

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
 2 Representative Ford offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

6 Section 1. Subsection (1) of section 538.03, Florida
 7 Statutes, is amended, paragraphs (m) through (q) of subsection
 8 (2) of that section are redesignated as paragraphs (l) through
 9 (p), respectively, and present paragraphs (k), (l), and (n) of
 10 that subsection are amended, to read:

11 538.03 Definitions; applicability.—

12 (1) As used in this part, the term:

13 (a)~~(e)~~ "Acquire" means to obtain by purchase, consignment,
 14 or trade.

15 (b) "Appropriate law enforcement official" means the
 16 sheriff of the county in which a secondhand dealer is located
 17 or, if the secondhand dealer is located within a municipality,
 18 both the police chief of the municipality and the sheriff;
 19 however, the sheriff or police chief may designate as the

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20 appropriate law enforcement official for that county or
21 municipality, as applicable, any law enforcement officer working
22 within that respective county or municipality. This paragraph
23 does not limit the authority or duties of the sheriff.

24 (c)~~(d)~~ "Consignment shop" means a shop engaging in the
25 business of accepting for sale, on consignment, secondhand goods
26 which, having once been used or transferred from the
27 manufacturer to the dealer, are then received into the
28 possession of a third party.

29 (d)~~(i)~~ "Department" means the Department of Revenue.

30 (e)~~(h)~~ "Precious metals" means any item containing any
31 gold, silver, or platinum, or any combination thereof, excluding
32 any chemical or any automotive, photographic, electrical,
33 medical, or dental materials or electronic parts.

34 (f)~~(b)~~ "Precious metals dealer" means a secondhand dealer
35 who normally or regularly engages in the business of buying used
36 precious metals for resale. The term does not include those
37 persons involved in the bulk sale of precious metals from one
38 secondhand or precious metals dealer to another.

39 (g)~~(a)~~ "Secondhand dealer" means any person, corporation,
40 or other business organization or entity which is not a
41 secondary metals recycler subject to part II and which is
42 engaged in the business of purchasing, consigning, or trading
43 secondhand goods.

44 (h)~~(f)~~ "Secondhand goods" means personal property
45 previously owned or used, which is not regulated metals property
46 regulated under part II and which is purchased, consigned, or
47 traded as used property. Such secondhand goods do not include

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48 office furniture, pianos, books, clothing, organs, coins, motor
49 vehicles, costume jewelry, cardio and strength training or
50 conditioning equipment designed primarily for indoor use, and
51 secondhand sports equipment that is not permanently labeled with
52 a serial number. For purposes of this paragraph, "secondhand
53 sports equipment" does not include golf clubs.

54 ~~(i)(e)~~ "Secondhand store" means the place or premises at
55 which a secondhand dealer is registered to conduct business as a
56 secondhand dealer or conducts business.

57 ~~(j)(g)~~ "Transaction" means any purchase, consignment, or
58 trade of secondhand goods by a secondhand dealer.

59 (2) This chapter does not apply to:

60 (k) Any auction business as defined in s. 468.382(1)
61 operating as an auction business in the buying and selling of
62 estates, business inventory, surplus merchandise, or business
63 liquidations. Any person purchasing, consigning, or trading
64 secondhand goods at a flea market regardless of whether at a
65 temporary or permanent business location at the flea market.

66 ~~(l) Any auction business as defined in s. 468.382(1).~~

67 ~~(m)(n)~~ A business that contracts with other persons or
68 entities to offer its secondhand goods for sale, purchase,
69 consignment, or trade via an Internet website, and that
70 maintains a shop, store, or other business premises for this
71 purpose, if all of the following apply:

72 1. The secondhand goods must be available on the website
73 for viewing by the public at no charge;

74 2. The records of the sale, purchase, consignment, or
75 trade must be maintained for at least 2 years;

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76 3. The records of the sale, purchase, consignment, or
77 trade, and the description of the secondhand goods as listed on
78 the website, must contain the serial number of each item, if
79 any;

80 4. The secondhand goods listed on the website must be
81 searchable based upon the state or zip code;

82 5. The business must provide the appropriate law
83 enforcement official ~~agency~~ with the name or names under which
84 it conducts business on the website;

85 6. The business must allow the appropriate law enforcement
86 official ~~agency~~ to inspect its business premises at any time
87 during normal business hours;

88 7. Any payment by the business resulting from such a sale,
89 purchase, consignment, or trade must be made to the person or
90 entity with whom the business contracted to offer the goods and
91 must be made by check or via a money services business licensed
92 under part II of chapter 560; and

