) A secondary metals recycler who commits a third or
72 subsequent violation of paragraph (a) commits a felony of the
73 third degree, punishable as provided in s. 775.082, s. 775.083,
74 or s. 775.084.

75 (2) A secondary metals recycler is presumed to know upon
76 receipt of stolen regulated metals property in a purchase
77 transaction that the regulated metals property has been stolen
78 from another if the secondary metals recycler knowingly and
79 intentionally fails to maintain the information required in s.
80 538.19 and shall, upon conviction of a violation of s. 812.015,
81 be punished as provided in s. 812.014(2) or (3).

82 (3) Any person who knowingly gives false verification of
83 ownership or who gives a false or altered identification and who
84 receives money or other consideration from a secondary metals
85 recycler in return for regulated metals property commits:

86 (a) A felony of the third degree, punishable as provided in
87 s. 775.082, s. 775.083, or s. 775.084, if the value of the money

12-00986-12

20121324

88 or other consideration received is less than \$300.

89 (b) A felony of the second degree, punishable as provided
90 in s. 775.082, s. 775.083, or s. 775.084, if the value of the
91 money or other consideration received is \$300 or more.

92 (4) If a lawful owner recovers stolen regulated metals
93 property from a secondary metals recycler who has complied with
94 this part, and the person who sold the regulated metals property
95 to the secondary metals recycler is convicted of theft, a
96 violation of this section, or dealing in stolen property, the
97 court shall order the defendant to make full restitution,
98 including, without limitation, attorney ~~attorneys'~~ fees, court
99 costs, and other expenses to the secondary metals recycler
100 pursuant to s. 775.089.

101 (5) A person acting as a secondary metals recycler who is
102 not registered with the department under s. 538.25 commits a
103 felony of the third degree, punishable as provided in s.
104 775.082, s. 775.083, or s. 775.084.

105 (6) A secondary metals recycler shall execute a bond in the
106 amount of \$1.5 million with a surety company authorized to do
107 business in this state for the benefit of any person wrongfully
108 injured by any malfeasance, misfeasance, neglect of duty, or
109 incompetence by the secondary metals recycler for purchasing
110 regulated metals property stolen from an electrical substation
111 site. Such bond shall be renewed annually.

112 Section 3. Subsections (6), (7), and (8) are added to
113 section 538.26, Florida Statutes, to read:

114 538.26 Certain acts and practices prohibited.—It is
115 unlawful for a secondary metals recycler to do or allow any of
116 the following acts:

12-00986-12

20121324

117 (6) Purchase regulated metals property from a seller who
118 uses a name other than his or her own name or the registered
119 name of the seller's business.

120 (7) Purchase regulated metals property from a seller who is
121 younger than 18 years of age.

122 (8) Purchase regulated metals property from a seller who is
123 under the influence of drugs or alcohol if such condition is
124 visible or apparent.

125 Section 4. Subsection (2) of section 812.145, Florida
126 Statutes, is amended to read:

127 812.145 Theft of copper or other nonferrous metals.—

128 (2) A person who knowingly and intentionally takes copper
129 or other nonferrous metals from a utility or communications
130 services provider, thereby causing damage to the facilities of a
131 utility or communications services provider, interrupting or
132 interfering with utility service or communications services, or
133 interfering with the ability of a utility or communications
134 services provider to provide service, or who removes or assists
135 with the removal of copper or other nonferrous metals from an
136 electrical substation site, commits a felony of the first
137 degree, punishable as provided in s. 775.082, s. 775.083, or s.
138 775.084.

139 Section 5. For the purpose of incorporating the amendment
140 made by this act to section 538.18, Florida Statutes, in a
141 reference thereto, paragraph (u) of subsection (1) of section
142 319.30, Florida Statutes, is reenacted to read:

143 319.30 Definitions; dismantling, destruction, change of
144 identity of motor vehicle or mobile home; salvage.—

145 (1) As used in this section, the term:

12-00986-12

20121324__

146 (u) "Secondary metals recycler" means secondary metals
147 recycler as defined in s. 538.18(8).

148 Section 6. This act shall take effect October 1, 2012.