93 8.a. At least 48 hours after the estimated time of
94 contracting to offer the secondhand goods, the business must
95 verify that any item having a serial number is not stolen
96 property by entering the serial number of the item into the
97 Department of Law Enforcement's stolen article database located
98 at the Florida Crime Information Center's public access system
99 website. The business shall record the date and time of such
100 verification on the contract covering the goods. If such
101 verification reveals that an item is stolen property, the
102 business shall immediately remove the item from any website on

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103 which it is being offered and notify the appropriate law
104 enforcement official agency; or

105 b. The business must provide the appropriate law
106 enforcement official agency with an electronic copy of the name,
107 address, phone number, driver ~~driver's~~ license number, and
108 issuing state of the person with whom the business contracted to
109 offer the goods, as well as an accurate description of the
110 goods, including make, model, serial number, and any other
111 unique identifying marks, numbers, names, or letters that may be
112 on an item, in a format agreed upon by the business and the
113 appropriate law enforcement official agency. This information
114 must be provided to the appropriate law enforcement official
115 ~~agency~~ within 24 hours after entering into the contract unless
116 other arrangements are made between the business and the law
117 enforcement official agency.

118 Section 2. Subsections (1), (6), and (7) of section
119 538.04, Florida Statutes, are amended to read:

120 538.04 Recordkeeping requirements; penalties.—

121 (1) A secondhand dealer ~~dealers~~ shall complete a
122 secondhand dealers transaction form at the time of the actual
123 transaction. A secondhand dealer shall maintain a copy of a
124 completed transaction form on the registered premises for at
125 least 1 year after the date of the transaction. However, the
126 secondhand dealer shall maintain a copy of the transaction form
127 for not less than 3 years. Unless other arrangements are ~~have~~
128 ~~been~~ agreed upon by the secondhand dealer and the appropriate
129 law enforcement official agency, the secondhand dealer shall,
130 within 24 hours after acquiring ~~the acquisition of~~ any

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131 secondhand goods, deliver to such official ~~the police department~~
132 ~~of the municipality where the goods were acquired or, if the~~
133 ~~goods were acquired outside of a municipality, to the sheriff's~~
134 ~~department of the county where the goods were acquired,~~ a record
135 of the transaction on a form approved by the Department of Law
136 Enforcement. Such record shall contain:

137 (a) The time, date, and place of the transaction.

138 (b) A complete and accurate description of the goods
139 acquired, including the following information, if applicable:

140 1. Brand name.

141 2. Model number.

142 3. Manufacturer's serial number.

143 4. Size.

144 5. Color, as apparent to the untrained eye.

145 6. Precious metal type, weight, and content if known.

146 7. Gemstone description, including the number of stones,
147 if applicable.

148 8. In the case of firearms, the type of action, caliber or
149 gauge, number of barrels, barrel length, and finish.

150 9. Any other unique identifying marks, numbers, or
151 letters.

152 (c) A description of the person from whom the goods were
153 acquired, including:

154 1. Full name, current residential address, workplace, and
155 home and work phone numbers.

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

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158 3. The right thumbprint, free of smudges and smears, of
159 the person from whom the goods were acquired.

160 (d) Any other information required by the form approved by
161 the Department of Law Enforcement.

162 (6) If the appropriate law enforcement official agency
163 supplies a secondhand dealer with appropriate software and the
164 secondhand dealer has computer capability, the secondhand dealer
165 must ~~transactions shall be~~ electronically transmit secondhand
166 dealer transactions required by this section to such official
167 ~~transferred~~. If a secondhand dealer does not have computer
168 capability, the appropriate law enforcement official agency may
169 provide the secondhand dealer with a computer and all equipment
170 necessary to equipment for the purpose of electronically
171 transmit transferring secondhand dealer transactions. The
172 appropriate law enforcement official agency shall retain
173 ownership of the computer, unless otherwise agreed upon, and
174 the secondhand dealer shall maintain the computer in good
175 working order, except for ordinary wear and ~~tear excepted~~. A ~~If~~
176 ~~the~~ secondhand dealer who transmits transfers secondhand dealer
177 transactions electronically, ~~the secondhand dealer~~ is not
178 required to also deliver ~~to the appropriate law enforcement~~
179 ~~agency~~ the original or paper copies of the secondhand
180 transaction forms to the appropriate law enforcement official.
181 However, such official may, for purposes ~~the purpose~~ of a
182 criminal investigation, ~~the appropriate law enforcement agency~~
183 ~~may request that~~ the secondhand dealer to deliver the produce an
184 original ~~of a~~ transaction form that was ~~has been~~ electronically
185 transmitted transferred. The secondhand dealer shall deliver the

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186 ~~this~~ form to the appropriate law enforcement official agency
187 within 24 hours after receipt of the request.

188 (7) If the original transaction form is lost or destroyed
189 by the appropriate law enforcement official agency, a copy may
190 be used by the secondhand dealer as evidence in court. When an
191 electronic image of a customer's identification is accepted for
192 a transaction, the secondhand dealer must maintain the
193 electronic image in order to meet the recordkeeping requirements
194 applicable to the original transaction form. If a criminal
195 investigation occurs, the secondhand dealer shall, upon request,
196 provide a clear and legible copy of the image to the appropriate
197 law enforcement official agency.

198 Section 3. Section 538.18, Florida Statutes, is amended to
199 read:

200 538.18 Definitions.—As used in this part, the term:

201 (1) "Appropriate law enforcement official" means the
202 sheriff of the county in which a secondary metals recycler is
203 located or, if the secondary metals recycler is located within a
204 municipality, the police chief of the municipality in which the
205 secondary metals recycler is located; however, the sheriff or
206 police chief may designate as the appropriate law enforcement
207 official for the county or municipality, as applicable, any law
208 enforcement officer working within that respective county or
209 municipality. This subsection does not limit the authority or
210 duties of the sheriff.

211 ~~(2)-(9)~~ "Department" means the Department of Revenue.

212 ~~(3)-(1)~~ "Ferrous metals" means any metals containing
213 significant quantities of iron or steel.

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214 ~~(4)(2)~~ "Fixed location" means any site occupied by a
215 secondary metals recycler as owner of the site or as lessee of
216 the site under a lease or other rental agreement providing for
217 occupation of the site by the secondary metals recycler for a
218 total duration of not less than 364 days.

219 ~~(5)(3)~~ "Money" means a medium of exchange authorized or
220 adopted by a domestic or foreign government as part of its
221 currency.

222 ~~(6)(4)~~ "Nonferrous metals" means metals not containing
223 significant quantities of iron or steel, including, without
224 limitation, copper, brass, aluminum, bronze, lead, zinc, nickel,
225 and alloys thereof, excluding precious metals subject to
226 regulation under part I.

227 ~~(7)(5)~~ "Personal identification card" means a valid
228 Florida driver license, a Florida identification card issued by
229 the Department of Highway Safety and Motor Vehicles, an
230 equivalent form of identification issued by another state, a
231 passport, or an employment authorization issued by the United
232 States Bureau of Citizenship and Immigration Services that
233 contains an individual's photograph and current address ~~any~~
234 ~~government-issued photographic identification card.~~

235 ~~(8)(6)~~ "Purchase transaction" means a transaction in which
236 a secondary metals recycler gives consideration for regulated
237 metals property.

238 ~~(9)(7)~~ "Regulated metals property" means any item composed
239 primarily of any nonferrous metals. The term does, but shall not
240 include aluminum beverage containers, used beverage containers,
241 or similar beverage containers; however, the term includes

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242 ~~shall include~~ stainless steel beer kegs and items made of
243 ferrous metal obtained from any restricted regulated metals
244 property.

245 (10) "Restricted regulated metals property" means any
246 regulated metals property listed in s. 538.26(5) (b) the sale of
247 which is restricted as provided in s. 538.26(5) (a).

248 ~~(11)-(8)~~ "Secondary metals recycler" means any person who:

249 (a) Is engaged, from a fixed location ~~or otherwise~~, in the
250 business of purchase transactions or gathering or obtaining
251 ferrous or nonferrous metals that have served their original
252 economic purpose or is in the business of performing the
253 manufacturing process by which ferrous metals or nonferrous
254 metals are converted into raw material products consisting of
255 prepared grades and having an existing or potential economic
256 value; or

257 (b) Has facilities for performing the manufacturing
258 process by which ferrous metals or nonferrous metals are
259 converted into raw material products consisting of prepared
260 grades and having an existing or potential economic value, other
261 than by the exclusive use of hand tools, by methods including,
262 without limitation, processing, sorting, cutting, classifying,
263 cleaning, baling, wrapping, shredding, shearing, or changing the
264 physical form or chemical content thereof.

265 (12) "Utility" means a public utility or electric utility
266 as defined in s. 366.02 or a person, firm, corporation,
267 association, or political subdivision, whether private,
268 municipal, county, or cooperative, that is engaged in the sale,
269 generation, provision, or delivery of gas, electricity, heat,

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270 water, oil, sewer service, or telephone, telegraph, radio,
271 telecommunications, or communications service.

272 Section 4. Paragraph (u) of subsection (1) and (b) of
273 subsection (3) of section 319.30, Florida Statutes, are amended
274 to read:

275 319.30 Definitions; dismantling, destruction, change of
276 identity of motor vehicle or mobile home; salvage.—

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

278 (u) "Secondary metals recycler" means secondary metals
279 recycler as defined in s. 538.18 ~~538.18(8)~~.

280 (3)(b) The owner, including persons who are self-insured,
281 of any motor vehicle or mobile home which is considered to be
282 salvage shall, within 72 hours after the motor vehicle or mobile
283 home becomes salvage, forward the title to the motor vehicle or
284 mobile home to the department for processing. However, an
285 insurance company which pays money as compensation for total
286 loss of a motor vehicle or mobile home shall obtain the
287 certificate of title for the motor vehicle or mobile home and,
288 within 72 hours after receiving such certificate of title, shall
289 forward such title to the department for processing. The owner
290 or insurance company, as the case may be, may not dispose of a
291 vehicle or mobile home that is a total loss before it has
292 obtained a salvage certificate of title or certificate of
293 destruction from the department. When applying for a salvage
294 certificate of title or certificate of destruction, the owner or
295 insurance company must provide the department with an estimate
296 of the costs of repairing the physical and mechanical damage
297 suffered by the vehicle for which a salvage certificate of title
298 or certificate of destruction is sought. If a motor vehicle or
299 mobile home is damaged, wrecked or burned to the extent that the

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300 only residual value of the vehicle is as a source of parts or
301 scrap metal; or comes into this state under a title or other
302 ownership document that indicates that the vehicle is non-
303 repairable, junked, or for parts or dismantling only, then the
304 owner or insurance company which pays money as compensation for
305 total loss of a motor vehicle or mobile home shall obtain a
306 certificate of destruction ~~If the estimated costs of repairing~~
307 ~~the physical and mechanical damage to the vehicle are equal to~~
308 ~~80 percent or more of the current retail cost of the vehicle, as~~
309 ~~established in any official used car or used mobile home guide,~~
310 ~~the department shall declare the vehicle unrebuildable and print~~
311 ~~a certificate of destruction,~~ which authorizes the dismantling
312 or destruction of the motor vehicle or mobile home described
313 therein. However, if the damaged motor vehicle is equipped with
314 custom-lowered floors for wheelchair access or a wheelchair
315 lift, the insurance company may, upon determining that the
316 vehicle is repairable to a condition that is safe for operation
317 on public roads, submit the certificate of title to the
318 department for reissuance as a salvage rebuildable title and the
319 addition of a title brand of "insurance-declared total loss."
320 The certificate of destruction shall be reassignable a maximum
321 of two times before dismantling or destruction of the vehicle
322 shall be required, and shall accompany the motor vehicle or
323 mobile home for which it is issued, when such motor vehicle or
324 mobile home is sold for such purposes, in lieu of a certificate
325 of title, and, thereafter, the department shall refuse issuance
326 of any certificate of title for that vehicle. Nothing in this
327 subsection shall be applicable when a vehicle is worth less than
328 \$1,500 retail in undamaged condition in any official used motor
329 vehicle guide or used mobile home guide or when a stolen motor
330 vehicle or mobile home is recovered in substantially intact

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331 condition and is readily resalable without extensive repairs to
332 or replacement of the frame or engine. Any person who knowingly
333 violates this paragraph or falsifies any document to avoid the
334 requirements of this paragraph commits a misdemeanor of the
335 first degree, punishable as provided in s. [775.082](#) or s.
336 [775.083](#).

337 Section 5. Section 538.19, Florida Statutes, is amended to
338 read:

339 538.19 Records required; limitation of liability.—

340 (1) A secondary metals recycler shall maintain a legible
341 paper record of all purchase transactions to which such
342 secondary metals recycler is a party. A secondary metals
343 recycler shall also maintain a legible electronic record, in the
344 English language, of all such purchase transactions. The
345 appropriate law enforcement official may provide data
346 specifications regarding the electronic record format, but such
347 format must be approved by the Department of Law Enforcement. An
348 electronic record of a purchase transaction shall be
349 electronically transmitted to the appropriate law enforcement
350 official no later than 10 a.m. of the business day following the
351 date of the purchase transaction. The record transmitted to the
352 appropriate law enforcement official must not contain the price
353 paid for the items. A secondary metals recycler who transmits
354 such records electronically is not required to also deliver the
355 original or paper copies of the transaction forms to the
356 appropriate law enforcement official. However, such official
357 may, for purposes of a criminal investigation, request the
358 secondary metals recycler to make available the original

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359 transaction form that was electronically transmitted. This
360 original transaction form must include the price paid for the
361 items. The secondary metals recycler shall make the form
362 available to the appropriate law enforcement official within 24
363 hours after receipt of the request.

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

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

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

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

371 (d) The weight, quantity, or volume, and a description of
372 the type of regulated metals property purchased in a purchase
373 transaction.

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

376 (f) A signed statement from the person delivering the
377 regulated metals property stating that she or he is the rightful
378 owner of, or is entitled to sell, the regulated metals property
379 being sold. If the purchase involves a stainless steel beer keg,
380 the seller must provide written documentation from the
381 manufacturer that the seller is the owner of the stainless steel
382 beer keg or is an employee or agent of the manufacturer.

383 (g) The distinctive number from the personal
384 identification card of the person delivering the regulated
385 metals property to the secondary metals recycler.

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386 (h) A description of the person from whom the regulated
387 metals property was ~~goods were~~ acquired, including:

388 1. Full name, current residential address, workplace, and
389 home and work phone numbers.

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

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

393 4. Vehicle description to include the make, model, and tag
394 number of the vehicle and trailer of the person selling the
395 regulated metals property.

396 5. Any other information required by the form approved by
397 the Department of Law Enforcement.

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

400 (j) A photograph, videotape, or similar likeness of the
401 person receiving consideration in which such person's facial
402 features are clearly visible.

403 (3) ~~Any secondary metals recycler that maintains an~~
404 ~~electronic database containing the information required in~~
405 ~~paragraph (2) (h), along with an oath of ownership with a~~
406 ~~signature of the seller of the secondary metals being purchased~~
407 ~~by the secondary metals recycler and a right thumbprint that has~~
408 ~~no smudges and smears on the oath of ownership for each purchase~~
409 ~~transaction, shall be exempt from the records requirement of~~
410 ~~paragraph (2) (h).~~ A secondary metals recycler complies with the
411 requirements of this section if it maintains an electronic
412 database containing the information required by subsection (2)
413 ~~paragraph (2) (h)~~ as long as the electronic information required

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414 by subsection (2) ~~paragraph (2)(h)~~, along with an electronic
415 oath of ownership with an electronic signature of the seller of
416 the secondary metals being purchased by the secondary metals
417 recyclers and an electronic image of the seller's right
418 thumbprint that has no smudges and smears, can be downloaded
419 onto a paper form in the image of the form approved by the
420 Department of Law Enforcement as provided in subsection (2).

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

424 (5) ~~If a purchase transaction involves the transfer of~~
425 ~~regulated metals property from~~ A secondary metals recycler
426 registered with the department that purchases a motor vehicle
427 from a licensed salvage motor vehicle dealer as defined in s.
428 320.27 or to another secondary metals recycler registered with
429 the department and uses a mechanical crusher to convert the
430 vehicle to scrap metal must obtain a signed statement from the
431 seller stating that the seller has surrendered the vehicle's
432 certificate of title to the Department of Highway Safety and
433 Motor Vehicles as provided in s. 319.30 or otherwise complied
434 with the titling requirements provided by law for conversion of
435 the vehicle to scrap metal. A, the secondary metals recycler is
436 not liable for the seller's failure to comply with the titling
437 requirements provided by law for conversion of a motor vehicle
438 to scrap metal if the secondary metals recycler obtains and
439 maintains the seller's signed statement ~~receiving the regulated~~
440 ~~metals property shall record the name and address of the~~

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441 ~~secondary metals recycler from which it received the regulated~~
442 ~~metals property in lieu of the requirements of paragraph (2) (h).~~

443 Section 6. Section 538.235, Florida Statutes, is amended
444 to read:

445 538.235 Method of payment.—

446 (1) A secondary metals recycler may ~~shall~~ not enter into
447 any cash transaction:

448 (a) In excess of \$1,000 in payment for the purchase of
449 regulated metals property; or

450 (b) In any amount for the purchase of restricted regulated
451 metals property.

452 (2) Payment in excess of \$1,000 for the purchase of
453 regulated metals property shall be made by check issued to the
454 seller of the metal and payable to the seller.

455 (3) Payment for the purchase of restricted regulated
456 metals property shall be made by check issued to the seller of
457 the metal and payable to the seller or by electronic payment to
458 the seller's bank account or the seller's employer's bank
459 account.

460 (a) Each check shall be mailed by the secondary metals
461 recycler directly to the street address of the seller that is on
462 file with the secondary metals recycler unless otherwise
463 provided in this part. A check may not be mailed to a post
464 office box. Electronic payments shall be transmitted to an
465 account for which the seller is listed as an account holder or
466 an employee or agent of the seller.

467 (b) Each check or electronic payment shall be mailed or
468 transmitted by the secondary metals recycler to the seller

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469 within 3 days after the purchase transaction unless otherwise
470 provided in this section.

471 (c) The secondary metals recycler may provide a check at
472 the time of the purchase transaction, rather than mailing the
473 check as required in paragraph (a), if the seller is:

474 1. An organization, corporation, or association registered
475 with the state as a charitable, philanthropic, religious,
476 fraternal, civic, patriotic, social, or school-sponsored
477 organization or association, or any nonprofit corporation or
478 association;

479 2. A law enforcement officer acting in an official
480 capacity;

481 3. A trustee in bankruptcy, executor, administrator, or
482 receiver who has presented proof of such status to the secondary
483 metals recycler;

484 4. A public official acting under judicial process or
485 authority who has presented proof of such status to the
486 secondary metals recycler;

487 5. A sheriff acting under the authority of a court's writ
488 of execution, or by virtue of any process issued by a court, if
489 proof thereof has been presented to the secondary metals
490 recycler; or

491 6. A manufacturing, industrial, or other commercial vendor
492 that generates regulated materials in the ordinary course of
493 business.

494 Section 7. Subsection (1) of section 538.25, Florida
495 Statutes, is amended to read:

496 538.25 Registration.—

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497 (1) ~~A No~~ person may not ~~shall~~ engage in business as a
498 secondary metals recycler at any location without registering
499 with the department. The department shall accept applications
500 only from a fixed business address. The department may not
501 accept an application that provides an address of a hotel room
502 or motel room, a vehicle, or a post office box.

503 (a) A fee equal to the federal and state costs for
504 processing required fingerprints must be submitted to the
505 department with each application for registration. One
506 application is required for each secondary metals recycler. If a
507 secondary metals recycler is the owner of more than one
508 secondary metals recycling location, the application must list
509 each location, and the department shall issue a duplicate
510 registration for each location. For purposes of subsections (3),
511 (4), and (5), these duplicate registrations shall be deemed
512 individual registrations. A secondary metals recycler shall pay
513 a fee of \$6 per location at the time of registration and an
514 annual renewal fee of \$6 per location on October 1 of each year.
515 All fees collected, less costs of administration, shall be
516 transferred into the Operating Trust Fund.

517 (b) The department shall forward the full set of
518 fingerprints to the Department of Law Enforcement for state and
519 federal processing, provided the federal service is available,
520 to be processed for any criminal justice information as defined
521 in s. 943.045. The cost of processing such fingerprints shall be
522 payable to the Department of Law Enforcement by the department.
523 The department may issue a temporary registration to each
524 location pending completion of the background check by state and

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525 federal law enforcement agencies, but shall revoke such
526 temporary registration if the completed background check reveals
527 a prohibited criminal background. The Department of Law
528 Enforcement shall report its findings to the Department of
529 Revenue within 30 days after the date fingerprint cards are
530 submitted for criminal justice information.

531 (c) An applicant for a secondary metals recycler
532 registration must be a natural person who has reached the age of
533 18 years or a corporation organized or qualified to do business
534 in the state.

535 1. If the applicant is a natural person, the registration
536 must include a complete set of her or his fingerprints,
537 certified by an authorized law enforcement officer, and a recent
538 fullface photographic identification card of herself or himself.

539 2. If the applicant is a partnership, all the partners
540 must make application for registration.

541 3. If the applicant is a corporation, the registration
542 must include the name and address of such corporation's
543 registered agent for service of process in the state and a
544 certified copy of statement from the Secretary of State that the
545 corporation is duly organized in the state or, if the
546 corporation is organized in a state other than Florida, a
547 certified copy of the statement that the corporation is duly
548 qualified to do business in this state.

549 Section 8. Section 538.26, Florida Statutes, is amended to
550 read:

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551 538.26 Certain acts and practices prohibited.—It is
552 unlawful for a secondary metals recycler to do or allow any of
553 the following acts:

554 (1) Purchase regulated metals property, restricted
555 regulated metals property, or ferrous metals on weekdays before
556 7 a.m. or after 6 p.m., on Saturdays before 7 a.m. or after 6
557 p.m., and on Sundays. ~~between the hours of 9 p.m. and 6 a.m.~~

558 ~~(2) Fail to pay any sales tax owed to the department or~~
559 ~~fail to have a sales tax registration number.~~

560 ~~(3) Purchase regulated metals property at a location other~~
561 ~~than the place of business set forth on the registration.~~

562 (2)(4) Purchase regulated metals property, restricted
563 regulated metals property, or ferrous metals from any seller who
564 presents such property for sale at the registered location of
565 the secondary metals recycler when such property was not
566 transported in a motor vehicle.

567 (3)(5) Purchase regulated metals property, restricted
568 regulated metals property, or ferrous metals ~~in return for money~~
569 ~~from a trailer, a vehicle, or any location other than a fixed~~
570 ~~location or from any person who is required to prove ownership~~
571 ~~pursuant to subsection (4). However, regulated metals may be~~
572 ~~purchased from a nonfixed location, or from such person, with~~
573 ~~any negotiable or nonnegotiable instrument, including a check or~~
574 ~~draft or any other type of instrument purchased with money and~~
575 ~~sold for the purpose of making payments or transfers to others.~~

576 (4) Purchase regulated metals property from a seller who:

577 (a) Uses a name other than his or her own name or the
578 registered name of the seller's business;

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579 (b) Is younger than 18 years of age; or

580 (c) Is visibly or apparently under the influence of drugs
581 or alcohol.

582 (5) (a) Purchase any restricted regulated metals property
583 listed in paragraph (b) unless the secondary metals recycler
584 obtains reasonable proof that the seller:

585 1. Owns such property. Reasonable proof of ownership may
586 include, but is not limited to, a receipt or bill of sale; or

587 2. Is an employee, agent, or contractor of the property's
588 owner who is authorized to sell the property on behalf of the
589 owner. Reasonable proof of authorization to sell the property
590 includes, but is not limited to, a signed letter on the owner's
591 letterhead, dated no later than 90 days before the sale,
592 authorizing the seller to sell the property.

593 (b) The purchase of any of the following regulated metals
594 property is subject to the restrictions provided in paragraph
595 (a):

596 1. A manhole cover.

597 2. An electric light pole or other utility structure and
598 its fixtures, wires, and hardware that are readily identifiable
599 as connected to the utility structure.

600 3. A guard rail.

601 4. A street sign, traffic sign, or traffic signal and its
602 fixtures and hardware.

603 5. Communication, transmission, distribution, and service
604 wire from a utility, including copper or aluminum bus bars,
605 connectors, grounding plates, or grounding wire.

606 6. A funeral marker or funeral vase.

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607 7. A historical marker.

608 8. Railroad equipment, including, but not limited to, a
609 tie plate, signal house, control box, switch plate, E clip, or
610 rail tie junction.

611 9. Any metal item that is observably marked upon
612 reasonable inspection with any form of the name, initials, or
613 logo of a governmental entity, utility company, cemetery, or
614 railroad.

615 10. A copper, aluminum, or aluminum-copper condensing or
616 evaporator coil, including its tubing or rods, from an air-
617 conditioning or heating unit, excluding coils from window air-
618 conditioning or heating units and motor vehicle air-conditioning
619 or heating units.

620 11. An aluminum or stainless steel container or bottle
621 designed to hold propane for fueling forklifts.

622 12. A stainless steel beer keg.

623 13. A catalytic converter or any nonferrous part of a
624 catalytic converter unless purchased as part of a motor vehicle.

625 14. Metallic wire that has been burned in whole or in part
626 to remove insulation.

627 15. A brass or bronze commercial valve or fitting,
628 referred to as a "fire department connection and control valve"
629 or an "FDC valve," that is commonly used on structures for
630 access to water for the purpose of extinguishing fires.

631 16. A brass or bronze commercial potable water backflow
632 preventer valve that is commonly used to prevent backflow of
633 potable water from commercial structures into municipal domestic
634 water service systems.

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- 635 17. A shopping cart.
636 18. A brass water meter.
637 19. A storm grate.
638 20. A brass sprinkler head used in commercial agriculture.

639 Section 9. Section 538.28, Florida Statutes, is created to
640 read:

641 538.28 Local government regulation.-

642 (1) The regulation of purchase transactions involving
643 regulated metals property is preempted to the state. Except as
644 provided in subsection (2), an ordinance or regulation adopted
645 by a county or municipality relating to the purchase or sale of
646 regulated metals property or the registration or licensure of
647 secondary metals recyclers is void.

648 (2) This part does not preempt an ordinance or regulation
649 originally enacted by a county or municipality before March 1,
650 2012. Such ordinance or regulation may subsequently be amended
651 to incorporate any provision of this part.

652
653 Section 10. Subsection (1) of section 538.23, Florida
654 Statutes, is amended to read:

655 538.23 Violations and penalties.-

656 (1)(a) Except as provided in paragraph (b), A secondary
657 metals recycler who knowingly and intentionally:

- 658 1. Violates s. 538.20 or s. 538.21;
659 2. Engages in a pattern of failing to keep records
660 required by s. 538.19;
661 3. Violates s. 538.26(4); or
662 4. Violates s. 538.235,

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commits a felony of the third ~~misdemeanor of the first~~ degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

Section 11. Paragraphs (d) and (e) of subsection (1) of
section 812.145, Florida Statutes, are redesignated as
paragraphs (e) and (f), respectively, a new paragraph (d) is
added to that subsection, and subsection (3) is added to that
section, to read:

812.145 Theft of copper or other nonferrous metals.-

(1) As used in this section, the terms:

(d) "Electrical substation" means a facility that takes
electricity from the transmission grid and converts it to a
lower voltage so it can be distributed to customers in the local
area on the local distribution grid through one or more
distribution lines less than 69 kilovolts in size.

(3) A person who knowingly and intentionally removes
copper or other nonferrous metals from an electrical substation
without authorization of the utility commits a felony of the
first degree, punishable as provided in s. 775.082, s. 775.083,
or s. 775.084.

Section 12. (1) A public or private owner of metal
property is not civilly liable to a person who is injured during
the theft or attempted theft of metal property.

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690 (2) A public or private owner of metal property is not
691 civilly liable to a person for injuries caused by a dangerous
692 condition created as a result of the theft or attempted theft of
693 the owner's metal property when the owner did not know, and
694 could not have reasonably known, of the dangerous condition.

695 (3) This section does not create or impose a duty of care
696 upon an owner of metal property which would not otherwise exist
697 under common law.

698 Section 13. This act shall take effect July 1, 2012.

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T I T L E A M E N D M E N T

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Remove the entire title and insert:

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A bill to be entitled

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An act relating to transactions by secondhand dealers

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and secondary metals recyclers; amending s. 538.03,

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F.S.; defining the term "appropriate law enforcement

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official"; deleting exemptions from regulation as a

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secondhand dealer which relate to flea market

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transactions and auction businesses; conforming

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terminology; amending s. 538.04, F.S., relating to

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recordkeeping requirements; conforming terminology and

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clarifying provisions; amending s. 538.18, F.S.;

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revising and providing definitions; amending s.

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319.30, F.S.; conforming a cross-reference; providing

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requirements for salvaged motor vehicles and mobile

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homes; amending s. 538.19, F.S.; revising requirements

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718 for the types of information that secondary metals
719 recyclers must obtain and maintain regarding purchase
720 transactions, including requirements for the
721 maintenance and transmission of electronic records of
722 such transactions; revising the period required for
723 secondary metals recyclers to maintain certain
724 information regarding purchase transactions involving
725 regulated metals property; limiting the liability of
726 secondary metals recyclers for the conversion of motor
727 vehicles to scrap metal under certain circumstances;
728 amending s. 538.235, F.S.; revising requirements for
729 payments made by secondary metals recyclers to sellers
730 of regulated metals property, to prohibit certain cash
731 transactions; providing penalties; providing methods
732 of payment for restricted regulated metals property;
733 requiring that purchases of certain property be made
734 by check or by electronic payment; providing
735 procedures; amending s. 538.25, F.S.; requiring an
736 application for registration as a secondary metals
737 recycler to contain the address of a fixed business
738 location; amending s. 538.26, F.S.; prohibiting
739 secondary metals recyclers from purchasing regulated
740 metals property, restricted regulated metals property,
741 or ferrous metals during specified times, from certain
742 locations, or from certain sellers; prohibiting the
743 purchase of specified restricted regulated metals
744 property without obtaining certain proof of the
745 seller's ownership and authorization to sell the

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746 property; providing penalties; creating s. 538.28,
747 F.S.; preempting to the state the regulation of
748 secondary metals recyclers and purchase transactions
749 involving regulated metals property; reenacting and
750 amending s. 538.23, F.S., increasing the criminal
751 penalties for specified violations relating to
752 secondary metals recycling; providing increased
753 criminal penalties for third and subsequent criminal
754 violations; amending s. 812.145, F.S.; providing a
755 definition; prohibiting removing or assisting with the
756 removal of copper or other nonferrous metals from an
757 electrical substation site without authorization of
758 the utility; providing criminal penalties; providing
759 an effective date.